

By the Judgement of 31 January 2024 No.4-II, Constitutional Court of the Russian Federation assessed constitutionality of Article 53 (part 1) of the Criminal Code of the Russian Federation.

This legal provision has been considered insofar as, on the basis of it, the application of restriction of liberty as a form of punishment takes into account the victim's requests that the accused be prohibited from visiting places where the victim or his/her relatives may regularly be found (approaching them within a certain distance) and from approaching the victim within a certain distance, regardless of his/her whereabouts.

The challenged legal provision was found not to be inconsistent with the Constitution of the Russian Federation, since in its constitutional and legal meaning it does not preclude the court from specifying such a restriction by prohibiting the victim from visiting places where he or she may regularly be, including approaching those places at a certain distance.

The Constitutional Court also stated that a court's refusal to impose such a restriction (prohibition), including on a specific place designated by the victim, must be motivated and that the fundamental impossibility of imposing such restrictions in the future cannot be a reason for such a refusal. Taking into account the specific circumstances of the offender's life (in particular, the offender's place of residence, work or study), the court shall consider whether the imposition of such a restriction in relation to a particular place would not result in such a significant restriction of the offender's ability to meet his or her needs. The victim is also not deprived of the possibility of appealing to the Penal Inspection in accordance with article 53 of the Criminal Code of the Russian Federation to add the above restriction to the restrictions previously imposed on the convicted person, which does not prevent him from raising the issue of the necessity of imposing it when appealing against the sentence; he may appeal to the court against the inaction of the Penal Inspection.

The applicants are entitled to compensation, the form and amount of which shall be determined by the court which heard the case at first instance in which the contested legal provision was applied.