

By the Judgement of 26 April 2021 No. 15-II the Constitutional Court of the Russian Federation examined constitutionality of Article 446, part one, item two of the Civil Procedural Code of the Russian Federation, and Article 213²⁵, item 3 of the Federal Law “On insolvency (bankruptcy)”.

These provisions were subject to consideration insofar as they served as basis to resolve the question on excluding the living premise belonging to the citizen – debtor from the bankruptcy estate if this premise is the only place suitable for living of the debtor and his or her family members who live there together, and if such premise’s objective properties significantly exceed those reasonably sufficient for satisfying constitutionally important need for a living premise.

The challenged provisions were recognised as not contradicting the Constitution of the Russian Federation since these provisions, in accordance with their constitutional meaning established by the Constitutional Court of the Russian Federation in the present Judgement on the basis and in furtherance of the Judgement of 14 May 2012 No. 11-II, cannot serve as normative basis for unconditional refusal to levy living premises (their parts) mentioned by the relevant legal provisions if a court believes that application of enforcement immunity is unsubstantiated, including situations of bankruptcy of a citizen-debtor, taking into account the following:

refusal to apply this immunity will not leave the citizen-debtor without a place to live suitable for both the debtor and members of his or her family, the area of the premise left in any event should be no less than that of an apartment afforded under social tenancy agreement, and the premise shall be situated within the same location (settlement) where these persons live;

if necessary one should take into account the proportion between the market value of the living premise and the amount of debt that can be significantly closed in the event of levying the living premise;

deterioration of living conditions as the result of refusal to apply enforcement immunity in respect of a citizen-debtor should not force him or her to change the place of residence (settlement); this nevertheless does not deprive him of possibility to agree with the said consequences as well as with other consequences acceptable under the agreement of the parties to enforcement proceedings, and (or) insolvency (bankruptcy) proceedings.