

**By the Judgement of 18 April 2023 No.18-II, the Constitutional Court of the Russian Federation assessed constitutionality of Article 6 (part 3) of the Federal Law “On Amendments to part one of the Civil Code of the Russian Federation and certain legislative acts of the Russian Federation”**

The above-mentioned legal provision has been examined in so far as it serves as a basis for resolving the issue of the division in kind of a parking space registered as a share in common ownership of non-residential premises (garage) for the purpose of registering the ownership right to the parking space as a real estate.

The challenged provision was found to be inconsistent with the Constitution of the Russian Federation to the extent that - in the system of the current legal regulation - it does not guarantee the participants of joint ownership of non-residential premises (garage), who want to allocate their share in kind, a real possibility to carry out the state cadastral registration and state registration of the title to a parking space as real estate, if there is no agreement of co-owners or decision of their general meeting determining the order of use of real estate in joint ownership.

Until legislative changes are made, the courts:

refuse to satisfy the claims of a co-owner of a non-residential premises (garage) in common ownership as a share in the right to which a parking space is registered, claiming to exercise the pre-emption right to purchase this share, if the circumstances of a particular case confirm that the parking space is actually intended for individual use and belongs to a specific person;

considering the applications of the owners of a share in the right to the non-residential premises (garage) in which the parking space is located for the division of the share and for the cadastral and state registration of the ownership rights to the parking space - if they conclude that the rights to the parking space remain registered as a share in the joint ownership right, despite the above-mentioned features of the right of pre-emption for the purchase of the parking space if it is difficult for a person to exercise his rights to a parking space intended for individual use and belonging to a specific person, and the satisfaction of the claims contained in the application does not violate the rights of other persons - to take decisions aimed at ensuring the division of the share, the cadastral registration of the parking space as a separate real estate object, and the registration of the person's title to the parking space as a real estate object.