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**EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW**  
**(VENICE COMMISSION)**

**RUSSIAN FEDERATION**

**EXTRACTS**  
**FROM THE CONCLUSION OF THE CONSTITUTIONAL COURT OF**  
**THE RUSSIAN FEDERATION**  
**N° 1-Z OF 16 MARCH 2020**

**(Unofficial Translation)**

## Conclusion

on the conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of the Law amending the Constitution of the Russian Federation with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" that have not yet entered into force, as well as the conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law.

Saint Petersburg, 16 March 2020

The Constitutional Court of the Russian Federation composed of the President V.D. Zorkin and judges A.I. Boytsov, N.S. Bondar, G.A. Gadzhiev, Yu.M. Danilov, L.M. Zharkovaya, S.M. Kazantsev, S.D. Knyazev, A.N. Kokotov, L.O. Krasavchikovaya, S.P. Mavrin, N.V. Melnikov, Yu.D. Rudkin and V.G. Yaroslavtsev,

has examined in a court sitting the question of the conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of the Law amending the Constitution of the Russian Federation with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" that have not yet entered into force, as well as the conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law.

The issuing of the present Conclusion was prompted by a request by the President of the Russian Federation, and the ground for doing so was the obligation of the Constitutional Court of the Russian Federation provided for in Article 3 paragraph 3 of the Russian Federation Law amending the Russian Federation Constitution of 14 March 2020 with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" to issue a conclusion as to the conformity (or non-conformity) with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of that Law not yet having entered into force, as well as the conformity (or non-conformity) with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law.

On the basis of Articles 125 and 128 (paragraph 3) of the Russian Federation Constitution, sub-paragraph 7 of the first paragraph and the third paragraph of Article 3, the first paragraph of Article 21, the first paragraph of Article 36 and Article 74 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the Constitutional Court of the Russian Federation has established as follows:

1. Pursuant to Russian Federation Law no. 1-FKZ amending the Russian Federation Constitution of 14 March 2020 with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" (hereinafter – the Amending Law), following the entry into force of that Law, the President of the Russian Federation shall send a request to the Constitutional Court of the Russian Federation, asking it to rule on the conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of that Law that have not yet entered into force, as well as the conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law (Article 3 paragraph 2); the Constitutional Court of the Russian Federation has an obligation, no later than seven days after that request has been sent by the President of the Russian Federation, to issue a conclusion as to the conformity (or non-conformity) with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of that Law not yet having entered into force, as well as the conformity (or non-conformity) with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law;

- in the event of a finding of non-conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of that Law not yet having entered into force or non-conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law, they shall not enter into force and a nationwide vote shall not be held;

- in the event of the Constitutional Court of the Russian Federation issuing a conclusion of conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of that Law not yet having entered into force, and conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law, Article 2 of that Law shall enter into force and a nationwide vote shall be held (Article 3 paragraph 3).

The request received from the President of the Russian Federation by the Constitutional Court of the Russian Federation is based on the cited norms and in it questions are raised before the Constitutional Court of the Russian Federation in accordance with Article 3 paragraph 2 of the Amending Law. In this connection, the President of the Russian Federation requests the Constitutional Court of the Russian Federation to rule on the merits of the amendments contained in Article 1 of the Amending Law in respect of whether they conform to chapters 1, 2 and 9 of the Russian Federation Constitution, including on whether it would be acceptable, based on the outcome of the direct nationwide vote by citizens, to supplement Article 81 of the Constitution of the Russian Federation with a paragraph 3<sub>1</sub>, and also to rule on whether additional conditions for the entry into force of the Amending Law, other than obtaining the approval of legislative authorities of at least two thirds of the constituent entities of the Russian Federation, may be established by the Amending Law itself, and whether the amendments to the Constitution of the Russian Federation may enter into force on condition of being approved in a nationwide vote, as provided for in Article 3 of the Amending Law.

Consequently, the Constitutional Court of the Russian Federation hereby issues, at the request of the President of the Russian Federation, a reasoned conclusion on the questions of:

- conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of the Amending Law, provided for in paragraphs 2–5 of Article 3 of that Law taken in conjunction with its Article 2, which defines the procedure for organising and holding a nationwide vote to approve the amendments to the Russian Federation Constitution;

- conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of the provisions of Article 1 of the Amending Law, which, in accordance with Article 3 paragraph 1 of that Law, had not entered into force at the time when the present Conclusion was issued, taken in conjunction with the provisions of paragraphs 6 and 7 of its Article 3, which actually come into effect only in the event of Article 1 of that Law entering into force.

The issuing of the present Conclusion is a compulsory requirement for the Constitutional Court of the Russian Federation, ie it is not contingent upon there being uncertainty in the question of conformity of the provisions of the Amending Law with the norms of the Russian Federation Constitution, analysed by the present Conclusion and assessed in the light of such conformity. In issuing this Conclusion, the Constitutional Court of the Russian Federation will examine the question on the merits without resorting to the procedures of preliminary examination of the application by a Constitutional Court judge, appointment of a judge-rapporteur and the holding of a hearing on the case and the pronouncement of a decision.

In the preparation of the present Conclusion, all the provisions of the Amending Law that have not yet entered into force have been assessed in terms of conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution. In that process, the Constitutional Court of the Russian Federation has, independently, including on the basis of monitoring

debate in the mass media and on the Internet, and also taking account of public importance, determined those provisions whose assessment requires a more detailed expression of its position in the text of this Conclusion.

In all cases, when assessing the provisions of the Amending Law, the Constitutional Court of the Russian Federation has ruled solely on questions of law and, accordingly, has not examined the question of the expediency and preferable nature of one or another variant for regulation from the viewpoint of both its content within the limits admissible under the Russian Federation Constitution (chapters 1, 2 and 9) and the necessity of including a specific provision directly in the text of the Constitution, as this is at the sole discretion of the constitutional legislator.

2. Pursuant to Article 3 paragraph 1 of the Federal Constitutional law "On the Constitutional Court of the Russian Federation" the Constitutional Court of the Russian Federation exercises the powers listed therein and, in addition, other powers assigned to it by the Russian Federation Constitution, the Federation treaty and federal constitutional laws. That assignment is in accordance with Article 128 (paragraph 3) of the Russian Federation Constitution.

In accordance with Article 136 of the Russian Federation Constitution amendments to its chapters 3–8 shall be adopted following a procedure stipulated for the adoption of a federal constitutional law and shall enter into force after their approval by the legislative authorities of at least two thirds of the constituent entities of the Russian Federation. It was under this procedure that the Amending Law was adopted, including the amending provisions thereof that have entered into force. Consequently, the power of the Constitutional Court of the Russian Federation established by that Law to issue a conclusion ruling on the conformity with the provisions of chapters 1, 2 and 9 of the Russian Federation Constitution of its provisions that have not yet entered into force, as well as the conformity with the Russian Federation Constitution of the procedure for the entry into force of Article 1 of that Law, has been established in the appropriate regulatory form.

Article 136 of the Russian Federation Constitution makes no direct reference to the participation of the Constitutional Court of the Russian Federation in a procedure to amend the Russian Federation Constitution. At the same time, judicial constitutional supervision of such amendments, within the meaning of Articles 10, 15, 16, 125 and 136 of the Russian Federation Constitution, may serve as an appropriate guarantee of the legal force of provisions concerning the fundamentals of Russia's constitutional structure and fundamental human and civil rights and freedoms and a guarantee of non-contradiction of the text of the Russian Federation Constitution as the Fundamental law.

Within the meaning of Articles 15 and 16 of the Russian Federation Constitution and the legal position of the Constitutional Court of the Russian Federation based on them, expressed in Ruling no. 1567-O of 17 July 2014, the verification of amendments contained in a Russian Federation law amending the Russian Federation Constitution and already incorporated in the text of the Russian Federation Constitution, as they have become an inalienable part thereof, may not be carried out in a constitutional procedure. To do so would be contrary to the nature of judicial constitutional supervision.

At the same time, as it follows from Articles 15, 16, 17, 18, 134, 135 and 136 of the Russian Federation Constitution, a Russian Federation law amending the Russian Federation Constitution, insofar as it makes changes to chapters 3–8 of the Russian Federation Constitution, must not be contrary to the provisions of its chapters 1, 2 and 9 in terms of both content and procedure for adoption. This question is constitutional in nature and, for that reason, as follows from the legal positions of the Constitutional Court of the Russian Federation, set out in judgments no. 19-P of 16 June 1998, no. 6-P of 11 April 2000 and no.

3-P of 21 March 2007, should be settled under a constitutional justice procedure, which conforms to the aforementioned provisions of the Russian Federation Constitution taken in conjunction with its Articles 10, 118 and 125.

2.1. Article 1 of the Amending Law was adopted under the procedure established by Article 136 of the Russian Federation Constitution and, in accordance with that law (Article 3 paragraph 4), shall enter into force as of the date of the official publication of the results of the nationwide vote, if the amendments to the Russian Federation Constitution provided for therein are approved in that nationwide vote.

In the present Conclusion, the Constitutional Court of the Russian Federation will not assess the compliance of such a requirement with the provisions of Federal Law no. 33-FZ of 4 March 1998 "On the procedure for adopting and enacting amendments to the Russian Federation Constitution", adopted in furtherance of Article 136 of the Russian Federation Constitution. However, it must be pointed out that the provisions of the Amending Law that have entered into force – in respect of regulating the procedure for the subsequent entry into force of its other provisions – have priority over that Federal law as they are contained in a special and newer legal act and also have greater legal force.

The involvement of the legislative authorities of the Russian Federation's constituent entities in the process of adopting an amendment to the Russian Federation Constitution gives the Russian Federation law amending the Russian Federation Constitution a special status, transcending that of a federal constitutional law, which is adopted for the purpose of implementing the Russian Federation Constitution and, by its legal nature, may not change the provisions of the Constitution and become a component part thereof (Constitutional Court of the Russian Federation Judgment no. 12-P of 31 October 1995). The special mechanism for making changes to the Russian Federation Constitution by means of a special amending law makes it possible – within the limits it itself has set – to fine-tune individual provisions of its chapters 3–8, without altering the Russian Federation Constitution in its entirety (Constitutional Court of the Russian Federation Ruling no. 1567-O of 17 July 2014).

In accordance with Article 136 of the Russian Federation Constitution taken in conjunction with its Article 108, the procedure for making constitutional amendments comprises a sequence of appropriate actions/acts: a proposal of amendment in the form of a draft amending law, examination of the draft amending law in the State Duma (including amendments to the bill between the first and second readings under the same parliamentary procedure that is followed when examining other draft laws), approval by the State Duma, approval by the Federation Council, approval by the legislative authorities of at least two thirds of the Russian Federation's constituent entities, signing by the President of the Russian Federation, promulgation. Confirming the necessity of this procedure, the Amending Law provides by way of a supplement to it, in addition to the issuing of the present Conclusion by the Constitutional Court of the Russian Federation, for a nationwide vote as a mandatory prerequisite for the entry into force of the proposed amendments to the text of the Russian Federation Constitution.

The nationwide vote provided for in the Amending Law has a special legal character. Within the meaning of Articles 1 (paragraph 1), 3 (paragraphs 1 and 2) and 32 (paragraph 1) of the Russian Federation Constitution, it represents a form of direct expression of the people's will in the adoption of the aforementioned state decision and, as such, does not substitute itself for the exercise of the prerogatives of the Federal Assembly and the legislative authorities of the Russian Federation's constituent entities, which is performed by them through the adoption of that decision in accordance with Article 136 of the Russian Federation Constitution. Therefore, the constitutional legislator, guided by the principle of grassroots democracy was entitled, for the purpose of securing constitutional legitimacy of its decision, to turn to a

nationwide vote for which there is no direct provision in the current legal regulation for the adoption of a constitutional amendment.

Supplementing the designated procedure in this way by holding a nationwide vote cannot be considered as denying the Federal Assembly and the legislators of the Russian Federation's constituent entities the prerogative that belongs to them and the corresponding constitutional obligation driven by it and, within the meaning of Articles 3, 108 and 136 of the Russian Federation Constitution, fulfils the principle of grassroots democracy, which is one of the most important fundamentals of the constitutional structure, and is constitutionally justified.

Articles 2 and 3 of the Amending Law do not contain any stipulations as to the number of citizens required to participate in the nationwide vote for it to be declared valid. In this connection, paragraph 5 of Article 3 of that Law states that the amendments to the Russian Federation Constitution provided for in its Article 1 shall be deemed approved if over half the Russian Federation citizens taking part in the national ballot vote in favour of them. In taking such a decision, the constitutional legislator was within its right to proceed on the basis that, while ensuring the free participation of citizens in the nationwide vote and the reliable determination of its results, the voluntary refusal of any portion of citizens to participate in it, this being their own conscious choice, cannot prevent the constitutionally significant determination of the resulting - both positive and negative – expression of will of the participants in such a ballot, who exercised their right to implement this form of government by the people. Accordingly, the aforementioned regulation cannot be regarded as derogating from the requirements of chapters 1 and 2 of the Russian Federation Constitution. Nor is it contrary to its Article 135 (paragraph 3), which stipulates that the adoption of a new Russian Federation Constitution in a nationwide vote requires a turnout of over half of the electorate – as this is a matter of making amendments to the Russian Federation Constitution and not adopting a new Fundamental law.

2.2. Article 2 of the Amending Law stipulates that Russian Federation citizens having attained the age of 18 years by polling day shall be entitled to take part in the nationwide vote, with the exception of those citizens declared legally incapable by a court or detained in a place of deprivation of liberty by a court sentence. It also states that citizens shall participate in the nationwide vote on the basis of universal, equal and direct suffrage by secret ballot, that their participation shall be free and voluntary and that no one may exert pressure on a citizen for the purpose of forcing them to participate or not participate in the nationwide vote or of preventing their free expression of will. The nationwide vote is to be prepared and conducted openly and transparently (paragraphs 6–9). The nationwide vote may not take place earlier than 30 days dating from the official publication of the Russian Federation President's decree calling it (first indent of paragraph 5 of Article 2 of the Amending Law), meaning that there is provision for a sufficient period of time for citizens to familiarise themselves with the planned amendments to chapters 3–8 of the Russian Federation Constitution. The responsibility for ensuring that they have this possibility falls upon the Central electoral commission of the Russian Federation (Article 2 paragraph 15 sub-paragraph 2 of the Amending Law).

Such regulation meets the universally recognised democratic standards of popular expression of will and cannot be regarded as contrary to the provisions of chapters 1 and 2 of the Russian Federation Constitution, and indeed this applies to the whole of Article 2 of the Amending Law, which is aimed at ensuring the correct preparation and conducting of the nationwide vote, including the resolving of organisational issues and the providing of convenient conditions for citizens to express their will.

3. In chapter 3 "Federal structure" of the Russian Federation Constitution there is provision for a set of amendments specifying the constitutional law status of the Russian Federation in domestic and international/interstate relations and also relating to questions of Russian

national/state identity and guarantees of its preservation and protection (Article 67, paragraph 2<sub>1</sub>; Article 67<sub>1</sub>; Article 68 paragraphs 1 and 4; Article 69 paragraphs 2 and 3; Article 79<sub>1</sub>).

The text of the Constitution is supplemented *inter alia* by provisions relating to a prohibition of any transfer of Russian Federation territory and the inadmissibility of incitement to such acts, the state unity of the Russian Federation that has been forged in the course of history, the honouring of monuments to protectors of the fatherland and the defence of historical truth, the recognition of children as a most important priority of Russian state policy, and the creation of conditions by the State for the comprehensive spiritual, moral, intellectual and physical development of children and for instilling them with patriotism, civic-mindedness and respect for their elders, the mainstreaming of family education and the taking on by the State of parental responsibility for children who are without guardianship, the state language of the Russian Federation - being Russian as the language of the people that forms the State and is part of the multi-ethnic union of Russian Federation peoples possessing equal rights, and the recognition of culture as the unique heritage of the multi-ethnic peoples of the Russian Federation, the protection of the cultural identity of all peoples and ethnic communities of the Russian Federation, support for compatriots living abroad, the adoption by the Russian Federation of measures to support and strengthen international peace and security, the ensuring of peaceful coexistence of States and peoples and the inadmissibility of interference in the internal affairs of a State.

The inclusion of those provisions in the text of the Russian Federation Constitution cannot be regarded as incompatible with the provisions of chapters 1 and 2 of the Russian Federation Constitution, particularly its Articles 1, 13, 14, 28 and 29, as, being intended to reflect the substantive orientations and constitutional law requisites governing the activities of state authorities of the Russian Federation and to a significant extent of the state authorities of the Russian Federation's constituent entities, the proposed norms are of a non-political, non-partisan and non-denominational character and cannot be assessed, interpreted or enforced as establishing a state or compulsory ideology, as betraying the principles of pluralist democracy and the secular nature of the Russian State or as introducing any kind of restrictions on human and civil rights and freedoms that are inadmissible from the viewpoint of chapters 1 and 2 of the Russian Federation Constitution or any interference therewith.

The Law amending the Russian Federation Constitution (Article 67<sub>1</sub> paragraph 1) introduces a provision stating that the Russian Federation is the legal successor to the Union of Soviet Socialist Republics on its territory, as well as the USSR's legal successor/continuity State in respect of membership of international organisations and their bodies and participation in international treaties, and also in respect of the USSR's obligations and assets beyond the territory of the Russian Federation provided for in international treaties. The status of the Russian Federation as the USSR's legal successor/continuity State constitutes an inalienable characteristic/fundament of its sovereignty in domestic and international matters and may not, either *de facto* or *de jure*, be called into question. The given norm relating to legal succession – bearing in mind that it is the Russian Federation Constitution as the Fundamental law that stands as the highest universal form of the legitimacy of the Russian Federation and enshrines its constitutional identity in the domestic and international spheres – is constitutionally justifiable and conforms to the fundamentals of Russia's constitutional structure, giving them concrete form.

The proposed establishment in Article 67 (paragraph 2<sub>1</sub>) of the Russian Federation Constitution of a prohibition not only of acts (with the exception of delimitation, demarcation and re-demarcation of the Russian Federation's state border with contiguous States) aimed at transferring parts of Russian Federation territory but also incitements to such acts, while it is a restriction on freedom of speech, nevertheless conforms to the constitutionally significant aims of such restrictions, for which the criterion for constitutional admissibility is to be found not only in the provisions of Article 29 (paragraph 2) of the Russian Federation Constitution

but also in the provisions of its Article 13 (paragraph 5), prohibiting the setting up and activity of non-governmental organisations whose aims and actions are aimed, in particular, at violating the integrity of the Russian Federation. Moreover, irrespective of these provisions, by virtue of Article 4 (paragraph 3) of the Russian Federation Constitution, whereby the Russian Federation shall ensure the integrity and inviolability of its territory, the imposing of such restrictions is admissible.

The inclusion in the text of the Russian Federation Constitution of a reference to faith in God, passed on to the Russian people by its forebears (Article 67<sub>1</sub> paragraph 2) does not mean a renunciation of the secular nature of the Russian State proclaimed in Article 14 and of freedom of conscience guaranteed in Article 28 since, in the manner of its wording, it is not associated with religious denomination, it does not proclaim any given religious beliefs as being compulsory in the Russian Federation and it does not place Russian citizens in an unequal position according to whether they have such a belief and follow its specific orientations (which would otherwise be contrary to Article 19 (paragraph 2) of the Russian Federation Constitution), being intended merely to underline the necessity, when implementing state policy, of taking account of the historically significant socio-cultural role played by the religious component in establishing and developing Russian statehood.

The provision on the Russian language as the language of the people that forms the State being part of the multi-ethnic union of Russian Federation peoples possessing equal rights (Article 68 paragraph 1 of the Russian Federation Constitution in the proposed version) is based on the objective recognition of the role of the Russian people in the forming of Russian statehood, for which the continuity State is the Russian Federation. It does not belittle other peoples and cannot be regarded as being incompatible with the provisions of the Russian Federation Constitution concerning the multi-ethnic people of the Russian Federation (Article 3 paragraph 1), equality of human and civil rights and freedoms irrespective of nationality/ethnicity (Article 19 paragraph 2) and the equal rights and self-determination of peoples (preamble).

3.1. ...

3.2. ...

3.3. Article 1 of the Amending Law provides for Article 79 of the Russian Federation Constitution to be supplemented with a provision stating that decisions of interstate bodies taken on the basis of the provisions of the Russian Federation's international treaties in an interpretation that is contrary to the Russian Federation Constitution shall not be executed in the Russian Federation. Associated with this is a provision supplementing Article 125 of the Russian Federation Constitution, whereby the Constitutional Court of the Russian Federation, under the procedure established by federal constitutional law, shall rule on the possibility of executing decisions of interstate bodies taken on the basis of the provisions of the Russian Federation's international treaties in an interpretation that is contrary to the Russian Federation Constitution, and also on the possibility of executing decisions of an international/interstate court or a foreign or international court of arbitration/mediation placing the Russian Federation under obligations, where such a decision is contrary to the tenets of public order in the Russian Federation (sub-paragraph "b" ["б" in the original Cyrillic text] of paragraph 5<sub>1</sub>).

These provisions, as follows directly from their wording, do not prescribe a repudiation by the Russian Federation of compliance with the international treaties themselves and of the honouring of its international obligations and, accordingly, are not contrary to Article 15 (paragraph 4) of the Russian Federation Constitution. The given mechanism is not intended to establish a repudiation of execution of international treaties and the decisions of interstate court bodies based thereon but rather to devise a constitutionally acceptable means of executing such decisions by the Russian Federation while steadfastly safeguarding the supreme legal authority of the Russian Federation Constitution within the Russian legal



system, a component part of which is constituted by the unilateral and multilateral international treaties of Russia, including those providing for the corresponding powers of interstate courts.

4. ...

4.1. ...

4.2. The amendments regulating the constitutional status and powers of the Federation Council and the State Duma in Articles 95 (paragraphs 2, 3, 5 and 6), 100 (paragraph 3), 102 (sub-paragraphs "f", "g", "h", "i", "j" and "l" ["e", "ж", "з", "u", "к" and "m" in the original Cyrillic text] of paragraph 1), 103 (sub-paragraphs "a", "a<sub>1</sub>", "d<sub>1</sub>", "e" and "h" ["a", "a<sub>1</sub>", "e<sub>1</sub>", "d" and "z" in the original Cyrillic text] of paragraph 1) and 103<sub>1</sub> of the Russian Federation Constitution conform to the principles of grassroots democracy and federal structure that govern the bicameral structure of the Federal Assembly, whose vocation is to express the different sides of popular representation, and are not contrary to the principles stemming from the fundamentals of the constitutional structure of the division of powers between federal state authorities and their interaction/interrelations. With the increase in the number of Russian Federation representatives appointed by the Russian Federation President in the composition of the Federation Council and also the granting of the powers of a senator of the Russian Federation to a Russian Federation President having ceased exercising his/her powers in connection with the expiry of his/her term of office or earlier in the event of resignation from office (Article 95, sub-paragraphs "b" and "c" ["б" and "в" in the original Cyrillic text] of paragraph 2 of the Russian Federation Constitution in the proposed draft), a manifest numerical predominance in the Federation Council of representatives of the Russian Federation's constituent entities is preserved, giving no grounds for calling into question the federal basis of the bicameral model of Russian parliamentarism.

According to the wording proposed in the Amending Law of Articles 83 (sub-paragraph "f<sub>3</sub>" ["e<sub>3</sub>" in the original Cyrillic text]) and 102 (sub-paragraph "k" ["л" in the original Cyrillic text] of paragraph 1) of the Russian Federation Constitution, the Federation Council would be empowered to terminate, at the proposal of the Russian Federation President and in accordance with federal constitutional law, the powers of the President, Vice-Presidents and judges of the Constitutional Court of the Russian Federation, the President, Vice-Presidents and judges of the Supreme Court of the Russian Federation and the presidents, vice-presidents and judges of courts of cassation and appeal in the event of conduct by them that discredits the honour and dignity of a judge, as well as in other cases provided for in federal constitutional law that are indicative of judges' inability to discharge their duties. At present, neither in chapters 1 and 2 nor in chapter 7 "Judicial power" does the Constitution of the Russian Federation establish a specific procedure for terminating the office of a judge; it merely states that the powers of a judge may be terminated or suspended only according to the rules and on the grounds laid down by federal law (Article 121 paragraph 2). Granting the corresponding powers to the Federation Council and the Russian Federation President cannot be regarded as incompatible with Article 10 of the Russian Federation Constitution, which guarantees the independence of legislative, executive and judicial authorities, or with the constitutionally established nature of the judiciary in a democratic State ruled by law, bearing in mind that, the corresponding procedure involves the President of the Russian Federation and the legislature acting via the Federation Council and in any case does not permit the unreasoned and unsubstantiated termination of a judge's powers, on the understanding that federal constitutional law establishes the grounds and procedure for such a termination.

The Amending Law introduces the institution of constitutional supervision carried out by the Constitutional Court of the Russian Federation at the request of the Russian Federation President in respect of laws adopted under the procedure provided for in Articles 107 (paragraphs 2 and 3) and 108 (paragraph 2) of the Russian Federation Constitution prior to their signature by the Russian Federation President (Article 125, sub-paragraph "a" of paragraph 5<sub>1</sub>). These amendments are intended to guarantee the primacy and supreme legal force of the Russian Federation Constitution (Article 1 paragraph 1; Article 4 paragraph 2;

Article 15 paragraphs 1 and 2) and to resolve possible constitutional disputes between the Federal Assembly and the Russian Federation President, thereby creating – within the framework of the discretion of the constitutional legislator – one of the mechanisms of checks and balances, and for that reason cannot be regarded as incompatible with the principles of the division of powers and the independence of the respective authorities.

4.3. ...

5. ...

5.1. ...

5.2. ...

5.3. With regard to Articles 125 and 126 of the Russian Federation Constitution, the Amending Law aims to specify the functions of the supreme judicial bodies – the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation.

In Article 125 (paragraph 4) of the Russian Federation Constitution, an additional requirement is introduced for lodging complaints of violations of the constitutional rights and freedoms of citizens – the exhaustion of all other domestic judicial remedies. Successive appeals made by a citizen against a court judgment at least at appeal and cassation levels and only then an application to the Constitutional Court of the Russian Federation within the system of current legal regulation of justice and procedural legislation will ensure the effectiveness of appeals within the framework of the coordinated functioning of all the courts making up the unified judicial system of the Russian Federation. Therefore, the requirement of exhausting other remedies provided for in law as a prerequisite for the admissibility of a complaint to the Constitutional Court of the Russian Federation is not contrary to a citizen's right to judicial protection (Article 46 paragraph 1 of the Russian Federation Constitution) and will furthermore facilitate its implementation.

The proposed draft of Article 125 (sub-paragraph "a" of paragraph 5.) of the Russian Federation Constitution provides for the institution of preliminary constitutional supervision, carried out by the Constitutional Court of the Russian Federation at the request of the Russian Federation President, with regard to draft Russian Federation laws amending the Russian Federation Constitution, draft federal constitutional laws and draft federal laws. Establishing such a power for the Constitutional Court of the Russian Federation lies within the limits of discretion of the constitutional legislator, as does the securing of other new powers of the Constitutional Court of the Russian Federation in Article 125 of the Russian Federation Constitution.

The proposed draft of Article 125 (paragraph 1) of the Russian Federation Constitution alters the number of judges of the Constitutional Court of the Russian Federation from 19 to 11, with these including the President of the Constitutional Court of the Russian Federation and their deputy, which lies within the limits of discretion of the constitutional legislator. Article 3 paragraph 7 of the Amending Law further provides that judges of the Constitutional Court of the Russian Federation exercising their powers on the day of entry into force of Article 1 of that Law shall continue exercising their powers of judges of the Constitutional Court of the Russian Federation until such time as these cease on the grounds established by Federal Constitutional Law no. 1-FKZ of 21 July 1994 "On the Constitutional Court of the Russian Federation" and, if, after the entry into force of Article 1 of that Law, the number of judges of the Constitutional Court of the Russian Federation exercising their powers on the day of entry into force of Article 1 of that Law corresponds to or exceeds the number of judges provided for in Article 1 of that Law, no new judges shall be appointed to the Constitutional Court of the Russian Federation. Transitional regulation of this kind, temporarily allowing a higher number of judges in the composition of the Constitutional Court of the Russian Federation than that stipulated by the Russian Federation Constitution, conforms to the principles of the independence and irremovability of judges and contains no intrinsic contradiction of Article

15 (paragraph 1) of the Russian Federation Constitution, as it is an acceptable means of achieving a balance of constitutional values as regards the resolution of this question.

5.4. ...

6. ...

6.1. ...

6.2. ...

7. ...

#### [CONCLUSIONS]

In the light of the foregoing and on the basis of paragraphs 2 and 3 of Article 3 of the Russian Federation Law amending the Russian Federation Constitution with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" and Articles 6, 72, 74, 75, 78 and 79 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the Constitutional Court of the Russian Federation

concludes that:

1) the procedure for the entry into force of Article 1 of the Russian Federation Law amending the Russian Federation Constitution with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" conforms to the Russian Federation Constitution;

2) the provisions of the Russian Federation Law amending the Russian Federation Constitution with a view to "Improving the regulation of individual questions of organisation and functioning of public authority" that have not yet entered into force conform to chapters 1, 2 and 9 of the Russian Federation Constitution.

The present Conclusion shall be sent to the President of the Russian Federation without delay.

The present Conclusion is final, is not subject to appeal, shall enter into force immediately after its official publication, shall be directly applicable and does not require ratification by other authorities or officials.

The present Conclusion shall be published without delay [...]

Constitutional Court

Russian Federation

No. 1-Z