

**IN THE NAME OF THE RUSSIAN FEDERATION**

**Constitutional Court of the Russian Federation**

**Judgment**

**of 29 October 2010 No. 19-II**

**In the case concerning the review of constitutionality of the provisions of Paragraph 8 of Article 4 and of Article 11 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation”, Paragraph 1 of Article 6 of the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly” and Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly” in connection with the complaint of I.B.Vol’fson**

The Constitutional Court of the Russian Federation composed of the Presiding Judge Yu.D.Rudkin, Judges K.V.Aranovsky, A.I.Boitsov, N.S.Bondar’, G.A.Gadzhiev, S.D.Knyazev, L.O.Krasavchikova, S.P.Mavrin, O.S.Khokhryakova,

in the attendance of I.B.Vol’fson, Permanent Representative of the State Duma to the Constitutional Court of the Russian Federation A.N.Kharitonov, Representative of the Council of Federation, PhD in Law Ye.V.Vinogradova, Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M.V.Krotov, representative of the Altai Territorial Legislative Assembly PhD in Law S.V.Zemliukov,

pursuant to Article 125 (Section 4) of the Constitution of the Russian Federation, Paragraph 3 of Section 1, Sections 3 and 4 of Article 3, Paragraph 3 of Section 2 of Article 22, Articles 36, 74, 86, 96, 97 and 99 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open hearing examined constitutionality of the provisions of Paragraph 8 of Article 4 and of Article 11 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation”, Paragraph 1 of Article 6 of the Law of

the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly” and Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”.

The reason for the consideration of the case was the complaint of I.B.Vol’fson. The ground for the consideration of the case was the discovered uncertainty of whether the provisions contested by the applicant are in conformity with the Constitution of the Russian Federation.

Having heard the report of Judge-Rapporteur S.D. Knyazev, statements by the parties’ representatives, interventions by the participants invited to the hearing: V.V.Karpov for the Ministry of Justice of the Russian Federation, T.A.Vasilyeva for the Prosecutor General of the Russian Federation, having considered written submissions and other materials,

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

1. In accordance with the results of elections to the Altai Territorial Legislative Assembly, held on 2 March 2008 according to majority-proportional electoral system, I.B.Vol’fson was elected deputy from the list of candidates brought forward by the Altai territorial branch of the political party “Communist Party of the Russian Federation” and entered into the fraction of CPRF and Standing Committee on Local Self-Government. When by the decision of 23 April 2008, adopted by majority of votes of the Committee members, I.B.Vol’fson’s application for carrying out of the deputies’ activity on permanent professional basis was rejected, he turned to Zheleznodorozhny District Court of the City of Barnaul with a demand to oblige the Altai Territorial Legislative Assembly to grant him opportunity to exercise deputy powers on permanent professional basis and to compensate moral damage.

By decision of Zheleznodorozhny District Court of the City of Barnaul of 8 April 2009, left unchanged by the cassation ruling of the Altai Territorial Court of 27 May 2009, the demands declared by I.B.Vol’fson were rejected, and ruling of a judge of the Supreme Court of the Russian Federation of 25 August 2009 also

refused to pass a supervisory complaint for consideration in a court session of the Civil Board of the Supreme Court of the Russian Federation.

In his complaint to the Constitutional Court of the Russian Federation I.B.Vol'fson requests to recognize as non-conforming to the Constitution of the Russian Federation, its Articles 3 (Section 2), 6 (Section 2), 13 (Sections 1 and 4), 17 (Section 3), 18, 19 (Sections 1 and 2), 32 (Section 1) and 55 (Section 2), Paragraph 8 of Article 4 and Article 11 of the Federal Law of 6 October 1999 No. 184-ФЗ "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation" (in the wording actual until adoption of the Federal Law of 4 June 2010 No. 118-ФЗ), Paragraph 2 of Article 69 of the Charter (Basic Law) of the Altai Territory, Paragraph 1 of Article 6 of the Law of the Altai Territory of 4 December 2000 No. 76-3C "On Status of Deputy of the Altai Territorial Legislative Assembly" and Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory of 8 May 2001 No. 22-3C "On the Altai Territorial Legislative Assembly".

In the applicant's opinion, the contested legal provisions – within the meaning attributed to them by the law-applying practice – allow adoption of arbitrary decisions on the question of execution by a deputy of the Altai Territorial Legislative Assembly of his powers on permanent professional basis, do not provide for consideration of the opinion of deputies' fractions opinion and thus violate constitutional right to participate in managing State affairs, principles of equality before the law, equality of rights and ideological diversity.

1.1. Resolving the question of admission of I.B.Vol'fson's complaint for consideration, the Constitutional Court of the Russian Federation proceeded from the presumption that Paragraph 2 of Article 69 of the Charter (Basic Law) of the Altai Territory, according to which a deputy may work in the Altai Territorial Legislative Assembly on permanent professional basis, was not directly applied to the applicant and, consequently, can not be a subject-matter of review with regard to the present complaint.

Accordingly, the case was assigned for hearing not in the plenary session of the Constitutional Court of the Russian Federation, as requires Paragraph 1 of Section 2 of Article 21 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation” for resolution of cases on conformity to the Constitution of the Russian Federation of constitutions (charters) of the subjects of the Russian Federation, but in session of a chamber of the Constitutional Court of the Russian Federation (Sub-Paragraphs “a”, “б” of Paragraph 1 of Section 2 of Article 22 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”).

1.2. The provisions of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation”, according to which a legislative (representative) body of state power of a subject of the Russian Federation resolves questions of organizational, legal, informational, material, technical and financial maintenance of its activity on its own (Paragraph 8 of Article 4), and the conditions of carrying out of the deputy activity by a deputy (on permanent professional basis, or on professional basis for a certain period of time, or without isolation from primary activity) are established by constitution (charter) and (or) a law of a subject of the Russian Federation (Article 11), recognizing independence of a legislative (representative) body of a subject of the Russian Federation in approval of expenditures for maintenance of its activity and granting the decision on the issue of conditions of carrying out deputy activity to the regional legislator, can not be regarded as violating constitutional rights and freedoms of the applicant. The said legal provisions, as the Constitutional Court of the Russian Federation repeatedly pointed out, in themselves do not deprive deputies of legislative (representative) bodies of subjects of the Russian Federation of possibility to carry out their powers on permanent professional basis (Rulings of 9 April 2002 No. 162-O, of 24 May 2005 No. 249-O and others).

This conclusion is also applicable to Paragraph 1 of Article 6 of the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative

Assembly”, which in accordance with Article 11 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation” fixes the possibility of execution of his duties by a deputy of the Altai Territorial Legislative Assembly on permanent professional basis or without isolation from primary activity and as such also can not be regarded as violating constitutional rights and freedoms of the applicant.

Hence, the complaint of I.B.Vol’fson in the part concerning the review of constitutionality of Paragraph 8 of Article 4 and of Article 11 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation” and of Paragraph 1 of Article 6 of the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly” is not admissible within the meaning of Articles 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, and the proceedings in the present case in this part, pursuant to Paragraph 2 of Section 1 of Article 43 and Article 68 of the said Federal Constitutional Law, are subject to discontinuance.

1.3. In accordance with the requirements of Articles 74, 96 and 97 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation passes a judgment only on the subject-matter indicated in a citizen’s complaint and only in respect of the legislative provisions applied in his case; it assesses both the literal meaning of these provisions and the meaning attributed to them by the prevailing law-applying practices, as well as proceeding from their place in the system of legal norms.

Proceeding from this, the subject-matter for consideration by the Constitutional Court of the Russian Federation in the present case are the provisions of Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”, contemplating adoption by the standing committees of the Altai Territorial Legislative Assembly of decisions on work on permanent professional basis of chairmen, deputy chairmen

and members of these committees and approval of these decisions by the Altai Territorial Legislative Assembly in the part, concerning the number of persons working in these committees on this basis, in accordance with general amount of expenditures for its maintenance envisaged by the territorial budget for current year – as the provisions, establishing the procedure of realization by a deputy of the Altai Territorial Legislative Assembly, formed according to the majority-proportional electoral system, of his right to carry out deputy activity on the permanent professional basis.

2. Affirming the unshakeability of democratic ground of sovereign statehood of the Russian Federation, declaring it democratic law-governed State with a republican form of government, the sole source of power in which is the multinational people of Russia, the Constitution of the Russian Federation secures citizen's right to participate in managing State affairs both directly and through their representatives, which is realized on the basis of political diversity and multi-party system and is recognized and guaranteed according to universally recognized principles and norms of international law and in accordance with the Constitution of the Russian Federation, proceeding from equality of all before the law and the court and equality of rights (Preamble, Article 1, Section 1; Article 3, Section 1; Article 13, Section 3; Article 17, Section 1; Article 19, Sections 1 and 2; Article 32, Section 1).

The adduced constitutional provisions oblige the legislator, when determining the status of parliamentary institutions, including the procedure and conditions of executing of their powers by deputies, to guarantee observance and protection of the citizens' right to participate in managing State Affairs and not to allow deviation from the constitutional principles of power of the people in order, as the Constitutional Court of the Russian Federation pointed out in the Judgment of 22 January 2002 No. 2-II, not to lose neither the real content of this constitutional right, nor the essence of people's representation, guaranteed, *inter alia*, by the organizational structure of a parliament and the procedures of its activity.

This requirement has universal significance and fully extends on legislative (representative) bodies of the subjects of the Russian Federation, formed by them independently in accordance with the fundamentals of the constitutional order of the Russian Federation and general principles of organization of representative and executive bodies of state power established by the federal law (Article 11, Section 2; Article 77, Section 1, of the Constitution of the Russian Federation).

2.1. Determination of conditions of carrying out their powers by deputies of legislative (representative) bodies of the subjects of the Russian Federation, as well as other issues pertaining to general principles of organization of the system of bodies of state power and local self-government, are, as follows from the interconnected provisions of Articles 72 (Paragraph “н” of Section 1) and 76 (Sections 2 and 5) of the Constitution of the Russian Federation, in joint jurisdiction of the Russian Federation and the subjects of the Russian Federation which, by virtue of constitutional principles of realization of legislative function, accounted for by the federal nature of Russia’s statehood, possess sufficient discretion with regard to this sphere of legal regulation.

Proceeding from this, the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation” granted the establishment of the conditions of the deputy activity (on professional basis or without isolation from primary activity) and determination of the number of deputies working on permanent professional basis, to the subjects themselves (Paragraph 6 of Article 4 and Paragraph 1 of Article 11), thus having created legal pre-requisites of independent solution of these questions – within the limits stipulated for by the federal law and regarding all circumstances, including possibilities of financial maintenance of the activity of legislative (representative) body of a particular subject of the Russian Federation, which conforms to the constitutional guarantees of independence of the subjects of the Russian Federation in establishment of the system of bodies of state power formed by them.

Within the meaning of the adduced legislative provisions, subjects of the Russian Federation are entitled to contemplate execution of their duties by deputies of regional parliaments not only on professional, but also on non-professional basis and to determine, what part of deputy corps can carry out their activity on permanent professional basis, which in such cases presupposes possibility of choice by the deputies of one or another form of activity within legislative (representative) body of the subject of the Russian Federation.

This, in its turn, means that a subject of the Russian Federation, fixing on the level of its constitution (charter) and (or) a law the possibility of executing deputy duties on permanent professional basis as a condition of carrying out deputy activity, is obliged to set up a procedure of realization of corresponding right by the deputies, meeting constitutional requirements of certainty and justice and excluding adoption of arbitrary decisions on this issue, and simultaneously to guarantee to all deputies equal juridical opportunities in executing of deputy powers.

2.2. In accordance with the legal positions of the Constitutional Court of the Russian Federation expressed by it in a number of decisions, norms of the laws of subjects of the Russian Federation stipulating for formation of a part of the deputy corps acting on permanent professional basis by way of adopting personal decisions of legislative (representative) body of a subject of the Russian Federation in the absence of special procedures for adoption of such decisions, do not guarantee appropriate order of realization by deputies of the right to execute their powers on professional permanent basis, if in the presence of necessary and sufficient conditions (application of a deputy and corresponding budgetary assignments) allow taking arbitrary decisions on satisfaction of applications of some deputies and on refusal to others.

Norms of this sort, in the opinion of the Constitutional Court of the Russian Federation, can not serve as a ground to refuse deputies in realization of the right to carry out their powers on professional permanent basis, because other would mean deviation from constitutional principle of equality of all before the law and

would not conform to the conditions of functioning of legislative (representative) bodies of state power in a democratic law-governed State (Rulings of 11 May 2004 No. 139-O, of 7 October 2005 No. 341-O and others).

2.3. Consideration of the opinion of fractions including all deputies elected within corresponding list and providing representation in parliament of political parties having nominated them, including those being in minority, acquires special significance for resolution of the question of realization by deputies of legislative (representative) body of a subject of the Russian Federation of their powers on professional permanent basis – given the fact that, according to Paragraph 16 of Article 35 of the Federal Law of 12 June 2002 No. 67-Φ3 “On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation”, no less than half of the deputies’ mandates in regional parliament or in one of its chambers are subject to distribution among lists of candidates nominated by electoral associations (political parties) proportionally to the number of votes of electors received by each of the lists of candidates. The need of such a consideration is objectively accounted for by aims of realization of the principles of ideological diversity, political pluralism, multi-party system and equality of public associations before the law, fixed in the Constitution of the Russian Federation (Article 13, Sections 1, 3 and 4), as well as of guaranteeing of human rights, including electoral rights (Rulings of the Constitutional Court of the Russian Federation of 4 June 2007 No. 384-O-O and of 18 December 2007 No. 963-O-O).

As the Constitutional Court of the Russian Federation repeatedly noted, the activity of political parties as integral element of civil society and necessary institute of representative democracy is directly linked with organization and functioning of public authority (Judgments of 1 February 2005 No. 1-II, of 16 July 2007 No. 11-II and of 9 November 2009 No. 16-II). The Federal Law of 11 July 2001 No. 95-Φ3 “On Political Parties” attributes to the main goals of the political parties formation of public opinion, political education and upbringing of citizens, expression of citizens’ opinions on any questions of public life, bringing these

opinions to the notice of wide public and bodies of state power, nomination of candidates (lists of candidates) at elections to the bodies of state power and bodies of local self-government, participation in these elections and in the work of elected organs (Paragraph 4 of Article 3).

Accordingly, setting up in the laws of the subjects of the Russian Federation special procedural rules, providing for consideration of the fractions' opinion when determining personal composition of deputies of legislative (representative) bodies of the subjects of the Russian Federation carrying out their activity on professional permanent basis, accords with the constitutional law nature of people's representation which is impossible without the multi-party system, presupposing existence of political, including parliamentary, opposition.

At the same time, when deputies of legislative (representative) body of a subject of the Russian Federation formed according to majority-proportional electoral system realize their right to exercise their duties on professional permanent basis, the interests of deputies elected by single-seat (multi-seat) electoral districts must also be taken into account. Proceeding from the equality of rights and freedoms of man and citizen, including regardless of membership of public associations declared by the Constitution of the Russian Federation (Article 19, Section 2), these deputies can not be put in an unequal position compared to the deputies elected on party lists.

Therefore, when adopting decisions concerning carrying out of deputy activity on professional permanent basis, side by side with consideration of the fractions' opinion one must also secure consideration of opinion of the deputies having acquired their mandates according to the rules of majority electoral system; this opinion may be expressed by them both individually and through deputies' associations formed by them.

2.4. Thus, when determining the conditions of carrying out of their activity on professional permanent basis by the deputies of legislative (representative) bodies of the subjects of the Russian Federation, legislator of a subject of the Russian Federation must, in accordance with established in the Russian Federation as a

democratic law-governed State general principles of organization of legislative (representative) and executive bodies of state power of the subjects of the Russian Federation, provide for procedures of formation of a part of the deputy corps acting on professional permanent basis which would, with regard to electoral system applied for formation of legislative (representative) body of a subject of the Russian Federation, meet the requirements of juridical equality and justice and exclude adoption of arbitrary decisions on the issue of carrying out deputy activity on professional permanent basis.

3. According to the Charter (Basic Law) of the Altai Territory (Articles 67 and 68) and the Law of the Altai Territory “On Altai Territorial Legislative Assembly” (Articles 1 and 5), Altai Territorial Legislative Assembly is a permanently functioning higher and only body of legislative power of the Altai Territory in accordance with powers envisaged by the Constitution of the Russian Federation, federal laws, Charter (Basic Law) and laws of the Altai Territory; it consists of 68 deputies, 34 out of whom are elected by single-seat electoral districts, formed on the ground of unified standard of representation of the voters, and 34 – about the territorial electoral district proportionally to the number of votes casted for territorial lists of candidates, nominated by electoral associations in accordance with the legislation of the Russian Federation on elections.

3.1. Fixing status of a deputy of the Altai Territorial Legislative Assembly and determining the conditions of carrying out deputy activity, the Charter (Basic Law) of the Altai Territory contemplates that a deputy may do his work in the Altai Territorial Legislative Assembly on permanent professional basis (Paragraph 2 of Article 69). Rendering concrete the provisions of the Charter (Basic Law) of the Altai Territory, the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly” establishes that a deputy carries out his powers in the Altai Territorial Legislative Assembly on permanent professional basis or without isolation from primary activity (Paragraph 1 of Article 6); for all that, a deputy carrying out his powers without isolation from primary activity may be, in the established procedure, granted a possibility to carry out deputy powers on non-

permanent professional basis with release from discharging labour duties and preserving his place of work (office) for the time of professional carrying out deputy powers in the Altai Territorial Legislative Assembly and (or) in electoral district (Article 33).

Such a legislative regulation of the conditions of carrying out of deputy activity is based on general principles of organization of legislative (representative) and executive bodies of state power of the subjects of the Russian Federation and entails no differences in the amount of powers of the deputies of the Altai Territorial Legislative Assembly who, as follows from Paragraph 1 of Article 69 of the Charter (Basic Law) of the Altai Territory and Paragraph 1 of Article 1 of the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly”, possess legislative and other powers on equal basis irrespective of the way of election and conditions of carrying out deputy activity.

Accordingly, setting up by legislator of the Altai Territory various forms of carrying out deputy activity by the deputies of the Altai Territorial Legislative Assembly – on permanent professional basis or without isolation from primary activity – does not in itself lead to inequality of deputies as public legal personalities in carrying out power of the people, does not contradict principles of their independence and objective expression of voters’ interests and, as a consequence, does not violate constitutional rights and freedoms of the citizens of the Russian Federation including the right to participate in managing State affairs both directly and through their representatives.

3.2. In addition to determination of the procedure of formation, number of deputies, terms and conditions of carrying out deputy powers, essential significance for the constitutional law mounting of the status of legislative (representative) body of a subject of the Russian Federation has, in particular, setting up of its structure which, as follows from the Preamble and Paragraph 2 of Article 4 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of the Subjects of the Russian Federation”, shall be established by the constitution (charter) of a subject

of the Russian Federation in accordance with fundamentals of the constitutional order of the Russian Federation and with regard to historical, national and other traditions.

The structure of the Altai Territorial Legislative Assembly is fixed by Article 70 of the Charter (Basic Law) of the Altai Territory and Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”, stipulating that from among the deputies of the Altai Territorial Legislative Assembly standing committees and commissions are formed, permanent deputies’ associations – fractions are created, other deputies’ associations may be set up, and in case of necessity temporary commissions and working groups; for consideration of questions of co-ordination of the activity of permanent deputies’ associations, upon proposals of their managers the Council of Fractions of the Altai Territorial Legislative Assembly, acting as consultative body, may be created.

Standing committees are set up for preparation and preliminary consideration of questions ascribed to the jurisdiction of the Altai Territorial Legislative Assembly (Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”). They enjoy equal rights and duties, their activity is directed, in particular, at working out and submission for consideration of the Altai Territorial Legislative Assembly drafts of the laws and other legal acts, preliminary co-ordination of candidates for officials appointed or elected for offices by the Altai Territorial Legislative Assembly, and this activity is carried out on the basis of collective, free, business-like discussion, openness and wide initiative of the members of the standing committees (Paragraph 3, Sub-Paragraphs 1 and 5 of Paragraph 20, Paragraph 21 of the Regulations on Standing Committees of the Altai Territorial Legislative Assembly of 30 April 2008 No. 294).

Thus, standing committees, realizing powers placed on them, are not entitled to take final decisions on issues ascribed to the jurisdiction of the Altai Territorial Legislative Assembly. With regard to determination of the personal composition of deputies carrying out their activity on permanent professional basis, this means that the procedure of consideration of corresponding deputies’ applications by the

standing committees of the Altai Territorial Legislative Assembly must not exclude possibility for each deputy, irrespective of the way of his election, to put the question of work on permanent professional basis directly before the Altai Territorial Legislative Assembly.

3.3. According to the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”, the number of deputies working in the Altai Territorial Legislative Assembly on permanent professional basis may not exceed one fourth of their established number, i.e. 17 deputies (Paragraph 4 of Article 5); and upon decisions of the standing committees chairmen, deputy chairmen and members of these standing committees can work in these committees on permanent professional basis; corresponding decisions of the standing committees on the number of persons working in these standing committees on permanent professional basis shall be approved by the Altai Territorial Legislative Assembly in accordance with general amount of expenditures envisaged by the territorial budget for current year (Indention 3 of Paragraph 2 of Article 6).

Within the meaning of the adduced provisions of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly” in interconnection with general principles of organization of legislative (representative) and executive bodies of state power of subjects of the Russian Federation established by the federal law, as well as with other provisions of the territorial legislation fixing organizational structure of the Altai Territorial Legislative Assembly and conditions of exercise of the legislative activity, only preliminary consideration of issues related to deputies’ work on permanent professional basis falls within the jurisdiction of standing committees of the Altai Territorial Legislative Assembly, on the outcome of which and with regard to the opinion of fractions, other deputies’ associations and individual deputies final decision on satisfaction of corresponding application of a deputy (or on rejection of it) is taken in the session of the Altai Territorial Legislative Assembly and is legalized by a resolution.

With all that in a case when the number of deputies of the Altai Territorial Legislative Assembly wishing to work on permanent professional basis does not

exceed limits, set up by the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”, i.e. 17 persons, corresponding opportunity must be granted to all these deputies. Other would contradict Paragraph 6 of Article 4 of the Federal Law “On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power of Subjects of the Russian Federation” and therefore – Article 77 (Section 1) of the Constitution of the Russian Federation, which prescribes to the subjects of the Russian Federation, when constructing the system of regional bodies of state power, to be guided by the fundamentals of the constitutional order of the Russian Federation and general principles of organization of representative and executive bodies of state power established by the federal law and would mean possibility of non-execution by the Altai Territorial Legislative Assembly of the obligation to observe the Constitution of the Russian Federation and laws, envisaged by Article 15 (Section 2) of the Constitution of the Russian Federation and extended to all bodies of state power.

But if the number of deputies wishing to work on permanent professional basis exceeds maximum possible number set up by the Law of the Altai Territory, personal composition of the corresponding part of the deputy corps must be determined by the Altai Territorial Legislative Assembly proceeding from professional, business and other personal qualities of each deputy on the outcome of preliminary consideration of the applications received in the standing committees’ sessions and with consideration of the opinion of fractions, deputies’ associations and individual deputies.

When adopting corresponding decision, the Altai Territorial Legislative Assembly is obliged to proceed from the fact that, by virtue of the constitutional principles of juridical equality and justice, each deputy enjoys equal juridical opportunities to pretend for carrying out his activity on permanent professional basis, and not to tolerate arbitrary preferences to any of the deputies having expressed their wish to realize the right to carry out their activity on permanent professional basis granted by Paragraph 2 of Article 69 of the Charter (Basic Law)

of the Altai Territory and Paragraph 1 of Article 6 of the Law of the Altai Territory “On Status of Deputy of the Altai Territorial Legislative Assembly”.

As regards the power to approve the decisions of the standing committees on the number of persons working in these committees on permanent professional basis, in accordance with general amount of expenditures for maintenance of the Altai Territorial Legislative Assembly envisaged by the territorial budget for the current year, this power presupposes adoption by the Altai Territorial Legislative Assembly of corresponding resolution on the outcome of appropriate consideration of applications of all deputies wishing to work on permanent professional basis and is aimed at final distribution of assignments allotted for payments for deputies’ activities on professional basis among standing committees. It does not follow from the Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly”, fixing this power, that the question of the number of deputies carrying out their activity on permanent professional basis can be put in dependence of the law on territorial budget for next year, because other – within the meaning of the legal position formulated by the Constitutional Court of the Russian Federation in the Judgment of 14 July 2005 No. 8-II – would mean that the mechanism of realization by deputies of corresponding right does not lean on a stable legal ground without which supremacy of the law, including legal certainty as a necessary element, is impossible.

4. Thus, the provisions of Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory “On the Altai Territorial Legislative Assembly” – within its constitutional law meaning in the system of normative legal regulation in force – do not contemplate adoption of arbitrary decision on the question of carrying out deputies’ activity on permanent professional basis by the Altai Territorial Legislative Assembly, do not exclude consideration of the opinion of fractions, deputies’ associations and individual deputies and do not mean powers of the standing committees to finally determine personal composition of corresponding part of deputies of the Altai Territorial Legislative Assembly.

Giving these legislative provisions another sense would not secure proper guarantees of realization by deputies of the Altai Territorial Legislative Assembly of the right to carry out deputies' activity on permanent professional basis, thus allowing deviation from the principles of democratic law-governed State, political pluralism, multi-party system and equality before the law, fixed in the Constitution of the Russian Federation (Article 1, Section 1; Article 13, Sections 3 and 4; Article 19, Section 1), when resolving the question of exercising deputies' powers on the abovementioned conditions.

Recognition of the provisions of Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory "On the Altai Territorial Legislative Assembly" as non-contradictory to the Constitution of the Russian Federation in the constitutional law interpretation contained in the present Judgment does not free the legislator of the Altai Territory from the need to improve legal regulation of the procedure of realization by deputies of the Altai Territorial Legislative Assembly of the right to exercise deputy activity on permanent professional basis, including in connection with the adoption of the Federal Law of 4 June 2010 No. 118-Φ3 "On Amendments to the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power in Subjects of the Russian Federation" in Connection with Increase of the Representation of Voters in Legislative (Representative) Bodies of State Power of Subjects of the Russian Federation and Setting Up Requirements to the Deputies' Activity".

Concluding from the above and pursuant to Articles 6, 43, 68, Sections 1 and 2 of Article 71, Articles 72, 74, 75, 78, 78 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 provisions of Indention 2 of Paragraph 2 of Article 6 of the Law of the Altai Territory "On the Altai Territorial Legislative Assembly" not contradictory to the Constitution of the Russian Federation, because within its constitutional law meaning in the system of normative legal regulation in force

these legal regulations, fixing the procedure of realization by a deputy of the Altai Territorial Legislative Assembly, formed according to majority-proportional electoral system, of the right to exercise deputies' activity on permanent professional basis, do not contemplate adoption of arbitrary decisions on the question of carrying out deputies' activity on permanent professional basis by the Altai Territorial Legislative Assembly, do not exclude consideration of the opinion of fractions, deputies' associations and individual deputies and do not mean powers of the standing committees to finally determine personal composition of corresponding part of deputies of the Altai Territorial Legislative Assembly.

2. The constitutional law meaning of the provisions of Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory "On the Altai Territorial Legislative Assembly", revealed in the present Judgment, shall be generally binding and shall preclude any other interpretation in the law-applying practice.

3. The law-applying decisions taken in respect of I.B.Vol' fson on the grounds of the provisions of Indention 3 of Paragraph 2 of Article 6 of the Law of the Altai Territory "On the Altai Territorial Legislative Assembly" in the interpretation, diverging from its constitutional law meaning revealed in the present Judgment, is subject to reconsideration according to the established procedure, provided there are no other obstacles to it.

4. To discontinue the proceedings in the present case in the part, concerning the review of constitutionality of Paragraph 8 of Article 4 and Article 11 of the Federal Law "On General Principles of Organization of Legislative (Representative) and Executive Bodies of State Power in Subjects of the Russian Federation" and of Paragraph 1 of Article 6 of the Law of the Altai Territory "On Status of Deputy of the Altai Territorial Legislative Assembly".

5. The present Judgment shall be final, not subject to any appeal, it shall come into force immediately upon pronouncement, it shall be directly applicable and shall not require confirmation by other bodies and officials.

4. The present Judgment shall be subject to immediate publication 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.

The Constitutional Court  
of the Russian Federation.

No. 19-II