IN THE NAME OF THE RUSSIAN FEDERATION

The Constitutional Court of the Russian Federation

Judgment

of 8th April, 2014 No.10-П/2014

on the case concerning the review of constitutionality of the provisions of Item 6 of Article 2 and Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations", Section 6 of Article 29 of the Federal Law "On Public Associations" and Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation in connection with complaints of the Commissioner for Human Rights in the Russian Federation, the foundation "Kostroma Centre forthe Support of Public Initiatives", citizens L.G.Kuz'mina, S.M.Smirensky and V.P.Yukechev.

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, L.M.Zharkova, 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 PhD in Law V.K.Mikhailov – representative of the Commissioner for Human Rights in the Russian Federation, lawyer Yu.A.Kostanov – representative of the foundation "Kostroma Centre for the Support of Public Initiatives" and L.G.Kuz'mina, PhD in Law P.V.Chikov – representative of L.G.Kuz'mina, lawyer R.Kh.Akhmedgaliyev – representative of the foundation "Kostroma Centre forthe Support of Public Initiatives", PhD in Law I.G.Shablinsky – representative of the foundation "Kostroma Centre forthe Support of Public Initiatives" and V.P.Yukechev, the Plenipotentiary Representative of the State Duma to the Constitutional Court of the Russian Federation D.F.Vyatkin, the Plenipotentiary Representative of the Council of Federation to the Constitutional Court of the Russian Federation A.I.Alexandrov, the Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation M.V.Krotov,

guided by Article 125 (Section 4) of the Constitution of the Russian Federation, Item 3 of Section 1, Sections 3 and 4 of Article 3, Section 1 of Article 21, Articles 36, 74, 86, 96 97 and 99 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation",

in an open session considered the case on the review of constitutionality of the provisions of Item 6 of Article 2 and Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations", Section 6 of Article 29 of the Federal Law "On Public Associations" and Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation.

The reason for the consideration of the case were complaints of the Commissioner for Human Rights in the Russian Federation, the foundation "Kostroma Centre for the Support of Public Initiatives", citizens L.G.Kuz'mina, S.M.Smirensky and V.P.Yukechev. The ground for the consideration of the case was the discovered uncertainty of whether the legislative provisions contested by the petitioners are in conformity with the Constitution of the Russian Federation.

So far as all complaints pertain to one and the same subject, the Constitutional Court of the Russian Federation, guided by Article 48 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", merged cases on these complaints in one proceeding.

Having heard the report of Judge-Rapporteur S.D.Knyazev, statements by parties' representatives, interventions by representatives invited to the hearing: T.V.Vagina for the Ministry of Justice of the Russian Federation, T.A.Vasilieva for the Prosecutor General of the Russian Federation, having examined submitted documents and other materials, the Constitutional Court of the Russian Federation

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

1. Articles 1 and 2 of the Federal Law of 20th July, 2012 No. 121-ФЗ "On Amendments to Individual Legislative Acts of the Russian Federation in the Part of Regulation of the Activity of Non-Commercial Organizations Performing Functions of a Foreign Agent" a number of amendments were made to the federal

laws of 12th January, 1996 No. 7-ФЗ "On Non-Commercial Organizations" and of 19th May, 1995 No. 82-ФЗ "On Public Associations".

In particular, Article 2 of the Federal Law "On Non-Commercial Organizations" was supplemented with Item 6, according to which a non-commercial organization performing functions of a foreign agent is understood in this Federal Law as Russian non-commercial organization which receives monetary means and other property from foreign States, their State bodies, international and foreign organizations, foreign citizens, stateless persons or persons authorized by them and (or) Russian juridical persons receiving monetary means and other property from the indicated sources (with the exception of open joint stock companies with State participation and their affiliated companies) (hereinafter referred to as "foreign sources") and which participates, including in the interests of foreign sources, in political activity carried out on the territory of the Russian Federation (Paragraph 1); non-commercial organization, with the exception of a political party, is recognized as participating in political activity carried out on the territory of the Russian Federation, if irrespective of goals and tasks indicated in its constituent documents it participates (including by way of financing) in organization and holding of political actions in order to influence the decisions taken by State bodies, directed at alteration of State policy conducted by them, as well as in formation of public opinion with the indicated objectives (Paragraph 2); do not appertain to political activity the activity in the field of science, culture, art, public health, prophylaxis and guarding of people's health, social support and protection of citizens, protection of maternity and childhood, social support of persons with disabilities, propaganda of healthy way of life, physical culture and sports, protection of flora and fauna, charitable activity, as well as the activity in the field of assistance to charity and voluntariness (Paragraph 3).

Item 7 of Article 32 of the same Federal Law was supplemented with Paragraph 2, according to which a non-commercial organization, intending after State registration to carry out its activity as a non-commercial

organizationperforming functions of a foreign agent, is obliged, prior to the beginning of carrying out such an activity, to forward to an authorized body an application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent, envisaged by Item 10 of Article 13^1 of this Federal Law.

Article 29 of the Federal Law "On Public Associations" was supplemented with Section 6, in accordance with which a public association, intending after State registration to receive monetary means and other property from foreign sources indicated in Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations" and participate in political activity carried out on the territory of the Russian Federation, is obliged, prior to the beginning of participation in the indicated political activity, to forward to the body having taken the decision on State registration of this public association an application on its inclusion in the register of non-commercial organization performing functions of a foreign agent, envisaged by Item 10 of Article 13^1 of the Federal Law "On Non-Commercial Organizations"; such a public association quarterly submits to the federal body of State registration data envisaged by Paragraph 8 of Section 1 of this Article.

By the Federal Law of 12th November, 2012 No. 192-ФЗ "On Amendments to the Administrative Offences Code of the Russian Federation" Chapter 19 of this Code was supplemented with Article 19.34, Section 1 of which provides that carrying out activity by a non-commercial organization performing functions of a foreign agent and not included in the register of non-commercial organizations performing functions of a foreign agent entails imposition of an administrative fine on officials in the amount of 100,000 to 300,000 roubles, on juridical persons – 300,000 to 500,000 roubles.

1.1. Constitutionality of Item 6 of Article 2, Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation is contested by the Commissioner for Human Rights in the Russian Federation having petitioned the Constitutional Court of the Russian Federation in the procedure of Article 125

(Section 4)of the Constitution of the Russian Federation and Sub-Item 5 of Item 1 of Article 29 of the Federal Constitutional Law of 26th February, 1997 No. 1-ФКЗ "On the Commissioner for Human Rights in the Russian Federation" with the complaint against violation of human rights and freedoms of the autonomous non-commercial organization "LGBT-cinema festival Side by Side", citizens A.P.Zamaryanov, N.V.Kalinina and L.V.Shibanova.

Basing itself on the information of prosecutor's office review, testifying to the fact that to the settlement account of the autonomous non-commercial organization of culture "LGBT-cinema festival Side by Side" in 2011-2013 monetary means from foreign sources were regularly coming through and that this non-commercial organization placed on its electronic resource and in printed production issued by it agitation information aimed at formation of public opinion in order to influence adoption of respective decisions by State bodies, i.e. carried out political activity, but did not petition the authorized body with application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent, Justice of the Peace of judicial district No. 206 of the City of Saint-Petersburg by the resolution of 6th June, 2013 recognized it as guilty of commission of administrative offences envisaged by Sections 1 and 2 of Article 19.34 of the Administrative Offences Code of the Russian Federation. Kuibyshev District Court of the City of Saint-Petersburg, supposing that in the actions of the said non-commercial organization circumstances aggravating administrative responsibility were absent, considered administrative penalty prescribed to it in the form of administrative fine in the amount of 500,000 roubles as excessively rigorous and by the decision of 26th July, 2013 reduced the amount of the administrative fine down to 400,000 roubles; the rest of the resolution of the Justice of the Peace was left unchanged.

Director of the foundation "Kostroma Centre for the Support of Public Initiatives" A.P.Zamaryanov was found guilty of commission of an administrative offence envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation by the resolution of Justice of the Peace of judicial

district No. 1 of the City of Kostroma of 29th May, 2013, left unchanged by the decision of Sverdlovsk District Court of the City of Kostroma of 12th August, 2013, and administrative penalty was prescribed to him in the form of a fine in the amount of 100,000 roubles. The ground for making administratively answerable were the materials of the prosecutor's office review having established that the foundation, which in the course of 2011-2013 (including after entering into force of federal laws of 20th July, 2012 No. 121-ФЗ and of 12th November, 2012 No. 192-ФЗ) regularly received financing from foreign sources, in order to execute its charter tasks organized and conducted a number of events, in particular in February, 2013 – a "round table" session on the topic "Reloading of the Reloading: where Do Russian-American Relations Move?" and placed information about it in the Internet, and in March, 2013 – observation at elections, during which the chairman of the foundation's governing body N.V.Sorokin addressed observers and candidates to deputies of legislative body of power; prior to the beginning of the indicated events A.P.Zamaryanov as the foundation's director did not petition the authorized body with the application on inclusion of the foundation in the register of non-commercial organizations performing functions of a foreign agent.

In relation to chairperson of the regional public organization "The Amur Ecological Club "Ulukitkan" N.V.Kalinina, public prosecutor of the City of Blagoveshchensk on 24th April, 2013 issued a warning on inadmissibility of breachof the Federal Law "On Non-Commercial Organizations", placing on public organizations fulfilment of duties envisaged by it and connected with the status of a foreign agent. Blagoveshchensk City Court of Amur Region rejected N.V.Kalinina's application on recognition of public prosecutor's warning as unlawful, having indicated in the decision of 4th June, 2013 (left unchanged by appellate ruling of court board on civil cases of Amur Regional Court of 12th August, 2013) that it does not violate rights and freedoms of this public organization, was issued within the framework of prosecutor's powers on the basis of sufficient data, testifying to its receipt of monetary means from abroad and to the presence, proceeding from constituent documents, of the intentions to exercise

political activity, contains no opinions about commission of any illegal actions by this public organization, imposes on N.V.Kalinina as its chairperson no unconditional obligation to forward application on inclusion in the register of non-commercial organizations performing functions of a foreign agent and creates no obstacles for carrying out charter activity.As was established by courts, in 2011 this public organization gratuitously received from Heinrich Böll Foundation (Germany), which is a part of the "green" movement and collaborates with fraction "Green Russia" of the Russian United Democratic Party "Apple – Green Russia", monetary means for realization of the project "Competition for Journalists and Public Action Devoted to 25th Anniversary of the Chernobyl' Accident". Bearing in mind that within the framework of public action public event was held in the form of picketing and taking into consideration the composition of its organizers and the content of slogans used, courts came to the conclusion about political character of this action and considered circumstances having taken place in 2011 as sufficient ground for supposition that it was possible to carry out such activity also after inclusion in the legislation of legal norms, establishing the notion of a non-commercial organization, performing functions of a foreign agent and determining specific obligations of such organizations.

Executive director of the association of non-commercial organizations "In Protection of the Rights of Voters "GOLOS" (Voice) L.V.Shibanova was recognized as guilty of commission of an administrative offence envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation by the resolution of Justice of the Peace of judicial district No. 379 of Presnensky district of the City of Moscow of 29th April, 2013, left unchanged by the decision of Presnensky District Court of the City of Moscow of 14th June, 2013, and administrative penalty was prescribed to her in the form of administrative fine in the amount of 100,000 roubles. As courts considered, administrative offence manifested itself in the fact that the association headed by L.V.Shibanova, in accordance with the goals and subject of its charter activity participated in political activity, namely in advancement of Draft Electoral Code of

the Russian Federation, prepared within the framework of an agreement with the European Commission and placed by it, side by side with other materials, in the Internet, as well as in holding of a "round table" where Draft Electoral Code of the Russian Federation was discussed, and other public discussions on the issues of changing electoral legislation. Having established that monetary means (International Sakharov Freedom Prize) which came through to transit account of the association as a donation could not be used by it, because did not come through to its current (currency and settlement) accounts and even prior to drawing up of the report on administrative offence were returned to sender as erroneously transferred, courts came to the conclusion that this fact has no legal significance, so far as does not refute the presence of the sign of financing from foreign source in association's activity, and relevant legal norms do not require that monetary means received or other property be used for holding of concrete events qualified as participation in political activity; at this L.V.Shibanova did not petition authorized body with application on inclusion of the association in the register of non-commercial organizations performing functions of a foreign agent.

The foundation "Kostroma Centre for the Support of Public Initiatives", found guilty of commission of the same administrative offence as its director A.P.Zamaryanov, in protection of whose rights the Commissioner for Human rights in the Russian Federation petitioned the Constitutional Court of the Russian Federation, apart from constitutionality of Item 6 of Article 2, Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, contests constitutionality of Article 2 of the Federal Law "On Amendments to Individual Legislative Acts of the Russian Federation in the Part of Regulation of the Activity of Non-Commercial Organizations Performing Functions of a Foreign Agent" and Item 4 of the Federal Law "On Amendments to the Administrative Offences Code of the Russian Federation".

1.2. Constitutionality of the provisions of Item 6 of Article 2 and Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations", Section 6 of

Article 29 of the Federal Law "On Public Associations", as well as Articles 1 and 2 of the Federal Law "On Amendments to Individual Legislative Acts of the Russian Federation in the Part of Regulation of the Activity of Non-Commercial Organizations Performing Functions of a Foreign Agent" is contested by L.G.Kuz'mina – director of the interregional public foundation for assistance to the development of civil society "GOLOS – Povolzhye", in whose respect public prosecutor of Samarsky District of the City of Samara on 26th April, 2013 issued a warning on inadmissibility of use by the foundation of means from foreign sources and participation in working out decisions of bodies of State power and legislative initiatives, including in the process of elections and referenda, as well as in other political activity without registration as a foreign agent. L.G.Kuz'mina appealed legality of this warning, which was handed in to her on 2nd July, 2013, to Samarsky District Court of the City of Samara, which by the decision of 29th August, 2013, left unchanged by appellate ruling of Samara Regional Court of 18th October, 2013, rejected the claims.

As was established by courts, the interregional public foundation for assistance to the development of civil society "GOLOS – Povolzhye" was created and acts according to its charter with the object of coming into being of law-governed State and development of civil society, practical ensuring of rights, freedoms and lawful interests of citizens, their attraction to participation in the electoral process, increase of their interest in the elections outcome, and consequently may participate in holding of political actions in order to influence adoption of decisions by State bodies, aimed at alteration of the conducted State policy, as well as in formation of public opinion with the indicated object, i.e. to be engaged in political activity. Proceeding from this and bearing in mind that in 2012 this public foundation was financed from the foundation in support of democracy "GOLOS" which, in its turn, received monetary means from foreign sources, courts came to the conclusion that public prosecutor had grounds to issue warning.

1.3. In connection with presence in the charter of non-commercial agency "Muravyovsky Park of Steady Use of Nature" of provisions testifying to declaring

of participation in political activity and receipt of financing from foreign sources, public prosecutor of Tambov District of Amur Region on 30th April, 2013 issued a warning to its president S.M.Smirensky on inadmissibility of breach of the Federal Law "On Non-Commercial Organizations" by the non-commercial agency headed by him, as well as warning that in case of non-execution of the requirements expounded in the warning he may be made criminally answerable in accordance with Article 330^1 of the Criminal Code of the Russian Federation.

S.M.Smirensky's application on recognition of the indicated warning as unlawful was rejected by the decision of Tambov District Court of Amur Region of 29th July, 2013, left unchanged by appellate ruling of Amur Regional Court of 4th October, 2013, with indication that public prosecutor's warning cannot be regarded as violating rights and freedoms of the applicant, so far as had the object to prevent breach of the legislation and contained no opinion about illegality of the provisions of the charter of non-commercial agency "Muravyovsky Park of Steady Use of Nature" named in it and on inadmissibility of receipt of financing from foreign sources, created no obstacles for carrying out charter activity by it and imposed no additional obligations on it. It was established by courts that in February – March, 2013 this non-commercial agency received monetary means from the International Foundation for the Protection of Cranes (USA), and publication on its official site of the letter containing the request addressed to citizens to put their signatures in support of petition to the governor of Amur Region on closing of spring hunting was regarded as political action, organized in order to influence adoption of decisions by State bodies, as well as formation of respective public mood.

S.M.Smirensky requests to recognize the provisions of Item 6 of Article 2 and Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations", as well as Article 2 of the Federal Law "On Amendments to Individual Legislative Acts of the Russian Federation in the Part of Regulation of the Activity of Non-Commercial Organizations Performing Functions of a Foreign Agent" as not conforming to the Constitution of the Russian Federation.

1.4. Constitutionality of the same legislative provisions is contested by V.P.Yukechev –director of non-commercial partnership "Institute for Development of the Press – Siberia", to whom public prosecutor of Leninsky District of the City of Novosibirsk on 24th April, 2013 issued a warning on the ground that in Item 2.1.1 of the charter of this non-commercial organization having received financial means from foreign sources in 2012 is mentioned the possibility to carry out political activity in the form of assistance to the development of civil society in the Russian Federation.

Leninsky District Court of the City of Novosibirsk, by the decision of 10th June, 2013 rejecting V.P.Yukechev's application on recognition of the indicated warning as unlawful, proceeded from the idea that public prosecutor's warning cannot be ascribed to actions violating the rights and freedoms of the person to whom it was sent; this warning contains only explanation of the need to forward an application to an authorized body on inclusion of non-commercial partnership "Institute for Development of the Press – Siberia" in the register of non-commercial organizations performing functions of a foreign agent prior to the beginning of political activity, which in itself is not a forbidden kind of activity. Leaving the decision of Leninsky District Court of the City of Novosibirsk unchanged, the court board on civil cases of Novosibirsk Regional Court in appellate ruling of 12th September, 2013 at the same time deemed it necessary to exclude from the motivation part of the decision of court of the first instance indication that actual declaring of the possibility of its participation in political activity follows from the provisions of non-commercial partnership's charter.

1.5. As petitioners on this case assert, legislative provisions contested by them do not conform to the Constitution of the Russian Federation, its Articles 13 (Sections 1 – 4), 19 (Sections 1 and 2), 21 (Section 1), 29 (Sections 1 and 3), 30 (Section 1), 32 (Section 1), 45, 46 (Sections 1 and 2), 49, 51 and 55 (Section 3), on the following grounds:

singling out among non-commercial organizations those which perform functions of a foreign agent and allowing to identify them as special subjects of

legal relations, these legislative provisions create conditions for discrimination of non-commercial organizations, groundlessly and beyond the limits of constitutionally-significant goals restrict the rights of members of non-commercial organizations receiving financing from foreign sources of association, of free expression of their convictions, of participation in managing State affairs, encroach upon the very essence of the right of association, freedom of activity of public associations on the basis of constitutional principles of ideological diversity and equality of public associations, leading to loss of their basic content;

establish the requirement addressed to non-commercial organizations to announce about themselves as about organization – foreign agent, which is testifying against themselves and entails for them more complicated rules of activity and record, including in the part of control measures, as well as means recognition that activity carried out by them contradicts the interests of the State and society and allow to recognize a non-commercial organization as foreign agent in extra-judicial procedure by an individual decision of a staff-member of a body of justice or prosecutor's office;

contain no clear and non-contradictory definition of the notions contained in them and thereby create pre-requisites for their poly-semantic interpretation and arbitrary application;

admit the possibility to make officials (directors) of non-commercial organization, performing functions of foreign agent and not included in special register administratively answerable and application of disproportionate and unfair sanctions to them, including for actions having taken place before entering of federal laws of 20th July, 2012 No. 121-ФЗ and of 12th November, 2012 No. 192-ФЗinto force.

1.6. By virtue of Articles 36, 74, 96 and 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", the Constitutional Court of the Russian Federation upon complaints against violation of constitutional rights and freedoms of citizens and their associations verify constitutionality of a law that has been applied in a specific case, consideration of which has been completed in

court, and passes the decision solely on the subject stated in the complaint, assessing both the literal meaning of the legislative provisions under consideration and the meaning attributed to them by an official interpretation or the prevailing law-applying practices, as well as proceeding from their place in the system of legal norms, and is not bound by the grounds and arguments stated in the complaints.

Meanwhile, Articles 1 and 2 of the Federal Law of 20th July, 2012 No. 121-ФЗ, as well as Item 4 of the Federal Law of 12th November, 2012 No. 192-ФЗ, by which in federal laws "On Non-Commercial Organizations" and "On Public Associations", as well as in the Administrative Offences Code of the Russian Federation were included provisions having served as ground for passing judicial decisions on cases, in connection with which the foundation "Kostroma Centre for the Support of Public Initiatives", as well as L.G.Kuz'mina and V.P.Yukechev petitioned the Constitutional Court of the Russian Federation, were not directly applied by courts, and for this reason the proceeding on their complaints in this part is subject to discontinuance.

Materials submitted by L.G.Kuz'mina do not confirm application by courts in her case of the provision of Section 6of Article 29 of the Federal Law "On Public Associations", establishing the obligation of public associations to quarterly submit to the authorized body data on the amount of monetary means and other property received from foreign sources, on the goals of spending monetary means and use of other property, as well as on their actual spending and use, and therefore proceeding on her complaint in the part of contesting of the said legislative provision is subject to discontinuance as well.

Besides, in the course of holding of public hearing a number of documents were attached to the materials of the present case upon application of the Plenipotentiary Representative of the President of the Russian Federation to the Constitutional Court of the Russian Federation, in particular the resolution of the Presidium of Amur Regional Court of 17th February, 2014, by which, upon cassation complaint of S.M.Smirensky, judicial decisions having earlier been

passed in his respect were abrogated and the warning of public prosecutor of Tambov District of Amur Region announced to him was recognized as unlawful. Thereby the complaint of S.M.Smirensky does no more meet the criterion of admissibility as it is defined by Article 97 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation", and in this connection the proceeding on this complaint is subject to discontinuance.

As far as data about liquidation of the autonomous non-commercial organization of culture "LGBT-cinema festival Side by Side", contained in the excerpt from the Unified State Register of Juridical Persons attached to the materials of the present case is concerned, they cannot serve as a ground for discontinuance of the proceeding on the complaint of the Commissioner for Human Rights in the Russian Federation in this part, so far as the indicated circumstance does not withdraw the question of whether rights and freedoms of its founders and other persons were violated by legislative provisions applied in the case of this non-commercial organization.

Thus, the subject-matter of consideration by the Constitutional Court of the Russian Federation in this case are:

the interconnected provisions of Item 6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations" to the extent to which on their basis the question is decided of recognition of a non-commercial organization, including public association, as performing functions of a foreign agent and is established obligation of a non-commercial organization, intending after State registration to carry out its activity as non-commercial organization performing functions of a foreign agent, to forward an application to an authorized body on itsinclusion in the register of non-commercial organizations performing functions of a foreign agent;

the provisions of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, envisaging for carrying out activity of a non-commercial organization performing functions of a foreign agent, not included in

the register of non-commercial organizations performing functions of a foreign agent, administrative responsibility in the form of administrative fine, imposed on officials in the amount of 100,000 to 300,000 roubles, on juridical persons – 300,000 to 500,000 roubles.

2. Everyone's right of association, as follows from Article 30 (Section 1) of the Constitution of the Russian Federation in the interconnection with its Articles 1 (Section 1), 2, 13, 17 (Section 1), 29 (Sections 1 and 3) and 32 (Section 1), appertains to basic values of the society and the State, based on the principles of rule of law and democracy, and includes the right to freely create associations for the protection of one's opinions and convictions in the conditions of recognized ideological and political diversity, including with the object to participate in managing State affairs, as well as freedom of activity of public associations, which conforms tothe provisions of the Universal Declaration of Human Rights (Item 1of Article 20), International Covenant on Civil and Political Rights (Item 1 of Article 22) and the Convention for the Protection of Human Rights and Fundamental Freedoms (Item 1 of Article 11) on the right of everyone to freedom of association with others.

Traditional forms of realization of this constitutional right are creation and activity of political parties, religious associations, trade unions, as well as other associations, by means of which citizens obtain the possibility, on the basis of common ideas and views, by joint efforts to try to get some or other socio-economic, political, cultural, scientific, nature-protective and other objectives, in consequence of which the State has constitutional obligation to recognize associations of citizens as necessary legal personalities, including as juridical persons, without which their activity would be in many respects deprived of its sense. Public authority is orientatedtoward such understanding of the genuine nature of the right of association by the precedent practice of the European Court of Human Rights, which repeatedly noted in its decisions that in the context of Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms the possibility to create a juridical person with the aim of concerted

activity in a sphere of mutual interest is one of the most important aspects of the freedom of association having conventional significance; refusal to grant status of a juridical person, as also unfounded restrictions of normal activity of an association – juridical person lead to shortening of collective organizational opportunities and mean interference with the freedom of associations incompatible with obligations of States – Parties to the Convention (Judgments of 17th February, 2004 on the case "Gorželik and others vs. Poland", of 1st February, 2007 on the case "Ramazanova and others vs. Azerbaijan", of 10th June, 2010 on the case "Jehovah's Witnesses" in Moscow and others vs. Russia" and others).

Proceeding from this and taking into consideration that regulation and protection of human and civil rights and freedoms, in accordance with the Constitution of the Russian Federation,are under the jurisdiction of the Russian Federation (Article 71, Item "c"), the federal legislator is not only entitled, but is obliged, on the basis of the Constitution of the Russian Federation and with regard to the provisions of international law acts, being, according to its Article 15 (Section 4), integral part of the legal system of the Russian Federation, determine the order of realization of the right of association by citizens of the Russian Federation. Regulation carried out by the federal legislator – by virtue of the prescription of Article 18 of the Constitution of the Russian Federation, according to which human and civil rights and freedoms determine the meaning, content and implementation of laws, the functioning of public authority and are guaranteed by law, – must envisage appropriate conditions for establishment, creation and registration of associations, determine their legal status, including the conditions of acquisition of the status of juridical person, so that citizens having united have the possibility to effectively defend their rights and lawful interests (Judgments of the Constitutional Court of the Russian Federation of 15th December, 2004 No. 18-П, of 6th December, 2011 No. 26-П, of 24th October, 2013 No. 22-П and others).

At the same time, everyone's right of association and freedom of activity of public associations are not absolute and, as follows from Articles 17 (Section 3) and 55 (Section 3) of the Constitution of the Russian Federation, may be limited by

federal law to the extent necessary for the protection of the basis of the constitutional order, morality, health, rights and lawful interests of other persons, for ensuring the defence of the country and the security of the State. Similar provisions with regard to the bounds of realization of the right to freedom of association are contained in the Universal Declaration of Human Rights (Item 2 of Article 29), the International Covenant on Civil and Political Rights (Item 2 of Article 22) and the Convention for the Protection of Human Rights and Fundamental Freedoms (Item 2 of Article 11), admitting introduction of restrictions of this right only if they are prescribed by law and are necessary in a democratic society in the interests of national security or public safety, for the prevention of disorder or crime, securing due recognition, respect and protection of the rights and freedoms of others, for the protection of health and general welfare, as well as for meeting just requirements of morals.

Thus, realizing law-making powers belonging to him, the federal legislator must care about granting citizens maximum wide opportunities for use of the right of association and freedom of the activity of public associations guaranteed by the Constitution of the Russian Federation and at the same time establish such rules that, not infringing upon its very essence, would make for attainment, on the basis of the balance of private and public elements, of constitutionally-significant goals, including ensuring of public order and security in the interests of all citizens, both being founders, members and (or) participants of public associations and taking no part in their activity.

3. Carrying out regulation of public relations arising in connection with realization of the right of association by citizens, creation, activity, reorganization and (or) liquidation of public associations, the federal legislator defined the content of this right in the Federal Law “On Public Associations”, which, according to Section 1 of its Article 3, includes the right to create on voluntary basis public associations for the protection of common interests and attainment of common goals, the right to enter into existing public associations or to abstain from entering into them, as well as the right to unimpededlyleave public associations, and has

regulated in the Federal Law "On Non-Commercial Organizations", as follows from Item 1 of its Article 1, legal state, procedure of creation, activity, reorganization and liquidation of non-commercial organizations (including public associations) as juridical persons, formation and use of property of non-commercial organizations, rights and duties of their founders (participants), bases of managing non-commercial organizations and possible forms of their support by bodies of State power and bodies of local self-government.

3.1. Non-commercial organizations, as it is fixed in Article 2 of the Federal Law "On Non-Commercial Organizations", do not have as a main objective deriving of profit and do not distribute it among their participants (Item 1); they may be created for attainment of social, charitable, cultural, educational, scientific and management goals, with the object of protection of citizens' health, development of physical culture and sports, satisfaction of spiritual and other non-material needs of citizens, protection of rights, lawful interests of citizens and organizations, settlement of disputes and conflicts, rendering legal aid, as well as with other purposes aimed at attainment of common weal (Item 2); forms (varieties) of such organizations can be public or religious organizations (associations), communes of indigenous scanty peoples of the Russian Federation, Cossacks' communities, non-commercial partnerships, social, charitable and other foundations, associations and unions, as well as other forms envisaged for non-commercial organizations by federal laws (Item 3).

According to Item 6 of the same Article, a special group of non-commercial organizations, irrespective of their forms (varieties), is constituted by non-commercial organizations performing functions of a foreign agent, which are understood as Russian non-commercial organizations receiving monetary means and other property from foreign States, their State bodies, international and foreign organizations, foreign citizens, stateless persons or persons authorized by them and (or) Russian juridical persons receiving monetary means and other property from the indicated sources (with the exception of open joint stock companies with State participation and their affiliated companies) and which participate, including in the

interests of foreign sources, in political activity carried out on the territory of the Russian Federation; at this a non-commercial organization, with the exception of a political party, is recognized as participating in political activity carried out on the territory of the Russian Federation, if irrespective of goals and tasks indicated in its constituent documents it participates (including by way of financing) in organization and holding of political actions in order to influence the decisions adopted by State bodies, directed at alteration of State policy conducted by them, as well as in formation of public opinion with the indicated objectives.

When appraising constitutionality of the adduced legislative provisions, it is necessary to take into account first of all that the notion of a non-commercial organization performing functions of a foreign agent used in them relates – bearing in mind special reservation of the federal legislator – only to the subject of regulation of the Federal Law "On Non-Commercial Organizations", by virtue of which may not be interpreted by means of identification with legal characteristics of tax, insurance, customs and other agents, fixed in other legislative acts of various branch belonging.

Recognition of concrete Russian non-commercial organizations as performing functions of a foreign agent, objectively determined by the fact that they are really involved into the system of legal relations established by the said Law and connected with the receipt of monetary means and other property from foreign sources, has as its destination their identification as a specific subject of political activity carried out on the territory of the Russian Federation and does not mean pointing at the threat for some or other State or public institutions coming from these organizations, even if they act on commission and (or) in the interests of respective foreign sources, and therefore any attempts to find in the expression "foreign agent", leaning on stereotypes, negative contexts having formed in the Soviet period and, in essence, having lost their significance in modern reality have no constitutional-law grounds.

In the conditions when the Russian Federation, as it directly follows from the Preamble of the Constitution of the Russian Federation, does not conceive itself

out of the world community, receipt by Russian non-commercial organizations taking part in political activity of foreign financing – within the meaning of the legal position formulated by the Constitutional Court of the Russian Federation in the Judgment of 22nd June, 2010 No. 14-П – in itself cannot call in question loyalty of such organizations in relation to their State. Other would not only be incompatible with constitutional need to ensure mutual confidence of citizens (their associations) and the State, but would contradict Article 21 (Section 1) of the Constitution of the Russian Federation, placing on the State the obligation to protect human dignity and not to admit its derogation. Accordingly, legislative construction of a non-commercial organization performing functions of a foreign agent contemplates no negative appraisal of such an organization on the part of the State, is not expected to form negative attitude towards political activity carried out by it and thereby may not be regarded as manifestation of mistrust or wish to discredit such a non-commercial organization and (or) goals of its activity.

Within the meaning of the provisions of Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations", the obligatory sign of a non-commercial organization performing functions of a foreign agent is participation in political activity carried out on the territory of the Russian Federation; such activity, irrespective of goals and tasks indicated in the constituent documents of a non-commercial organization is, within the literal meaning of these legislative provisions, participation (including by way of financing) in organization and holding of political actions in order to influence the adoption by State bodies of decisions aimed at alteration of the State policy conducted by them, as well as formation of public opinion with the same objectives. Hence, their absence excludes ascription of a non-commercial organization to those performing functions of a foreign agent, even if actions organized (held) with its participation objectively were linked with criticisms toward the decisions of State bodies or caused negative appraisals of State policy conducted by them in the public opinion. Besides, such goals must be inherent in the activity of a non-commercial organization as such, and not of its individual members, therefore their

participation in political actions in personal capacity on their own initiative, moreover, contrary to the decisions of this non-commercial organization (it governing bodies or officials), also excludes application of Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations" to it.

At the same time, for elucidation of the true meaning of the provisions of Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations", conceptual significance have the provisions of the Constitution of the Russian Federation, according to which ideological and political diversity and equality of public associations before the law shall be recognized in the Russian Federation (Article 13, Sections 1, 3 and 4), freedom of activity of public associations shall also be guaranteed (Article 30, Section 1) and which in the interconnection with Articles 19 (Section 1), 28, 29 (Sections 1, 3 and 4), 31, 32 (Section 1) and 33 of the Constitution of the Russian Federation allow to make the conclusion that non-commercial organizations (including public associations) receiving monetary means and other property from foreign sources are entitled to participate in political activity on the same legal conditions irrespective of their attitude towards the decisions adopted by State bodies and policy conducted by them.

This conclusion leans also on the provisions of the Universal Declaration of Human Rights, proclaiming everyone's right to freedom of convictions and their free expression without distinction of any kind, including with respect to political or other opinion (Articles 2 and 19), and the International Covenant on Civil and Political Rights, recognizing everyone's right to hold opinions and freely express them (Items 1 and 2 of Article 19), as well as everyone's right to freedom of association with others (Article 22), which is, in its understanding by the Human Rights Committee, created on the basis of the International Covenant on Civil and Political Rights, not only connected with the right to create associations, but also guarantees the possibility of unimpeded exercise of its activity by an association. In the opinion of the Human Rights Committee invested with the competence to consider communications of individual persons claiming that they are victims of violation of any of the rights recognized by this Covenant and forward its views to

the State Party concerned (Article 1, Items 1 and 4 of Article 5 of the Optional Protocol to the Covenant), existence and activity of associations, including those which peacefully propagate ideas not necessarily positively perceived by the government and majority of the population, is a cornerstone of democratic society (Considerations of 31st October, 2006 concerning communication No. 1274/2004 "Victor Korneenko and others vs. Byelorussia").

Attention is paid to the need of observance of principles of democratic pluralism in relation to non-commercial organizations also in the Recommendation of the Committee of Ministers of the Council of Europe of 10th October, 2007 CM/Rec (2007) 14 "On Legal Status of Non-Governmental Organizations in Europe", orientating the States that non-governmental organizations (hereinafter referred to as "the NGOs") must have the possibility to freely pursue their objects under the condition that objects and means of their attainment meet the requirements of a democratic society (Item 11), as well as conduct researches, education and propaganda on issues which are subject of public debate, irrespective of whether their view coincides with government policy or requires changes of legislation (Item 12).

The adduced provisions of the Constitution of the Russian Federation and international-law acts mean that Russian non-commercial organization receiving monetary means and other property from foreign sources and participating in political activity carried out on the territory of the Russian Federation, must be recognized as performing functions of a foreign agent in the event of participation in political actions in order to influence the adoption of decisions by State bodies and policy conducted by them irrespective of what appraisals – positive (approving) or negative (critical) such organization adheres to. From this proceeded, in particular, federal legislator, who, fixing in Item 9 of Section 6 of Article 21 and Section 6 of Article 29 of the Federal Law "On Public Associations" demand addressed to public association, intending after State registration to receive monetary means and other property from foreign sources and participate in political activity carried out on the territory of the Russian

Federation to forward to the body having taken the decision on State registration of this public association, application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent, does not connect this demand with certain direction of the objects to influence the decisions adopted by State bodies and State policy conducted by them, pursued by the public association.

Thus, in the system of operating legal regulation the provisions of Paragraphs 1 and 2 of Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations" contemplate that to non-commercial organizations performing functions of a foreign agent appertain such Russian non-commercial organizations, which receive monetary means and other property from foreign sources and participate in organization and holding on the territory of the Russian Federation of political actions in order to influence, irrespective of the pursued objects, the decisions adopted by State bodies and State policy conducted by them, as well as in forming of certain public opinion as applied to them. Other interpretation of these legislative provisions would contradict the principles of political and ideological diversity, freedom of activity of public associations and their equality before the law following from the Constitution of the Russian Federation, its Articles 13 (Sections 1, 3 and 4), 19 (Section 1) and 30 (Section 1).

At this it should be taken into account that activity in the field of science, culture, art, public health, prophylaxis and guarding of people's health, social support and protection of citizens, protection of maternity and childhood, social support of persons with disabilities, propaganda of healthy way of life, physical culture and sports, protection of flora and fauna, charitable activity, as well as the activity in the field of assistance to charity and voluntariness by virtue of Paragraph 3 of Item 6 of Article 2 of the Federal Law "On Non-Commercial Organizations" do not appertain to political activity, engagement in which is one of the conditions of recognition of a non-commercial organization as performing functions of a foreign agent. Accordingly, whatever the sources of monetary and other material means of non-commercial organizations, if the aims of their activity

do not go beyond the bounds of the indicated fields, they may not be regarded as performing functions of a foreign agent. Prevailing court practice sticks to this approach, which conformably to the materials of the present case is confirmed by the resolution of the Presidium of Amur Regional Court of 17th February, 2014 having perceived in the collection of signatures of citizens in support of petition to the governor of Amur Region on closing of spring hunting, organized by non-commercial agency "Muravyovsky Park of Steady Use of Nature", no signs of political activity, carrying out of which may serve as ground for ascription of a non-commercial organization to those performing functions of a foreign agent.

3.2. In accordance with Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations", a non-commercial organization intending after State registration to receive monetary means and other property from foreign sources and participate in political activity carried out on the territory of the Russian Federation is obliged, prior to the beginning of participation in political activity, to forward to an authorized body an application on its inclusion in the register of non-commercial organization performing functions of a foreign agent.

Establishing this obligation, federal legislator was guided by the need to ensure transparence (openness) of the financial (property) component of the activity of non-commercial organizations, having the intention to participate in political activity on the territory of the Russian Federation in order to influence the decisions adopted by State bodies and State policy conducted by them. Such an activity both in content and consequences, coming of which it is intended for, does not limit itself by own (inner) needs of a non-commercial organization, but with all obviousness affects both public-law interests as a whole and rights and freedoms of all citizens, since exactly they, by virtue of Article 18 of the Constitution of the Russian Federation, determine the meaning, content and implementation of laws, the functioning of legislative and executive authority and of local self-government and are guaranteed by law.

Proceeding from this, placing on non-commercial organizations receiving foreign financing and participating in political activity on the territory of the Russian Federation of the obligation to declare themselves in notification order as non-commercial organizations performing functions of a foreign agent, within the meaning of Articles 2, 18, 24 (Section 2), 29 (Section 4) and 30 (Section 1) of the Constitution of the Russian Federation, cannot be regarded as incompatible with constitutional goals and values, so far as it is aimed at ensuring information for all interested persons about participation of foreign subjects (States, organizations or individuals) in monetary and (or) other material supportof non-commercial organizations taking part in political activity having the object to influence the content of decisions of bodies of State power and State policy conducted by them, as well as formation of respective public opinion.

Bearing in mind that receipt of monetary means and other property from foreign sources by non-commercial organizations does not exclude the possibility of their use for exerting influence on State bodies of the Russian Federation in the interests of such sources, the legislative singling out of non-commercial organizations performing functions of a foreign agent conforms also to the provisions of the Constitution of the Russian Federation about sovereign statehood of Russia and recognition of its multinational people as the bearer of sovereignty and the sole source of power in the Russian Federation (Preamble; Article 3, Section 1).

Neither does the adduced legal regulation contradict European legal standards (recommendations), accentuating attention on transparence and accountability of non-governmental organizations as the most important condition of their lawful (legal) activity. For instance, according to Basic Principles of NGO's Status in Europe (adopted by the Decision of the Committee of Ministers of the Council of Europe on 16th April, 2003), in order to reflect differences in financial and other kinds of support received by the NGOs, in addition to legal personality they can enjoy different status in accordance with national legislation (Item 5), admitting – with regard to the fact that possibility of such organizations to attract financing is

not unconditional and may be a subject-matter of regulation for the protection of purposeful categories of persons, – establishment of both unified rules and certain distinctions in relation to attraction of monetary means from the national sources or from abroad, including in the part concerning the requirements of record. In this aspect, singling out by the Russian legislator of non-commercial organizations performing functions of a foreign agent does not contradict the indicated Basic Principles, moreover, bearing in mind that they directly provide for the obligation of the NGOs on donators' demand to submit to them sufficiently detailed reports on the use of donations in order to demonstrate fulfillment of conditions connected with them (Item 61).

The obligation of a non-commercial organization performing functions of a foreign agent to forward an application on inclusion in the register of non-commercial organizations performing functions of a foreign agent does not hinder it to receive, both in the form of monetary means and one or other property, financial support from foreign and international organizations, foreign citizens and stateless persons. Neither is it deprived of the possibility to participate in political activity carried out on the territory of the Russian Federation, and thereby is not put in a discriminatory position as compared with non-commercial organizations receiving no foreign financing. Therefore, placing on a non-commercial organization performing functions of a foreign agent of the obligation prior to the beginning of political activity to forward an application on inclusion in respective register is aimed only at additional ensuring of transparence (openness) of such organization's activity and does not hinder it to apply for receipt financing and to receive it both from foreign and from Russian sources, as also means no differentiated attitude towards non-commercial organizations participating in political activity, depending on goals, forms and methods of this activity.

What is more, receipt of financing from foreign sources by a non-commercial organization and its possession of potential opportunity to be engaged in political activity on the territory of the Russian Federation in themselves are not a ground for its recognition as performing functions of a foreign agent. The obligation to

officially take upon itself respective status by way of sending to an authorized body an application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent arises with non-commercial organization only when it really intends to take part in political activity carried out on the territory of the Russian Federation after receipt of monetary means or other property from foreign sources. At this, by virtue of the presumption of legality and conscientiousness of activity of non-commercial organizations, this obligation must be realized in notification order, proceeding from independent appraisal by non-commercial organization of its own intentions, prior to the beginning of exercise of political activity.

Other interpretation of Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations", contemplating that the obligation to forward application on inclusion in the register of non-commercial organizations performing functions of a foreign agent extends to all non-commercial organizations having the possibility to carry out political activity on the territory of the Russian Federation, would mean that any such organization having received monetary means or other property from foreign sources automatically falls under the notion of a non-commercial organization performing functions of a foreign agent, so far as not a single non-commercial organization is deprived of the right to be engaged in political activity. But this interpretation does not conform to the logic of legislative regulation under consideration, which is destined for singling out of non-commercial organizations performing functions of a foreign agent not only on the sign of their foreign financing, but also as a special subject of political activity, purposefully participating in political actions, intended for exerting influence on decisions adopted by State bodies and State policy conducted by them, as well as formation of public opinion with the indicated objectives.

Should bodies of justice or prosecutor's office suppose that one or other non-commercial organization groundlessly avoidsforwarding an application on inclusion in the register of non-commercial organizations performing functions of

a foreign agent, they are entitled to pass written notice (Sub-Item 5 of Item 5 of Article 3 of the Federal Law "On Non-Commercial Organizations" or prosecutor's warning (Article 25^{1} of the Federal Law of 17th January, 1992 No. 2202-I "On Prosecutor's Office of the Russian Federation") with the aim of elimination of committed, in their opinion, breaches of the requirements of Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations", bearing in mind that the obligation of submission of proofs testifying to the intention of a non-commercial organization to participate in political activity or to real participation in it lies on them as competent representatives of State power.

Presence of the intentions to participate in political activity on the territory of the Russian Federation may be confirmed by constituent, programme and other official documents of a non-commercial organization, public statements of its directors (officials), containing calls for adoption, alteration or abrogation of some or other State decisions, notification on holding of assemblies, meetings, demonstrations, processions or picketing, sent by this non-commercial organization to a body of executive power of a subject of the Russian Federation or a body of local self-government, preparation and advancement of legislative initiatives, as well as other manifestations of social activity, objectively testifying to its wish to be engaged in organization and holding of political actions in order to influence adoption of decisions by State bodies and State policy conducted by them.

Notice or warning addressed to a non-commercial organization by a body of justice or a body of prosecutor's office in the system of operating legal regulation means for it no unconditional obligation to execute instructions (demands) contained in them and forward an application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent, so far as it has the right to appeal such notice or warning in court. When considering of the non-commercial organization's complaint by court, proving of the facts of its receipt of foreign financing and presence of its intentions to participate in political

activity carried out on the territory of the Russian Federation is placed on the body having issued the appealed notice or warning, and absence of such facts established by court obliges it, guided by Articles 18, 19 (Section 1), 46 (Sections 1 and 2), 118 (Section 1) and 120 of the Constitution of the Russian Federation, to recognize respective notice or warning as unlawful; at this any objective difficulties in appraising of the character and (or) purposeful direction of the activity of a non-commercial organization receiving monetary means or other property from foreign source, must be interpreted proceeding from the presumption of legality and conscientiousness of such activity.

Thus, the provisions of Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations" by their meaning and destination in the system of the operating legal regulation do not forbid non-commercial organizations, including public associations, to receive monetary means and other property from foreign sources, create no obstacles for their participation in political activity carried out on the territory of the Russian Federation, do not mean State interference with the activity of non-commercial organizations and exercising control over expediency of its content, do not deprive such organizations and all persons involved in their activity of the right to court protection when decisions concerning their activity are taken by State bodies in accordance with the legislation and thereby do not contradict the Constitution of the Russian Federation, including its Articles 19 (Section 1), 21 (Section 1), 30 (Section 1), 46 (Sections 1 and 2) and 51 (Section 1).

3.3. As the Constitutional Court of the Russian Federation repeatedly pointed out, the principle of formal certainty of law following from Articles 1 (Section 1), 4 (Section 2), 6 (Section 2), 15 (Section 2) and 19 (Section 1) of the Constitution of the Russian Federation dictates the need of exactness, clearness and unambiguity of legal norms and their concordance in the system of the operating legal regulation, without which uniform understanding and application of such norms and, therefore, equality of all before the law cannot be ensured; legislative

provisions not meeting the indicated criteria engender contradictory law-applying practice, create opportunity for their poly-semantic interpretation and arbitrary implementation, lead to breach of guarantees of State, including court, protection of rights, freedoms and lawful interests of citizens envisaged by Articles 2, 18, 45 (Section 1) and 46 (Section 1) of the Constitution of the Russian Federation; at the same time the requirement of certainty of legal regulation, obliging the legislator to formulate legal prescriptions with sufficient degree of exactness, allowing citizen (association of citizens) to adapt his (their) behavior to them – both forbidden and allowed, does not at all exclude the use of estimative or generally accepted notions: the legislator is not deprived of the opportunity to resort to them if the meaning of such notions is intelligible for perception and elucidation by the subjects of respective legal relations either directly from the content of a concrete normative provision or from the system of provisions being in obvious interconnection, or by means of revelation of more complex interconnection of legal prescriptions, in particular with the help of explanations given by courts on questions of their application (Judgments of 11th November, 2003 No. 16-П, of 14th April, 2008 No. 7-П, of 5th March, 2013 No. 5-П and others).

The European Court of Human Rights in its precedent practice, including decisions passed in connection with consideration of complaints against breach of Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, also draws attention to the idea that intra-State legislation must be intelligible for understanding and formulated with sufficient exactness in order to allow interested persons to (if need arises, with the help of consultations) elucidate, to the extent appropriate in given circumstances, what consequences this or that action can entail. Nevertheless, as supposes the European Court of Human Rights, laws cannot be fully free from terms to more or less extent needing judicial interpretation and explanation of doubtful moments; certainty of normative regulation, although it is extremely desirable, can entail excessive ossification, and the law must be able to keep step with changing circumstances; since it is impossible to achieve absolute exactness of formulation which are used in laws,

including carrying out regulation of public relations in the fields where situation changes in accordance with changes in society's views, the law granting certain freedom of action in itself is not contradictory to the requirements of clearness of legal norms under the condition that the limits of this freedom and the way of its use are indicated with sufficient exactness with regard to granting person adequate protection against arbitrary interference (Judgments of 13th February, 2003 on the case "Refah partisi and others vs. Turkey", of 6th March, 2012 on the case "Huhtamaki vs. Finland", 14th March, 2013 on the case "Kasymahunov and Saibatalov vs. Russia" and others).

Accordingly, laws determining the order of realization of the right to freedom of association guaranteed by Article 11 of the Convention for the Protection of Human Rights and Fundamental Freedoms, in particular regulating registration of public associations, in the opinion of the European Court of Human Rights, must be intelligible and predictable in terms of consequences caused by them and may not have excessively uncertain character, as well as give authorities excessively wide freedom of discretion when adopting decision on the possibility of registration of a concrete public organization (Judgments of 3rd April, 2008 on the case "Koretsky and others vs. Ukraine", of 1st October, 2009 on the case "Kimlya and others vs. Russia" and others).

As follows from the content of the interconnected provisions of Item6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations", a non-commercial organization, in order to be recognized as performing functions of a foreign agent, must:

be Russian non-commercial organization, which excludes ascription to non-commercial organizations performing functions of a foreign agent of international and foreign organizations, including their representations (branches) opened on the territory of the Russian Federation;

receive monetary means and other property from foreign States, their State bodies, international and foreign organizations, foreign citizens, stateless persons

or persons authorized by them and (or) Russian juridical persons, receiving monetary means and other property from the indicated sources (with the exception of open joint stock companies with State participation and their affiliated companies). At this neither temporal (duration, systematic character, single) nor quantitative (size, volume) or specific (donation, grant, prize, etc.) characteristics of monetary means or other property received by a non-commercial organization from foreign sources have no legal significance, which, in essence, blockades the possibility of arbitrary interpretation and application of the indicated legislative provisions in the part related to the conditions of receipt of foreign financing. At the same time, it is important to bear in mind that respective monetary means and other property must be not simply transferred (sent to the address) to non-commercial organization, but accepted by it; if it refuses to receive them and returns to foreign source, moreover, when such actions are undertaken prior to the beginning of participation in political activity, declaration of itself as a non-commercial organization is not necessary. Otherwise non-commercial organizations would be put in a position, not conforming to the presumption of legality and conscientiousness of their activity and not allowing them to determine acceptable sources of received monetary means and other property and independently decide the question of their acceptance;

participate in political activity carried out on the territory of the Russian Federation, i.e. irrespective of the goals and tasks indicated in its constituent documents participate (including by way of financing) in organization and holding of political actions in order to influence the adoption by State bodies of decisions, aimed at alteration of State policy conducted by them, as well as in formation of public opinion with the indicated objectives. Their forms can be very different: apart from assemblies, meetings, demonstrations, processions and picketing, political actions may express themselves in pre-electoral agitation and agitation on the questions of a referendum, in public addresses to bodies of State power, in dissemination, including with the use of modern information technologies, of their appraisals of the decisions adopted by State bodies and policy conducted by them,

as well as in other actions, the list of which it is impossible to exhaustibly legislatively establish. When ascribing some or other events, the organization and holding of which non-commercial organizations are involved in, to political actions falling under the operation of the indicated legislative provisions, principal significance must have their destination at exerting influence – directly or by way of forming public opinion – on adoption of decisions by State bodies an State policy conducted by them, as well as aiming at public response and attraction of attention of State apparatus and (or) civil society.

Carrying out by a non-commercial organization of the activity in such fields as science, culture, art, public health, prophylaxis and guarding of people's health, social support and protection of citizens, protection of maternity and childhood, social support of persons with disabilities, propaganda of healthy way of life, physical culture and sports, protection of flora and fauna, charitable activity, as well as the activity in the field of assistance to charity and voluntariness, does not appertain to political activity, engagement in which may serve as ground for recognition of such an organization as performing functions of a foreign agent, even if it aims to influence the decisions adopted by State bodies and State policy conducted by them, but on condition that these goals do not go beyond the bounds (limits) of respective field of activity.

Proceeding from this, the provisions of the Federal Laws "On Non-Commercial Organizations" and "On Public Associations", defining both the very notion of a non-commercial organization performing functions of a foreign agent and signs used for constructing it, including pointing at participation in political activity, cannot be regarded as not meeting constitutional requirements brought forward to the quality of laws. This conclusion finds confirmation also in the position of the European Court of Human Rights, according to which the notion of political activity can conform to the principles of legality if its content is sufficiently clearly disclosed in the legislation (Judgment of 21st June 2007 on the case "Zhechev vs. Bulgaria"). As far as the obligation of a non-commercial organization to forward to an authorized body an application on its inclusion in the

register of non-commercial organizations performing functions of a foreign agent is concerned, this obligation, as follows from these legislative provisions, arises only when non-commercial organization receives monetary means and other property from foreign sources and intends to participate in political activity carried out on the territory of the Russian Federation and is considered properly fulfilled on condition that respective application was forwarded by a non-commercial organization prior to the beginning of carrying out political activity, even if for some reasons not depending on it the authorized body has not included it in the indicated register.

3.4. Thus, the interconnected provisions of Item 6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations" do not contradict the Constitution of the Russian Federation so far as, singling out non-commercial organizations performing functions of a foreign agent and establishing their obligation to forward to an authorized body an application on inclusion in the register of non-commercial organizations performing functions of a foreign agent prior to the beginning of carrying out political activity, these legislative provisions within their constitutional-law meaning in the system of the operating legal regulation:

are aimed at ensuring transparence (openness) of the activity of non-commercial organizations receiving monetary means and other property from foreign sources and participating in political activity carried out on the territory of the Russian Federation in order to influence – directly or indirectly (by way of forming public opinion) – the decisions adopted by State bodies and State policy conducted by them, contemplate no State interference with determination of the preferred content and priorities of such activity and do not mean negative legislative appraisal of non-commercial organizations performing functions of a foreign agent;

establish notification order of inclusion of non-commercial organizations in the register of non-commercial organizations performing functions of a foreign

agent and do not hinder non-commercial organizations to freely search for and receive monetary means and other property both from foreign and Russian sources and use them for organization and holding of political activity, including in the interests of foreign sources;

proceed from the presumption of legality and conscientiousness of the activity of non-commercial organizations and do not deprive them of the right to court protection against unfounded demands of bodies of justice or prosecutor's office about forwarding of an application on inclusion – in the presence of the intention to participate in political activity or in the event of participation in it – in the register of non-commercial organizations performing functions of a foreign agent, imposing in this connection the burden of proof of the need to submit such an application on respective State bodies.

4.Determining the order of realization of the right of association by citizens and fixing the rules of creation and activity of public associations and other non-commercial organizations, the federal legislator, as it follows from Articles 15 (Section 2), 17 (Sections 1 and 3), 18, 45 (Section 1), 55 (Section 3) 71 Items "a", "в", "o"), 72 (Items "b", "j" of Section 1) and 76 (Sections 1 and 2) of the Constitution of the Russian Federation in their interconnection, is entitled to envisage administrative responsibility for breach of prescriptions (norms) established in this field, following universal principles of legal responsibility, which have general legal significance and in their essence appertain to the fundamentals of constitutional legal order.

As the Constitutional Court of the Russian Federation repeatedly pointed out, the federal legislator, carrying out legal regulation of grounds, conditions and terms of legal, in particular administrative, responsibility, must proceed from the idea that it, unlike other administrative-compulsory measures envisaged by the legislation, may come only for actions which by law in force at the moment of their commission are recognized as offences; the necessary ground for all kinds of responsibility is the presence of *corpus delicti* of an offence, and its signs, as well as the content of concrete compositions of offences, must conform to constitutional

principles of a democratic law-governed State and the rule of law, including the requirement of fairness, in its interrelations with natural and juridical persons as subjects of responsibility; presence of guilt as an element of subjective side of *corpus delicti* of an offence is a universally recognized principle of making answerable in all branches of law, and any exception from it must be provided for directly in the law; when legislatively fixing both the compositions themselves of administrative offences and measures of responsibility for their commission one has to proceed from the character of offences, their dangerousness for values under the protection of law, reasons and conditions of their commission, as well as personality of an offender and the degree of his guilt in order to guarantee adequacy (proportionality) of engendered consequences for the person made administratively answerable to damage which was caused as a result of an administrative offence, not admitting surplus State coercion and ensuring the balance of basic rights of an individual (juridical person) and common (public) interest, consisting in protection of a person, society and State against administrative offences; application of identical measures of responsibility for administrative offences different in the degree of public dangerousness without due regard to circumstances characterizing the person guilty of the commission of administratively punishable action and having objective and reasonable substantiation contradicts constitutional ban on discrimination and the ideas of the good and humanism expressed in the Constitution of the Russian Federation and is incompatible with the principle of individualization of administrative responsibility (Judgments of 25th January, 2001 No. 1-П, of 17th July, 2002 No. 13-П, of 19th March, 2003 No. 3-П, of 27th May, 2008 No.8-П, of 13th July, 2010 No. 15-П, of 18th May 2012 No. 12-Пand others).

By virtue of the adduced legal positions, the federal legislator, realizing its powers in the field of administrative responsibility, including with the aim to protect the established order of creation and activity of non-commercial organizations, possesses sufficiently wide discretion both in the part of constructing *corpuses delicti* of concrete administrative offences and at

determining kinds and sizes of sanctions prescribed for their commission to natural and juridical persons; this discretion is, nevertheless, limited by the principles and requirements following from Articles 1 (Section 1), 15 (Sections 1 and 2), 17 (Section 3), 19 (Sections 1 and 2), 46 (Sections 1 and 2), 49, 50 (Section 1), 54 and 55 (Section 3) of the Constitution of the Russian Federation and in their totality forming initial elements of the institution of administrative responsibility in the legal system of the Russian Federation.

4.1. According to Article 1.7 of the Administrative Offences Code of the Russian Federation, concretizing the prescription of Article 54 (Section 1) of the Constitution of the Russian Federation, the law establishing or aggravating responsibility for an administrative offence or in other way deteriorating the position of a person having committed administrative offence has no retroactive force.

It follows from here that carrying out political activity by a non-commercial organization performing functions of a foreign agent and not included in the register of non-commercial organizations performing functions of a foreign agent must entail coming of administrative responsibility on the basis of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation in the interconnection with Item 6 of Article 2 and Item 7 of Article 32 of the Federal Law “On Non-Commercial Organizations” only in case when respective action (inaction) took place after entering of the Federal Law of 12thNovember, 2012 No. 192-ФЗ “On Amendments to the Administrative Offences Code of the Russian Federation” into force, i.e. after 24th November, 2012, and so application of this norm in the system of operating legislative regulation is constitutionally justified only when both receipt of monetary means (other property) by a non-commercial organization from foreign sources and its participation in political activity took place after the indicated date. Otherwise on persons made answerable for administrative offence envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, in violation of constitutional ban on retroactive force of a law establishing responsibility, would

have been imposed legal encumbrances which they wittingly could not have taken into account, entering in legal relations regulated in a different way, i.e. these persons would have found themselves in a position of a party obliged to foresee consequences of its actions (inaction) not only correlating them with operating legislation on administrative offences, but also bearing in mind the possibility of its alteration.

Besides, since Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation is destined for administrative-law guarding of the established order of activity of non-commercial organizations performing functions of a foreign agent, elucidation of the signs of *corpus delicti* of an administrative offence fixed in this norm is impossible out of connection with the provisions of Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations", from which it obviously follows that prior to the beginning of political activity such organizations must only forward an application on their inclusion in respective register (similar requirements are also contained in Section 6 of Article 29 of the Federal Law "On Public Associations").

This means that carrying out political activity by a non-commercial organization receiving monetary means and other property from foreign sources after its forwarding of an application on inclusion in the register of non-commercial organizations performing functions of a foreign agent, but for some reasons not depending on it not included by an authorized body in respective register, does not form objective side of *corpus delicti* of an administrative offence envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation. Other would not only not answer the tasks of the legislation on administrative offences (Article 1.2 of the Administrative Offences Code of the Russian Federation), but, opening opportunities for unfounded application of administrative coercion, would lead to breach of the Constitution of the Russian Federation, its Articles 1(Section 1), 15 (Section 2), 18, 19 (Section 1), 30 (Section 1) and 55 (Section 3).

Thus, the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, fixing the signs of *corpus delicti* of the administrative offence envisaged by it, does not contradict the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation it does not contemplate coming of administrative responsibility for carrying out political activity on the territory of the Russian Federation by a non-commercial organization performing functions of a foreign agent after forwarding in the established order to an authorized body an application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent and admits no making officials and juridical persons administratively answerable for actions (inaction) forming signs of the objective side of the composition of this administrative offence but having taken place prior to establishment of administrative responsibility for their commission.

4.2. The question of constitutionality of the provisions of the Administrative Offences Code of the Russian Federation, fixing sizes, including minimal, of administrative fines for individual administrative offences, was repeatedly put before the Constitutional Court of the Russian Federation, which in the Judgments of 17th January, 2013 No. 1-П, of 14th February, 2013 No. 4-П, and of 25th February, 2014 No. 4-П formulated a number of legal positions which, having constitutional-methodological significance for assessment of quantitative parameters (indices) of this kind of administrative penalty chosen by the legislator for determining measures of administrative responsibility for any administrative offence, allow when analyzing sanction of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation to come to the following conclusions.

Since administrative penalty, as follows from Section 1 of Article 3.1 of the Administrative Offences Code of the Russian Federation, is a means of State reaction at commission of an administrative offence and as such is applied in order to prevent commission of new offences both by the offender himself and other persons, the sizes of administrative fines established by this Code, including

Section 1 of its Article 19.34, must correlate with character and the degree of public dangerousness of administrative offences and have reasonable restraining effect necessary for observance of prohibitions which are under the protection of administrative-offences legislation. Otherwise application of administrative penalty will not answer the destination of State coercion which, within the meaning of Articles 1 (Section 1), 2, 17 (Section 3), 18 and 55 (Section 3) of the Constitution of the Russian Federation, must consist mainly in the preventive use of respective legal means for the protection of human and civil rights and freedoms and other constitutionally recognized values.

Establishment in the Administrative Offences Code of the Russian Federation of administrative fines significant in size, including for officials and juridical persons, in itself does not go beyond the powers of federal legislator which is entitled to envisage them for infringements upon public relations needing increased protection from the State. And bearing in mind the circumstance that object of the administrative offence envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation are public relations connected with realization of one of the most important civil rights in order to influence the decisions adopted by State bodies and State policy conducted by them, including by way of formation of respective public opinion, fixing of maximum size of administrative fine on the level of 300,000 roubles for officials and 500,000 roubles for juridical persons cannot be regarded as deprived of sufficient constitutional grounds.

At the same time courts, applying Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, must take into account the character of deviations from the rules of carrying out political activity by a non-commercial organization performing functions of a foreign agent, the scale and consequences of political actions organized and (or) held by it, as well as other circumstances characterizing the degree of public dangerousness of the committed administrative offence, and prescribe administrative fine in the maximum amount only if its imposition in smaller amount will not allow to properly ensure

prevention of the commission of new offences both by the offender himself and other persons. Other would mean non-observance of the requirements of necessity and proportionality when restricting human and civil rights and freedoms, following from Article 55 (Section 3) of the Constitution of the Russian Federation and addressed, within the meaning of its Article 18, not only to bodies of legislative and executive authority, but to courts as well.

As far as minimum amounts of administrative fines envisaged by Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation are concerned, which for officials amount to 100,000 roubles and for juridical persons to 300,000 roubles, in the conditions when by virtue of Section 1 of Article 4.1 of this Code administrative penalty for the commission of an administrative offence in all cases without exception must be prescribed within the limits determined by sanction for a concrete administrative offence, application to non-commercial organizations and their officials of an administrative fine even in the indicated minimum amounts under certain conditions can lead to surplus restriction of the right of propertyof respective juridical and natural persons, being under the protection of Article 35 (Sections 1, 2 and 3) of the Constitution of the Russian Federation, and come into contradiction with the purposes of administrative responsibility, moreover, taking into account that deriving of profit and its subsequent distribution among participants of a non-commercial organization, according to Items 1 and 3 of Article 50 of the Civil Code of the Russian Federation,is not a basic destination of non-commercial organizations.

Since consistent observance of the principle of individualization of administrative responsibility having constitutional significance when applying administrative penalty, including administrative fine, requires, as it is envisaged by Sections 2 and 3 of Article 4.1 of the Administrative Offences Code of the Russian Federation, consideration of the character of the committed administrative offence, the degree of guilt of a person made answerable, his property and financial status, as well as circumstances extenuating or aggravating administrative responsibility, ensuring of individual approach to the imposition of an administrative fine meeting

constitutional requirements, whose lower boundary is established for officials in the sum of 100,000 roubles, and for juridical persons – 300,000 roubles, and besides its application is envisaged on non-alternative basis, becomes extremely difficult, and in some cases simply impossible.

These defects would not be linked with the risk of unconstitutional expenses if fixing of high minimum amounts of administrative fines was accompanied by establishment of more mild alternative administrative penalties, the possibility of prescription of an administrative penalty below the lowest bound, envisaged by a sanction for respective administrative offence, release from administrative responsibility or administrative penalty in case of active repentance of the offender and elimination of the committed breaches and their consequences, as well as by other legislative decisions giving to bodies and officials of the administrative jurisdiction efficacious means for the reaction to the committed administratively-unlawful action, fair and proportionate to it. But at present such possibilities are not provided for by the Administrative Offences Code of the Russian Federation, which does not exclude transformation of administrative fines having significant minimum amounts from measure of influence aimed at prevention of administrative offences into an instrument of excessive restriction of the right of property of natural and juridical persons incompatible with constitutional nature of administrative coercion in a law-governed State.

Thus, the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation envisaging minimum amounts of administrative fine for officials in the sum of 100,000 roubles and for juridical persons in the sum of 300,000 roubles does not conform to the Constitution of the Russian Federation, its Articles 17 (Section 3), 19 (Sections 1 and 2), 35 (Sections 1, 2 and 3) and 55 (Section 3) to the extent to which in the system of operating legal regulation admitting no prescription of an administrative penalty below the lowest bound established by a respective sanction it does not allow law applicator in all cases to take into consideration in an appropriate way the character and consequences of the committed administrative offence, the degree of guilt of a

person made administratively answerable, his property and financial status, as well as other circumstances having essential significance for individualization of administrative responsibility and thereby ensure prescription of a fair and proportionate administrative penalty.

The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and with consideration of the legal positions of the Constitutional Court of the Russian Federation expressed in the present Judgment, make necessary amendments to the Administrative Offences Code of the Russian Federation following from the present Judgment.

Until necessary amendments are made to the Administrative Offences Code of the Russian Federation, the amount of an administrative fine prescribed to officials and juridical persons for the commission of an administrative offence envisaged by Section 1 of its Article 19.34 may be reduced by court below the lowest bound determined by the sanction of this norm, on the basis of the requirements of the Constitution of the Russian Federation and with regard to legal positions of the Constitutional Court of the Russian Federation expressed in the present Judgment, in cases when imposition of an administrative fine in the bounds established by it does not answer the objectives of administrative responsibility and obviously entails surplus restriction of property rights of a person made administratively answerable.

Proceeding from the expounded and guided by Article 6, Section 2 of Article 71, Articles 72, 74, 75, 78, 79 and 100 of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation, the Constitutional Court of the Russian Federation

h e l d:

1. To recognize interconnected provisions of Item 6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law “On Non-Commercial Organizations” and Section 6 of Article 29 of the Federal Law “On Public Associations” as not contradicting the Constitution of the Russian Federation, so far as, singling out non-commercial organizations performing functions of a foreign agent and

establishing their obligation prior to the beginning of exercising political activity to forward to an authorized body an application on inclusion in the register of non-commercial organizations performing functions of a foreign agent, these legislative provisions within their constitutional-law meaning in the system of operating legal regulation:

are aimed at ensuring of transparence (openness) of the activity of non-commercial organizations receiving monetary means and other property from foreign sources and participating in political activity carried out on the territory of the Russian Federation in order to influence – directly or indirectly (by way of forming public opinion) – the decisions taken by State bodies and State policy conducted by them, contemplate no State interference with determination of the preferred content and priorities of such activity and do not mean negative legislative appraisal of non-commercial organizations performing functions of a foreign agent;

establish notification order of inclusion of non-commercial organizations in the register of non-commercial organizations performing functions of a foreign agent and do not hinder non-commercial organizations to freely search for and receive monetary means and other property both from foreign and Russian sources and use them for organization and holding of political activity, including in the interests of foreign sources;

proceed from the presumption of legality and conscientiousness of the activity of non-commercial organizations and do not deprive them of the right to court protection against unfounded demands of bodies of justice or prosecutor's office about forwarding of an application on inclusion – in the presence of the intention to participate in political activity or in the event of participation in it – in the register of non-commercial organizations performing functions of a foreign agent, imposing in this connection the burden of proof of the need to forward such an application on respective State bodies.

2. To recognize the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation fixing signs of *corpus*

delicti of an administrative offence envisaged by it as not contradicting the Constitution of the Russian Federation, so far as within its constitutional-law meaning in the system of operating legal regulation it contemplates no coming of administrative responsibility for carrying out by a non-commercial organization performing functions of a foreign agent political activity on the territory of the Russian Federation after forwarding in the established order to an authorized body an application on its inclusion in the register of non-commercial organizations performing functions of a foreign agent and admits no making officials and juridical persons administratively answerable for actions (inaction) forming signs of the objective side of the composition of this administrative offence, but having taken place prior to establishment of administrative responsibility for their commission.

3. The constitutional-law meaning of the interconnected provisions of Item 6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law "On Non-Commercial Organizations" and Section 6 of Article 29 of the Federal Law "On Public Associations", as well as the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation, revealed in the present Judgment, is generally binding and excludes any other interpretation of them in the law-applying practice.

4. To recognize the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation envisaging minimum amounts of administrative fine for officials in the sum of 100,000 roubles and for juridical persons in the sum of 300,000 roubles as not conforming to the Constitution of the Russian Federation, its Articles 17 (Section 3), 19 (Sections 1 and 2), 35 (Sections 1, 2 and 3) and 55 (Section 3) to the extent to which in the system of operating legal regulation admitting no prescription of an administrative penalty below the lowest bound established by a respective sanction it does not allow law applicator in all cases to take into consideration in an appropriate way the character and consequences of the committed administrative offence, the degree of guilt of a person made administratively answerable, his property and

financial status, as well as other circumstances having essential significance for individualization of administrative responsibility and thereby ensure prescription of a fair and proportionate administrative penalty.

5. The federal legislator must, proceeding from the requirements of the Constitution of the Russian Federation and with consideration of the legal positions of the Constitutional Court of the Russian Federation expressed in the present Judgment, make necessary amendments to the Administrative Offences Code of the Russian Federation following from the present Judgment.

Until necessary amendments are made to the Administrative Offences Code of the Russian Federation, the amount of an administrative fin, prescribed to officials and juridical persons for the commission of an administrative offence envisaged by Section 1 of its Article 19.34 may be reduced by court below the lowest bound determined by the sanction of this norm, on the basis of the requirements of the Constitution of the Russian Federation and with regard to legal positions of the Constitutional Court of the Russian Federation expressed in the present Judgment, in cases when imposition of an administrative fine in the bounds established by it does not answer the objectives of administrative responsibility and obviously entails surplus restriction of property rights of a person made administratively answerable.

6. Law-applying decisions on the cases of the foundation “Kostroma Centre for the Support of Public Initiatives and citizens A.PZamaryanov, N.V.Kalinina, L.G.Kuz’mina, L.V.Shibanova and V.P.Yukechev are subject to reconsideration, if they are based on the provisions of Item 6 of Article 2, Paragraph 2 of Item 7 of Article 32 of the Federal Law “On Non-Commercial Organizations”, Section 6 of Article 29 of the Federal Law “On Public Associations” and Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation in the interpretation diverging from their constitutional-law meaning revealed in the present Judgment or if the basis for their passing was the provision of Section 1 of Article 19.34 of the Administrative Offences Code of the Russian Federation to the extent to which it is recognized as not conforming to the Constitution of the

Russian Federation by the present Judgment, provided there are no other obstacles for it.

7. 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 and officials.

8. The present Judgment is subject to immediate publication in Rossiyskaya Gazeta, the Collection of Laws of the Russian Federation and on the official Internet-portal of legal information *(www.pravo.gov.ru.)* 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. 10-П