

IN THE NAME OF THE RUSSIAN FEDERATION

CONSTITUTIONAL COURT
OF THE RUSSIAN FEDERATION

Judgment

of 24 January 1997 No. 1-II

in the case concerning the review of the constitutionality of the Law of the Udmurtiya Republic of 17 April 1996 “On the System of Bodies of State Power in the Udmurtiya Republic”

Moscow, 24 January 1997

The Constitutional Court of the Russian Federation composed of Presiding Judge T. G. Morshchakova and Judges E. M. Ametistov, M. V. Baglay, N. V. Vitruk, G. A. Gadzhiev, Yu. M. Danilov, V. D. Zorkin, A. L. Kononov, N. V. Seleznev, V. G. Strekozov, O. I. Tiunov, O. S. Khokhryakova, B. S. Ebzееv, V. G. Yaroslavtsev,

in the attendance of the parties’ representatives who have submitted their requests to the Constitutional Court of the Russian Federation: M. A. Mityukov, representative of the President of the Russian Federation; A. N. Maltsev, M. I. Piskotin and S. A. Popov, representatives of a group of deputies to the State Duma of the Federal Assembly; A. N. Vedernikov and S. B. Kryukova, representatives of a group of city of Izhevsk citizens who submitted their complaint; representatives of the State Council of the Udmurtiya Republic as the party that adopted the challenged act A. A. Volkov, A. S. Borzenkov and V. V. Lazarev,

pursuant to Subsection “b”, Section 2 and Section 4, Article 125 of the Constitution of the Russian Federation, Subsections 1 (b) and 3, Section 1, Article 3, Section 1, Article 21, Articles 36, 84, 85, 86, 96, 97 and 99 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open hearing, examined the constitutionality of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996.

The reason for the consideration of the case is requests of the President of the Russian Federation and a group of deputies to the State Duma of the Federal Assembly, and a complaint of a group of city of Izhevsk residents against a violation of their constitutional right to local self-government.

The ground for the consideration of the case is the discovered uncertainty of whether the provisions of the mentioned Law challenged by the applicants are in conformity with the Constitution of the Russian Federation.

Insofar as the complaint and the requests concern essentially the same subject matter and pursuant to Article 48 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation considered these applications together.

Having heard the report of Judge-Rapporteur V. D. Zorkin, statements by the parties, testimony of the witnesses A. I. Saltykov and N. D. Shatrova, interventions by A. Ya. Sliva, Plenipotentiary Representative of the President of the Russian Federation to the Council of the Federation, A. G. Voronin, Deputy Minister of the Russian Federation for Affairs of Ethnicities and Federal Relations, N. I. Morozova, Head of the Department for Supervision of Lawfulness of Legal Acts, Office of the Prosecutor General of the Russian Federation, M. G. Shartse, adviser to the staff of the Council of the Federation Committee on Constitutional Legislation and Judicial and Legal Affairs; and having considered written submissions and other materials, the Constitutional Court of the Russian Federation

e s t a b l i s h e d :

1. The Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 provides for establishing representative and executive bodies of state power in administrative and territorial units (district, city) determined by Article 74 of the Constitution of the Udmurtiya Republic and districts within cities (paragraph 5 of Section 1, Article 2); rural settlements, settlements, parts of urban settlements within the boundaries of residential communities shall be deemed territories of municipal entities in which local self-government is exercised (Section 4, Article 7).

The parties who submitted their requests to the Constitutional Court of the Russian Federation consider these provisions of the Law of the Udmurtiya Republic and the derivative and more detailed provisions of Articles 2 (Sections 2 and 3), 6, 8, 9, 12, 13, 16, 18, 19, 20, 21 and Chapter IV “Final and Transitional Provisions” defining the establishing procedure, the powers and operation of the representative and executive bodies of state power of the district, city and city district go beyond the scope of competence of subjects of the Russian Federation, which are not entitled to establish representative or executive bodies of state power in cities or districts and can only establish structural subdivisions of executive bodies of state power of the subjects of the Russian Federation. Moreover, these provisions violate the citizens’ right to local self-government secured by Articles 130, 131, 132, 133 of the Constitution of the Russian Federation; restrict the operation of local self-government in territories determined by Article 131 of the Constitution of the Russian Federation; deprive local self-government in districts and cities of guarantees secured by the Constitution and laws of the Udmurtiya

Republic; fail to satisfy the requirements set forth in the Constitution of the Russian Federation stipulating that the boundaries of territories where local self-government is exercised may be changed only with regard for the opinion of the population of these territories.

Furthermore, the President of the Russian Federation considers Section 3, Article 1 of the challenged Law, pursuant to which the State Council of the Udmurtiya Republic shall independently establish the system of bodies of state power in the Udmurtiya Republic, to be contradictory to the Constitution of the Russian Federation from the standpoint of the principle of separation of powers secured by the Constitution (Article 10) and division of competence and powers between bodies of state power of the Russian Federation and bodies of state power of subjects of the Russian Federation, because determining the general principles of organization of the system of state power and local self-government bodies falls within the scope of joint competence of the Russian Federation and its subjects (Article 72, Section 1 (n)).

Article 1 of the Law of the Udmurtiya Republic “On Amendments to the Law of the Udmurtiya Republic ‘On the System of Bodies of State Power in the Udmurtiya Republic’” contains a new wording of Section 4, Article 7 of the challenged Law: “Issues of organization and activities of local self-government in the Udmurtiya Republic shall be governed by the Law of the Udmurtiya Republic ‘On the System of Bodies of State Power in the Udmurtiya Republic’ and other legislative acts”. However, the provision of Section 4, Article 7 stating that “territories of municipal entities in the Udmurtiya Republic where local self-government is exercised shall include rural settlements, settlements, parts of urban settlements within the boundaries of residential communities” was reproduced in Section 2, Article 1 of the Law of the Udmurtiya Republic “On Local Self-Government in the Udmurtiya Republic” of 28 May 1996. Likewise, it was not changed by the newly adopted Law of the Udmurtiya Republic “On Amendments to the Law of the Udmurtiya Republic ‘On Local Self-Government in the Udmurtiya Republic’” of 19 November 1996. Thus, this provision as such has not been annulled and is still in force. Moreover, the requests raise the issue of this provision violating the citizens’ constitutional rights to exercise local self-government. Therefore, the motion submitted by the representatives of the Udmurtiya Republic’s State Council seeking to discontinue, pursuant to Section 2, Article 43 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the proceedings in the present case to the extent they concern the review of the constitutionality of Article 7 (Section 4) of the challenged Law must not be granted.

2. As is stated in the Law under consideration, it determines the system of bodies of state power in the Udmurtiya Republic pursuant to the Constitution of the Russian Federation, the Constitution of the Udmurtiya Republic and the Agreement on the Division of Competence and Powers between Bodies of State Power of the Russian Federation and Bodies of State Power of

the Udmurtiya Republic (Preamble). State power in the Udmurtiya Republic is exercised relying on the division of competences and powers between bodies of state power of the Russian Federation and bodies of state power of the Udmurtiya Republic (Article 1, Section 1).

Pursuant to the Constitution of the Russian Federation, state power in subjects of the Russian Federation shall be exercised by bodies of state power established by them (Article 11, Section 2). The system of bodies of state power of subjects of the Russian Federation shall be established by them independently with regard to the fundamentals of the constitutional order in the Russian Federation and the general principles of establishing representative and executive bodies of state power prescribed by federal law (Article 77, Section 1).

The challenged provision of Section 3, Article 1 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic”, pursuant to which the State Council of the Udmurtiya Republic shall independently establish the system of bodies of state power in the Udmurtiya Republic, cannot be considered in isolation from the abovementioned provisions of the Preamble and Section 1, Article 1 of the Law. Therefore, Section 3, Article 1 of the Law under consideration is in conformity with the Constitution of the Russian Federation.

3. Determining the general principles of organizing a system of bodies of state power falls within the scope of the joint competence of the Russian Federation and subjects of the Russian Federation (Article 72, Section 1 (“n”) of the Constitution of the Russian Federation). Article 76 (Section 2) of the Constitution of the Russian Federation stipulates that in respect of matters of joint competence of the Russian Federation and its subjects federal laws shall be passed and laws and other normative acts of subjects of the Russian Federation shall be adopted on their basis. However, the federal legislator has not yet regulated the matter of determining the general principles of organizing a system of bodies of state power and the general principles of establishing representative and executive bodies of state power as set forth in Articles 72 (Section 1 (n)), 76 (Section 2) and 77 (Section 1) of the Constitution of the Russian Federation.

In such a case, before the matter is regulated by the federal legislator, the republic is itself entitled to independently regulate the mentioned matter of the joint competence and has the right to independently establish its system of bodies of state power with due regard to the fundamentals of the constitutional order of the Russian Federation and the general principles of establishing representative and executive bodies of state power prescribed by the Constitution of the Russian Federation.

4. According to Articles 5 (Section 3), 11 (Section 2), 66 (Section 1), 67 (Section 1), 72 (Section 1 (n)), 73, 76, 77, 78 of the Constitution of the Russian Federation, a republic (a state) which is part of the Russian Federation shall exercise powers vested in it throughout its territory

and in order to exercise these powers it shall establish a system of representative and executive bodies of state power itself.

Pursuant to Articles 11 (Section 2) and 77 (Section 1) of the Constitution of the Russian Federation, the Constitution of the Russian Federation neither contains a complete list of bodies of state power in subjects of the Russian Federation, nor restricts this list solely to the highest bodies of state power of the subjects.

Therefore, the system of bodies of state power in the Udmurtiya Republic as a subject of the Russian Federation may consist both of the highest authorities and territorial bodies, including bodies of the respective administrative and territorial units predetermined by the administrative and territorial order of the Udmurtiya Republic.

The territorial order of the state as a way to organize public authority, the basis of establishment and operation of the system of bodies of state power is essential for characterizing the constitutional status of a republic (a state) as a subject of the Russian Federation.

Based on the federal nature of statehood in Russia as set forth in Articles 1 (Section 1), 11 (Section 2), Chapter 3 “Federal Order” (*inter alia*, in Articles 66 (Section 1), 71, 72, 73, 76, 77) of the Constitution of the Russian Federation, the federal order falls within the scope of competence of the Russian Federation, while the competence of republics within the Russian Federation extends over their territorial order. Therefore, the Udmurtiya Republic may resolve the issue of its territorial order independently, which issue in itself is of constitutional significance. This matter is regulated by Article 67 (Section 2 (b)), Articles 74 and 75, Chapter IV, “Administrative and Territorial Order”, of the Udmurtiya Republic Constitution. Article 74 contains a list of districts and cities of republican subordination, which directly form parts of the Udmurtiya Republic as its administrative and territorial units.

Territorial units of a different level, i.e. a city of district subordination, other urban and rural settlements in districts, and any other urban settlements (parts of a city, its districts, and residential communities) in cities of republican significance, lack such status. Therefore, representative and executive bodies of state power of such territorial units may not be established. At this level, public authority is exercised by local self-government and its bodies outside the system of bodies of state power.

Thus, Article 2 (Section 1 (5), Sections 2 and 3) of the challenged Law does not comply with the Constitution of the Russian Federation to the extent it regulates the establishment of representative and executive bodies of state power of a city’s district and a city, which pursuant to Article 74 of the Constitution of the Udmurtiya Republic lack the status of administrative and territorial units within the Udmurtiya Republic since they form its parts via other administrative and territorial units.

For the same reasons, the provisions of Articles 2 (Sections 1 and 3), 6, 8, 9, 12 (Section 1), 13 (c), 16 (Section 4), 18, 19 (Section 1), 20, 21 (Sections 3, 5, and 6) of Chapter IV (Subsection 2 and 4) of the challenged Law regulating the status of representative and executive bodies of state power and their officials in a city's district and a city within a district (i.e. a city of district subordination) fail to conform to the Constitution of the Russian Federation.

It shall also be taken into account that, pursuant to Article 77 (Section 2) of the Constitution of the Russian Federation, within the scope of competence and powers of the Russian Federation in matters of the joint competence of the Russian Federation and subjects of the Russian Federation the federal executive bodies of state power and executive bodies of state power of subjects of the Russian Federation shall form a uniform system of executive bodies of state power in the Russian Federation. The executive bodies of state power in districts and cities of republican significance also belong to this system.

However, such authorities and their officials may act only within the scope of competence of the mentioned bodies of state power, including those of districts and cities of republican subordination, and shall not infringe upon the autonomy of local self-government, its bodies, or interfere in the sphere of their competence. Therefore, Section 8, Article 21 of the Law under consideration, pursuant to which a district Council of Deputies, on the advice of the head of administration, shall appoint "heads of village councils and settlements" in rural settlements and villages, is inconsistent with the Constitution of the Russian Federation as it infringes upon the autonomy of local self-government and its bodies in matters within their own competence and within the literal meaning leads to the establishment of independent bodies of state power of such settlements.

5. Pursuant to Article 131 of the Constitution of the Russian Federation local self-government shall be exercised in urban and rural settlements and other territories with regard for historical and other local traditions.

Pursuant to Article 131 (Section 1) in conjunction with Articles 12 and 130 (Section 1) of the Constitution of the Russian Federation, urban and rural municipal entities are established to address the issues of local significance (that can be solved by the given settlement independently and on its own responsibility), but not issues that essentially need to be resolved by state government bodies.

Determination of the level on which municipal entities are created may vary and depends on the specificity of the subject of the Russian Federation. This should be done in order to ensure, as far as possible, the proximity of the local self-government bodies to the population and to address the whole range of the issues of local significance within the scope of local self-

government's competence; however resolution of matters beyond this scope which fall within the competence of bodies of state power, shall not be hindered.

A district as an integral part of a republic may include a number of urban and rural settlements, and each of them, pursuant to Article 131 (Section 1) of the Constitution of the Russian Federation, is entitled to become a municipal entity and enjoy all the rights guaranteed by Articles 130, 131, 132. In such circumstances granting the rights of a municipal entity to such district on a mandatory basis would mean that urban and rural settlements which are part of this district are deprived of this right contrary to Article 131 (Section 1) of the Constitution of the Russian Federation, and become solely subdivisions of a municipal entity. Such arrangement would not ensure proximity of local self-government bodies to the population, rather the opposite.

Taking into account the ratio of local and state matters, their level and extent within a certain city, the republic may as well establish bodies of state power in particular cities by granting them the status of a city of republican significance and thus equalizing them with districts. Such transformation of the status shall be reflected in the administrative and territorial order prescribed by the Constitution of the Udmurtiya Republic. In this case parts of cities, their districts etc. may become municipal entities.

Resolving this issue does not lie within the scope of joint competence of the Russian Federation and its subjects and is not conditioned by the requirements of Article 72 (Section 1 (n)) of the Constitution of the Russian Federation stipulating that determination of the general principles of organizing local self-government lies within the scope of joint competence of the Russian Federation and subjects of the Russian Federation.

Therefore, the Udmurtiya Republic is entitled to resolve this issue independently, provided that the population of urban and rural settlements and other territories is not deprived of its constitutional right to local self-government, i.e. the right to independently decide on the issues of local significance.

As follows from the above reasoning, the provision of Section 4, Article 7 of the challenged Law stipulating that territories of municipal entities where local self-government is exercised shall include rural settlements, settlements, parts of urban settlements within the boundaries of residential communities, is contradictory to the Constitution of the Russian Federation, its Articles 130, 131, because this provision precludes the establishment of municipal entities in other settlements (a city in a district, a district in a city, etc.), which pursuant to Article 74 of the Constitution of the Udmurtiya Republic lack the status of administrative and territorial units within the Udmurtiya Republic.

6. Article 7 (Section 4) in conjunction with Subsection 2 of Chapter IV, “Final and Transitional Provisions”, of the challenged Law altered the list of types of self-governing territories (municipal entities) by excluding a certain type of self-governing territorial entities, namely, districts and cities, which under Article 74 of the Constitution of the Udmurtiya Republic have the status of administrative and territorial units within the Udmurtiya Republic.

However, prescribing a change in the level of municipal entities, Udmurtiya’s legislator had to take into account the fact that districts and cities of republican subordination had already been granted the status of municipal entities pursuant to the Law of the Udmurtiya Republic “On Local Self-Government in the Udmurtiya Republic” of 27 January 1994 and their elected and other bodies of local self-government had been formed. Pursuant to the Constitution of the Russian Federation, the status and powers of these authorities shall be determined by law which may be adopted by the Udmurtiya Republic. However, the exercise of this status and these powers takes place upon the will of the citizens residing in the respective self-governing territories and who have elected bodies of the municipal entities for a certain period of time, having thus exercised the rights guaranteed to them by the Constitution of the Russian Federation, namely the rights to elect and be elected to bodies of local self-government (Article 32, Section 2) and to exercise local self-government through elections, elected and other bodies of local self-government (Article 130, Section 2).

The State Council as the legislative body of the Udmurtiya Republic prescribing the abovementioned change in the types of self-governing territories (districts and cities of republican subordination) has no right to terminate the term of office of previously elected and acting representative and executive bodies of local self-government without considering the opinion of the population of the respective self-governing territories. Without such consideration of the population’s opinion, the norms of the Law which stipulated that districts and cities of republican subordination ceased to be self-governing entities, unlawfully terminated the term of office of the representative and executive bodies of local self-government and violated the right of Russian Federation citizens to elect and be elected to bodies of local self-government, secured by Article 32 (Section 2) of the Constitution of the Russian Federation.

Furthermore, as the introduced change causes alteration of the boundaries of self-governing territories, it also violates Article 131 (Section 2) of the Constitution of the Russian Federation, pursuant to which the boundaries of territories in which local self-government is exercised can be changed only with regard for the opinion of the population of the respective territories.

This implies that the powers of self-government bodies in districts and cities of republican subordination could not be prematurely terminated without taking account of the

public opinion on the grounds and in the forms stipulated by the laws of the Udmurtiya Republic adopted pursuant to the Constitution of the Russian Federation. In the present case when elections to the respective authorities of the municipal entities has taken place, the most appropriate form of giving regard for the opinion of the population within the meaning of Article 130 (Section 2) of the Constitution of the Russian Federation is a referendum. In any event a referendum shall be organized upon the people's request as prescribed by the laws in force and the charter of the municipal entity. In absence of such request, a decision of the respective elected bodies will be sufficient for early termination of powers.

Therefore, Section 4, Article 7 and Subsection 2 of Chapter IV of the challenged Law fail to conform to the Constitution of the Russian Federation, its Articles 32 (Section 2), 130 (Section 2), 131 (Section 2), to the extent that, in case of establishing bodies of state power in districts and cities of republican subordination and subsequent transformation of types (forms) of local self-government, they permit early termination of the powers of self-government bodies in districts and cities having the status of administrative and territorial units within the Udmurtiya Republic as set forth in Article 74 of the Constitution of the Udmurtiya Republic without taking account of the opinion of the people on the grounds and in the forms stipulated by the laws of the Udmurtiya Republic adopted pursuant to the Constitution of the Russian Federation.

During the transitional period and before the local self-government bodies of a district or city are reformed on the basis of the people's opinion, the existing municipal authorities can acquire, under law, certain powers which are to be granted to the newly established bodies of state power. Such delegation of powers is permitted under Article 132 (Section 2) of the Constitution of the Russian Federation. In this case, however, local self-government bodies *per se* cannot be transformed into bodies of state power, as pursuant to Article 12 of the Constitution of the Russian Federation local self-government bodies are not included in the system of bodies of state power and therefore bodies of state power and government officials shall not exercise local self-government.

Thus, the challenged Chapter IV "Final and Transitional Provisions" of the Law under consideration does not conform to the Constitution of the Russian Federation, its Article 12 to the extent that the self-government bodies of the district, city are actually included in the system of bodies of state power, namely due to the fact that these provisions stipulate the establishment of joint Councils of Deputies for the transitional period (Subsection 2 (1)), transformation of heads of administration of municipal entities into government officials, and their appointment and dismissal by bodies of state power of the Udmurtiya Republic (Subsection 2 (2)).

7. The President's request challenges Article 8 (Section 2) and Article 21 (Sections 2 and 7) in conjunction with Article 13 (k) of the Law of the Udmurtiya Republic "On the System of Bodies of State Power in the Udmurtiya Republic".

Pursuant to Article 21 of the mentioned Law, heads of district or city administration shall be appointed and dismissed by the Presidium of the State Council of the Udmurtiya Republic on the advice of the Head of the Government of the Udmurtiya Republic and consent of the district or city Council of Deputies (Section 2); deputy heads of administration shall be appointed at a session of the respective representative body on the advice of the head of administration subject to the consent of the Government of the Udmurtiya Republic (Section 7). Pursuant to Article 13, Section "k", the consent to nominee appointment to the office of head of administration and motion for dismissal of the head of administration from office is within the scope of competence of the Council of Deputies. Article 8 (Section 2) of the Law prescribes that bodies of state power of the Udmurtiya Republic may annul acts of a district or city Council of Deputies and district or city administration if they are *ultra vires*, violate the rights and freedoms of citizens, or lack sufficient financial and material basis.

Bodies of state power established in the Udmurtiya Republic at the level of districts or cities with the status of administrative and territorial units and being part of the Udmurtiya Republic shall be created in conformity with the fundamentals of the constitutional order of the Russian Federation as to their status and powers, manner of establishing, operation and relations with superior bodies of state power, and with the principles of democracy and decentralization of power, which serve as a basis for public power organization irrespective of whether it is exercised by bodies of state power on the local level or municipal authorities outside the system of bodies of state power.

The head of administration shall be in charge of the administration of a district or city, which is an executive body of state power in the respective administrative and territorial unit. Heads of administration and their deputies are officials of an independent executive body of state power of precisely this administrative and territorial unit, and not officials of a structural subdivision of a superior (republican) body of state power. Pursuant to Articles 5 (Section 3) and 10 of the Constitution of the Russian Federation, state powers in the Russian Federation shall be exercised on the basis of the principles of separation of powers and division of competence and powers between bodies of state power on different levels and their autonomy within the scope of their powers. Therefore, the appointment and dismissal of heads of administrations and their deputies shall not fall within the competence of bodies of state power of the Udmurtiya Republic, as it is contradictory to the mentioned provisions.

Accordingly, the mentioned provision of Section 2, Article 21 in conjunction with the provisions of Article 13, Section “k” of the challenged Law is inconsistent with the Constitution of the Russian Federation, its Articles 5 (Section 3) and 10.

Section 2, Article 8 of the Law states that bodies of state power of the Udmurtiya Republic have the right to annul acts adopted by the district or city Council of Deputies and district or city administration if they are *ultra vires*, violate the rights and freedoms of citizens, or lack sufficient financial and material basis.

Since this norm, due to its ambiguity, allows the possibility to annul such acts of representative and executive bodies of state power in a district or city by bodies of state power of the Udmurtiya Republic in violation of the principles of separation of powers, division of competence and power between bodies of state power established in the Russian Federation, it does not conform to the Constitution of the Russian Federation and its Articles 5 (Section 3), 10, 11 and 118.

8. Pursuant to the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the right to file an individual or collective complaint to the Constitutional Court of the Russian Federation against violation of constitutional rights and freedoms shall be enjoyed by citizens whose rights and freedoms are violated by the law applied or to be applied in a specific case (Article 96, Section 1), and such complaint is admissible if the law is applied or is to be applied in a specific case in which proceedings have been completed or initiated in a court or another body applying the law (Article 97, Subsection 2).

Based on the materials in the present case considered by the Constitutional Court of the Russian Federation the collective complaint filed by a group of citizens residing in the city of Izhevsk is related to the application of the Law under consideration in a specific case of only some members of this group, namely S. B. Kryukova, who submitted a complaint to the court of general jurisdiction against violation of her rights by the Law under consideration. Thus, the Constitutional Court of the Russian Federation in the proceedings in the present case considers in fact an individual, not collective complaint of S. B. Kryukova.

The application of the challenged Law, which took place in this specific case, affects the constitutional rights and freedoms of Russian Federation citizens, i.e. the right to elect to bodies of local self-government guaranteed by Article 32 (Section 2) of the Constitution of the Russian Federation and specified in its Article 130 (Section 2), which stipulates that local self-government shall be exercised by citizens through a referendum, elections and other forms of direct expression of their will. As for the violation of the mentioned right, the individual complaint has been in fact considered in the present proceedings and resolved within the review of the constitutionality of the challenged Law. As for the proceedings upon the collective

complaint, they shall be discontinued pursuant to Subsection 2, Section 1, Article 43 and Article 68 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”.

Concluding from the above and pursuant to Articles 71, 72, 74, 75, 86, 87, 99, 100 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation

h e l d :

1. To recognize the provision of Section 3, Article 1 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 (in conjunction with the Preamble and Section 1, Article 1) stipulating that the State Council of the Udmurtiya Republic shall independently establish the system of bodies of state power in the Udmurtiya Republic, as conforming to the Constitution of the Russian Federation.

2. To recognize the provision of Section 1 (5), Article 2 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 prescribing the establishment of representative and executive bodies of state power of administrative and territorial units (districts, cities) determined by Article 74 of the Constitution of the Udmurtiya Republic, as conforming to the Constitution of the Russian Federation.

3. To recognize the provision of Section 1 (5), Sections 2 and 3, Article 2 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 prescribing the establishment of representative and executive bodies of state power of urban settlements (a district in a city and a city within a district) without the status of an administrative and territorial unit of the Udmurtiya Republic as stipulated in Article 74 of the Constitution of the Udmurtiya Republic, as non-conforming to the Constitution of the Russian Federation, its Articles 66 (Section 1), 72 (Section 1 “n”), 77 (Section 1), 130 (Section 1).

To recognize, for the same reasons, the provisions of Articles 2 (Sections 2 and 3), 6, 8, 9, 12 (Section 1), 13 (Subsection “c”), 16 (Section 4), 18, 19 (Section 1), 20, 21 (Sections 3, 5, and 6), and Subsections 2 and 4, Chapter IV, “Final and Transitional Provisions”, of the Law regulating the status of the representative and executive bodies of state power of a district in a city and a city within a district and their officials, which is derived from the provision of Article 2 (Section 1 (5)) stipulating the establishment of representative and executive bodies of state power of a district in a city and a city within a district (i.e. a city of district subordination) as non-conforming to the Constitution of the Russian Federation.

To recognize Section 8, Article 21 of the Law, pursuant to which the district Council of Deputies, upon the advice of the head of administration, shall appoint “heads of village councils

and settlements” in rural settlements and villages, as non-conforming to the Constitution of the Russian Federation, its Articles 12 and 130 (Section 1).

4. To recognize the provision of Section 4, Article 7 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” stipulating that territories of municipal entities where local self-government is exercised shall include rural settlements, settlements, parts of urban settlements within the boundaries of residential communities as non-conforming to the Constitution of the Russian Federation, its Articles 130 and 131, because this provision precludes the establishment of municipal entities in other settlements (a city in a district, a district in a city, etc.), which pursuant to Article 74 of the Constitution of the Udmurtiya Republic lack the status of administrative and territorial units within the Udmurtiya Republic.

5. To recognize Section 4, Article 7, and Subsection 2, Chapter IV of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” as non-conforming to the Constitution of the Russian Federation, its Articles 32 (Section 2), 130 (Section 2), 131 (Section 2) to the extent that, in case of establishing bodies of state power in districts and cities of republican subordination and subsequent transformation of types (forms) of local self-government, they permit early termination of powers of self-government bodies in districts and cities having the status of administrative and territorial units within the Udmurtiya Republic as set forth in Article 74 of the Constitution of the Udmurtiya Republic without taking account of the opinion of the people on the grounds and in the forms stipulated by the laws of the Udmurtiya Republic adopted pursuant to the Constitution of the Russian Federation. In such circumstances the most appropriate form of giving regard for the opinion of the population is a referendum. In any event a referendum shall be organized upon the request of the people as prescribed by the laws in force and the charter of the municipal entity. In absence of such a request, a decision of the respective elected bodies will be sufficient for early termination of powers.

6. To recognize Section 2, Article 8 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 as non-conforming to the Constitution of the Russian Federation, its Articles 5 (Section 3), 10, 11, 118, since this norm, due to its ambiguity, allows the possibility to annul such acts of representative and executive bodies of state power of a district or city by bodies of state power of the Udmurtiya Republic in violation of the principles of separation of powers, division of competence and power between bodies of state power established in the Russian Federation.

7. To recognize the provision of Section 2, Article 21 of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April

1996, prescribing that heads of administrations of a district or a city shall be appointed and dismissed by the Presidium of the State Council of the Udmurtiya Republic on the advice of the Head of the Government of the Udmurtiya Republic and consent of the Council of Deputies of a district or city; the related provisions of Article 13, Section “k” prescribing that giving consent to the appointment of nominees for the office of head of administration and motion for dismissal of the head of administration from office is within the scope of competence of the Council of Deputies; and the provisions of Section 7, Article 21, stipulating that deputy heads of administrations shall be appointed with the consent of the Government of the Udmurtiya Republic, as non-conforming to the Constitution of the Russian Federation, its Articles 5 (Section 3) and 10.

8. To recognize the provisions of Chapter IV of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996 as non-conforming to the Constitution of the Russian Federation, its Article 12, to the extent that the self-government bodies of a district or a city are *de facto* included in the system of bodies of state power, specifically due to the fact that these provisions stipulate the establishment of joint Councils of Deputies for the transitional period (Subsection 2 (1)); transformation of heads of administration of municipal entities into government officials, and their appointment and dismissal by bodies of state power of the Udmurtiya Republic (Subsection 2 (2)).

9. Pursuant to Sections 1 and 2, Article 79 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, this Judgment shall be final and shall not be subject to any appeal, it shall come into force immediately upon pronouncement, and shall be directly applicable.

10. Pursuant to Article 78 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, this Judgment shall be immediately published in the Collection of Laws of the Russian Federation, Rossiyskaya Gazeta and official publications of the bodies of state power of the Udmurtiya Republic. The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

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