

By the Judgement of 20 January 2023 No. 3-II, Constitutional Court assessed the constitutionality of Article 125 of the Code of Criminal Procedure of the Russian Federation.

This legal provision was the subject of consideration to the extent that it serves as a regulatory basis for determining the possibility of judicial review of the legality and validity of the decision of the investigator, the person conducting the inquiry, to transfer a suspect, the accused from one pre-trial detention facility to another.

The above legal provision was found not to contradict the Constitution of the Russian Federation, since in its constitutional and legal meaning in the system of current legal regulation (including in connection with the provisions of the Federal Law “On detention of persons suspected or accused of committing a crime”) it involves the court considering the substance of the complaint about the legality and validity of the specified decision, taking into account the conditionality and justification of the transfer from one pre-trial detention facility to another based on the results of an evaluation of the materials (that served as the basis for the contested decision), the proportionality of the restriction of the rights of the person in custody to the legitimate purpose pursued, the grounds and conditions for changing his place of custody (transfer).

The Constitutional Court separately noted that the applicant is entitled to compensatory mechanisms, which form and amount shall be determined by the Yessentuki City Court of Stavropol Kray, which considered in the first instance his case in which the challenged legal provision was applied, if the court, when considering the issue of compensatory mechanisms, finds (taking into account the legal positions expressed in this Judgement) that his transfer from one pre-trial detention facility to another led to the violation of his rights.