

**By the Judgement of 15 June 2023 No.32-II, the Constitutional Court assessed constitutionality of Article 135 (part 2) of the Labour Code of the Russian Federation**

This legal provision was the subject of consideration insofar as it, in conjunction with the provisions of the collective agreement and (or) local regulations, acts as the legal basis for resolving the issue of depriving an employee with an outstanding disciplinary penalty of additional (including incentive) payments included in the his salary, for the entire duration of the disciplinary action.

The contested legal provision was found to be inconsistent with the Constitution of the Russian Federation to the extent that it creates the possibility of arbitrary establishment at the local level of rules for calculating individual payments included in wages, and thus (in conjunction with the relevant provisions of the collective agreement and (or) local regulations) allows without taking into account the quantity and quality of labour, as well as other objective criteria to reduce the salary of an employee who has an outstanding disciplinary penalty.

Until appropriate legislative changes are made, the application of disciplinary penalties to an employee for non-fulfilment of the work (because of his fault) may not serve as a basis for depriving this employee of incentive payments included in his salary for the entire duration of the disciplinary penalty (in particular, monthly or quarterly bonuses and remuneration based on the results of work for the year) or to arbitrarily reduce their amount, and cannot serve as an obstacle to accruing those additional payments to the employee, the right to which is conditioned by his direct participation in the fulfilment of certain types of activities (in particular, in the medical field, including the provision of paid medical services, compulsory and voluntary medical insurance services, participation in the implementation of a plan of measures aimed at improving the effectiveness of healthcare, in the provision of high-tech medical care) and the achievement of certain labour results (economic indicators).

The fact that disciplinary punishment has been applied to an employee for committing a disciplinary offense may be taken into account when paying only those bonus payments included in the salary that are accrued during the period when the disciplinary punishment was applied to the employee.

In any case, a reduction in the amount of these bonus payments should not lead to a reduction in the employee's monthly salary by more than 20 %.