

By the Judgment of 16 June 2022 No. 25-II/2022 the Constitutional Court of the Russian Federation assessed constitutionality of Article 1260, item 3 of the Civil Code of the Russian Federation.

According to this legal provision, the translator, compiler, or other author of a derivative work, or composite work realize shall exercise his or her copyrights provided that the rights of the authors of the works used to create the derivative or composite work are observed.

The challenged provision was recognized as not being in conformity with the Constitution of the Russian Federation insofar as within the current legal framework it allows the court to refuse to protect the copyright of the creator of a computer program in a dispute with a person who uses the program in the absence of his consent, only on the grounds that the program is a composite work and its author has not fulfilled the condition of respect for the rights of authors (rights holders) of objects (computer programs) used to create it.

Until appropriate changes are made to the current legal regulation, the above legal provision should not be applied in any case as a basis for refusing to protect the right of authorship, the author's right to the name of the creator of a computer program as a composite work and the exclusive right to claim the suppression of infringing actions in cases where the defendant is also not entitled to use such objects (computer programs). Also, provision should not be applied to refuse to protect in full the copyright (including exclusive rights) to the part of a computer program as a composite work, which was created by the author of such a program and used in it as a composite work along with the objects (computer programs), the rights to which belong to other authors (rights holders).

Judgments in the complainant's case, adopted on the basis of the challenged legal provision, are subject to review in accordance with the established procedure:

in matters of protection of copyright, author's right to name and exclusive right in terms of claiming to prevent infringing actions that violate the rights of the author, provided that the defendant is not entitled to use objects (computer programs) which were used to create a computer program, which is composite work, as well as copyright to objects (computer programs) created by the author itself of the program and used along with objects (computer programs) whose rights belong to other authors (rights holders), regardless of changes in the current legal regulation in accordance with this Judgment;

in the part related to the realization of the exclusive right to a computer program as a composite work by other ways, after making the necessary changes in

the current legal regulation if based on the content of these changes there are no barriers to this.