

By the Judgement of 12 July 2022 № 30-II the Constitutional Court assessed constitutionality of Article 170 (part 5¹) of the Housing Code of the Russian Federation, and Article 7¹ of the Law of the Smolensk Region "On the Regulation of Certain Issues in the Sphere of Ensuring Timely Implementation of Major Repairs of Common Property in Apartment Buildings Located in the Territory of Smolensk Region."

These legal provisions were subject of consideration to the extent that they serve as the basis to determine the moment when the obligation is created to pay capital repairs contributions for owners of premises in a section of an apartment building put into operation after the approval of the regional capital repair program, the information about which is reflected in the regional program when it is updated, given that the building was included in the regional program earlier based on the date when another or its sections was put into operation.

The contested legal provisions are recognised to not be in accordance with the Constitution of the Russian Federation since due to their uncertainty, which in practice gives rise to potentially different interpretations they do not ensure appropriate level of legal regulation in relation to the deciding upon the moment of emergence of the above obligation, on the basis of the principles of equality and fairness.

The Constitutional Court determined the following features of the execution of this decision:

after the establishment of new legal regulation persons who, if it had been in effect on the date of adoption of the present Judgement, would have been exempted from paying contributions for capital repairs for the corresponding period, but who nevertheless paid them, are provided with an exemption from paying contributions for the same period (their payment of contributions is suspended);

the new federal legal regulation must contain rules allowing it to be applied retroactively in order to ensure said suspension of the payment of contributions for capital repairs, at least from the date of entry into force of the present Judgement;

the review of the applicant's case is carried out on the basis of the new legal regulation, but regardless of how this regulation will resolve the issue of retroactive effect, and without limitation by the specified date.

The Constitutional Court also indicated that, until the necessary legislative changes are made, the present Judgement cannot be the basis for such an obligation not to arise in principle, or to be terminated (suspended) without a decision of the authorised body or court.