

IN THE NAME OF THE RUSSIAN FEDERATION

CONSTITUTIONAL COURT  
OF THE RUSSIAN FEDERATION

Judgment

of 15 January 1998 No. 3-II

in the case concerning the review of the constitutionality of Articles 80, 92, 93 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On the Executive Bodies of State Power in the Komi Republic” of 31 October 1994 upon a request of the Supreme Court of the Komi Republic.

Moscow, 15 January 1998

The Constitutional Court of the Russian Federation sitting as a Plenary Court composed of President M. V. Baglay and Judges E. M. Ametistov, N. T. Vedernikov, N. V. Vitruk, G. A. Gadzhiev, Yu. M. Danilov, L. M. Zharkova, A. L. Kononov, V. O. Luchin, T. G. Morshchakova, V. I. Oleynik, N. V. Seleznev, V. G. Strekozov, O. I. Tiunov, O. S. Khokhryakova,

in the attendance of M. G. Agranovich, judge of the Supreme Court of the Komi Republic, who filed his request with the Constitutional Court of the Russian Federation; representative of the party which adopted the challenged act N. T. Arapov, PhD in Law, Permanent Representative of the President of the Russian Federation S. M. Shakhray,

pursuant to Section 4, Article 125 of the Constitution of the Russian Federation, Subsection “b”, Section 1, and Subsection 3, Section 1, and Section 2, Article 3, Section 1 and Subsection 2, Article 21, Articles 36, 74, 101, 102 and 104 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open hearing, examined the constitutionality of the provisions of Articles 80, 92, 93 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic” of 31 October 1994.

The reason for the consideration of the case is a request of M. G. Agranovich, judge of the Supreme Court of the Komi Republic. The ground for the consideration of the case is the discovered uncertainty of whether the provisions of Articles 80, 92, 93 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic” are in conformity with the provisions of Article 12 and Chapter 8 of the Constitution of the Russian Federation.

Having heard the report of Judge-Rapporteur T. G. Morshchakova, statements by the parties, the expert opinions of N. S. Bondar, PhD in Law, and M. I. Piskotin, PhD in Law, interventions by A. N. Maltsev, Deputy Chairman of the Committee on Local Self-Government Affairs of the State Duma of the Russian Federation, B. I. Mints, Chairman of the Presidential Department of Local Self-Government, I. I. Oleynik, Deputy Head of Administration of the Head of the Komi Republic, L. G. Aliokhicheva, Chairman of the Department on Legislation of Subjects of the Federation, on Elections and Referenda, Central Electoral Commission of the Russian Federation, M. N. Lavrentieva, President of the 1<sup>st</sup> Chamber of the Judicial Section on Civil Cases, Supreme Court of the Russian Federation; 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. On 10 January 1997, the Constitutional Court of the Russian Federation received a request of M. G. Agranovich, judge of the Supreme Court of the Komi Republic, who considered the case on the scheduling of elections to bodies of local self-government under the Federal Law “On Securing the Constitutional Rights of the Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government”. The request asks to recognize as unconstitutional certain provisions of the Constitution of the Komi Republic concerning the organization of local self-government.

After the applicant clarified his request at the stage of preparation of the hearing and during the hearing at the Constitutional Court of the Russian Federation, the subject-matter for consideration of the Constitutional Court of the Russian Federation in the present case is the provisions of Articles 80, 92, 93 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic”. Article 92 of the Constitution of the Komi Republic provides that on the level of districts, cities of republican subordination and cities’ districts, representative bodies of local self-government shall be created. Article 93 of the Constitution of the Komi Republic provides that these bodies exercise the powers of bodies of local self-government. Articles 80 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic” provides that local administrations shall be created in territorial units of the Komi Republic and shall exercise state administration in the respective territories. The heads of local administrations are appointed and dismissed by superior officials. The local administrations exercise the powers of local self-government.

In the applicant’s opinion, these norms providing for the creation of such authorities in territorial units of the Komi Republic violate the citizens’ right to local self-government. The

applicant presumes that without applying the challenged norms of the Constitution of the Komi Republic it is impossible to determine territorial units where municipal elections shall be scheduled, and the elections held under the challenged provisions do not guarantee the formation of local self-government bodies capable of adequate resolution of the issues of local significance. Thus, in the course of considering a specific case the court requests constitutional review of the provisions which are, in its opinion, applicable in the case, and therefore the request is admissible.

2. Pursuant to Article 92 of the Constitution of the Komi Republic, representative bodies of local self-government exercise their functions within the scope of their competence and under the law. The nature of these bodies is not defined in this Article, and thus the issue of whether these are state or municipal bodies may be resolved only through considering this provision in conjunction with other provisions of the Constitution of the Komi Republic.

Article 9 of the Constitution of the Komi Republic provides that local self-government is recognized and guaranteed in the Komi Republic. It ensures the possibility to independently resolve the issues of local significance by the population with regard to historical and other traditions (Section 2). The elected bodies of local self-governed and persons authorized by them act independently under the law and the will expressed by the citizens; any interference in the lawful activity of local self-government bodies is prohibited (Section 4).

These provisions aimed at creating local self-government, which does not form a part of state power are analogous in their wording and essence to the provisions of Article 12 and Chapter 8 of the Constitution of the Russian Federation and are enshrined in Chapter 1 of the Constitution of the Komi Republic, which establishes the fundamentals of the constitutional order of the Komi Republic. The provisions of Chapter 1 of the Constitution of the Komi Republic have a priority over all other provisions, which may not contradict them (Article 14). Relying on the requirement of the constitutional norms' conceptual coherence, it has to be recognized that the Constitution of the Komi Republic guarantees local self-government for independent resolution by population of the issues of local significance. Meanwhile, the structure and functions of the local public power resolving the issues of local significance are defined exclusively in Chapter 4 of the Constitution of the Komi Republic (Articles 92–94, “Local Representative and Executive Bodies of Public Power”). Therefore the provisions of the Constitution of the Komi Republic on local public power exercising the function of self-government are consistent with Article 9 of Chapter 1, i.e. as provisions on local self-government.

The validity of this conclusion is further reaffirmed by the wording of Article 1 of the Law of the Komi Republic “On Local Representative Bodies of Power in the Komi Republic”,

which states that “local representative bodies are a form of citizens’ activity organization for independent resolution of the issues of local significance in the interests of the population of the respective territory”. This definition is identical to the definition of local self-government in Section 2, Article 2 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” of 28 August 1995. The abovementioned Law of the Komi Republic pursuant to the Constitution of the Komi Republic does not define local representative bodies as exercising state power either. Their definition as bodies of public power does not imply their nature as state bodies. Public power may also be municipal. This opinion was expressed by the Constitutional Court of the Russian Federation in Subsections 4 and 7 of the reasoning in the Judgment of 24 January 1997 in the case concerning the constitutionality review of the Law of Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996.

3. The municipal nature of local representative bodies mentioned in Articles 92 and 93 of the Constitution of the Komi Republic is further confirmed by the scope of their competences. Such powers mentioned in Article 93 as adoption of the budget formed out of own funds (Subsection 1), imposition, pursuant to the law, of local taxes and duties (Subsection 2), determination of the system of municipal property management (Subsection 3), determination of the use of land and other municipally owned natural resources (Subsection 4) are among the exclusive powers of local self-government pursuant to the Constitution of the Russian Federation (Section 1, Article 130, and Article 132). Any other nature of these bodies of public power would have predetermined alternative formulations of the powers and their scope in the Constitution of the Komi Republic. Therefore, local representative bodies must be regarded as bodies exercising precisely local self-government. In formulating this conclusion, the Constitutional Court of the Russian Federation is not bound by the positions of the parties on the nature of these bodies of public power.

This standpoint is the basis for review of not only the abovementioned powers, but also of other characteristics of competence of the local representative bodies listed in Article 93 of the Constitution of the Komi Republic.

Under Subsection 5, Article 93, local representative bodies examine and coordinate social development programs for the respective territories, which is critical for comprehensive social and economic development of local self-government, which is a local issue under Subsection 2, Article 60 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”.

Under Subsection 6, Article 93, a local representative body considers annual reports of the local administration on the implementation of specific programs. Meanwhile, as follows from

Section 1, Article 131 of the Constitution of the Russian Federation, the structure of bodies of local self-government and therefore their relations is determined by the local population independently. Pursuant to this constitutional norm, the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” stipulates that the structure of local self-government bodies is determined by the charter of a municipal entity, which shall be drafted and enacted by the municipal entity independently (Subsection 4, Section 1, and Subsection 2, Section 8). The imposition, by the Constitution of the Komi Republic, of accountability of the executive body to the representative body of local self-government is impermissible, since there is no reservation that such accountability may be only provided by the charter of a municipal entity. Thus, the provision of Subsection 6, Section 93 of the Constitution of the Komi Republic does not conform to Section 1, Article 131 of the Constitution of the Russian Federation.

Under Subsection 8, Article 93 of the Constitution of the Komi Republic, local representative bodies summarize the public opinion data and consider proposals of local self-government bodies. This provision may be interpreted as enacted in the domain of legislative competence of the subjects of the Russian Federation, which may determine certain forms of activity of local self-government bodies aimed at support and consideration of public initiative. At the same time the concept of “bodies of local self-government” in Subsection 8 may encompass territorial public self-government, which is self-organization of the citizens at their place of residence within a part of the municipal entity’s territory (Section 1, Subsection 1, Article 27 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”). At the same time the power of the local representative body to consider proposals of local self-government bodies may encompass consideration of proposals of the same or a different municipal entity. However, in the latter case, any subordination of one municipal entity to another is precluded, since otherwise it would contradict to the constitutional principle of independence of the population in resolving issues of local significance and to the express prohibition of Subsection 3, Section 2, Article 6 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”.

The other powers of local representative bodies listed in Article 93 of the Constitution of the Komi Republic are fully coherent with the tasks of local self-government. The power to determine the order and financing of its activity (Subsection 7) conforms to independence of local self-government in resolving issues of local significance; the power to defend the interests of the population in courts (Subsection 9) conforms to protection of citizen’s rights, which determines the significance of local self-government provided that participation in judicial proceedings is possible only in forms prescribed by law.

At the same time the list of powers in Article 93 of the Constitution of the Komi Republic is not exhaustive. Under Subsection 10 of this Article, bodies of local self-government may resolve certain other issues which fall within their competence as prescribed by law. In this context, the statutorily prescribed competence has to be understood as prescribed by law power of bodies of local self-government to resolve any issues of local significance, which might not be expressly mentioned by law. This approach conforms to the Constitution of the Russian Federation (Section 1, Article 132) and to the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” (Article 6), which permits to include other issues of local significance in the powers of local self-government bodies.

Thus, provided by Article 93 of the Constitution of the Komi Republic, the powers to resolve issues of local significance are within the scope of competence of local representative bodies. However, the exercise of these powers must fully meet the requirements of Articles 12, 130–133 of the Constitution of the Russian Federation. At the same time, pursuant to Article 76 (Sections 2 and 5) of the Constitution of the Russian Federation, the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” determining the competence of local self-government bodies and Article 9 of the Constitution of the Komi Republic prescribing a possibility and conditions of delegating certain state government powers to bodies of local self-government are fully and directly applicable to the powers listed in Articles 92 and 93 of the Constitution of the Komi Republic as powers to resolve issues of local significance.

4. Within the meaning of Subsections 1 and 3, Article 13 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”, the determination of the borders of municipal entities falls within the competence of the subjects of the Russian Federation. However, such determination shall be based on the provision of Section 1, Article 131 of the Constitution of the Russian Federation, which stipulates that local self-government shall be exercised in urban and rural settlements and other territories with respect to historical and other local traditions. This constitutional norm is specified by the mentioned Law, which provides that the population of urban and rural settlements regardless of its size may not be deprived of the right to exercise local self-government (Subsection 1, Section 3, Article 12).

In its Judgment of 24 January 1997 in the case concerning the constitutionality review of the Law of the Udmurtiya Republic “On the System of Bodies of State Power in the Udmurtiya Republic” of 17 April 1996, the Constitutional Court of the Russian Federation articulated certain legal opinions which permit to define the territorial aspect of local self-government in order to ensure, as far as it is possible, proximity of local self-government bodies to the

population while preserving its efficiency necessary to give regard to the specificity of legal and other circumstances as far as possible.

Article 92 of the Constitution of the Komi Republic provides for the formation of local representative bodies entrusted with resolving local issue on the level of districts, cities of republican subordination, and their districts in the city. Thus, these territories are defined as levels of local self-government. At the same time, according to Articles 1 and 2 of the Law of the Komi Republic “On Municipal Entities in the Komi Republic” of 29 May 1997, municipal entities include rural settlements, settlements, villages, parts of cities of district and republic subordination within the boundaries of residential communities. Since Articles 9, 29 and 93 of the Constitution of the Komi Republic as interpreted above imply the existence of municipal entities on other levels where the issues of local significance may be resolved, the mentioned provision of the Law of the Komi Republic may be regarded as containing only an additional, but not exhaustive list of types of municipal entities. And the territories listed in Article 92 of the Constitution of the Komi Republic represent only the highest level of local self-government.

At the same time, if the identification of the levels on which local elected bodies exercise the function of local self-government, provided by Article 92 of the Constitution of the Komi Republic, is interpreted as prohibiting the creation of these authorities on lower territorial levels not mentioned by the Law of the Komi Republic “On Municipal Entities in the Komi Republic”, this Article does not conform to the principle of proximity of local self-government to the population and it violates the right of the population in other territories to local self-government (Section 1, Article 131 of the Constitution of the Russian Federation). This was the legal opinion of the Constitutional Court of the Russian Federation in the Judgment of 24 January 1997. However, the conclusion that the territorial levels where local self-government functions are exercised by elected representative bodies must not be limited by Article 92 of the Constitution of the Komi Republic does not imply that these bodies must be established in every municipal entity. The charter of a municipal entity under Subsection 6, Article 15 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” may provide that the powers of the elected representative authority are exercised by an assembly (meeting) of citizens. Without such reservation, Article 92 of the Constitution of the Komi Republic acquires an unconstitutional meaning since it does not only violate the right to local self-government but also interferes with the principle of government by the people.

5. Pursuant to Chapter 4 of the Constitution of the Komi Republic, local administrations are created in the Republic along with local representative bodies; they function as bodies of the executive branch which directly exercise state administration and secure the rights and lawful

interests of the citizens in the respective territory. Local administrations are part of the executive branch of government in the Republic (Article 94).

At the same time, local administrations, defined as bodies of general competence, exercise executive and administrative functions in resolving all issues related to the development of the respective territory, while they are not functional territorial subdivisions of the central bodies of state administration in the Republic.

The local administrations, pursuant to Article 1 of the Law of the Komi Republic “On Executive Bodies of State Power in Komi Republic”, act in districts, cities, districts of cities, villages, and rural settlements. They have the competence to resolve all issues of local significance in the respective territory, including management of property, management of social and economic spheres, conclusion of agreements with state and non-governmental organizations, protection of public security, enforcement of decisions and instructions of the local representative bodies (Subsection 1, 5, 7 and 12, Article 33).

Thus the local administrations in practice exercise executive and administrative functions in resolving all issues of local significance which fall within the competence of local self-government under the Constitution of the Russian Federation, the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”, and the Constitution of the Komi Republic. The creation of state executive bodies to resolve these issues contradicts Articles 130 (Section 1) and 132 (Section 1) of the Constitution of the Russian Federation, and Section 4, Article 9 of the Constitution of the Komi Republic, which excludes any interference in the lawful activity of bodies of local self-government.

Pursuant to the legal opinion expressed by the Constitutional Court of the Russian Federation in the Judgment of 24 January 1997, subjects of the Russian Federation do not have the competence to create any representative or executive bodies in territories which have no legal status of an administrative unit of republican subordination or do not directly form a part of the subject of the Russian Federation in accordance with the territorial order prescribed by its constitution (or charter). Article 70 of the Constitution of the Komi Republic identifies districts and cities of republican subordination as administrative territorial units of the Republic. Considering that it is impermissible for the local administrations to be executive bodies of state power in such territorial units of the Komi Republic as districts, cities, districts of cities, villages and rural settlements, the local administrations of these territories may be only bodies of local self-government. However, since local administrations under the legislation of the Komi Republic have the same legal nature and resolve issues of local significance, the local administrations of other territorial units may not function as bodies of administration either.

Articles 12, 130 (Section 1) and 132 (Section 1) of the Constitution of the Russian Federation provide that local self-government within its competence is independent and bodies of local self-government are separated from the system of bodies of state power. Consequently, the provisions of Articles 80 and 94 of the Constitution of the Komi Republic contradict the Constitution of the Russian Federation, since they provide that local administrations are part of the executive branch of the Komi Republic and that they are subordinate to executive bodies of state power of the Republic. Hence, Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic” challenged in the present case does not conform to the Constitution of the Russian Federation as it provides for the creation of local administrations by the Head of the Komi Republic, which in particular implies appointment of heads of local administrations by the Head of the Komi Republic or by the heads of superior administrations.

6. On 19 May 1997, the Supreme Court of the Komi Republic delivered a judgment in which it called the elections of representative bodies of local self-government and elected officials of local self-government in the Komi Republic and scheduled them on 19 October 1997. The judgment ordered the election to be held on the basis of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government”, which is to be applied in subjects of the Russian Federation that did not exercise their power of statutory regulation in this area. Since the Constitutional Court of the Russian Federation accepted this case for consideration, the Supreme Court of the Komi Republic, by the decision of 20 August 1997, suspended the enforcement of the judgment concerning the elections and the electoral campaign did not take place in the Republic. Consequently, the Constitutional Court of the Russian Federation considers it necessary to prescribe measures for proper enforcement of the present Judgment.

The Constitutional Court of the Russian Federation considers that elections to bodies of local self-government in the Komi Republic shall be directly based on the Federal Laws “On General Principles of Organization of Local Self-Government in the Russian Federation” and “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government”, which were adopted in the area of joint competence of the Russian Federation and its subjects. These Laws, under Article 76 (Section 2 and 5) of the Constitution of the Russian Federation, have direct effect on the whole territory of the Russian Federation both where subjects of the Russian Federation did not provide detailed regulation on the matter by their own legal acts and where the legislation of subjects of the Russian Federation contradicts the federal law. The norms of the mentioned Federal Laws prescribe guarantees of the citizens’ electoral rights and right to local self-government and are directly related to the implementation of Articles 2 and 12 of the Constitution of the Russian

Federation, which are among the fundamentals of the constitutional order of the Russian Federation. Moreover, the direct effect of certain provisions of the Constitution of the Komi Republic must be ensured.

Under Subsection 1, Article 1 of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government”, the grounds for the calling elections in the Komi Republic include *inter alia* the absence of a local elected representative body in certain territorial units and the exercise of local self-government powers by officials appointed by bodies of state power. The existence of these statutorily prescribed grounds for holding elections to bodies of local self-government of the Komi Republic has been proven in the hearing in the Constitutional Court of the Russian Federation on the present case. However, during the election, other legal opinions of the Constitutional Court of the Russian Federation expressed in the present Judgment must also be respected.

7. According to Section 2, Article 8 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”, the local representative body or the population adopts a charter of the municipal entity, where the structure of bodies of local self-government must be prescribed. In the Komi Republic, the charters of local municipal entities shall be adopted for respective territorial units by the currently acting local representative bodies. Where these representative bodies have not been elected yet, the charter may be adopted after their election. Nothing precludes the adoption of the charter directly by the people.

Section 6, Article 15 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” implies the possibility of exercising local self-government functions directly by the people of the respective territorial unit in the form of an assembly (meeting), although it must be prescribed by the charter of the municipal entity. Accordingly, in every municipal entity a local representative body must be established first to draft and adopt the charter which may permit the exercise of the powers of this body by an assembly (meeting) of citizens.

Independent determination, by the people, of the structure of local self-government bodies shall not delay their creation. The people’s (bodies of local self-government) actions (inaction) in determining the structure of local self-government bodies, which hinder actual exercise of local self-government, must be corrected by federal bodies of state power to protect the citizens’ rights and freedoms, including the right to local self-government. This does not violate the rights of either the bodies of state power of the subject of the Russian Federation, or of the bodies of local self-government, but rather imposes certain deadlines to perform their obligation to create a system of local self-government. This legal opinion was formulated by the

Constitutional Court of the Russian Federation in the Judgment of 30 May 1996 in the case concerning the review of the constitutionality of certain provisions of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”.

The Supreme Court of the Komi Republic may establish that the reasonable period for the adoption of the charters of municipal entities by the local representative bodies or for elections to these authorities has expired. The reasonable periods have to be determined with regard to Articles 58 (Subsection 1) and 59 (Subsections 1 and 2) of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”. If within a reasonable time the charters of municipal entities defining a system of bodies of local self-government are not adopted, then pursuant to Section 3 and 5, Subsection 1, Article 1 of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government” elections of local representative bodies and the heads of local administrations shall be held under this Federal Law.

The termination of the functioning of local administrations and of the appointed heads of local administrations prior to the formation of bodies replacing them under the charters of municipal entities would lead to disorganization of the management system in the issues of local significance and would impair the rights and lawful interests of the people. Considering this fact the enforcement of the present Judgment should not lead to immediate termination of the powers of local administrations and their appointed heads.

8. Taking into account the conclusions above and pursuant to Section 2, Article 87 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the following provisions of Komi Republic laws (“On Executive Bodies of State Power in the Komi Republic”, “On Local Representative Bodies in the Komi Republic”, and certain other laws) shall be repealed:

- permitting any forms of coercive influence by superior local representative bodies and local administrations on inferior ones;
- permitting the appointment of any officials of the local administration by a body of state power or by a body of a different municipal entity;
- determining the structure of bodies of local self-government in any municipal entity, including forms of their interaction, powers of a certain body of self-government or its official, general structure of bodies of self-government or an obligation to create any specific kind of bodies (except if otherwise is provided by federal law or the Constitution of the Russian Federation);
- permitting the absence, in any municipal entity, of both a local representative body and an assembly (meeting) of citizens;

– permitting the delegation of all state powers or certain powers not specified by law and without prior allocation of material and financial resources ensuring their performance.

In the process of forming bodies of local self-government, the legislation of the Komi Republic in force regulating the procedures for elections to bodies of self-government shall be applied, while to the extent that it does not provide necessary regulation or contradicts federal laws the provisions of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government” shall be applied.

Concluding from the above and pursuant to Section 1 and 2, Article 71, Articles 72, 74, 75, 86, 87, 100 and 104 of the “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation

h e l d :

1. To recognize the provisions of Article 93 of the Constitution of the Komi Republic (except for Subsection 6) as conforming to the Constitution of the Russian Federation to the extent they determine the powers of local representative bodies, provided that the list of these powers is not exhaustive and implies resolution by these bodies of other issues which fall within the competence of local self-government as prescribed by law, *inter alia* federal laws and laws of the Komi Republic.

2. To recognize as non-conforming to the Constitution of the Russian Federation and its Article 131 (Section 1) the provision of Subsection 6, Article 93 of the Constitution of the Komi Republic.

3. To recognize as non-conforming the Constitution of the Russian Federation and its Articles 3, 130, 131 (Section 1) and 132 (Section 1) the provision of Article 92 of the Constitution of the Komi Republic on elections to local representative bodies only in districts, cities, and districts in cities, to the extent that it prevents the formation of local representative bodies of local self-government in other municipal entities.

4. To recognize as non-conforming to the Constitution of the Russian Federation and its Articles 12, 130, 131 (Section 1) and 132 the provisions of Articles 80 and 94 of the Constitution of the Komi Republic and Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic”, since they stipulate that local administrations as bodies of general competence exercise state administration and are a part of the executive branch of government in the Komi Republic.

5. Under Subsection 12, Section 1, Article 75 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, this Judgment shall be executed in the following manner.

1) The local representative bodies elected before this Judgment enters into force preserve their powers until the end of the term for which they were elected, if the charter of the municipal entity does not establish a shorter term. Elections to local representative bodies under the legislation of the Komi Republic shall be held in the municipal entities where local representative bodies are absent and their powers are exercised by officials appointed by bodies of state power. The provisions of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government” shall be applied to the extent that the laws of the Komi Republic do not provide necessary regulation or contradict the federal law.

2) The acting local representative bodies, until the end of their term of office, and the newly elected bodies, after their election, shall draft, adopt and register charters of municipal entities. If a charter is not going to be adopted within a reasonable period determined by the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation”, the provisions of Paragraph 3, Subsection 1, Article 1 of the Federal Law “On Ensuring the Constitutional Rights of Citizens of the Russian Federation to Elect and Be Elected to Bodies of Local Self-Government” shall be applied *inter alia* to schedule elections of heads of local administrations.

3) The appointed heads of local administrations continue to exercise their duties, but only regarding the issues of local significance and until their offices are abolished and replaced with a new office by the charter of the municipal entity.

4) The provisions of Laws of the Komi Republic “On Executive Bodies of State Power in the Komi Republic”, “On Local Representative Bodies in the Komi Republic” and “On Elections to Bodies of State Power”, which rely on the provisions of the Constitution of the Komi Republic recognized as unconstitutional, and reproducing these provisions as well as provisions of Article 31 of the Law of the Komi Republic “On Executive Bodies of State Power in the Komi Republic” may not be applied and shall be annulled pursuant to the procedure prescribed by the Constitution and laws of the Komi Republic.

5) Pursuant to Section 3, Article 79, Section 2, Article 100, and Article 104 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the judgment of the Supreme Court of the Komi Republic of 19 March 1997 concerning elections to bodies of local self-government shall be reconsidered by the Supreme Court of the Komi Republic in the light of

new legal circumstances established by the Constitutional Court of the Russian Federation in the present case.

6. 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.

7. Pursuant to Article 78 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” this Judgment shall be published in the Collection of Laws of the Russian Federation and Rossiyskaya Gazeta and the official editions of the Komi Republic authorities. The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

Constitutional Court  
of the Russian Federation

No. 3-II