



**GRATA**  
INTERNATIONAL

Local Knowledge  
for Global Business

[www.gratanet.com](http://www.gratanet.com)

# The constitutional court allowed to seize property from friends of corrupt officials

*Author: Andrei Matveenko – legal assistant GRATA International St. Petersburg.*

The relevant decision comes from the decision of the constitutional Court of the Russian Federation of 02.10.2019 that the court refused to accept the complaints of the notorious ex-Colonel of the Ministry of internal Affairs Zakharchenko and his family, as well as friends on the constitutionality of certain provisions of the law, which were referred to in court.

Recall that the Nikulinskiy court of Moscow in 2017 seized the property of Zakharchenko and his family and friends in the amount of 9 billion rubles, building its position on the fact that the income of the above persons do not correspond to the acquisitions that they had.

Then Nikulinskiy court of Moscow has drawn attention to the fact that the disputed property was purchased with funds Zakharchenko, i.e. its income and expenses under supervision, in accordance with the legislation of the Russian Federation, in particular, in accordance with the Federal law "On control over compliance costs of persons holding public office and other persons to their income". However, the legality of the former interior Ministry Colonel's income has not been confirmed.

Having considered the complaints, the Constitutional court came to the following conclusion: confiscation of property by the court, if the owner of the property cannot prove the legality of the income on which the property was acquired, belongs to special measures. That is, they are applied to entities performing public functions in case of violation of the legislation "on combating corruption".

Also the Court noted that nobody forbids the owner of property to present any possible proofs of legality of the income on which it acquired property.

According to some lawyers, including lawyer Zakharchenko, based on the position of the constitutional court, from now on the property of any person who cannot prove the legality of the income on which the property was purchased, can be converted into state income.

It is necessary to tell that, proceeding from practice, courts trust only the certificate from tax 2-pit which has to prove legality of their income, so and legality of acquisition by them of property.

Thus, if it is proved that the property of relatives and friends of "corrupt" could not be acquired on their income, then this property can be safely confiscated and converted into state income and, apparently, no exceptions are foreseen. We will note that it turns out that the list of "friends of the corrupt official", quite, is boundless. Previously, the circle of persons whose property can be confiscated, due to the lack of evidence of the legality of income, was much narrower - these are the closest relatives of the "corrupt official".

However, an important point remains: there is no rule in Russian legislation that allows the control over the expenses of officials to be extended to a wider range of persons than the immediate family members, which means that the constitutional court introduces a new provision, which is not present in any normative legal act.

## Practice areas

DISPUTE RESOLUTION

## Locations

**RUSSIA**

