

By the Judgement of 31 October 2019 No.32-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 18, Section 5, Articles 20 and 21 of the Federal Law “On amendments to certain legislative acts of the Russian Federation and recognition of certain legislative acts (provisions of legislative acts) of the Russian Federation invalidated in connection with the adoption of the Federal Law “On amendments to Chapters 1 and 2 of the Tax Code of the Russian Federation in connection with the transfer of powers to the tax authorities on administration of insurance payments for compulsory pension, social and medical insurance”, Article 26, Section 22 of the Federal Law “On insurance payments to the Pension Fund of the Russian Federation, the Social Insurance Fund of the Russian Federation, the Federal Compulsory Medical Insurance Fund” and Article 78, para. 6.1 of the Tax Code of the Russian Federation

The challenged provisions were subject of consideration to the extent that they serve as the basis for deciding the issue of possibility of returning to the insurer the excessively paid insurance contributions for compulsory pension insurance, information about which was recorded (posted) by the Pension Fund of the Russian Federation on the individual personal accounts of the insured persons, is resolved.

The Constitutional Court recognised the challenged provisions, which establish in their interrelation the specifics of the legal regulation of certain issues of administering insurance contributions for compulsory pension insurance (regarding the return of overpayment amounts), not contradicting the Constitution of the Russian Federation, since such features are aimed at fulfilling the obligation by the state to ensure appropriate conditions to exercise the pension rights of insured persons.

The challenged provisions were also found to be inconsistent with the Constitution of the Russian Federation, to the extent that, in their interconnection, they limit the insurer’s right to refund excessively paid insurance contributions for mandatory pension insurance only by virtue of the fact that information on these insurance contributions was recorded (posted) to individual personal accounts of the insured persons, without taking into account the structure of the insurance premium rate (its joint and individual parts) and the fact whether a particular insurance event occurred to insured persons with the establishment of insurance coverage for compulsory pension insurance, and whether the change will result in information previously recorded on the individual account of the insured person insurance contributions (funds) to reduce the size of such a guarantee.

Until the necessary legislative changes are made when deciding on the return of the amounts of excessively paid insurance contributions for compulsory pension insurance, one should proceed from the inadmissibility of restricting such a return with respect to insurance contributions paid on the joint part of the tariff, and with respect to a specific insured person who has not had insurance, a case for which insurance coverage has not been established - also in relation to insurance premiums paid on the individual part of the tariff.