

By the Judgement of 27 April 2021 No. 16-II the Constitutional Court examined constitutionality of item 42¹, paragraph 3 of the Rules of supplying the proprietors and users of premises in apartment buildings and houses, and formula no. 3 of Appendix 2 of these Rules.

The challenged provisions were subject to consideration insofar as within the current legal framework they served as basis to resolve the issue of payment by owners and proprietors of living premises for heating services supplied to communal places in apartment buildings connected to centralised heating system with installation of a communal meter, where the living premises had been switched in accordance with established order of reconstruction to autonomous heating via individual heaters, if there are no heaters or other heat-consuming elements of the building' heating system in relevant communal places.

The challenged provisions were recognised as not contradicting the Constitution of the Russian Federation insofar as they foresee that owners and proprietors of all premises located in a given apartment building (including owners and proprietors of premises switched in accordance with established order of reconstruction to autonomous heating via individual heaters) shall pay for heating services proportionally, depending on the share of each premise in the sum of heat energy consumed in a payment period and supplied to communal places of an apartment building, calculated on the basis of the communal heating meter readings; this ensures equitable sharing of communal expenditure between owners and proprietors of living premises in such an apartment building as regards consuming of heat energy supplied to this building by centralised heating system.

The challenged provisions were also recognised as not being in conformity with the Constitution of the Russian Federation insofar as they oblige owners and proprietors of living premises in such apartment buildings switched in accordance with established order of reconstruction to autonomous heating via individual heaters to pay for communal heating services in part of heat consuming in order to ensure communal purposes where communal places in an apartment building have no heaters or other heat consuming elements of an apartment building' heating system, with no account of factual contribution of such persons to heating these communal places and the apartment building as a whole, as well as of expenditure related to communal needs conditioned by this contribution.

Before required normative changes are applied, the existing order shall be preserved for calculation of payment for communal heating services in such apartment buildings.

The Constitutional Court of the Russian Federation ruled that there are no grounds to review the case of the applicant, but noted that she has a right to resort to compensatory mechanisms with regard *inter alia* to the period before introduction of new legal regulations that will be adopted in accordance with item 3 of the operative part of the Judgement, and as regards law-enforcement decisions based on the challenged provisions insofar as they are recognised as contravening the Constitution of the Russian Federation. The form and the amount of compensation are to be determined by the court which has considered her case in first instance.