

By the Judgement of 19 December 2018 No. 45-II/2018 the Constitutional Court appraised constitutionality of Section 1 of Article 178 of the Labour Code of the Russian Federation.

The contested provision was a subject-matter of consideration insofar as on its basis it is decided on preservation of average monthly earnings for the period of provision of employment to workers dismissed because of liquidation of an organisation, but not more than for two months (counting the discharge pay), if the right to realisation of this guarantee did not arise by the moment of insertion of the data on discontinuance of organisation-employer into the unified register of juridical persons.

The Constitutional Court has recognised the contested provision as not conforming to the Constitution of the Russian Federation to the extent to which, by virtue of absence in the effective legal regulation of a mechanism which would ensure provision of this guarantee on equal conditions to all workers, labour agreement with whom was annulled in connection with liquidation of an organisation, it deprives of the possibility to receive this payment those of them, who acquired the right to it after discontinuance of the juridical person.

The Constitutional Court has pointed out that until insertion of amendments to effective regulation granting of the guarantee envisaged by the contested provision to workers dismissed in connection with liquidation of an organisation and who acquired the right to preservation of average earnings for the period of provision of employment after its termination, shall be ensured for the dismissed worker either at the expense of increase of the discharge pay in the order envisaged by Section 4 of Article 178 of the Labour Code of the Russian Federation or with the use of civil-law mechanisms conforming to the legislation.