

By the Judgement of 17 November 2020 No. 47-II the Constitutional Court of the Russian Federation appraised constitutionality of Article 2, para. 1 of the Federal Law “On the Transfer to Religious Organisations of Religious Purpose Property in State or Municipal Ownership”.

The challenged provisions were the subject of consideration to the extent that, acting in normative unity with other provisions of the challenged Federal Law, they serve as the basis for resolving the issue of extending the procedure established by this Federal Law for the transfer of state or municipal religious property for free use to religious organisations on premises in a building being in municipal ownership, built not for the implementation and (or) provision of certain types of activities of religious organisations, but subsequently reconstructed (completed for the placement of a religious building - a temple) by a religious organisation with the consent of the owner during the period of long-term free use of these premises to achieve its statutory goals (prior to the entry into force of this Federal Law).

The challenged provisions were found to be inconsistent with the Constitution of the Russian Federation to the extent that in the system of current legal regulation they do not allow to resolve this issue unambiguously and create uncertainty regarding the mechanism for protecting the legitimate interests of a religious organisation after the designated property is withdrawn from its use.

The Constitutional Court noted that after the necessary legislative changes into the current legal regulation are introduced, the applicant receives the right to apply compensatory mechanisms in connection with law enforcement decisions based on the legal provisions which were found unconstitutional; the form and amount of compensation shall be determined by the court, which considered in the first instance a specific case in which the normative act challenged in the Constitutional Court of the Russian Federation was applied.