

IN THE NAME OF THE RUSSIAN FEDERATION
The Constitutional Court of the Russian Federation

Judgment

of 27 December 2012 No. 34-II

in the case concerning the review of constitutionality of the provisions of Item “B” of Section 1 and Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” in connection with the request of a group of deputies of the State Duma

The Constitutional Court of the Russian Federation composed of the President V.D.Zor’kin, Judges K.V.Aranovsky, A.I.Boitsov, N.S.Bondar’, G.A.Gadzhiev, Yu.M.Danilov, G.A.Zhilin, S.M.Kazantsev, M.I.Kleandrov, S.D.Knyazev, A.N.Kokotov, L.O.Krasavchikova, S.P.Mavrin, N.V.Mel’nikov, Yu.D.Rudkin, O.S.Khokhryakova, V.G.Yaroslavtsev,

in the attendance of the representative of a group of deputies of the State Duma having appealed to the Constitutional Court of the Russian Federation – deputy of the State Duma Ye.B.Mizulina, lawyers Ye.A.Lukyanova and V.Yu.Prokhorov, Plenipotentiary Representatives of the State Duma to the Constitutional Court of the Russian Federation D.F.Vyatkin, Plenipotentiary Representative of the Council of Federation to the Constitutional Court of the Russian Federation A.I.Alexandrov, Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M.V.Krotov,

pursuant to Article 125 (Item “a” of Section 2) of the Constitution of the Russian Federation, Sub-Item “a” of Item 1 of Section 1, Sections 3 and 4 of Article 3, Section 1 of Article 21, Articles 36, 74, 84, 85 and 86 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”,

in an open hearing considered the case concerning the review of constitutionality of the provisions of Item “B” of Section 1 and Section 5 of Article

4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”.

The reason for the consideration of the case was the request of a group of deputies of the State Duma. The ground for the consideration of the case was the discovered uncertainty of whether the legislative provisions contested in the request are in conformity with the Constitution of the Russian Federation.

Having heard the report of Judge-Rapporteur O.S.Khokhryakova, statements by parties’ representatives, interventions by the representatives invited to the hearing: Ye.A.Borisenko for the Ministry of Justice of the Russian Federation, T.A.Vasilyeva for the Prosecutor General of the Russian Federation, having considered submitted documents and other materials, the Constitutional Court of the Russian Federation

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

1. A group of deputies of the State Duma contests constitutionality of the provisions of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, according to which the powers of a member of the Council of Federation, a deputy of the State Duma end early in cases of entering of a member of the Council of Federation, a deputy of the State Duma State or municipal service, forming part of a governing body of an economic company or other commercial organization, carrying out entrepreneurial or other paid activity, except teaching, academic and other creative activity, the financing of which does not contradict the requirements provided for by Item “B” of Section 2 of Article 6 of this Federal Law, i.e. is not carried out exclusively at the expense of the means of foreign States, international and foreign organizations, foreign citizens and stateless persons, if other is not envisaged by international treaty or the legislation of the Russian Federation (Item “B” of Section 1); the decision on termination of powers of a deputy of the State Duma on the grounds provided for by Section 1 of this Article, is registered by a resolution of the State Duma, in

which the day of termination of his/her powers is determined and which is adopted no later than in 30 days from the day of appearance of the ground for early termination of powers of a deputy of the State Duma, and if this ground appeared in the period between sessions of the State Duma – no later than in 30 days from the day of beginning of the next session of the State Duma (Section 5).

The petitioners claim that the said legislative provisions, not contemplating the need of preliminary judicial control with the aim to establish the fact of carrying out activity incompatible with the status of a deputy by a deputy of the State Duma, allow the State Duma to terminate powers of a deputy in non-judicial order, moreover, by a simple majority of votes, and in the conditions of domination of one parliamentary fraction create the possibility of adoption of unfounded decision; besides, they unlawfully extend the list of constitutional bans, envisaged with respect to activity which a deputy of the State Duma is entitled to carry out, introducing disproportionate restriction in respect of teaching, academic and other creative activity of a deputy in case of its foreign financing, as well as use notions, not answering the criteria of legal certainty, such as “entrepreneurial activity” and “forming part of a governing body of an economic company or other commercial organization”, admitting their poly-semantic interpretation and then arbitrary application. Thus, in the petitioner’s opinion, the contested provisions violate the constitutional principles of power of the people, national sovereignty and free elections, division of State power into legislative, executive and judicial, political and ideological diversity, inviolability of people’s representatives, hurt the freedom of thought and speech, do not answer constitutional criteria of proportionality of possible restrictions of rights and freedoms, and therefore contradict the Constitution of the Russian Federation, its Articles 3, 10, 13 (Sections 1 and 3), 17, 18, 29 (Sections 1 and 3), 32 (Sections 1 and 2), 46 (Section 1), 55 (Section 3), 97 (Section 3) 98 and 103 (Sections 1 and 2).

Thus, proceeding from the prescriptions of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, including Section 3 of its Article 74, according to which the Constitutional Court of the Russian Federation

adopts judgments solely on the subject stated in the petition and only in relation to that part of the act, the constitutionality of which is called in question, not being bound at that by the grounds and arguments expounded in the petition, the subject-matter for consideration by the Constitutional Court of the Russian Federation in the present case are the following provisions of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”.

Item “B” of Section 1 – in the part envisaging early termination of powers of a deputy of the State Duma in case of his/her forming part of a governing body of an economic company or other commercial organization, carrying out entrepreneurial or other paid activity, except teaching, academic and other creative activity, financing of which does not contradict the requirements provided for by Item “B” of Section 2 of Article 6 of this Federal Law;

Section 5 – in the part fixing in the interconnection with Item “B” of Section 1 of the same Article competence of the State Duma to adopt decision on early termination of powers of a deputy of the State Duma in the absence of preliminary judicial control in case of a deputy of the State Duma forming part of a governing body of an economic company or other commercial organization, carrying out entrepreneurial or other paid activity, except teaching, academic and other creative activity, financing of which does not contradict the requirements, provided for by Item “B” of Section 2 of Article 6 of this Federal Law.

2. According to Article 97 of the Constitution of the Russian Federation, one and the same person may not simultaneously be a member of the Council of Federation and a deputy of the State Duma; a deputy of the State Duma may not be a deputy of other representative bodies of State power and bodies of local self-government (Section 2); deputies of the State Duma work on professional permanent basis; they may not be on State service, be engaged in other paid activity, except teaching, academic and other creative activity (Section 3).

Professional character of deputy activity, ensuring its effectiveness and proper quality, is a characteristic feature of modern parliamentarism, and restrictions on

engagement in other, apart from deputy, paid activity (the so called requirement of incompatibility) is a principle, generally accepted in law-governed States with developed traditions of democracy, although the kinds, conditions, parameters and bounds of such incompatibility in these States have certain differences.

As follows from Article 97 (Sections 2 and 3) of the Constitution of the Russian Federation, substitution of a deputy mandate is the only professional paid activity (except teaching, academic and other creative activity), which a citizen of the Russian Federation, elected deputy of the State Duma, is entitled to carry out during the whole period of legislature: the provision on incompatibility of deputy activity with State service or engagement in other paid activity, with the exception of creative one, is determined by the legal nature of deputy mandate, as well as by the constitutional status of the Federal Assembly – the Parliament of the Russian Federation as representative and legislative body of State power of the Russian Federation, acting self-sufficiently and independently on the basis of the principle of division of State power into legislative, executive and judicial (Article 10; Article 11, Section 1; Article 94 of the Constitution of the Russian Federation), and, accordingly, by the nature of activity of deputies, obliged to participate effectively and in full value in parliamentary activity, first of all in the law-making process, whose complexity and intensity have essentially increased in modern conditions, and simultaneously pay significant attention to work with voters.

At the same time, the ban for a deputy of the State Duma to substitute other posts in the bodies of public authority and carry out other paid activity, within its meaning in the system of the adduced norms of the Constitution of the Russian Federation, is aimed at ensuring independence of a parliamentary in the course of exercise of powers placed on him/her: on the one hand, guarding deputies against unlawful influence which can be exerted upon them in connection with carrying out other, apart from parliamentary, paid activity, on the other hand – hindering them to use their official position in order to derive benefit for him/herself and other persons, it pursues a lawful object to exclude conflict of interests, to guarantee the status of a deputy of the State Duma as representative of the entire

Russian people and not of individual citizens. In contemporary Russian conditions, this ban acquires particular actuality in connection with a critical need to prevent fusion of political power and business as a breeding-ground for corruption and other abuses of deputy powers, undermining the principles of legal equality and supremacy of the law and in the end being a threat to constitutional system of the Russian Federation as a whole.

The principle of incompatibility of deputy activity with State service or engagement in other paid activity, except teaching, academic and other creative activity, stays in indissoluble normative unity with other principles and norms fixed in the Constitution of the Russian Federation, which determine the fundamentals of the constitutional-law status of a deputy of the State Duma and at the same time the status of the Federal Assembly, first of all the principles of power of the people and free elections (Article 3), expressing the legal nature of the federal Parliament as representative and legislative body of the Russian Federation (Article 94), the right of citizens of the Russian Federation to participate in managing State affairs both directly and through their representatives, the right to elect and be elected, including to the State Duma, on the basis of the principle of equality (Article 19, Sections 1 and 2; Article 32, Sections 1 and 2; Article 60; Article 97, Section 1), as well as supremacy of the law, supreme legal force of the Constitution of the Russian Federation, its direct effect, the obligation of bodies of State power, bodies of local self-government, officials, citizens and their associations to observe the Constitution of the Russian Federation and laws (Article 15, Sections 1 and 2), competencies of the State Duma as independent body of State power of the Russian Federation, acting on permanent basis and in accordance with the principle of division of power (Article 10; Article 11, Section 1; Articles 94 and 103) and, accordingly, independence of deputies of the State Duma from anybody's instructions, their coherence only with the Constitution of the Russian Federation and own conscience, following from these constitutional provisions.

Inviolability also pertains to basic elements of constitutional-law status of a deputy of the State Duma, which a deputy of the State Duma, as well as a member of the Council of Federation enjoy during the entire term of powers (Article 98 Of the Constitution of the Russian Federation). By its content inviolability of a parliamentary is a guarantee of a higher level compared with general guarantees of inviolability of a person, however, it is not a personal privilege, but has public-law character and is called upon to serve public interests, ensuring increased legal protection of parliamentary's person by virtue of State functions carried out by him/her, guarding him/her against unfounded persecutions and, consequently, against illegal termination of powers, making for unimpeded activity of the parliamentary and the Parliament as a whole, their self-sufficiency and independence.

Accordingly, legal regulation of relations connected with ensuring observance of the ban established by Article 97 (Section 3) of the Constitution of the Russian Federation, must be carried out by the federal legislator in the context of its other provisions, including those relating to status of the Parliament and status of a deputy, including deputy's inviolability, as well as guaranteeing the right to participate in managing State affairs, electoral rights of citizens (both active and passive), and their judicial protection (Article 3, Section 3; Article 32, Sections 1 and 2; Article 97, Section 1, and others), proceeding from interconnection and inter-determination of constitutionally protected values and with consideration that the Constitution of the Russian Federation – within the meaning of its Article 2 in the interconnection with Articles 1 and 3-16 – does not establish their hierarchy (priority), but at the same time proclaims human rights and freedoms as the supreme value, and protection of human and civil rights and freedoms as the obligation of the State.

Ensuring the balance of private and public interests when carrying out legal regulation in the field of power of the people, the federal legislator, enjoying sufficiently wide freedom of discretion in choosing variants of legal regulation – with regard to concrete historical and political factors, typical to the Russian State,

is obliged to observe constitutional requirements, concerning conditions of realization and possible restrictions of the indicated constitutional rights, and guarantee the expression of people's will by means of free elections and independence of citizens of the Russian Federation elected to the Parliament, establishing requirements to a candidate to deputy and citizens of the Russian Federation elected to the State Duma, which are only constitutionally justified and determined by the constitutional status of a parliamentary.

Herewith, possible restrictions of rights and freedoms, including those linked to the status of a deputy and his/her activity, by virtue of Articles 17 (Section 3), 19 (Sections 1 and 2) and 55 (Section 3) of the Constitution of the Russian Federation, are admissible, as the Constitutional Court of the Russian Federation has repeatedly pointed out, only with the aim of protecting constitutional values on the basis of the principle of legal equality and the criteria of reasonableness, proportionality and necessity in the law-governed democratic State, following from it, and must not distort the main content of constitutional rights and freedoms and encroach upon their substance; introducing restrictions of one or another right in accordance with constitutionally approved goals by a federal law, the State must not use excessive, but only necessary measures (means), strictly stipulated for by these goals. These constitutional requirements, within their meaning in the interconnection with the prescriptions of Article 18 of the Constitution of the Russian Federation, are addressed not only to the legislator, but also to law-apppliers and conform to Article 3 "Right to free elections" of Protocol No. 1 to the Convention for the Protection of Human Rights and Fundamental Freedoms in its interpretation by the European Court of Human Rights (judgment of 1 July 1997 on the case "Gitonas and others vs. Greece").

3. Article 6 of the Federal Law "On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation", determining the conditions of exercising by a member of the Council of Federation, a deputy of the State Duma their powers by way of rendering concrete the prescriptions of Article 97 (Section 3) of the Constitution of

the Russian Federation, establishes a number of bans for parliamentaries, which are in many aspects analogous to those envisaged for persons, substituting State posts, municipal posts, posts of State and municipal service, i.e. are connected with particular public status of these persons and are aimed at creating conditions, not admitting possible abuses on their part when carrying out public authority.

For instance, according to Section 2 of this Article, a member of the Council of Federation, a deputy of the State Duma is not entitled to be on State or municipal service (Item “б”), be engaged in entrepreneurial or other paid activity, except teaching, academic and other creative activity, which, in its turn, may not be financed exclusively at the expense of the means of foreign organizations, foreign citizens and stateless persons, if other is not provided for by an international treaty or the legislation of the Russian Federation (Item “в”), as well as not entitled to form part of a governing body of an economic company or other commercial organization (Item “г”). At non-execution of these requirements, the powers of a member of the Council of Federation, a deputy of the State Duma, by virtue of Item “в” of Section 1 of Article 4 of the same Federal Law, are terminated early.

3.1. The principle of incompatibility of parliamentary mandate with engagement in other paid activity, as it is regulated in the constitutional law of contemporary law-governed States, has substantial differences not only in determination of the kinds, parameters and bounds of this incompatibility, but also in the means of overcoming it, including placing an obligation on the parliamentary or adoption of measures to eliminate respective breach by him/herself, corporative, disciplinary and ethical measures of influence, as well as termination of parliamentary mandate provided for directly by a constitution or a law as applied to cases determined by them with the aim of restoration of constitutional legality.

Legal institution of termination of parliamentary mandate in consequence of a deputy’s breach of the ban to be engaged in certain kinds of paid activity, not being universal, none the less has relatively wide spreading and is adopted in a number of States, for example in Austria (till 2013), Azerbaijan, Armenia, Byelorussia,

Brazil, Hungary, Greece, Georgia, Spain, Italy, Kazakhstan, Kirgizia, Latvia, Lithuania, Malta, Moldova, Poland, Portugal, Turkey, Ukraine, France, Switzerland. At the same time, legal regulation of this institution in the indicated countries also differs, in connection with which, in the absence of respective international-law regulation, it is impossible to determine any international general or international regional (in particular, European) standards in applying of this legal institution.

3.2. The possibility of early termination of deputy powers in case of non-observance by a deputy of the State Duma of prescriptions of Article 97 (Section 2) of the Constitution of the Russian Federation, forbidding him/her carrying out other, except creative, paid activity, although in itself is not envisaged in the Constitution of the Russian Federation, but is implicitly contained in the ban itself, so far as is determined by incompatibility of deputy mandate with such activity, with the exception of cases, directly specified in the Constitution of the Russian Federation: a citizen of the Russian Federation, in case of his/her election to the State Duma, must make a choice between deputy mandate and other post (other paid activity) incompatible with it and is not entitled to accept deputy mandate without turning down other post (other paid activity); in the event of rise of such incompatibility or its establishment in the period of legislature, the deputy is deprived of his/her mandate – his/her powers are terminated early.

Enduring of the indicated negative consequences as not connected by its nature with criminal, administrative or civil-law delict or disciplinary misdemeanour, is not a measure of criminal, administrative or civil-law responsibility, neither does it pertain to measures of disciplinary responsibility. Such enduring appears, in essence, as a special measure of constitutional-law responsibility: powers of a deputy of the State Duma end early and he/she loses his/her status in consequence of breach of the ban (non-observance of a requirement), established directly by the Constitution of the Russian Federation, which has supreme legal force, direct effect and is applicable on the entire territory of the Russian Federation and which the provisions of laws and other legal acts,

adopted in the Russian Federation, must not contradict (Article 15, Section 1, of the Constitution of the Russian Federation).

Other interpretation of prescriptions of Article 97 (Section 3) of the Constitution of the Russian Federation, namely, as not entailing early termination of powers of a deputy of the State Duma in the event of breach of the ban of carrying out other, except creative, paid activity, would make the ban itself senseless, so far as would mean the possibility to combine deputy powers with other paid activity and thus to overcome the requirement of the Constitution of the Russian Federation, imperative by its character, by virtue of which such combination is inadmissible. Thus, early termination of powers of a deputy of the State Duma in consequence of his/her non-observance of the established restrictions is also a means of restoration of constitutional legality, i.e. has law-ensuring character.

Consequently, the possibility of legislative fixation of such forced measure of constitutional-law responsibility as early termination of powers of a deputy of the State Duma as a consequence of non-observance of the prescriptions of Article 97 (Section 3) of the Constitution of the Russian Federation, with the aim to ensure the effectiveness of constitutional ban on carrying out other, except creative, paid activity by a deputy of the State Duma, in itself can not be regarded as incompatible with the requirements of the Constitution of the Russian Federation.

3.3. As the Constitutional Court of the Russian Federation has repeatedly pointed out conformably to various kinds of activity in administering public functions, a citizen, voluntarily choosing such sort of occupation, agrees with the conditions and restrictions, which legal status acquired by him/her is connected with (rulings of 1 December 1999 No. 219-O, of 7 December 2001 No. 256-O, of 20 October 2005 No. 378-O and of 5 March 2009 No. 377-O-O).

The provisions of Item “b” of Section 1 and Section 5 of Article 4 and Items “b”, “r” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” are in a system connection with

prescriptions of Sections 1 and 2 of Article 85 of the Federal Law “On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation”, according to which a citizen elected deputy of the State Duma can receive deputy mandate only after submission of documents about release from duties incompatible with the status of a deputy of the State Duma to the Central Electoral Commission of the Russian Federation or a copy of a document, certifying that he/she handed in an application on release of such duties. In the course of holding elections of deputies of the State Duma, already at the stage of submission by a political party to the Central Electoral Commission of the Russian Federation of the list of members of the political party, included in the federal list of candidates, an application of each candidate included in it must be among documents necessary for certification of the list, in which he/she takes obligation to submit, in five days time upon receipt of notification on election deputy, to the Central Electoral Commission of the Russian Federation a copy of the order (other document) on release from duties incompatible with the status of a deputy of the State Duma, or a copy of a document, certifying that in three days time from the day of receipt of notification he/she handed in application on release of such duties (addendum No. 5 to the Resolution of the Central Electoral Commission of the Russian Federation of 3 August 2011 No. 23/234-6).

Consequently, both at acceptance of deputy mandate and in the future, a deputy of the State Duma in the event of decision to be engaged in an activity incompatible with deputy status, has a possibility to make a realized choice: to preserve deputy powers or to prefer other activity to them. Thanks to this, the consequence in the form of early termination of deputy powers, which such decision entails, does not go beyond the bounds of the alternative, granted to the citizen in advance, i.e. already before election to the State Duma.

4. Constitutionally guaranteed competencies, constituting the main content of the right to use freely his/her abilities and property for entrepreneurial and other economic activity not prohibited by law (Article 34, Section 1), which is realized by citizens individually or jointly with other persons, including as founders

(participants) of a commercial organization, are predetermined by the principle of freedom of economic activity, proclaimed by the Constitution of the Russian Federation (Article 8, Section 1).

Guaranteeing this right to everyone, the Constitution of the Russian Federation does not directly define the content of entrepreneurial and other economic activity not prohibited by law, – within the meaning of its Article 34 (Section 1) in the interconnection with the prescriptions of Articles 8, 35 and 71 (Item “o”) the state of the participants of civil turnover, including in connection with their engagement in entrepreneurial activity, aimed at systematic receipt of profit, is regulated by the civil legislation.

Accordingly, other, except deputy, which parliamentaries carry out on professional permanent basis, paid activity (except teaching, academic and other creative activity), incompatible, by virtue of Article 97 (Section 3) of the Constitution of the Russian Federation, with mandate of a deputy of the State Duma, from the point of view of its legal qualification in the operating legal regulation in its system unity does not reduce itself exclusively to the work within the framework of a labour contract (service contract), including on the State or municipal service, or civil-law contracts, connected with carrying out works, rendering services, but implies also other economic activity not prohibited by law and aimed at receipt of profit, including entrepreneurial, engagement in which can lead to collision of property interests of a deputy and public interests.

The federal legislator proceeded from this, introducing the ban on carrying out entrepreneurial or other paid activity by a deputy of the State Duma, except creative one, as well as on forming by a deputy of the State Duma part of a governing body of an economic company or other commercial organization, the breach of which entails early termination of deputy powers. So far as the provisions of Item “B” of Section 1 of Article 4 and Items “B”, “Г” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, establishing this ban, pointing at purposeful destination

of entrepreneurial or other paid activity (receipt of profit), contain no definition of such activity, revelation of the meaning of these legislative provisions requires their consideration in a system connection with respective provisions of the Civil Code of the Russian Federation.

4.1. According to Article 2 of the Civil Code of the Russian Federation, the civil legislation regulates property and personal non-property relations, based on equality, autonomy of will and property independence of participants; the participants of relations, regulated by the civil legislation, are citizens and juridical persons; civil legislation regulates relations between persons, carrying out entrepreneurial activity or with their participation, proceeding from the notion that entrepreneurial activity is independent, realized at one's own risk, aimed at systematic receipt of profit from use of property, selling of goods, carrying out works or rendering services by persons registered in this quality in the order established by law (Paragraphs 1 – 3 of Item 1). Here, so far as, by virtue of Article 23 of this Code, if the obligation to pass State registration as an individual entrepreneur is not observed, a citizen, carrying out entrepreneurial activity without forming a juridical person, is not entitled to refer in respect of deals concluded by him/her to the presumption that he/she is not an entrepreneur, absence of State registration in itself does not mean that this citizen's activity can not be qualified as entrepreneurial, if in essence it actually is such.

The interconnected provisions of Item “B” of Section 1 of Article 4 and Item “B” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” in the system connection with the adduced provisions of the Civil Code of the Russian Federation can not be regarded as uncertain from the point of view of normative content of constitutional ban on engagement of a deputy of the State Duma in entrepreneurial activity as a kind of other, except deputy, paid activity, following from the prescriptions of Article 97 (Section 3) of the Constitution of the Russian Federation.

4.2. Participating in civil turnover, commercial organization pursues extraction of profit as the main goal of its activity (Item 1 of Article 50 of the Civil Code of the Russian Federation), i.e. carries out entrepreneurial activity. As a juridical person, commercial organization, being an independent subject of the law, different from its founders (participants) is, as a rule, the owner of its property and answers on its obligations by this property, can from its own name acquire and realize property and personal non-property rights, carry duties, be plaintiff and defendant in court (Item 1 of Article 48 of the Civil Code of the Russian Federation).

Economic company, the founders (participants) of which possess liability rights in its respect, but have no right of ownership or other right in rem on its property, is the most widespread kind of commercial organization (Item 2 of Article 48 of the Civil Code of the Russian Federation). In accordance with the legal position expressed by the Constitutional Court of the Russian Federation in the Judgment of 24 February 2004 No. 3-II, the basis of constitutional-law status of participants of economic companies, in particular shareholders of the joint stock companies – juridical persons, as well as physical persons, including those not being entrepreneurs, is the right to use freely one's abilities and property for entrepreneurial and other economic activity not prohibited by law, which is realized through possession of shares, certifying liability rights of their owner towards the joint stock company; shareholders' activity is not entrepreneurial (it pertains to other economic activity not prohibited by law), entrepreneurial activity is carried out not by shareholders as such, but by the joint stock company itself. This conclusion can be fully extended to others, except possessing shares, rights to participate in charter capital of a commercial organization and means that such participation in itself can not be considered as entrepreneurial activity.

However, in cases when a deputy of the State Duma actually personally participates in carrying out entrepreneurial activity by a commercial organization or promotes it (irrespective of whether or not he/she is a founder or participant of such organization), he/she, in essence, acting in the interests of this commercial

organization, carries out activity, inadmissible for a person vested with the status of a deputy of the State Duma from the point of view of the interconnected provisions of Item “B” of Section 1 of Article 4 and Item “B” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”.

4.3. Commercial organization as a juridical person, as a general rule, acquires civil rights and accepts civil obligations through its organs, acting in accordance with the law, other legal acts and founding documents (Article 53 of the Civil Code of the Russian Federation). Herewith, organizational legal form of a number of commercial organizations contemplates the presence not only of governing bodies, forming part of which is determined by special expression of a person’s will (for instance, in economic companies – executive body and council of directors), but also a governing body, membership in which is connected with the status itself of a person as founder (participant) of this commercial organization. For example, the higher governing body of a limited liability company or an additional liability company is general assembly of its participants, and the higher governing body of a joint stock company – general assembly of its shareholders.

Possession of shares (portions of participation in charter capital), determining the right to take part in the work of general assembly of an economic company, in itself can not be regarded as a circumstance breaking the requirements of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” and thus entailing early termination of powers of a deputy of the State Duma. The abovementioned Federal Law admits the possibility for parliamentaries to possess securities bringing profit, shares (portions of participation in charter capital of an organization) and does not require their obligatory alienation: according to Section 2 of Article 6 of the said Federal Law, in case if possession by a member of the Council of Federation or a deputy of the State Duma of securities bringing profit, shares (portions of participation in charter capital of an

organization) can lead to the conflict of interests, he/she must hand over the indicated securities (portions of participation in charter capital of an organization) to trust management in accordance with the legislation of the Russian Federation.

At the same time, forming part of governing bodies of an economic company or other commercial organization and participation in the work of a higher governing body of an economic society – general assembly, where decisions are adopted concerning carrying out entrepreneurial activity is, undoubtedly, a kind of economic activity, so far as is connected with participation in governing the activity of a respective commercial organization, which by its nature pertains to entrepreneurial activity. Consequently, in order to avoid breaking the ban, following from Article 97 (Section 3) of the Constitution of the Russian Federation, a deputy of the State Duma is not entitled to form part of governing bodies of any commercial organization, including participation in the work of the general assembly of an economic company. And if removal from participation in the work of the general assembly of an economic company without damage to its activity or property interests of the shareholder (participant) him/herself is actually impossible, he/she must hand over securities, shares (portions of participation in charter capital of an organization), owned by him/her, to trust management. With the aim to ensure real guarantees of meeting the requirements of Article 97 (Section 3) of the Constitution of the Russian Federation and the provisions of Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, rendering these requirements concrete, the federal legislator is not deprived of the possibility to insert respective elaborations to the legal regulation connected with application of the institution of trust management.

Combination of mandate of a deputy of the State Duma with activity of governing economic company or other commercial organization breaks the balance of constitutionally protected values also in cases when this activity is carried out without forming part of a governing body of a commercial organization or

participation in the work of general assembly of an economic company. Establishment of such, informal evidences of actual participation of a person possessing the status of a deputy of the State Duma in governing the activity of a commercial organization must be carried out with regard to all significant circumstances.

Thus, the provision of Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, envisaging early termination of deputy powers in case if a deputy of the State Duma forms part of a governing body of an economic company or other commercial organization , within its meaning in the system of operating legal regulation means a ban on participation in the activity of a commercial organization by way of forming part of governing bodies, staying in which is impossible without special expression of the will of a person, or exercise of such governing functions in a commercial organization without formal forming part of a governing body, as well as in any event – on participation in the work of the higher governing body (for example, general assembly of shareholders). As such, this legislative provision, being aimed at prevention of conflict of interests and ensuring of self-sufficiency and independence of deputies of the State Duma, acting on the basis of a free mandate in the interests of the State and society as a whole, and therefore at ensuring normal functioning of the Federal Assembly – the Parliament of the Russian Federation, can not be regarded as breaking the criteria of normative-legal certainty and going beyond the bounds of measures, necessary for realization of the requirement of Article 97 (Section 3) of the Constitution of the Russian Federation.

4.4. Teaching, academic and other creative activity, engagement in which, as follows from Article 97 (Section 3) of the Constitution of the Russian Federation, is compatible with the status of a deputy of the State Duma, by virtue of the interconnected provisions of Item “B” of Section 1 of Article 4 and Item “B” Section 2 of Article 6 of the Federal Law “On the Status of a Member of the

Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” is not admissible for a parliamentary in cases, when its financing is carried out exclusively at the expense of the means of foreign States, international and foreign organizations, foreign citizens and stateless persons, if other is not envisaged by an international treaty or the legislation of the Russian Federation.

This restriction, introduced by the Federal Law of 2 March 2007 No. 24-ΦЗ “On Amendments into Individual Legislative Acts of the Russian Federation in the Part of Elaboration of Requirements to Persons Substituting State or Municipal Posts, as well as Posts of State or Municipal Service”, concerns a wide circle of persons, whose activity (work) is connected with maintenance of State functions, and is not determined by the peculiarity of parliamentary activity only. As applied to deputies of the State Duma, it is aimed at prevention of real and potential conflicts of interests of a foreign State or other foreign subject, carrying out financing of respective activity, and interests of Russia in the course of adoption of the most important State decisions by the State Duma, i.e. pursues a constitutionally justified end of ensuring the security of the State.

Therefore, taking decision on engagement in teaching, academic or other creative activity, a deputy of the State Duma must manifest reasonable restraint and caution and to be attentive with regard to questions relating to its financing. At the same time, in a situation when a deputy, because of objective circumstances, could not know that the financing of this activity of his/hers is carried out exclusively from foreign sources, enduring negative consequences by him/her in the form of termination of deputy powers, provided for by the provision of Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, would contradict the principles of justice and proportionality and thus would break the guarantees of the status of a deputy of the State Duma, following from Articles 19 (Sections 1 and 2), 32 (Sections 1

and 2), 55 (Section 3) and 97 (Section 3) of the Constitution of the Russian Federation in their interconnection.

5. The Constitution of the Russian Federation, introducing by Article 97 (Section 3) the requirement of incompatibility of deputy mandate with engagement in any other paid activity, except creative one, does not establish directly the procedures, ensuring observance of this requirement and does not pre-decide the degree of rendering concrete of their legislative regulation, leaving to federal legislator sufficiently wide discretion both in establishment of the order of termination of powers of a deputy of the State Duma, having broken this constitutional ban, and in determining the elements constituting this order (bodies, carrying out necessary verification and authorized to adopt, on its outcome, the decision on termination of deputy mandate, the degree of specification of the procedure of adoption of such decision etc.).

In modern legal systems there is no unified approach to the order of early termination of parliamentary's powers on the outcome of verification of circumstances of combination of parliamentary mandate with other paid activity: in the majority of States consideration of this question is placed on the parliament itself or on its chamber, in some of them – on a competent extra-parliamentary body (in Azerbaijan this is the Central Electoral Commission, in Austria (till 2013) – the Constitutional Court, in Poland – the State Tribunal, in France – the Constitutional Council). Herewith, as a rule, the verification of respective circumstances is carried out by an intra-parliamentary body (commission, committee), on the basis of whose conclusion the parliament or its chamber adopt final decision or hand the case over to an extra-parliamentary body authorized to pass such decision.

5.1. So far as the responsibility for breach of constitutional ban on engagement in other paid activity, except teaching, academic or other creative activity, rendered concrete by the provisions of Item “B” of Section 1 of Article 4 and Items “б”, “B”, “Г” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State

Duma of the Federal Assembly of the Russian Federation”, by a deputy of the State Duma is a specific type of constitutional-law responsibility, verification of circumstances connected with supposed offence is possible within the framework of holding of parliamentary investigation by respective committee of the State Duma (or a commission specially formed for it) and hearings in the session of the State Duma.

Section 5 of Article 4 of the abovementioned Federal Law – within its meaning in the interconnection with Item “Б” of the same Article and Items “В”, “Б”, “Г” of Section 2 of Article 6 in the system of operating legal regulation – contemplates establishment and thorough verification of facts, elucidation of the whole totality of circumstances and assessment of collected proofs, their sufficiency for resolution of the question of whether the ban entailing termination of deputy powers is broken by a deputy of the State Duma. Facts and circumstances, witnessing the presence of incompatibility of deputy mandate with other paid activity, which a deputy of the State Duma is not entitled to be engaged in, must be confirmed, including by documents, with observance of the criteria of legal certainty, objectivity and authenticity. In this case both sessions of a committee (commission) of the State Duma and the session of a chamber on the issue of termination of powers of a deputy of the State Duma must be organized and conducted on the basis of general principles of democratic legal procedures, including the principle *audiatur et altera pars*, contemplating obligation to listen to the deputy, to give him/her the possibility to expound his/her position on the substance of the issue under consideration, to adduce arguments and submit proofs in substantiation of his/her position. Accordingly, the deputy of the State Duma, in whose respect this issue was initiated, must be in due time informed on the time and place of the session.

Proceeding from the rule that resolutions of the State Duma are adopted by majority of voices from the total number of deputies of the State Duma, if other procedure of adopting decisions is not provided for by the Constitution of the Russian Federation (Article 103, Section 3, of the Constitution of the Russian

Federation), and that it contains no special reservation on the necessity of qualified majority at adoption of decision on early termination of powers of a deputy of the State Duma, such decision may be adopted by a simple majority from total number of deputies of the State Duma. The practice of adoption of a decision on termination of parliamentary mandate by a parliament by simple majority is generally accepted in foreign countries; only in some countries this question is resolved on the basis of qualified majority.

The procedure, within the framework of which the question is resolved, whether or not a deputy of the State Duma broke the ban on engagement in paid activity incompatible with deputy mandate, which entails early termination of deputy powers, must ensure validity and legality of respective decisions. To this end, procedural norms contained in the Rules of the State Duma, including the rules of intra-parliamentary activity (including the activity of committees, commissions, working groups) may be applied, and for receiving of necessary information requests, compulsory for execution, may be sent to other bodies and organizations. Herewith, the possibility to participate in the session of a chamber on equal grounds, to express own opinion on the issue under consideration etc. must be guaranteed to deputies of the State Duma. Parliamentary investigation, carried out with the use and on the basis of the norms of the Rules of the State Duma, in the absence of special legislative prescriptions, directly regulating the order of consideration of the question of early termination of powers of a deputy of the State Duma, can not in itself be considered as violation of the Constitution of the Russian Federation.

The requirements of legality and validity of decisions, adopted by the State Duma in connection with breach of the ban on engagement in other paid activity by a deputy of the State Duma, following from the Constitution of the Russian Federation, including its Article 15 (Sections 1 and 2), contemplate the obligation of the State Duma to observe the principle of equality of deputies irrespective of their political preferences, belonging to one or another fraction (party), as well as to ensure transparency of sources of information about facts giving evidence of

breach of incompatibility of deputy mandate with other paid activity. At the same time, the need of verification of such information does not mean obligation to start the procedure of parliamentary investigation in full volume without consideration of the degree of authenticity of submitted information, which in any event must not deprive deputy fractions of the possibility to initiate holding of respective verification, both with the aim to protect the interests of parliamentary opposition and in order to preserve democratic status of the Parliament of the Russian Federation as a whole. The legal regulation, guaranteeing achievement of these goals, may be carried out, among other things, by way of making amendments to the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”.

5.2. The Constitution of the Russian Federation guarantees to everyone protection in court of his/her rights and freedoms (Article 46, Section 1) and establishes that the right to court protection, as pertaining to the basic, inalienable human rights and freedoms, is recognized and guaranteed in the Russian Federation according to the universally recognized principles and norms of international law and in accordance with the Constitution of the Russian Federation (Article 17, Sections 1 and 2). As the Constitutional Court of the Russian Federation repeatedly underlined, the right to court protection contemplates the presence of concrete guarantees allowing to realize it in full volume, and justice, which in the Russian Federation is carried out solely by court (Article 118, Section 1, of the Constitution of the Russian Federation), in its essence can be recognized as such only if it meets the requirements of fairness and ensures effective restoration in rights.

Obligatory character of preliminary judicial control, as applied to decisions on early termination of powers of a deputy of the State Duma, does not follow from the Constitution of the Russian Federation and federal legislation, regulating court protection of electoral rights of citizens and legal status of a parliamentary based on it. At the same time, proceeding from the fact that only the court in the end may

resolve the dispute on a right between a State body and a person, whose rights are broached by the contested law-applying decision, the resolution of the State Duma on early termination of powers of a deputy of the State Duma on the grounds, indicated in Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, may be appealed in court, so far as such decision directly broaches the right of a citizen of the Russian Federation to be elected to the State Duma and the status of a deputy of the State Duma, guaranteed by the interconnected provisions of Articles 3 (Section 3), 32 (Section 2) and 97 of the Constitution of the Russian Federation.

According to the Civil Procedure Code of the Russian Federation, cases on contesting normative legal acts of the chambers of the Federal Assembly of the Russian Federation are considered by the Supreme Court of the Russian Federation as a court of the first instance (Item 1 of Section 1 of Article 27). Consequently, the Supreme Court of the Russian Federation, adopting, in the order of Chapter 25 (Articles 254-258) of the Civil Procedure Code of the Russian Federation, decision on the case on contesting the resolution of the State Duma on early termination of powers of a deputy of the State Duma in connection with breach of the ban established by Items “B”, “Г” of Section 2 of Article 6 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, is competent to consider the case in substance, having verified legality and validity of such resolution, including in the part concerning the grounds of application of this measure of constitutional-law responsibility and the procedure within the framework of which it was prescribed. Accordingly, by virtue of the principle of the law-governed State, as it is defined by Articles 1 (Section 1), 15 (Section 1) and 19 (Section 1) of the Constitution of the Russian Federation, the resolution of the State Duma as a law-applying act by its content and form must answer the criteria, allowing the Supreme Court of the Russian Federation to carry out verification of actual circumstances, which are in its basis, and their legal

qualification in a proper way with the aim to protect the rights of a person deprived of deputy mandate, and to ensure constitutional guarantees of the status of a deputy of the State Duma, including parliamentary immunity.

Thus, Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, on the basis of which the State Duma adopts resolution legalizing the decision on early termination of powers of a deputy of the State Duma, within its meaning in the context of the indicated lawful goals, contemplates with necessity the possibility of court appeal of such resolution of the State Duma and, accordingly, the competence of the Supreme Court of the Russian Federation to verify its legality and validity, including from the point of view of observance of appropriate procedure by the State Duma, in a priority order.

5.3. Within the meaning of Item “B” of Section 1 and Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” in the system of operating legal regulation, parliamentary immunity is extended to the person deprived of deputy mandate up to the adoption by the Supreme Court of the Russian Federation of a decision on the outcome of consideration of application on contesting the resolution of the State Duma on early termination of powers of a deputy of the State Duma.

According to Article 98 of the Constitution of the Russian Federation, members of the Council of Federation and deputies of the State Duma enjoy inviolability during the entire term of their powers; they may not be detained, arrested or searched, except in the event of detention at the scene of a crime, neither may they be subjected to personal search, except in instances where this is provided for by federal law in order to ensure the safety of other people (Section 1); the issue of the removal of immunity is resolved by an appropriate chamber of the Federal Assembly upon submission of the Prosecutor General of the Russian Federation (Section 2).

It follows from these prescriptions in the interconnection with the requirements of Article 97 (Section 3) of the Constitution of the Russian Federation that a citizen of the Russian Federation, in whose respect the State Duma adopted resolution on forced early termination of his/her powers of a deputy of the State Duma, can not lose constitutional inviolability on this ground alone within the bounds of the term for appeal to the Supreme Court of the Russian Federation with respective application, established by the procedural legislation, or, in the event of such appeal, – up to entering of the decision of the Supreme Court of the Russian Federation into legal force.

Other would mean the possibility, already before resolution of the question of lawfulness of the decision on termination of powers of a deputy of the State Duma, adopted by the State Duma, of his/her detention, arrest, search, personal search not in a special, but in an ordinary order, which would undermine the guarantees of the status of a parliamentary, first of all the principle of inviolability, as they are defined by Article 98 of the Constitution of the Russian Federation in the interconnection with its Article 46 (Sections 1 and 2), as well as Articles 3 (Sections 1 – 3) and 32 (Sections 1 and 2), self-sufficiency and independence of the Parliament as a whole in the system of division of powers and would violate the principles of fairness and proportionality, following from the Constitution of the Russian Federation.

5.4. The State Duma, as it follows from the interconnected provisions of Item “B” of Section 1 and Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” in the system of operating legal regulation, has no freedom of discretion in the issue of forced termination of powers of a deputy of the State Duma, if such need is determined by proved facts.

According to Section 1 of Article 258 of the Civil Procedure Code of the Russian Federation, a court, having recognized application on contesting a decision of a body of State power founded, adopts decision on obligation of this body of State power to eliminate in full volume admitted violation of rights and freedoms

of a citizen or an obstacle for realization of rights and freedoms by a citizen. Accordingly, recognition by the Supreme Court of the Russian Federation of unlawfulness of early termination of powers of a deputy of the State Duma entails restoration of the citizen in the status of a deputy of the State Duma (within the framework of current convocation); other would mean denial of guarantees of court protection of deputy mandate, following from Article 46 (Section 1) of the Constitution of the Russian Federation in the interconnection with its Articles 3 (Section 3), 32 (Section 2), 94, 97 and 98.

Decisions (or inaction) of the State Duma, concerning renunciation of early termination of powers of a deputy of the State Duma, may be contested in the Supreme Court of the Russian Federation in the order provided for by Chapter 25 of the Civil Procedure Code of the Russian Federation, if persons, discordant with this decision (or inaction), suppose that they have sufficient grounds for it. In any event, deputy fractions, within the meaning of Articles 46 (Section 1), 94 and 97 of the Constitution of the Russian Federation, pertain to such interested persons; taking into account imperative character of the ban on combination of deputy mandate with other paid activity, except teaching, academic and other creative activity, other persons, vested with public-law status allowing to initiate consideration of respective issue in the State Duma, can be ascribed to them. Establishment of the list of subjects authorized to initiate respective appeals and fixation of guarantees of their consideration by a court in a priority order is a prerogative of the federal legislator.

5.5. Thus, Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” within its constitutional-law meaning in the system of operating legal regulation contemplates the need to verify circumstances, pointing at possible breach of the ban to combine deputy mandate with other paid activity by a deputy of the State Dume, which he/she is not entitled to be engaged in, with observance of the criteria of legal certainty, objectivity and authenticity; the possibility to appeal to court of the resolution of the State Duma

on termination of powers of a deputy of the State Duma and, accordingly, competence of the Supreme Court of the Russian Federation to verify legality and validity of such resolution, including from the point of view of observance of appropriate procedure by the State Duma; herewith, recognition of unlawfulness of the resolution adopted by the State Duma by the Supreme Court of the Russian Federation means that a citizen of the Russian Federation, in respect of whom this resolution was adopted and to whom guarantees of deputy inviolability are extended up to entering into legal force of the decision of the Supreme Court of the Russian Federation, must be restored in the status of a deputy of the State Duma of respective convocation; decisions (or inaction) of the State Duma, concerning renunciation of early termination of powers of a deputy of the State Duma, may be contested in the Supreme Court of the Russian Federation as well, if initiators of consideration of respective question by the State Duma – deputy fraction or other persons, vested with appropriate public-law status, suppose that there are sufficient grounds for termination of powers of a deputy of the State Duma.

Other interpretation of the provisions of Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation” would lead to limitation of guarantees of the status of a deputy of the State Duma of the Federal Assembly of the Russian Federation, determined by Articles 97 and 98 of the Constitution of the Russian Federation in the interconnection with its Articles 3 (Section 3), 32 (Section 2), 46 (Section 1) and 55 (Section 3), which is inadmissible.

In this case further improvement of the legal mechanism of ensuring of the principle of incompatibility of deputy mandate with staying on State service or municipal service and with engagement in other paid activity, except permitted teaching, academic and other creative activity, is not excluded, including by way of establishing systematized normative regulation of the procedures (including judicial) of consideration of the question of early termination of powers of a deputy of the State Duma.

Concluding from the above and pursuant to Article 6, Section 2 of Article 71, Articles 72, 74, 75, 78, 79 and 87 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, the Constitutional Court of the Russian Federation

h e l d:

1. To recognize the provision of Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, not admitting forming by a deputy of the State Duma part of a governing body of an economic company or other commercial organization, carrying out entrepreneurial or other paid activity, as not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation this provision, as aimed at prevention of the conflict of interests and ensuring the principle of independence of a parliamentary, means that a deputy of the State Duma is not entitled:

to participate in entrepreneurial and other economic activity, carried out by a juridical person, or to carry out entrepreneurial activity independently;

to participate in the activity of governing an economic company or other commercial organization, including to form part of such governing bodies of a commercial organization, staying in which is impossible without special personal expression of will, or to carry out governing functions in a commercial organization without formal forming part of respective governing body, as well as to participate in the work of the general assembly as a higher governing body of an economic company.

2. To recognize the provision of Item “B” of Section 1 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, which in the interconnection with Item “B” of Section 2 of Article 6 of this Federal Law forbids teaching, academic and other creative activity, financed exclusively at the expense of the means of foreign States, international and foreign

organizations, foreign citizens and stateless persons, if other is not envisaged by an international treaty or the legislation of the Russian Federation, not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation the said provision does not contemplate early termination of powers of a deputy of the State Duma in case if he/she, having manifested reasonable restraint in questions concerning financing of the activity carried out by him/her, objectively could not know, from what sources it is carried out.

3. To recognize the provision of Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, on the basis of which, in the interconnection with the provisions of Item “B” of Section 1 of Article 4 of this Federal Law , the decision on termination of powers of a deputy of the State Duma is passed in the form of a resolution of the State Duma without preliminary judicial control, moreover, by a simple majority of votes, as not contradicting the Constitution of the Russian Federation, so far as this provision within its constitutional-law meaning in the system of operating legal regulation contemplates:

the need to verify circumstances pointing at possible breach of the ban to combine deputy mandate with other paid activity, which he/she is not entitled to be engaged in, by a deputy of the State Duma, with observance of the criteria of legal certainty, objectivity and authenticity;

possibility of appeal in court of the resolution of the State Duma on termination of powers of a deputy of the State Duma and, accordingly, the competence of the Supreme Court of the Russian Federation, having considered application on contesting such resolution of the State Duma in a priority order, to verify its legality and validity, including from the point of view of observance of appropriate procedure by the State Duma;

extension to a citizen of the Russian Federation, in respect of whom the resolution on early termination of his/her powers of a deputy of the State Duma in

consequence of breach of the ban on engagement in other paid activity, except teaching, academic and other creative activity, was adopted, guarantees of inviolability, fixed by Article 98 of the Constitution of the Russian Federation, up to entering the decision of the Supreme Court of the Russian Federation, adopted on the outcome of consideration of the application on contesting of such resolution of the State Duma, into legal force;

restoration of a citizen of the Russian Federation in the status of a deputy of the State Duma of respective convocation in case of recognition by the Supreme Court of the Russian Federation of unlawfulness of the resolution on termination of his/her deputy powers, adopted by the State Duma;

possibility to appeal to the Supreme Court of the Russian Federation with application on contesting decisions (or inaction) of the State Duma, concerning renunciation of early termination of powers of a deputy of the State Duma, if initiators of consideration of respective question by the State Duma – deputy fraction or other persons, vested with appropriate public-law status, suppose that there are sufficient grounds for termination of powers of a deputy of the State Duma.

4. Constitutional-law meaning of the provisions of Item “B” of Section 1 and Section 5 of Article 4 of the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, revealed in the present Judgment, is generally binding, which excludes any other interpretation of them in the law-applying practices.

5. The federal legislator must, being guided by the requirements of the Constitution of the Russian Federation and legal positions of the Constitutional Court of the Russian Federation, based on them, including expressed in the present Judgment, make amendments to the Federal Law “On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation”, aimed at improvement of the legal regulation of early termination of powers of a deputy of the State Duma.

6. The present 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 or State officials.

7. The present Judgment is subject to immediate publication in Rossiyskaya Gazeta and the Collection of Laws of the Russian Federation. 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. 34-II