

**Judgment of the Constitutional Court of the Russian Federation of 27
December 2012 No. 34-II. Resume.**

By the Judgment of 27 December 2012 No. 34-II the Constitutional Court gave appraisal 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*.

The petitioners contested legislative provisions envisaging early termination of powers of a deputy of the State Duma in case of his/her becoming a member of a governing body of an economic company or other commercial organization, carrying out entrepreneurial or other paid activity apart from teaching, academic and other creative activity.

According to the decision passed by the Constitutional Court, the contested legislative provision does not contradict the Constitution of the Russian Federation because, being aimed at prevention of conflict of interests and ensuring the principle of a deputy's independence, 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 economic activity on his/her own; to participate in the activity related to governing an economic company or other commercial organization, including becoming a member of such governing bodies of a commercial organization, staying in which is impossible without special personal will or to carry out governing functions in a commercial organization without formally entering the respective governing body, as well as to participate in the work of a general assembly as a higher governing body of an economic company. And if removal from participation in the work of a 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, bank stocks (shares of participation in the charter capital of an organization) owned by him/her to trust management.

The Constitutional Court has also recognized as not contradicting the Constitution of the Russian Federation the contested provision, prohibiting teaching, academic and other creative activity, financed exclusively at the expense of resources 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, because this legislative provision does not contemplate early termination of powers of a deputy of the State Duma, if he/she, having manifested reasonable restraint and caution in the issues related to financing of the activity carried out by him/her, objectively could not know from what sources it is realized.

As far as another contested legislative provision is concerned, on the basis of which 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 and by a simple majority of votes, this legislative provision has also been recognized as not contradicting the Constitution of the Russian Federation, because it contemplates the need to verify circumstances pointing at possible breach by the deputy of the State Duma of a incompatibility of deputy's mandate with another paid activity which he/she is not entitled to be engaged in. The existence of such circumstances must be confirmed and supplied by documents. Herewith both the session of a committee (commission) of the State Duma and the session of a chamber on a respective issue shall be organized and conducted on the basis of the general principles of the democratic legal procedures, including the principle *audiatur et altera pars*, contemplating the 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. The deputy of the State Duma in whose respect this issue was initiated must be informed in due time of the time and place of the session.

The contested legislative provision further contemplates:

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

extension to the citizen of the Russian Federation, in whose respect the resolution has been adopted on early termination of his/her powers of a deputy of the State Duma in consequence of his/her breach of the ban to be engaged in another paid activity apart from teaching, academic and other creative activity, of the guarantees of immunity fixed by Article 98 of the Constitution of the Russian Federation, up to entering into legal force of 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;

restoration of the citizen of the Russian Federation in the status of a deputy of the State Duma of corresponding convocation in case of the Supreme Court's recognition of illegality of the resolution on termination of his/her deputy's powers adopted by the State Duma;

the possibility to appeal to the Supreme Court of the Russian Federation with application on contesting the decisions (or inaction) of the State Duma in rejecting early termination of powers of a deputy of the State Duma, if initiators of consideration of a respective issue by the State Duma – deputies' faction or other

persons, enjoying appropriate public-law status, consider that there are sufficient grounds for termination of powers of a deputy of the State Duma.

27 December 2012