

By the Judgement of 16 April 2024 No.18-II, the Constitutional Court assessed constitutionality of Article 426 (item 2 of part 4) of the Civil Procedure Code of the Russian Federation.

The above-mentioned legal provision was the subject of consideration in so far as in the system of current legal regulation, it serves as a basis for a state court to resolve the issue of refusal to issue a writ of execution to enforce a decision of arbitration on a dispute over the right to real estate.

The challenged provision was found not to be inconsistent with the Constitution of the Russian Federation to the extent that its meaning (taking into account legal positions reflected in the Judgement of the Constitutional Court of 26 May 2011 No.10-II and Judgement of 3 October 2023 No.46-II) does not exclude the following:

the obligation of a state court to grant an application for a writ of execution in the absence of other grounds for refusing to issue it, unless the state court establishes and justifies the conclusion that the decision is contrary to the public order of the Russian Federation, whereas such a conclusion cannot be based solely on the fact that the arbitration court has resolved a dispute over the right to real estate;

the obligation of a state court considering an application for the issuance of a writ of execution to take such measures (provided for by procedural law) in order to prevent the parties of a dispute resolved by an arbitration court from benefiting from their unlawful or bad faith conduct, if there are reasonable doubts to the conformity of the writ of execution with the public order of the Russian Federation.