

By the Judgement of 18 January 2024 No.2-II, Constitutional Court of the Russian Federation assessed constitutionality of Article 137 (part 1) of the Criminal Code of the Russian Federation

This legal provision was examined to determine whether the parent of a minor child should be held criminally liable for using a mobile parental control application installed on the child's mobile device, which allows the parent to listen to what is happening in the child's immediate vicinity at certain intervals, to obtain audio recordings and to store them on the parent's technical device, thereby collecting information about the private life of another person, which constitutes a personal or family secret, without their consent.

The contested provision was found not to be inconsistent with the Constitution of the Russian Federation, since in the system of current legal regulation, in its constitutional and legal sense, it does not imply criminal liability of the parent of a minor child in the above case, if such a software tool (mobile application) and the information obtained through it are used by the parent solely for the purpose of exercising the parent's rights and obligations to ensure the safety of the minor child.

The Constitutional Court separately noted the necessity to review not only the applicant's case but also, pursuant to Article 79 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the decisions in the cases of other persons held criminally liable under Article 137 (part 1) of the Criminal Code of the Russian Federation, in connection with their use, as parents of minor children, of parental control software, through which they had access to information about the private life of other persons.