

**By the Judgement of 15 March 2023 No.8-II, the Constitutional Court assessed constitutionality of Article 72, part 3<sup>1</sup> of the Criminal Code of the Russian Federation.**

The above-mentioned legal provision was examined with regard to the applicability of the rules established by it, which provide for a differentiated counting of the time spent in custody prior to the entry into force of the sentence against the term of imprisonment, depending on the type of penal institution assigned to the convicted person, for the purpose of counting the period of imprisonment served in the erroneously imposed more severe type of penal institution against the period of imprisonment to be served on the basis of the court decision resulting from the review (cancellation or correction) of the original sentence (other judicial act).

The challenged provision was found to be inconsistent with the Constitution of the Russian Federation, as its literal content prevents its use by courts in the law enforcement practice for the purposes of differentiation by types of correctional institutions for counting the time of imprisonment in the above-mentioned circumstances.

Until appropriate legislative changes are made, the period of imprisonment served by a person in a correctional institution of a more strict type, which was erroneously assigned to him, should be counted against the period of imprisonment to be served on the basis of a court decision resulting from the review (cancellation or correction) of the original sentence (other judicial act), by using the factors currently established for counting time in custody against the period of imprisonment.