

By the Judgment of 16th December, 2014 No. 33-II/2014 the Constitutional Court gave appraisal of constitutionality of the provisions of Items 17 and 18 of Article 71 of the Federal Law “On Fundamental Guarantees of Electoral Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation” and Sections 3 and 4 of Article 89 of the Federal Law “On Elections of Deputies of the State Duma of the Federal Assembly of the Russian Federation”.

The subject-matter of consideration were normative provisions on the basis of which registered candidate to deputies of the State Duma, included in the federal list of candidates admitted to the distribution of deputies’ mandates, having received deputy’s mandate and subsequently having voluntarily discontinued his deputy’s powers is granted the right to participate again in substitution (receipt) of a deputy’s mandate which has become vacant in connection with early discontinuance of deputy’s powers by another deputy of the State Duma, included in the same federal list of candidates.

The Constitutional Court recognized the contested provisions as not conforming to the Constitution of the Russian Federation insofar as they envisage no exclusion of a person having received deputy’s mandate from the federal list of candidates to deputies of the State Duma admitted to the distribution of deputies’ mandates and at this allow to hand over vacant deputy’s mandate to a person having earlier received a deputy’s mandate and subsequently having voluntarily early discontinued to exercise deputy’s powers, deprive registered candidate, forming part of the federal list and having got no mandate of a deputy of the State Duma, of the possibility to realize the right to substitute deputy’s mandate in the order of priority.

This decision does not bring into question the right of a political party during distribution of vacant deputies’ mandates available in connection with early discontinuance of powers of deputies of the State Duma to deviate from the order of priority of the disposition of registered candidates in the federal list of candidates, taking into account circumstances having arisen (revealed) in the

period after the elections, which could influence the decision of a political party to nominate a concrete person as candidate to deputies inside the list of candidates nominated by it, and such a decision must contain indication at concrete circumstances in connection with which the guiding body of the political party deviated from the order of priority of the disposition of registered candidates in the list of candidates, which can be verified in essence in the judicial order.