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CONSTITUTIONAL JUSTICE AS THE HIGHEST FORM OF
CONSTITUTIONALISM IN RUSSIA

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Abstract

The article analyzes the formation and development of the legal status of the Constitutional Court of the Russian Federation as a specialized body of constitutional control, independently exercising judicial power through constitutional litigation. Today, the Constitutional Court in Russia is one of the most significant organizations of state power, solving the main topical issues and performing a special function in the work of the state and its legal system. The analysis of the role of this judicial structure in the functioning of the Russian state necessitates a review of certain periods of its evolution as a body of constitutional jurisdiction. Constitutional court proceedings have a number of peculiarities compared to other types of proceedings. First of all, the principle of unity of judicial power within the framework of judicial constitutional review has a significant specificity as it is combined with the principle of decentralisation. The specific nature of constitutional justice also manifests itself in the operation of other principles of justice, in the legal position of the participants in the constitutional process, and in the special legal nature of the decisions of the constitutional justice bodies. Most of the studies of court proceedings were conducted within the framework of civil and criminal procedural law, as well as the study of the issues of proceedings on administrative offences within the framework of administrative law, the procedural rules were not given due attention by specialists in the field of constitutional law.

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Keywords: Constitutional justice, constitution, constitutional court, constitutional justice, constitutional litigation



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1. Introduction

The relevance of the topic we study is due to the influence and importance that the Constitutional Court of the Russian Federation has for the state structure, the need and inevitability of its compliance with the developing reality, especially in the light of the constitutional reform conducted in 2020. The recognition by the Constitution of the Russian Federation of constitutional justice as an independent type of legal proceedings requires a systematic approach and the study of common features of all forms of implementation of judicial power as a single branch of state power, on the one hand, and the analysis of the specific features of constitutional justice, on the other hand.

The competences, scope of duties and ways to improve the RF CC have been the subject of research by many prominent scholars, for example, (Avakyan, 2012; Kryazhkov, 2016; Mityukov, 2002; Vitruk, 2012) and others.

2. Problem Statement

Despite the significant number of publications on the topic of this study, there is still no consensus in the scientific literature on the nature of the legal positions of the Constitutional Court of the Russian Federation. The issues and principles of regulation of constitutional court proceedings in the Russian Federation and constituent entities of the Russian Federation and their powers are not completely closed and need further elaboration, as this institution can have a great impact, is very important for ensuring the law, the vitality of the state and the principles defined by the Basic Law of the Russian Federation, serving as a reference point for its work aimed at upholding the rights and freedoms of the individual.

3. Research Questions

The object of the study is the constitutional and legal relations developing within the framework of the constitutional proceedings of the Constitutional Court of the Russian Federation and constitutional (statutory) courts of the subjects of the Russian Federation. The study deals with the general issues of constitutional litigation in the Russian Federation, peculiarities of implementation of the constitutional control function in the activities of specialized judicial bodies of the subjects of the Russian Federation.

The subject of the study is the normative legal acts through which the legal regulation of constitutional proceedings of the Russian Federation and constituent entities of the Russian Federation, decisions of the constitutional justice bodies of Russia is carried out.

4. Purpose of the Study

The aim of the study is also to identify gaps and conflicts in legal regulation and to substantiate the scientific and practical specificity of constitutional proceedings in comparison with other types of proceedings on the basis of a comprehensive analysis of the available theoretical views and the existing practice of constitutional review in the Russian Federation and its constituent entities.

5. Research Methods

During the study of various aspects of the category "constitutional justice" such methods of scientific knowledge as comparative-legal, formal-legal, sociological, structural-functional, theoretical-prognostic, etc. were applied. Comparative-legal method was used when considering the current legislation of the Russian Federation and the subjects of the Russian Federation, the problems of compliance with the federal legislation of the normative acts of the subjects of the Russian Federation; theoretical-prognostic method - when preparing recommendations on specific issues of legal practice and legislative work; situational method was used to resolve specific disputes and controversies arising in the implementation of legal regulation of constitutional court proceedings. The combination of these methods predetermined the reference not only to the current problems of the constitutional law of the Russian Federation, but also to the issues of the theory of law and state, administrative, arbitration, civil procedure and other branches of law. Please replace this text with context of your paper.

6. Findings

Constitutional review is the main sphere of activity of the Constitutional Court of the Russian Federation (hereinafter CC RF), which is defined as the activity of the bodies and officials with jurisdiction, aimed at achieving compliance of all legislative acts applied in our country with the Basic Law of the Russian Federation and ensuring non-infringement of individual rights and freedoms (Ostapovich, 2015).

According to Yaroshenko (2012), the Constitutional Court of the Russian Federation is not the only authority exercising constitutional review, but only one of many. However, for the other organisations exercising public power in the country, in comparison with the Constitutional Court of the Russian Federation, the legal protection of the Constitution is not the main, but a secondary activity. Therefore, the Constitutional Court of the Russian Federation and constitutional (statutory) courts of the subjects of the Federation, exercising judicial constitutional control, represent in fact a key link in the chain of structures protecting the Constitution in our country.

Consequently, the competence of this court includes a range of accessible and permissible actions aimed at implementing the duties imposed on it by the legislation of the Russian Federation. What exactly the powers of the Constitutional Court of the Russian Federation are is to be found out from Article 125 of the Constitution of the Russian Federation. Moreover, in accordance with part 3 of Article 125 of the Constitution of the Russian Federation, the limits of its competence can be extended by indicating in the Federal Constitutional Law a relevant norm. The body we are interested in is endowed with great power to protect the constitutional order, key individual rights and freedoms, to ensure the supremacy and direct effect of the Constitution of the Russian Federation throughout its entirety.

It should be noted that judicial constitutional control is exercised through constitutional proceedings, which are a specific type of judicial proceedings. This means that the Constitutional Court interprets the Constitution of the Russian Federation, checks the consistency of legislative acts of higher state authorities, domestic and international treaties of the Russian Federation, regulates disputes on the powers between state authorities and handles other cases of constitutional nature.

The Constitutional Court can only exercise its competences in accordance with the requirements and complaints of citizens as set out in the Constitution of the Russian Federation and the Federal Constitutional Law on the Constitutional Court of the Russian Federation. This means that for the most part it cannot exercise its powers arbitrarily. However, deviations from this rule are possible in certain cases. In particular, the Constitutional Court has the right to decide, at its own discretion, whether or not to exercise the right of legislative initiative to hold its sessions. This exception is formally enshrined in Article 104(1) of the Constitution of the Russian Federation. Also, the Constitutional Court of the Russian Federation may decide to address the state bodies through a message during the session. In addition, it independently establishes an internal set of rules governing the organisation of its work.

It should be emphasised that the Constitutional Court only has jurisdiction over legal matters. It should not be concerned with politics and should not act as an arbitrator in the resolution of political disputes. Nevertheless, most of the matters brought before the Constitutional Court have to do with political processes. In this case, it has to separate only the legal element from everything else in such cases, to assess only the legal norms.

Before we start talking about the powers of the Constitutional Court of the RSFSR, let us say a few words about the date and events surrounding its founding and about the performers of the functions of the present Constitutional Court before its establishment.

The Constitutional Court of the Russian Federation was preceded by the USSR Constitutional Oversight Committee, which was formed in 1989 and completed its activity in 1991. Before "perestroika" there were no such bodies in the USSR. The reason for that was the predominant opinion of that time that it was impossible for the Supreme Soviet to pass laws that were not compatible with the Constitution. The Presidium of the USSR Supreme Soviet controlled the observance of the Constitution. In the jurisprudential environment of that period, it was common to criticise foreign constitutional law, since it was assumed that their constitutional justice protected solely the interests of the bourgeoisie and influenced the priorities of the legislative bodies. According to Avakyan (2020), the difficulty in seeing the meaning of this institution of constitutional law was evident in its name ("oversight") and competence.

In 1989, the reform of the Constitution of the RSFSR was launched. At the same time, a decision was taken to extend the competence of the RSFSR's Congress of People's Deputies by 'electing a Committee for Constitutional Oversight of the RSFSR'. But the creation of this committee did not follow. In 1990, during the reform of the RSFSR Constitution, this decision was changed to 'the election of the RSFSR Constitutional Court'. Then, after the reform of the Constitution had been completed in 1991, in Article 165, the Constitutional Court of the RSFSR was granted the status of the supreme judicial body of constitutional control in the republic, which exercised judicial power through constitutional jurisdiction. Article 165 of the Constitution provided that the CC was to consist of 15 judges.

The legal basis for the formation and operation of the Constitutional Court is understood to be the amendment to the Fundamental Law of 15 December 1990 and the rather extensive (89 articles) Law on the Constitutional Court of the RSFSR.

The CC started its work not immediately, gradually. Only 13 of the required 15 judges were elected in August 1991. The deputies did not manage to make a satisfactory decision at the Congress to

fill the two vacancies left vacant. The decision was postponed until the next Congress. However, even after two years, the Constitutional Court was still incomplete. Nevertheless, according to the law, the court could start its activities if 2/3 of the judicial staff was filled. Therefore, a year after the reform of the Constitution that ordered the creation of the Constitutional Court of the RSFSR, at the end of August 1991, 13 judges and the chairman were sworn in.

According to the Law on the Constitutional Court of the RSFSR, this judicial body exercises judicial power through a collegial evaluation of legislative acts, international treaties and cases of law enforcement concerning their constitutionality, as well as through the publication of opinions on cases examined. Moreover, the newly established judicial body considered cases on the constitutionality of legislative and other normative acts adopted by the Congress of People's Deputies, the RSFSR Supreme Soviet, the Presidium of the RSFSR Supreme Soviet and other higher authorities (Svyatogorova, 2017).

The Constitutional Court was also responsible for examining cases of compliance with the Constitution on complaints filed by citizens, foreigners, stateless persons and legal entities alleging violation or lack of protection of their fundamental rights and legitimate interests. This court had to confirm and justify the fact that a legislative act had not been applied or had not been applied properly and this had acquired the status of customary law.

The Constitutional Court was empowered to give an opinion on the constitutionality of the acts and decisions of senior officials of the RSFSR (including the head of state) in cases where the non-compliance of their acts and decisions (based on the provisions of the Constitution) was grounds for their removal or criminal punishment; on the constitutionality of the RSFSR international treaties approved or in force without approval; on the constitutionality of domestic treaties; on the compliance of the RSFSR Constitution with USSR laws; on the constitutionality of other legislative acts. It could give these opinions at the request of the Supreme Soviet of the RSFSR, the Congress of People's Deputies, the Presidium of the Supreme Soviet, and the highest organs of state power of the republics within the RSFSR (Kuznetsov, 2019).

Bondar (2011) noted that the previously mentioned Law provided for the possibility for the Constitutional Court to independently issue all the above opinions without a request from anyone, which is not unimportant, because later, after the establishment of the present state, this judicial body lost this right.

All the competences of the Constitutional Court of the RSFSR speak of its role in the mechanism of state life, consisting mainly in constitutional control. On April 21, 1992, the Russian Constitution was amended to include Article 1651 that increased the number of rights and responsibilities of the Constitutional Court to include not only republics but also territories, oblasts, cities of federal significance, autonomous oblasts and autonomous okrugs. Therefore, the Constitutional Court of the Russian Federation was already entitled to analyze legal documents of the federal bodies of the executive power, constitutions and charters of the subjects of the Russian Federation, other official documents of the subjects' bodies. It also had the right to assess disputable situations related to the issue of authority between federal bodies, between the federal bodies and the bodies of the subjects of the Russian Federation. In addition, he was entitled to provide an opinion that an official could not perform his official functions for health reasons.

We have already mentioned that the Constitutional Court of the RSFSR was entitled to determine and resolve exclusively legal issues. In Belov's (2020) right opinion, those competences of the Court which were not concerned with the control of the rules of law had, in fact, political features.

Consequently, even before the Constitution of the Russian Federation was adopted in 1993 and even before the Russian Federation was formed, the CC was already functioning. It had extensive powers relating to legal protection of the Constitution, assessing the compatibility of actions, decisions and legislative acts with it, but it was still a long way from acquiring its present features.

Following the adoption of the new Constitution, the position of the Constitutional Court was redefined, which was further confirmed by the 1994 FCL on the Constitutional Court of the Russian Federation. The renewed CC consisted of 19 judges, which was in line with the number of judges stipulated by law (for the first time since its creation). Initially, a twelve-year period was set for the Constitutional Court to exercise its functions (in accordance with the FKZ) (Derho, 2018).

The dissonance resulting from the entry into force of the updated Constitution can be described as follows: in fact, the 1993 Constitution was accepted by most of the Russian people. Even the Russians who had attacked it and believed in its illegitimacy are now taking their actions and decisions on it. The contradiction lies in the fact that those who previously advocated amending the constitution are now staunchly defending its inviolability. Those who formerly asserted the inadmissibility of revising the Constitution and its sanctity are now taking an active part in its reformation by amending and altering the federal laws, which establish the general order of the state apparatus. This paradoxical state of affairs is probably due both to the economic, social and political problems in the country and to the procedural specifics of the adoption of the current Russian Constitution.

The creation of higher courts, including the Constitutional Court, has been placed under the authority of the Federation Council. However, it is the Head of State who nominates candidates for the position of judge, which is stipulated by Article 128 (1) of the Constitution. Consequently, the Council of the Federation cannot do anything about it without the nomination of candidates for the Constitutional Court judge position by the Head of the State. This condition will later lead to the fact that it will not be fully formed (Nikiforov, 2020).

By virtue of Article 125(2) of the Russian Constitution, at the request of the Head of State, the Federation Council or State Duma, the Government, the Supreme Court, regional parliaments and the executive bodies of the subjects of the Russian Federation, the Constitutional Court shall assess the correspondence between federal legislative acts, constitutions and charters of subjects, official documents adopted by the state officials, state bodies and subjects, international agreements, domestic treaties and the Russian Federation Constitution that have not yet become effective.

In addition, on the basis of Article 125(6) of the Constitution, legal documents or certain clauses of such documents assessed as inconsistent with the Constitution shall become null and void; international treaties of the Russian Federation deemed unconstitutional shall not enter into force.

Furthermore, under Article 125(3) of the Constitution, the Constitutional Court had jurisdiction to settle disputes arising between the authorities of the Russian Federation at the federal level, the regional authorities and the supreme state bodies of the constituent entities. In addition, Article 125(4) of the same Law provided the Court with the possibility to verify the constitutionality of a law used or to be used in a

particular case upon complaints of non-compliance with the constitutional rights and freedoms of certain Russians upon the request of the courts.

Article 125(5) of the Russian Constitution entrusted the Court with the important function of interpreting the Constitution at the request of the Head of State, the Federation Council, the State Duma and the representative bodies of state power of the constituent entities of the Russian Federation. The fact that the Constitutional Court is now the interpreter of the laws, rather than the authorities which drafted them as it was until then, is due to the fact that it was the Russians themselves who participated in the adoption of the Constitution, not the authorities.

Nikitina believes that interpretation of the Constitution is necessary because of the increasing demand for a clear understanding of the substantive content of its norms and provisions, defining their ultimate goal in order to properly relate the actual legal activities to it. (Nikitin, 2017)

The Court's power to give an opinion on whether the accepted procedure for charging a Head of State with treason or other serious criminal offence is adhered to is reflected in Article 125 § 7. It goes without saying that the Court itself does not decide to give such an opinion, it does so only at the request of one of the chambers of the Federal Assembly.

On the basis of Article 100 § 3 of the Russian Constitution, the Court has the possibility to send a message to the Council of the Federation and the State Duma, their joint session. But as a rule, the Court does not do so. Mityukov (2002) has expressed his regrets about this in his textbook: the Court's right to address messages is now almost never used. In fact, mechanical and imitative actions have replaced the constitutional perception of the institution of a message of this court.

Another competence of the Court was reflected in Article 104 par 1, which gave it the right to decide on matters of its own jurisdiction. It concerns the possibility of submitting draft legislation to the State Duma. It is worth emphasising that it is rather difficult to define the context of the Court's jurisdiction and to identify from it the segment in need of legislative regulation. On first impression, it is not easy to see any incompleteness in the pool of competence envisaged by Article 125 of the Russian Constitution which would make the adoption of new normative acts inevitable. Nevertheless, the Court showed legislative initiative and developed a draft law (Federal Constitutional Law) dedicated to it and sent it to the State Duma in 1994 for its decision. In the content of the submitted draft of the FCL, the Court, referring to Article 128 § 3 of the Constitution, made a reference to the Constitution. 3 of Article 128 of the Constitution, made an attempt to regulate its competences, the procedure of establishment and operation (Kozhevnikov, 2018).

With regard to the part of the power which implies the right to submit draft laws for consideration, the Court has been markedly reticent and somewhat cautious in its choice of grounds for exercising it. This is most likely a sign of the real implementation of the principle of separation of powers, which has a beneficial effect on the prestige of the judiciary.

It is interesting to note that Vitruk's (2012) observation that the practical activities of the CC during the first years of its existence, known as difficult times for our country, show the inevitability of implementing such legal measures that would make it impossible or at least significantly difficult to manipulate the Court, using it as an instrument of political opposition, regardless of the staffing of judges and the outlook of judges and their human qualities.

Such measures, in the scholar's opinion, should include: removal of the clause on the right of the Court to independently initiate the examination of cases from the content of the FCL; inclusion of the list of bodies and officials with the right to challenge the constitutionality of laws in the Law. Such a measure could also be the removal of the Court's right to assess the constitutionality of political parties and habitual acts and states of law enforcement.

In order to uphold the supremacy and direct operation of the Constitution, its effective implementation and the protection of the law against non-compliance, judicial review of the constitutionality of legislative and other acts by a specialised court - the Constitutional Court of the Russian Federation - is essential.

This body was established on the basis of the Law of the RSFSR adopted on 15 December 1990. We have already mentioned that under the first Law on the Constitutional Court of the RSFSR, a CC judge was entitled to hold office until the age of 66 and was not limited in any other way. The first FCL on the Court, however, provided that judges could be appointed for 12 years, but the highest age was 69. For the first time, the FCL was amended in 2001, in particular, the norm about the maximum age of judges was removed from it and the term of office was changed to 15 years. The amended norms applied only to those judges appointed by the Federation Council. This meant that the first 13 judges were still entitled to remain in office until the age of 66 and were not limited in any other way.

According to Judge Bondar, institutionally constitutional justice is characterised as a special kind of jurisprudence. Its peculiarity lies in the fact that the position of judge of the Constitutional Court is for the most part filled by people who have not previously participated in judicial proceedings. For the most part, these people are not "destined" to take up any other judicial positions in their lives. In other words, the position of constitutional judge, described as life-long, in fact means, in most cases, life-long tenure (apart from the occasional case where a judge is elected as President of the court in question). As a result, this state of affairs may account for a certain permanence and preservation of a key part of the Court's staff, which is one of the highest organizations of state power (Bondar, 2007).

The first transformation of the FCL took place in 2001. In particular, Article 3 of the FCL "On the Constitutional Court of the Russian Federation", which defines the scope of the Constitutional Court's powers, was amended to change the content of its competence. By inserting a new (2) part, it was established that the Court's powers could only be reformed through amendments to the FCL. However, this clarification makes such a change possible even if Article 125 of the Constitution (which contains the original list and description of the Court's competence) remains as it was, unchanged. Consequently, there is a high probability that Article 3 of the FCZ may be incompatible with Article 125 of the Constitution.

A change cannot be overlooked with regard to the increased obligation to implement the Court's judgments. These judgments have been ordered to be implemented immediately or within a stipulated time frame, which has of course accelerated the timely elimination of the consequences of non-conformity of legislative acts with the Constitution.

Subsequent amendments to the FCZ have not affected the competence of the Court. Thus, the amendments made in 2004 were related to the issues of reimbursing individuals for the costs of establishing the unconstitutionality of a legal act. The year 2005 saw the abolition of the term of office of

a Court judge. In 2007, the Court moved from Moscow to Saint Petersburg. Only its separate subdivision remained in the capital.

The 2009 reforms affected the Court's organisational structure. In particular, the post of judge-secretary was abolished, the number of Deputy Chairmen of the Constitutional Court of the Russian Federation was increased (to two), the procedure for the election of persons to this post and their early dismissal from it was revised.

The Court's powers were particularly transformed in 2010. Thus, the content of the FCL was expanded by adding paragraph 3.1, which reinterprets Article 125 par 4 of the Constitution, which enshrines par. 3 ч. 3(1) of Article 3 of the FCL, the procedure for the Court to verify the compliance of the law used in a particular case with complaints on non-compliance with the rights and freedoms of citizens. The novelty stipulated that the Court shall verify the constitutionality of laws to be used in a specific case upon the request of the courts. The change was received ambiguously. Thus, Kryazhkov (2016) considered the change as strange, unpredictable and hardly necessary, as so far this issue had been resolved without any difficulties. According to Avakyan (2020), there was a certain arbitrariness in the actions of the drafter of the law in relation to the context of the Constitution. From Gadzhiev's (2017) point of view, the innovations introduced in the constitutional text infringe on the meaning of the basic principles of the Court (independence, collegiality, publicity, continuity).

Particularly significant changes to the powers of the RF CC took place in 2015. First of all, we should note the introduction of a new paragraph 3.2 in Part 1 of Art. 3 of the Federal Constitutional Law on the powers of the Constitutional Court. This addition prescribed the Constitutional Court to decide on the question of whether an international body's decision concerning the protection of individual rights and freedoms can be implemented in the event of a reasonable request by a federal government body that has to protect the country's interests in proceedings before an international human rights body concerning allegations brought against Russia on the basis of an international treaty.

Amendments were also made to Article 36 of the FCL. Thus, in part 2 formulating the grounds for consideration of cases by the CC of the RF a new ground was added which was interpreted as the identified uncertainty in terms of the possibility to implement the decision taken by the international body for human rights protection based on the content of the relevant international treaty of the RF, under some assumptions interpreted in a way that creates a conflict between it and the Basic Law of the RF. From the meaning of the redrafted Article it was quite natural that the Constitutional Court of the Russian Federation was endowed with another power reflected in Part 1 Article 47.1 of the Federal Constitutional Law. It is about its right to decide the fate of the implementation of the decision of the said body without a hearing.

The decision noted above has also been added to Article 71(2), which contains a list of varieties of decisions of the Constitutional Court that take the form of a judgment.

The 2016 amendments did not significantly change the scope of the Constitutional Court's powers. However, attention should be drawn to the fact that from then on, legislative acts could be considered constitutional as interpreted by the Constitutional Court, while there was a prohibition on applying these acts in any other context than that which had been given by the Constitutional Court. In 2018, only one

change was implemented, which was that the President of the Constitutional Court was entitled to hold office only until the age of 77.

The RF CC, as well as its powers, has undergone changes throughout its existence, which has lasted about 30 years, let's say it has taken a developmental path. Both positive and negative things have happened along the way. On the positive side, we should consider a desire to improve the structure and functionality of the organisation. On the negative side, it has been a tendency to reduce autonomy and autonomy. This trend should alert all concerned people, as it generally speaks to the loss of the very essence of the functioning of this institution, which should, based on the Russian Constitution, bring the executive and legislative powers into equilibrium.

It is known that 2020 was the year of a major transformation of the Constitution of the Russian Federation, which also affected the Constitutional Court of the Russian Federation. There have been a number of changes to its structure. For example, the number of judges was revised (from 19 to 11). The legislator has established the minimum number of judges necessary for rendering a decision, expressed in a concrete figure (8 judges) rather than as a percentage (2/3) as before. The procedure for termination of judges' powers has been changed: this function is now performed by the Federation Council on the official proposal of the Head of State. There has been a reduction in the number of Deputy Chairmen of the Constitutional Court of the Russian Federation: previously there were two, now there is one.

The court has acquired the right to examine issues that were previously outside its competence. This includes, for example, the scrutiny of legislative drafts at the request of the Head of State. However, this modernisation has created difficulties with regard to complaints about violations of individual rights and freedoms.

It can be argued that the RF CC has not been subject to more extensive changes in the entire period of its existence. Before the reform, the FKZ contained 117 articles. 83 of them were transformed. That is, about 70% of the total content of the Law was changed.

A number of the changes made were not directly related to normative oversight but focused on improving the organisational framework for the functioning of the RF CC (as stated in the explanatory memorandum). It also notes that the preparation of the new draft of the FCPF was caused by the adjustment of the Russian Constitution as a result of the reform scheduled for 2020.

The current international situation, as well as the sanctions pressure on the Russian Federation, require increased attention to ensuring the supremacy of the Russian Constitution and protecting national interests by the constitutional oversight body. Under the conditions of extremely aggressive foreign policy of certain states, Russian state institutions are forced to take extraordinary decisions, including those in the field of law, advocating for the protection of the existing system of law and legal relations in the state (Belyev et al., 2020).

We have already mentioned that some important changes concerned the structure of the Court, the legal status of the judge and questions of judicial procedure. The Court's powers have only been clarified.

At least one of the judges' duties has been removed: they will no longer have to explain the Court's rulings. In addition, the Constitutional Court has lost its official publication, *Vestnik of the Constitutional Court of the Russian Federation*, which to a certain extent indicates the loss of independence of the Court.

Although judges of the Constitutional Court of the Russian Federation are still considered to be irreplaceable and independent, in fact they can no longer express their views publicly on a given situation, which undoubtedly leaves its mark on their position. Judges are now forbidden to speak disapprovingly about the Court's decisions, much less to do so publicly. Interestingly, the Draft Law did not initially contain such innovations in its text. They were introduced only after it had been heard by the Senators in the State Duma in its first reading. These amendments were criticised by many experts who saw them as violating the Russian Constitutional Court's principle of openness and taking away judges' right to freedom of speech.

The Constitutional Court has several new powers. First of all, it should be noted that it has the right to exercise preliminary control over the constitutionality of draft legislative acts, federal constitutional laws, federal laws, laws of the subjects of the Russian Federation. The Court's powers have also been expanded by including such a fragment as a decision on the implementation or non-implementation of decisions of interstate bodies, international courts, foreign or international arbitration courts, based on the proven fact that these decisions are in contradiction with 'the foundations of the public legal order of the RF'. In addition, the Constitutional Court of the Russian Federation is now entitled to participate in the procedure for removing the immunity of a person who previously held the position of Head of State. These amendments have been made to the amended FCL on the Constitutional Court in the form of a new list of competences.

There is little speculation as to how often the Russian Constitutional Court will have to use the new powers in its activities, as the judicial body of constitutional review is mainly concerned with complaints from individuals and legal entities. It seems more important to clarify what is meant by the phrase 'exhaustion of all other domestic remedies' in light of the fact that the Court will have the power to entertain a complaint. Consequently, there has been a marked tightening of requirements for complaints and little or no time at all given for Russians whose rights have been violated to "acclimatise" to the new order.

It should be noted that despite the reformers' desire to cover as many aspects of the RF CC's activities as possible, after reviewing the modernisation of the institution that has taken place, it must be stated that its new model looks small, ready to replace judges soon, closed to the outside observer and virtually inaccessible to Russians. What the reality will be in the future will be seen in due course.

7. Conclusion

Based on a study of the powers possessed by the judicial constitutional review body at the time of its creation, the changes that have taken place with them throughout its existence and their current state, it is possible to ascertain in particular the steady, growing and rather significant impact on its independence.

We believe that it should be made clear once again that the Constitutional Court is, in fact, the highest, last instance to be used only when all other power structures and the legal system have failed to resolve the problem. It should be noted that the institution only deals with the resolution of legal issues. In constitutional proceedings, the Constitutional Court does not establish or investigate the facts in cases where this should be done by other courts or other state bodies. The result of constitutional proceedings is

the drafting by the judicial authority of constitutional review of legal positions - a summary of the Court's opinions on certain issues of law.

It is becoming apparent that as a consequence of the constitutional reform of 2020, the competencies and capacity of the Constitutional Court have undergone a transformation, making it more difficult for it to remain outside the political process, reducing its independence and impartiality, due to attacks on the independence and freedom of speech of the Constitutional Court and its judges.

For the moment, we can only assert the following: this kind of transformation is the result of the most serious reform of the Constitutional Court of the Russian Federation in the last decade, which essentially changed the range of powers, quite noticeably expanding and modifying them, and significantly reducing the guarantees of its independence. As a result, we have a new model of the Constitutional Court with a markedly reduced ability, based on the Russian Constitution, to oppose the legislative and executive powers and to defend the rights and freedoms of Russians. This is demonstrated in part, but quite transparently, by the Opinion on the amendment of the Constitution of the Russian Federation which it adopted. The full effects of the reform will, however, only be felt once the new provisions on the judicial body of constitutional review have been in practice for some time.

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