

CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION: DEVELOPMENT AND ACTIVITY

The Constitutional Court of the Russian Federation is the first judicial body of constitutional review in the history of Russia. The Court was created by the Fifth (extraordinary) Congress of Peoples' Deputies of the RSFSR on 30 October, 1991. The Court comprising 15 justices had been anticipated by the amendments to the 1978 Constitution and the Law "On the RSFSR Constitutional Court" adopted on the basis of the amendments to the Constitution. The Constitutional Court commenced its activities in December 1991. At that time the Congress had selected 13 justices leaving two vacancies.

In its very first decisions, the Constitutional Court confirmed the supremacy of international human rights law, which it applied to validate fundamental rights including guaranteed legal protection of rights and freedoms, the right to be protected against discrimination, each individual's right to possess and dispose of private property, the right of free access to information from the government, etc.

Several decisions have been taken with regard to the distribution of powers between the federal authorities; several others " with regard to the status of the constituent entities of the Russian Federation. The case on the verification of the constitutionality of the acts liquidating the USSR Communist Party and the RSFSR Communist Party, as well as the constitutionality of the parties themselves, has been a matter of great public interest.

The adoption of the current Constitution of the Russian Federation by referendum in December 1993 marked the beginning of a new stage in the development of the constitutional proceedings. The Federal Constitutional Law "On the Constitutional Court of the Russian Federation" was adopted in the summer of 1994. The Law has considerably changed the Court's jurisdiction and its operations.

In accordance with the principle of separation of powers, the Constitutional Court, along with all the other judicial bodies, constitutes the third branch of government, which is independent from the other two branches - legislative and executive, and is no longer subordinate to them. At the same time, its legal status is characterized by a number of peculiarities: The Constitutional Court stays apart from the general court system and does not fulfil the functions of either the court of cassation, the court of appeal, or the court of review in relation to the courts of general jurisdiction. It decides cases exclusively on the basis of the Constitution of the Russian Federation. The Court limits its considerations to matters of law, it refrains from examination of the facts whenever such activity falls within the competence of another court or another authority. The Court does not consider political cases. The Court establishes its own Rules of Procedure for judicial proceedings.

The competence of the Constitutional Court is provided for in the Art.125 of the Constitution of the Russian Federation.

The Constitutional Court operates on the principles of collegiality (decisions are taken by a majority vote of present quorum), open access (hearings are open to the press and the public), adversarial nature of the proceedings (parties to a case enjoy equal rights).

The Constitutional Court considers and decides cases in plenary sessions and in sessions of chambers. The Court consists of two chambers comprising nine and ten justices respectively. The decisions of plenary sessions and sessions of chambers have equal legal force. The decisions are final and may not be appealed. The provisions declared to be unconstitutional deemed to be de facto null and void, since the Constitutional Court's decisions require no further confirmation by any other bodies.

Justices deliberate in private and make decisions by a majority vote.

The justice of the Constitutional Court who disagrees with the decision of the Constitutional Court may state his/her dissenting opinion in writing. The dissenting opinion is appended to the case files and promulgated along with the decisions of the Constitutional Court.

The Constitutional Court has evolved to be the true protective body of citizens' rights within the Russian Federation court system. More than ten thousand petitions are filed with the Constitutional Court annually.

The Court, in its decisions, has many times referred to the protection of the following constitutional rights: the right to a fair trial, the right to be protected against accusation and judicial mistakes, the right to vote, the right to strike, the right for social security for elderly citizens, freedom of movement within the country and travelling abroad, the right for dual citizenship, the right to be protected against ecological disasters, inviolability of an individual, rights to private property and freedom of inheritance.

In its work, the Constitutional Court relies on the provisions of international human rights law. This provides an opportunity to implement the democratic rules and standards recognized by the European and world community while resolving cases on the basis of the Constitution. Such an approach is particularly important in connection with the recent accession of Russia to the Council of Europe, which has also given Russian citizens the opportunity to seek protection of their constitutional rights and freedoms also in the European Court of Human Rights.

The Constitutional Court, in its plenary sessions, has exercised its specific authority to interpret the Russian Federation Constitution at the request of top governmental authorities. It has issued 13 rulings on the interpretation of the constitutional provisions in 1995-2000.

The Constitutional Court has also played an important role in the formation of the new relations between the Russian Federation and its constituent entities, ensuring conformity of their constitutions and charters to the Constitution of the Russian Federation.

The prestige of the Constitutional Court as the judicial body of constitutional review is well established. The convincing proof is the adoption of the Russian Constitutional Court as the full member of the European Conference of the Constitutional Courts in May 1996.

JUSTICES OF THE CONSTITUTIONAL COURT

According to the Constitution of the Russian Federation, the Constitutional Court consists of 19 justices nominated by the President of the Russian Federation and approved by the Federation Council. Their status is determined by the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

The vote to approve each justice is conducted individually by secret ballot. Prior to assuming their position each justice must be sworn into office. The term of the Constitutional Court Justices is 15 years, without age limit. According to the Law, the independence of Constitutional Court Justices is ensured by their irremovability, statutory immunity, equal voting rights.

According to the Law "On the Constitutional Court of the Russian Federation", justices may not hold public or social office, run business or engage in other paid activities (except teaching, research or other creative activities). Justices may not be affiliated with any political parties or movements, render financial support to such parties or movements, attend their congresses, take part in political actions, electoral campaigns or engage in other political activity. Justices may not also express publicly his/her opinion on the matter which may be subject to consideration by the Constitutional Court or is currently under consideration.

The Chairman, Deputy Chairman and Justice-Secretary are elected individually by secret ballot for a three-year term in a plenary session of the Constitutional Court.

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The present makeup of the Constitutional Court was formed in 1995. The Court is now composed of 10 justices elected in 1991 and of 9 justices appointed for the office on the basis of the new Law in October 1994 - February 2000.

STAFF OF THE CONSTITUTIONAL COURT

The activity of the Constitutional Court is managed by the Staff comprising the Secretariat and other subdivisions that provide logistical support, social and consumer services to the institution.

According to the Law On the Constitutional Court of the Russian Federation, the Secretariat provides organizational, research and analytical, informational and reference services regarding justices . Its team comprises experienced jurists, many of whom have doctoral and candidate degrees, and highly qualified paralegal and support personnel.

There are several research branch departments within the Secretariat: the constitutional law department, the department of constitutional rights and freedoms, the department of constitutional foundations of federal organization and self-governance of territories, the department of constitutional foundations of private law, the department of constitutional foundations of labour legislation and social security, the department of constitutional foundations of administrative law, the department of constitutional foundations of criminal justice, the department of international law). These departments carry out the preliminary study of petitions and contested normative acts (before they are forwarded to justices), as well as their current study (on instructions from justices).

There are also several functional subdivisions within the Secretariat: the department of court sessions which is responsible for the organization and technical maintenance of court trials and ordinary meetings of justices; the editorial and publishing department, the department of international relations and comparative studies of constitutional case-law of foreign countries, the department of legal information, the department of control over the execution of the Constitutional Court decisions, the reception room, the letter group, press service and other subdivisions.

The Constitutional Court has its own official publication Bulletin of the Constitutional Court of the Russian Federation. The Report is published six times a year. It contains all the Constitutional Court rulings, the justices' dissenting opinions and other materials, including the decisions of the constitutional review bodies of the constituent entities of the Russian Federation.

The building occupied by the Russian Federation Constitutional Court is situated in the historical centre of Moscow called Kitay-gorod, in Ilyinka street. This part of Kitay-gorod has been known since the end of the XIX century as the Moscow city - the financial and entrepreneurial district. The building was designed by architect V.Oltarzhevskiy and was constructed by engineer I.Rerberg in 1908 in a neoclassical style, characteristic of many buildings of that period.

CONSTITUTION OF THE RUSSIAN FEDERATION: ARTICLE 125

1. The Constitutional Court of the Russian Federation shall consist of 19 justices.

2. The Constitutional Court of the Russian Federation, at the request of the President of the Russian Federation, the Federation Council, the State Duma, one fifth of the members of the Federation Council or of the deputies of the State Duma, the Government of the Russian Federation, the Supreme Court of the Russian Federation and the Supreme Arbitration Court of the Russian Federation, and legislative and executive government bodies of constituent entities of the Russian Federation, shall decide on cases on conformity to the Constitution of the Russian Federation of:

a) federal laws, normative acts of the President of the Russian Federation, the Federation Council, the State Duma, and the Government of the Russian Federation;

b) constitutions of republics, charters, and laws and other normative acts of constituent entities of the Russian Federation adopted on issues under the jurisdiction of State government bodies of the Russian Federation or under the joint jurisdiction of State government bodies of the Russian Federation and State government bodies of constituent entities of the Russian Federation;

c) treaties between State government bodies of the Russian Federation and State government bodies of constituent entities of the Russian Federation, treaties between State government bodies of constituent entities of the Russian Federation;

d) international treaties of the Russian Federation which are not in force.

3. The Constitutional Court of the Russian Federation shall resolve disputes on authority:

a) between federal State government bodies;

b) between State government bodies of the Russian Federation and State government bodies of constituent entities of the Russian Federation;

c) between higher State government bodies of constituent entities of the Russian Federation.

4. The Constitutional Court of the Russian Federation, on receiving complaints about violations of the constitutional rights and freedoms of citizens and at the request of courts, shall check, in accordance with the procedure established by federal law, the constitutionality of a law which is used or is to be used in a particular case.

5. The Constitutional Court of the Russian Federation, upon request of the President of the Russian Federation, the Federation Council, the State Duma, the Government of the Russian Federation, and legislative authorities of constituent entities of the Russian Federation, shall provide interpretation of the Constitution of the Russian Federation.

6. Acts or certain provisions thereof which are recognized as unconstitutional shall lose force; international treaties of the Russian Federation which do not correspond to the Constitution of the Russian Federation shall not be implemented or used.

7. The Constitutional Court of the Russian Federation, upon request of the Federation Council, shall issue a resolution on the observation of the established procedure for bringing charges of treason or of other grave crimes against the President of the Russian Federation.