

By the Judgement of 22 September 2023 No.45-II, Constitutional Court of the Russian Federation assessed constitutionality of Article 25 (parts 7 and 8) of the Town-planning Code of the Russian Federation

The provisions of Article 25 (parts 7 and 8) of the Town-planning Code have been considered to the extent that the system of legal regulation on the basis of these provisions resolves the question of whether the draft general plan of a municipality with regard to the inclusion of forest fund lands within the boundaries of settlements should be recognised as approved if its head does not receive the opinion of the competent federal executive authority within the established term.

It is recognised that the contested legislative provisions do not contradict the Constitution of the Russian Federation in a constitutional and legal sense, because they:

assume that the draft general plan of a municipality in the specified part shall not be considered approved until the head of the municipality receives a conclusion of the competent federal executive authority containing a provision on approval of the draft, or the issue of unreasonableness of the federal executive authority disagreement with the draft is resolved in a conciliatory or judicial procedure; the federal executive authority in question is obliged to send to the head of the local government, within the term established by law, a conclusion containing the provisions on approval or rejection of the draft, stating the reasons for such a decision, and the head of the local government has the right to demand its submission, including by challenging in court the inaction of the federal executive authority involved in the approval procedure;

do not exclude the possibility that, in the event of non-compliance with the requirement for such approval, the decision of the representative body of a municipal entity to approve the general plan may be recognised as invalid in judicial proceedings in such part, moreover if more than one year has elapsed since the approval of the relevant general plan, the court should resolve the issue of the illegality of the approval of the general plan with regard to the inclusion of forest fund areas within the boundaries of a populated area in a different manner for certain of these areas on the basis of the balance between public and private interests.

The Constitutional Court separately noted that its constitutional interpretation of the challenged legal provisions does not affect the issue of the legal consequences of the cancellation of the decision on the approval of the general plan with regard to the lands of the forest fund in the case when the relevant land

plots, being part of the lands of residential settlements, were granted to citizens and legal entities in accordance with the procedure established by the Land Code of the Russian Federation for use in accordance with the rights established in the municipality.

In addition, the constitutional interpretation does not automatically extend to the decision on the form and procedure of coordination in the approval of territorial planning documents in aspects other than those relating to forest fund land.