By the Judgment of 12th April, 2016 No. 10-П/2016 the Constitutional Court gave appraisal of constitutionality of the provisions of Section 1 of Article 169, Sections 4 and 7 of Article 170 and Section 4 of Article 179 of the Housing Code of the Russian Federation.

The subject-matter of consideration were the following interconnected provisions of the Housing Code of the Russian Federation:

Section 1 of Article 169 – insofar as it establishes as a general rule the obligation of owners of rooms in a multi-apartment house to pay monthly fees for major repairs of common property in the multi-apartment house;

Section 4 of Article 170, defining the list of questions, decisions on which must be taken by the common meeting of owners in connection with their choice of accumulation of respective monetary resources on a special account as a way of forming the fund for major repairs;

Section 7 of Article 170 – insofar as it envisages adoption by a body of local self-government of a decision about forming the fund for major repairs on the account of a regional operator in the event if owners of rooms have not chosen the way of forming the fund for major repairs during the term established by law or if the way chosen by them has not been realized;

Section 4 of Article 179, allowing the possibility to use means received by the regional operator from owners of rooms in some multi-apartment houses forming funds for major repairs on the account, accounts of the regional operator for financing major repairs in other multi-apartment houses, the owners of rooms in which also form funds for major repairs on the account, accounts of the same regional operator, and granting a constituent entity of the Russian Federation the right to limit such a possibility by the condition of locating these multi-apartment houses on the territory of a specific municipal entity or a number of municipal entities.

The Constitutional Court has recognized the contested provision of Section 1 of Article 169 of the Housing Code of the Russian Federation as not contradicting the Constitution of the Russian Federation, so far as it contemplates joint and equal participation of owners of rooms, irrespective of the date of emergence of the

ownership right to specific rooms, grounds of its acquisition and the form of property, in forming the fund for major repairs. This does not exclude the need to render (at least during the first years of realization of regional programmes of major repairs, i.e. in the conditions of the initial accumulation of resources of funds for major repairs) additional financial support of carrying out major repairs irrespective of the way of forming the fund for major repairs chosen by owners of rooms, in any event – if urgent need for it arises – on an irrevocable or drawback basis at the expense of budget resources of a respective constituent entity of the Russian Federation and (or) municipal entity, as well as at the expense of inter-budgetary transfers from the federal budget.

The Constitutional Court has recognized as not contradicting the Constitution of the Russian Federation the contested provision of Section 4 of Article 170 of the Housing Code of the Russian Federation, insofar as it is an element of the unified legal mechanism ensuring realization of the way of participation in the financing of expenses for major repairs chosen by owners of rooms and at the same time is aimed at ensuring both the freedom of will expression of owners of rooms in the choice of the way of forming the fund for major repairs on a special account and sufficiency and safety of the means of this fund.

The provision of Section 7 of Article 170 of the Housing Code of the Russian Federation has also been recognized as not contradicting the Constitution of the Russian Federation, so far as it contemplates adoption by a body of local self-government of the decision about forming the fund for major repairs on the account of a regional operator on the condition that it has taken the necessary measures aimed at appropriate informing of citizens about possible ways to form the fund for major repairs and consequences of choosing one of them, as well as at rendering assistance to owners in adopting some or other decision in the appropriate form and explanation of the procedure of its realization.

Should owners of rooms adopt decision on discontinuance of forming the fund for major repairs on the account of the regional operator and its forming on a special account on the basis of Section 1 of Article 173 of the Housing Code of the

Russian Federation, the prescription of Section 5 of the same Article regarding a two-year term (if shorter term is not established by a law of a constituent entity of the Russian Federation) of entry of such decision into force must not be applied, if initially the decision was adopted not by owners of rooms, but by a body of local self-government in the procedure envisaged by Section 7 of Article 170 of this Code, without taking into account the constitutional-law meaning of this provision revealed by this Judgment, whereas the respective fact has been established by a court decision and major repairs have not been carried out in this house.

The Constitutional Court has recognized as not contradicting the Constitution of the Russian Federation Section 4 of Article 179 of the Housing Code of the Russian Federation as contemplating that order of priority of major repairs is determined on the basis of objective criteria, ensuring immediate holding of respective works in multi-apartment houses, residing in which is dangerous for the life or health of citizens due to wear of their constructive elements, as well as in other cases of emergence of urgent need of major repairs. In these cases the order of priority of major repairs may be contested in judicial order as well as non-fulfilment of the regional programme of major repairs having established it may also be appealed.