

IN THE NAME OF THE RUSSIAN FEDERATION

CONSTITUTIONAL COURT
OF THE RUSSIAN FEDERATION

Judgment
of 17 January 2008 No. 1-II

in the case concerning the review of the constitutionality of the provisions of Articles 9 and 10 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation” and Articles 181, 188, 195, 273, 290, 293 and 299 of the Arbitration Procedure Code of the Russian Federation, in connection with complaints of SEB Russky Lizing CJSC, Nefte-Standart LLC, and Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC.

Moscow, 17 January 2008

The Constitutional Court of the Russian Federation composed of Presiding Judge O. S. Khokhryakova and Judges Yu. M. Danilov, V. D. Zorkin, L. M. Zharkova, G. A. Zhilin, S. M. Kazantsev, M. I. Kleandrov, N. V. Melnikov, N. V. Seleznev,

in the attendance of A. V. Zimin, N. V. Zhikharev, M. G. Raskin, A. R. Sultanov, V. P. Chicherina as representatives of the parties who submitted the complaints with the Constitutional Court of the Russian Federation, representative of the State Duma D. D. Tsabriya, PhD in Law, Representative of the Council of the Federation Ye. V. Vinogradova, PhD in Law, Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M. V. Krotov,

pursuant to Section 4, Article 125 of the Constitution of the Russian Federation, Subsection 3, Section 1, Sections 3 and 4, Article 3, Subsection 3, Section 2, Article 22, 36, 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 provisions of Articles 9 and 10 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation” and Articles 181, 188, 195, 273, 290, 293 and 299 of the Arbitration Procedure Code of the Russian Federation.

The reason for the consideration of the case is complaints of SEB Russky Lizing CJSC, Nefte-Standart LLC, and Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC. The ground for the consideration of the case is the discovered uncertainty of whether the provision challenged by the applicants is in conformity with the Constitution of the Russian Federation.

Insofar as all complaints 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 is permitted to consider these applications together.

Having heard the report of Judge-Rapporteur M. I. Kleandrov, statements by the parties’ representatives, statements by the following representatives invited to the hearing: Deputy President of the Supreme Arbitration Court of the Russian Federation T. K. Andreeva for the Supreme Arbitration Court of the Russian Federation; T. S. Lupikova for the Prosecutor General of the Russian Federation, L. V. Dobrovolskaya for the Ministry of Justice 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. The applicants in the present case, i.e. SEB Russky Lizing CJSC, Nefte-Standart LLC and Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC, challenge the constitutionality of Article 9 and Subsection 1, Article 10 of the Federal Constitutional Law No. 1-ΦK3, of 28 April 1995, “On Arbitration Courts in the Russian Federation”, which define the status of the Supreme Arbitration Court of the Russian Federation and its powers as a first instance court; Section 2, Article 181, Sections 1 and 2, Article 188, Section 7, Article 195, Articles 273 and 290 of the Arbitration Procedure Code of the Russian Federation, which establish the right to and the procedures for cassation appeals against arbitration courts’ judgments and decisions including those in cases concerning the review of normative legal acts; and Section 3 of Article 293 and Sections 1, 2, 3, 8, and 9, Article 299 of this Code, which establish procedures for supervisory review proceedings and procedures for the consideration of complaints about and requests for supervisory review of judicial acts.

1.1. In its decision of 3 April 2006, the Supreme Arbitration Court of the Russian Federation dismissed the case upon the request of SEB Russky Lizing CJSC to recognize as void one of the provisions of the Letter of the Ministry of Finance of the Russian Federation No. 03-02-05/2/35 of 10 June 2004 related to tax accounting of leasing transactions. The court reasoned that arbitration courts have no jurisdiction to hear such disputes. The applicant’s cassation appeal against the decision was returned by the Supreme Arbitration Court of the Russian Federation and the court clarified that it may not review judicial acts which entered into force on cassation (decision of 3 May 2006).

In its decision of 13 November 2006, the Supreme Arbitration Court of the Russian Federation discontinued proceedings upon the request of Nefte-Standart LLC to recognize as

void the international standards introduced by Order of the State Committee of the Russian Federation for Standardization and Metrology No. 185-st of 23 April 2001. The court reasoned that federal laws do not permit the arbitration court to hear cases that concern the review of these normative legal acts. And following its decision of 26 April 2007 it returned the request of Nefte-Standart LLC for the reason that arbitration courts have no jurisdiction to hear such disputes. The Supreme Arbitration Court of the Russian Federation received the cassation appeals of Nefte-Standart LLC as complaints concerning supervisory review of a judicial act. However, it denied transfer of the case to the Presidium of the Supreme Arbitration Court of the Russian Federation (decisions of 19 January 2007 and 8 June 2007).

The Supreme Arbitration Court of the Russian Federation considered the request of Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC to recognize as void the Instruction on Customs Authorities Certification of Actual Export (Import) of Goods from/to the Customs Territory of the Russian Federation adopted by Order of the State Customs Committee of the Russian Federation No. 806 of 21 July 2003. In the judgment of 5 September 2005, it recognized the said legal act as compliant with the federal law and dismissed the request. The Supreme Arbitration Court of the Russian Federation, in its decision of 1 November 2005, denied transfer of the case of Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC to the Presidium of the Supreme Arbitration Court of the Russian Federation.

1.2. In the applicants' opinion, Article 9 and Subsection 1, Article 10 of the Federal Constitutional Law "On Arbitration Courts in the Russian Federation", Section 2, Article 181, Sections 1 and 2, Article 188, Section 7, Article 195, Articles 273 and 290 of the Arbitration Procedure Code of the Russian Federation contradict Articles 19 (Section 1), 46 (Sections 1 and 2), 47 (Section 1), 55 (Sections 2 and 3), and 123 (Section 3) of the Constitution of the Russian Federation because they exclude the right of cassation appeals against decisions of the Supreme Arbitration Court of the Russian Federation as a first instance court considering cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal bodies of state power, which do not comply with the law and affect citizens' rights and lawful interests in entrepreneurial and other economic activities.

Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC, which challenges the constitutionality of Section 3, Article 293, and Sections 1, 2, 3, 8, and 9, Article 299, claims that these legal provisions, which prescribe that a panel of judges shall consider the issue of transferring a case to the Presidium of the Supreme Arbitration Court of the Russian Federation, do not ensure that the court is impartial and independent since these provisions do not contain formalized grounds for denial to transfer a case to the Presidium of the Supreme Arbitration

Court of the Russian Federation and do not provide for an appeal against these decisions. Such statutory scheme violates Articles 45 (Section 1), 46 (Section 1), 52, and 55 (Section 2) of the Constitution of the Russian Federation.

1.3. In accordance with Article 9 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation”, the Supreme Arbitration Court of the Russian Federation shall be the supreme judicial body to settle economic disputes and other cases examined by arbitration courts, shall carry out judicial supervision over their activities according to the procedural forms prescribed by federal law, and shall provide clarifications on issues of judicial practice.

This article, is a verbatim of Article 127 of the Constitution of the Russian Federation, and it may not be a subject matter for consideration by the Constitutional Court of the Russian Federation, since review of its constitutionality would result in review of provisions of the Constitution of the Russian Federation, which is outside the competence of the Constitutional Court of the Russian Federation as defined in Article 125 of the Constitution of the Russian Federation and Article 3 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”.

1.4. In its Judgment No. 2-II of 5 February 2007, the Constitutional Court of the Russian Federation articulated the following legal opinion regarding the interrelated provisions of the Civil Procedure Code of the Russian Federation regulating the supervisory review of judicial decisions which entered into force.

The existence of a preliminary procedure for considering supervisory complaints (requests), which does not encompass certain procedural rules obligatory on other stages, in particular, notification and summoning of parties, having a hearing and others, is predetermined by the need to ensure the balance between public and private interests, to preclude transformation of the supervisory instance court into an ordinary judicial instance as well as to preclude evidently unreasonable applications. This approach corresponds to the case-law of the European Court of Human Rights, which recognizes a possibility of restriction of the right of access to court, in particular, in connection with determination of admissibility of an application, provided that this right will not be restricted to such extent as to affect its essence; permissible restrictions of the mentioned right shall have legitimate purpose, and proportionality shall exist between the means used and purposes pursued.

In itself, the introduction of a preliminary procedure for considering supervisory complaints (requests) intended to determine legal grounds for further progress of the case (*certiorari*, transfer for consideration on the merits by a supervisory court) on the basis of the arguments of the supervisory complaint (request) and the contents of the challenged court judgments (records of the proceeding called up for review), is in line with the legal nature and

purpose of supervisory review proceedings and may not be viewed as inconsistent with everyone's right to judicial protection and fair court proceedings, provided that when a supervisory court considers the merits of the case the basic procedural principles and guarantees for the parties and other participants are observed.

The adduced legal opinions are universal and therefore applicable to proceedings in arbitration courts. As to the issue raised by Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC, concerning the possibility of an appeal against the decision of a panel of judges of the Supreme Arbitration Court of the Russian Federation to deny transfer of the case to the Presidium of the Supreme Arbitration Court of the Russian Federation, such decisions are delivered by the Supreme Arbitration Court of the Russian Federation within the procedure for preliminary consideration of complaints or requests for supervisory review of a judicial act in force. In these proceedings, the judges, without reviewing the merits of the case, decide whether there are grounds for transferring the case to the Presidium of the Supreme Arbitration Court of the Russian Federation. At this stage, no other decision is made which determines anew the rights and obligations of persons participating in the case and which therefore could be appealed.

Hence, the provisions of Section 3, Article 293 and Sections 1, 2, 3, 8, and 9, Article 299 of the Arbitration Procedure Code of the Russian Federation did not violate the constitutional rights of Nauchno-Proizvodstvennoye Predpriyatiye Nefte-Standart LLC; so to this extent the complaint may not be recognized as admissible under the requirements of Articles 36, 96, and 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation".

1.5. Thus, the subject matter for consideration by the Constitutional Court of the Russian Federation in the present case is the interrelated provisions of Subsection 1, Article 10 of the Federal Constitutional Law "On Arbitration Courts in the Russian Federation", Section 2, Article 181, Sections 1 and 2, Article 188, Section 7, Article 195, Articles 273 and 290 of the Arbitration Procedure Code of the Russian Federation inasmuch as they prevent cassation appeals against judgments and decisions of the Supreme Arbitration Court of the Russian Federation sitting as a first instance court for cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power, which do not comply with the law and affect citizens' rights and lawful interests in entrepreneurial and other economic activities.

2. Pursuant to Article 118 (Section 2) of the Constitution of the Russian Federation, judicial power shall be exercised by means of constitutional, civil, administrative, and criminal proceedings. In regulating the mentioned types of proceedings, the federal legislator shall consider specific features of the respective substantive legal relations and use them as a basis for defining the means of procedural protection of persons participating in these relations.

Pursuant to Article 127 of the Constitution of the Russian Federation and with regard to entrepreneurial activities and other economic activities not prohibited by law, justice shall be administered by arbitration courts, including the Supreme Arbitration Court of the Russian Federation, which is the supreme judicial body for settling economic disputes and other cases examined by arbitration courts under the arbitration procedure legislation, which is, equally with civil procedure legislation, within the competence of the Russian Federation (Article 71, Subsection “n” of the Constitution of the Russian Federation).

Under these constitutional provisions, the Federal Constitutional Law “On the Judicial System of the Russian Federation” establishes a system of arbitration courts of the Russian Federation, which includes arbitration courts in subjects of the Russian Federation that consider cases as first instance courts and under newly discovered circumstances, arbitration appellate courts that consider cases as courts of appellate instance and under newly discovered circumstances, federal arbitration courts of circuits that consider cases as courts of cassation instance and under newly discovered circumstances, and the Supreme Arbitration Court of the Russian Federation that is the superior judicial instance for all mentioned arbitration courts and under federal law it considers cases as a first instance court, supervisory court, or under newly discovered circumstances (Articles 23–25).

This multilevel system of arbitration courts, which precludes the existence, among courts of the same level of jurisdiction, of two ordinary instances one of which could review in a regular (appellate or cassation) manner the legality of judicial acts delivered by the other, permits to create conditions necessary for effective and fair administration of justice by an independent and impartial court, so that individuals and their associations may exercise their constitutional right to judicial protection.

2.1. As prescribed by the Constitution of the Russian Federation, its Articles 46 and 47 (Section 1), jurisdiction over cases shall be determined by law, which (as was stated by the Constitutional Court of the Russian Federation in Judgment No. 9-II of 16 March 1998) shall establish criteria defining, in a normative way (as general rules), the court where a particular case is to be considered, so as to allow the court (the judge), the parties, and other participants of the proceedings to avoid uncertainty on this matter.

For proceedings in arbitration courts, such law is the Arbitration Procedure Code of the Russian Federation, which establishes, in its Article 29, that in administrative proceedings arbitration courts consider disputes and other cases related to entrepreneurial and other economic activities of organizations and individuals arising from administrative and other public law relations; *inter alia* cases (under Subsection 1 of this Article) that concern the review of normative legal acts if the federal law refers them to the competence of arbitration courts.

Pursuant to Article 34 of the Arbitration Procedure Code of the Russian Federation, cases that are within the competence of arbitration courts are considered at the first instance by arbitration courts of the subjects of the Russian Federation, except for cases referred to the competence of the Supreme Arbitration Court of the Russian Federation (Section 1). Section 2 of this Article (equally to Subsection 1 (1), Article 10 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation”) prescribes the following cases to be considered by the Supreme Arbitration Court of the Russian Federation as a first instance court: (a) cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power, which affect rights, freedoms, and lawful interests of citizens and organizations in entrepreneurial and other economic activities; (b) cases concerning the review of non-normative legal acts of the President of the Russian Federation, the Council of the Federation and the State Duma, the Government of the Russian Federation, which do not comply with the law and affect the rights and lawful interests of organizations and citizens; and (c) economic disputes between the Russian Federation and subjects of the Russian Federation, and between subjects of the Russian Federation.

Pursuant to Subsection 1, Article 29, and Section 3, Article 191 of the Arbitration Procedure Code of the Russian Federation, the Supreme Arbitration Court of the Russian Federation shall receive only such cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation and federal executive bodies of state power, which under federal law fall within the jurisdiction of arbitration courts.

2.2. The Constitution of the Russian Federation (Section 1, Article 46; Section 1, Article 120) guarantees everyone judicial protection of his rights and freedoms relying on the principle that judges are independent and are bound only by the Constitution of the Russian Federation and federal law. These constitutional provisions correspond to the universally recognized legal principles, in particular the requirement of a fair trial by an impartial tribunal under Article 6 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Taking into account the special place which normative legal acts of the President of the Russian Federation, the Government of the Russian Federation and federal executive bodies of state power affecting citizens’ rights and lawful interests in entrepreneurial and other economic activities have within the system of normative legal acts of the Russian Federation and the public importance of cases concerning the review of these acts, the federal legislator referred them to the competence of the supreme instance in the system of arbitration courts of the Russian

Federation, i.e. the Supreme Arbitration Court of the Russian Federation, and prescribed that these cases shall be considered by a panel of judges in order to guarantee that a lawful and well-reasoned judicial act is delivered.

2.3. The Constitutional Court of the Russian Federation revealing the constitutional contents of the right to judicial protection in a number of its decisions formulated the following legal opinions. This right guaranteed by Article 46 of the Constitution of the Russian Federation implies specific guarantees of effective restoration of rights by administration of justice, which complies with the requirements of fairness, and the absence of a possibility to reconsider a wrongful (mistaken) judicial act derogates and limits this right. For the purpose of exercising judicial protection of rights and freedoms it shall be possible to appeal to court against any decisions and actions (inaction) of any state authorities, including judicial authorities. The right to judicial protection implies protection of an individual's rights and lawful interests not only against arbitrariness of the legislative and executive branches of the government, but also against wrongful (mistaken) judgments of the court; an effective guarantee of this right is a possibility for the case to be reconsidered by a superior court, and this possibility shall be ensured by the State in certain forms giving due regard to specific features of each type of judicial proceedings. (Judgments No. 5-II of 3 February 1998, No. 9-II of 16 March 1998, No. 20-II of 2 July 1998, No. 21-II of 6 July 1998, and No. 9-II of 28 May 1999).

The Constitution of the Russian Federation directly stipulates the right to appeal against a judgment only for criminal judicial proceedings. Under Article 50 (Section 3), everyone convicted of a crime shall have the right to review of the judgment by a superior court. A similar provision is found in Protocol No. 7 to the Convention for the Protection of Human Rights and Fundamental Freedoms, which permits this right to be subject to exceptions, as prescribed by law, in cases considered in the first instance by the highest tribunal (Article 2). The Constitution of the Russian Federation (Article 46, Section 3) also recognizes that there are judicial instances whose decisions in the legal system of the Russian Federation are not subject to appeal, and this does not contradict the State's constitutional obligation to provide everyone with access to justice *inter alia* in order to rectify a judicial mistake.

By guaranteeing to everyone the right to judicial protection of his rights and freedoms and to appeal against decisions of state authorities, including those of judicial authorities, the Constitution of the Russian Federation does not directly prescribe procedures for judicial review of courts' judgments upon complaints of interested persons. This procedure shall be determined by the federal law, which is based on the Constitution. The federal legislator has sufficiently broad discretion in establishing a system of judicial instances, the sequence and procedures for appeal, the grounds for annulment or alteration of judicial acts by courts of superior instances,

and the powers of courts of superior instances. The legislator exercising such regulation shall give due regard to the requirements of the Constitution of the Russian Federation and international obligations of the Russian Federation and take into account the importance of a particular category of cases as well as the role and place of the respective court within the judicial system of the Russian Federation.

It does not follow from the contents of the said provisions of the Constitution of the Russian Federation, including its Article 127, or the legal opinions expressed by the Constitutional Court of the Russian Federation that a regular (ordinary) instance shall be established within the system of arbitration courts of the Russian Federation for review of judicial acts of the Supreme Arbitration Court of the Russian Federation sitting as a first instance court.

2.4. Thus, when regulating the procedure for appeals against judicial acts of the Supreme Arbitration Court of the Russian Federation as a first instance court, the federal legislator is entitled to preclude the possibility of cassation appeals against judgments and decisions of the Supreme Arbitration Court of the Russian Federation. In doing so, the legislator has to rely on the constitutional aims and values, universally recognized principles and norms of international law and international obligations of the Russian Federation, take into account specific features of judicial proceedings concerning administrative and other public law relations, give due regard to the special place occupied by the Supreme Arbitration Court of the Russian Federation and its role within the system of arbitration courts, and consider that in cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power decisions are made by a panel of judges.

3. The fact that the Arbitration Procedure Code of the Russian Federation precludes the possibility of cassation appeals against judgments and decisions in force delivered by the Supreme Arbitration Court of the Russian Federation within its competence in cases concerning the review of normative legal acts does not imply that these judgments and decisions may not be appealed against or reviewed. In compliance with the provisions of Article 46 of the Constitution of the Russian Federation, these judicial acts may be reviewed on supervision by the Presidium of the Supreme Arbitration Court of the Russian Federation, which is, however, not an ordinary instance for review of the lawfulness of judgments and decisions of the Supreme Arbitration Court of the Russian Federation sitting as a first instance court. This review, however, is only possible if the Presidium of the Supreme Arbitration Court of the Russian Federation establishes that due to the mistake, which was made in the course of the previous consideration of the case and which predetermined its outcome, the rights and lawful interests, which are protected in

judicial proceedings and cannot be restored without annulment or alteration of the wrongful (mistaken) judicial act, are significantly violated.

Such procedure corresponds to the place of the Supreme Arbitration Court of the Russian Federation within the judicial system of the Russian Federation and to the significance of cases falling within its competence. Nor does it diverge from the legal opinion expressed by the Constitutional Court of the Russian Federation with regard to civil proceedings in courts of general jurisdiction. Pursuant to this opinion, supervisory review of judicial acts in force is only an additional guarantee of lawfulness of these acts and it is possible in exceptional circumstances. A different opinion of the supervisory court as to the outcome of the case may not be the sole reason for annulment or alteration of the judgment by an inferior court (Judgment No. 2-II of 5 February 2007).

The European Court on Human Rights, in its judgments concerning supervisory review proceedings in civil cases in the Russian Federation, also points out that under the principle of legal certainty no party is entitled to seek re-opening of the proceedings merely for the purpose of rehearing and having a fresh decision of the case; higher courts' power to quash or alter binding and enforceable judicial decisions should be exercised for correction of fundamental defects (Judgment of 10 May 2007 in *Sergey Petrov v. Russia*, § 22).

4. Within the meaning of Article 118 (Section 2) of the Constitution of the Russian Federation in its connection with Articles 126 and 127, proceedings concerning the review of normative legal acts either in courts of general jurisdiction or in arbitration courts is in its constitutional nature administrative court proceedings, however, this does not exclude specific procedural features of considering this category of cases within the system of arbitration courts and within the system of courts of general jurisdiction.

The Civil Procedure Code of the Russian Federation also refers cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power, which affect rights, freedoms, and lawful interests of citizens and organizations to the jurisdiction of the supreme judicial instance within the system of courts of general jurisdiction, i.e. the Supreme Court of the Russian Federation (Article 27); however these cases are considered by a single judge (Section 1, Article 14, Section 1, Article 246, and Article 251), whose judgments and decisions may be appealed by the interested persons to a cassation instance (Articles 336 and 371) and reviewed in supervisory proceedings or under newly discovered circumstances (Articles 376 and 392).

The absence of a possibility for cassation review of judgments and decisions of the Supreme Arbitration Court of the Russian Federation within its competence as a first instance court to review normative legal acts of the President of the Russian Federation, the Government

of the Russian Federation, and federal executive bodies of state power, is not in itself the reason to recognize, as non-conforming to the Constitution of the Russian Federation, the provisions of Subsection 1, Article 10 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation” and Section 2, Article 181, Sections 1 and 2, Article 188, Section 7, Article 195, Articles 273 and 290 of the Arbitration Procedure Code of the Russian Federation, which do not envisage such possibility. Review of their constitutionality with regard to differences in legal regulation of the procedure for appeals against judgments and decisions of the supreme judicial instances in the system of arbitration courts and courts of general jurisdiction sitting as first instance courts would result in review of the constitutionality of the norms established both in arbitration procedure and civil procedure legislation. However, pursuant to Section 3, Article 74, Articles 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” the Constitutional Court of the Russian Federation is not entitled to do so in the present case.

In order to ensure a uniform approach for courts of general jurisdiction and arbitration courts to consider similar categories of cases, the federal legislator, within its discretionary power and relying on the Constitution of the Russian Federation and the present Judgment, may reform the procedures for review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power by the supreme judicial instances within the system of courts of general jurisdiction and the system of arbitration courts.

Concluding from the above and pursuant to Article 68, Sections 1, 2, Articles 71, Articles 72, 74, 75, 79, and 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 interrelated normative provisions of Subsection 1, Article 10 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation”, Section 2, Article 181, Sections 1 and 2, Article 188, Section 7, Article 195, Articles 273 and 290 of the Arbitration Procedure Code of the Russian Federation in the part that prevents cassation appeals against judgments and decisions of the Supreme Arbitration Court of the Russian Federation sitting as a first instance court in cases concerning the review of normative legal acts of the President of the Russian Federation, the Government of the Russian Federation, and federal executive bodies of state power, which affect citizens’ rights and lawful interests in entrepreneurial and other economic activities, as conforming to the Constitution of the Russian Federation.

2. To discontinue proceedings in the present case to the extent concerning the review of the constitutionality of Article 9 of the Federal Constitutional Law “On Arbitration Courts in the Russian Federation”, Section 3, Article 293, and Sections 1, 2, 3, 8, and 9, Article 299 of the Arbitration Procedure Code of the Russian Federation.

3. This Judgment shall be final and shall not be subject to any appeal, it shall come into force immediately upon pronouncement, shall be directly applicable and shall not require confirmation by other authorities and state officials.

4. 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*. The Judgment shall also be published in the Bulletin of the Constitutional Court of the Russian Federation.

Constitutional Court
of the Russian Federation

No. 1-П