

**By the Judgement of 20 December 2018 No. 46-II/2018 the Constitutional Court appraised constitutionality of Paragraph 2 of Item 40 of the Rules of provision of public utilities to owners and users of premises in apartment houses and dwelling houses.**

The contested provision was a subject-matter of consideration to the extent to which it serves as a normative ground for the issue of payment for utilities of heating, made by owners and users of the premises converted to heating through individual apartment sources of thermal energy in compliance with the procedure for reorganising of indoor heating systems, provided for by the regulatory requirements operating at the time of such conversion, located in an apartment house connected to the centralized network of heat supply (hereinafter referred to as the Consumers).

The Constitutional Court has recognised the contested provisions as not conforming to the Constitution of the Russian Federation to the extent to which they, preventing possibility of separate payment for heating utilities of inhabitable or uninhabitable premises and payment for its consumption for the purpose of the common property maintenance in the apartment house, obliges the Consumers, who lives in apartments equipped with individual sources of thermal energy meeting regulatory requirements, to pay for the thermal energy coming to an apartment house by the centralised networks actually not used by them for heating of this room.

The Constitutional Court established that until appropriate legislative amendments have been made by the Government of the Russian Federation, the Consumers are not exempted from the duty of payment for heating utilities in part of consumption of thermal energy for general household needs. The calculation of such payment for heating utilities should be made on the basis of methodical recommendations determining the amount of thermal energy consumption for general household needs, which must be approved by the Ministry of Construction, Housing and Utilities of the Russian Federation as soon as possible (further – Methodical recommendations).

The Constitutional Court also indicated that the judgements based on contested provisions concerning the applicants in this case are not the subject to execution and must be reviewed in accordance with the established procedure. Furthermore, the judgements based on contested provisions concerning applicants in this case – both unexecuted and partly executed – are also not the subject to execution and

must be reviewed using the material legal grounds and procedural institutions fixed by the legislation.

At the same time such revision cannot be made without the will of stakeholders and without taking into account the requirements of sectoral legislation, also the existence of material and procedure prerequisites, as well as possible obstacles to the court decisions, must be established by the citizens claim to the court to which competence such revision is referred while meeting the requirements of the proceedings. At revision of the judgments being based on the contested provision if such revision is carried out before necessary changes are entered into the operating legal regulation, the courts should be guided by the above-stated Methodical recommendations.