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EUROPEAN COMMISSION FOR DEMOCRACY THROUGH LAW
(VENICE COMMISSION)

AMENDMENTS¹
TO THE FEDERAL CONSTITUTIONAL LAW
ON THE CONSTITUTIONAL COURT
OF THE RUSSIAN FEDERATION
OF 14 DECEMBER 2015

¹ Translation provided by the Constitutional Court of the Russian Federation.

FEDERAL CONSTITUTIONAL LAW**“On introducing amendments to the Federal constitutional law ‘On the Constitutional Court of the Russian federation’”****Article 1**

Introduce the following amendments to the Federal constitutional law № 1-FKZ of July 21, 1994 “On the Constitutional Court of the Russian Federation” (Collection of the legislation of the Russian Federation, 1994, № 13, art. 1447; 2001, № 51, art. 4824; 2004, № 24, art. 2334; 2010, № 45, art. 5742; 2014, № 11, art. 1088; № 23, art. 2922):

1) Supplement part one of Article 3 with the following paragraph 3²:

“3²) shall upon requests by federal executive body competent to operate in the field of protecting Russia’s sovereign interests within the procedure of considering complaints filed against the Russian Federation, which is carried out by the interstate human rights protection institution according to an international covenant to which Russia is a party, resolve the issue of feasibility of the enforcement of the interstate human rights protection institution’s decision;”;

2) part 2 of Article 36 shall be reworded as follows:

"The ground for consideration of a case shall be the discovery of an uncertainty in the question whether a law, other enactment, a treaty between bodies of State Power, an international treaty pending its entry into force are compatible with the Constitution of the Russian Federation, or the revealed uncertainty concerning the issue of feasibility of the enforcement of the interstate human rights protection institution’s decision based on interpretation of provisions of an international covenant to which Russia is a party which presumably leads to their contradiction with the Constitution of the Russian Federation, or the discovery of a contradiction in the positions of the parties on the possession of the authority in the disputes concerning competence, or the discovery of an uncertainty in the understanding of the provisions of the Constitution of the Russian Federation, or the State Duma charging the President of the Russian Federation with high treason or with commission of other grave offense.”;

3) part one of the Article 47¹ shall be reworded as follows:

"The Constitutional Court of the Russian Federation may consider and decide cases on conformity to the Constitution of the Russian Federation of normative legal acts indicated in paragraph 1 of part 1 of Article 3 of the present Federal constitutional law, verify upon complaint on violation of constitutional rights and freedoms of citizens the constitutionality of a law applied in an individual case, or verify upon request of a court the constitutionality of a law subject to application in an individual case or resolve the issue of feasibility of the enforcement of the interstate human rights protection institution’s decision on the basis of a request by federal executive body competent to operate in the field of protecting Russia’s sovereign interests within the procedure of considering complaints filed against the Russian Federation, which is carried out by the interstate human rights protection institution according to an international covenant to which Russia is a party without holding of hearings, if it comes to the conclusion that the problem at hand can be resolved relying on legal positions contained in Judgments of the Constitutional Court of the Russian Federation adopted earlier and that it is not necessary to hold a hearing in order to ensure the rights of the party”;

4) part two of Article 71 shall be reworded as follows:

"The final decision of the Constitutional Court of the Russian Federation on the merits of any of the questions listed in paragraphs 1, 2, 3, 3¹, 3², 4 and 5¹ of part one of Article 3 of the present Federal constitutional law shall be referred to as judgment. Judgment shall be passed in the name of the Russian Federation.

5) supplement Title three with the following Chapter XIII¹:

"Chapter XIII¹. Consideration of cases on feasibility of the enforcement of decisions taken by the interstate human rights protection institution"

Article 104¹. Submission of a request to the Constitutional Court of the Russian Federation

Federal executive body competent to operate in the field of protecting Russia's sovereign interests within the procedure of considering complaints filed against the Russian Federation, which is carried out by the interstate human rights protection institution according to an international covenant to which Russia is a party, is entitled to submit a request for resolution of the issue of feasibility of the enforcement of a decision taken by the interstate human rights protection institution to the Constitutional Court on the basis of conclusions of federal authorities competent to take measures necessary for the enforcement of an interstate human rights protection institution's decision, or in case when the corresponding competence is vested in the above named federal executive body, relying on its own finding on the impossibility to enforce an interstate human rights protection institution's decision taken within the procedure of considering complaints filed against the Russian Federation in accordance with certain international covenant to which Russia is a party as far as it implies measures to be taken by the Russian Federation emanating from interpretation of provisions of an international covenant to which Russia is a party which presumably leads to contradiction of the mentioned provisions with the Constitution of the Russian Federation. Text of the respective interstate human rights protection institution's decision shall be enclosed with the request.

Article 104². Admissibility of the request

Request by a federal executive body competent to operate in the field of protecting Russia's sovereign interests within the procedure of considering complaints filed against the Russian Federation, which is carried out by the interstate human rights protection institution according to an international covenant to which Russia is a party is admissible if the applicant considers the enforcement of an interstate human rights protection institution's decision impossible as far as it is based on an interpretation of provisions of an international covenant to which Russia is a party leading to their contradiction with the Constitution of the Russian Federation.

Article 104³. Scope of verification

Resolving the issue of feasibility of the enforcement of a decision taken by an interstate human rights protection institution the Constitutional Court of the Russian Federation reviews the conformity with the Constitution of enforcement of an interstate human rights protection institution's decision taken on the basis of an interpretation of provisions of an international covenant to which Russia is a party formulated by an interstate human rights protection institution from the standpoint of foundations of the constitutional system of the Russian Federation and the human rights regime established by the Constitution of the Russian Federation.

Article 104⁴. The Final decision of the case

Having studied the case the Constitutional Court of the Russian Federation shall issue a judgment of on:

1) conformity with the Constitution of the Russian Federation of general or partial enforceability of an interstate human rights protection institution's decision taken on the basis of an interpretation of provisions of an international covenant to which Russia is a party formulated by an interstate human rights protection institution which served as a ground for submitting the request to the Constitutional Court of the Russian Federation;

2) on the inconformity with the Constitution of the Russian Federation of general or partial enforceability of an interstate human rights protection institution's decision taken on the basis of an interpretation of provisions of an international covenant to which Russia is a party formulated by an interstate human rights protection institution which served as a ground for submitting the request to the Constitutional Court of the Russian Federation;

In case the Constitutional Court of the Russian Federation adopts a judgment of a type defined in paragraph 2 of part one of the present Article any measures(acts) aimed at enforcement of corresponding interstate human rights protection institution's decision shall not be taken (issued)".

6) supplement Article 105 with the following part two:

"The right to petition the Constitutional Court of the Russian Federation with a request to give an interpretation of provisions of the Constitution of the Russian Federation aimed at resolving the uncertainty in their reading bearing in mind the discovered contradictions between an interpretation of provisions of an international covenant to which Russia is a party formulated by an interstate human rights protection institution and certain provisions of the Constitution of the Russian Federation in the context of feasibility of enforcement of respective interstate institution's decision shall be vested in the President and the Government of the Russian Federation";

7) supplement Article 106 with the following part two:

"The interpretation of certain provisions of the Constitution of the Russian Federation resolving the uncertainty in their reading bearing in mind the discovered contradictions between an interpretation of provisions of an international covenant to which Russia is a party formulated by an interstate human rights protection institution and certain provisions of the Constitution of the Russian Federation consisting in impossibility to enforce a corresponding interstate institution's decision while avoiding any violation of the mentioned provisions of the Constitution of the Russian Federation implies that any measures (acts) aimed at enforcement of respective interstate institution's decision shall not be taken (adopted) within the territory of the Russian Federation."

Article 2

The present Federal constitutional law shall enter into force on the day of its promulgation.

The President of the Russian Federation

V. Putin

14 December 2015
N 7 - FKZ