

By the Judgment of 1st December, 2015 No. 30-II/2015 the Constitutional Court gave appraisal of constitutionality of Sections 4, 5 and 5¹ of Article 35, Sections 2 and 3¹ of Article 36 of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” and Section 1¹ of Article 3 of the Law of the Irkutsk Region “On Individual Questions of Formation of Bodies of Local Self-Government of Municipal Entities of the Irkutsk Region”.

The contested provisions of the said Federal Law were the subject-matter of consideration so far as on their basis the order of formation of a representative body of a municipal district, urban district with intra-urban division, the way of filling of the post of head of a municipal entity and his place in the structure of bodies of local self-government are determined in accordance with the law of a subject of the Russian Federation and the charter of a municipal entity, and heads of settlements, elected by representative bodies from the number of candidates, recommended by the contest commission on the outcome of the contest, may form part of the representative body of a municipal district formed of representatives of settlements.

The subject-matter of consideration were also the contested provisions of the indicated Law of the Irkutsk Region, envisaging with regard to an urban district, on whose territory the administrative centre of the Irkutsk Region is located, the only possible way of filling the post of head of an urban district and determining his place in the structure of bodies of local self-government as heading local administration.

The Constitutional Court recognized the contested provisions of the Federal Law “On General Principles of Organization of Local Self-Government in the Russian Federation” as not contradicting the Constitution of the Russian Federation so far as they:

contemplate the possibility of reproduction by laws of subjects of the Russian Federation both alternative versions and the only possible version of the order of formation of representative bodies of municipal districts, urban districts with intra-urban division, the order of election and place in the structure of bodies of local self-government of heads of municipal entities – municipal districts, urban districts,

intra-urban districts as well as those urban settlements that by the degree of concentration of public functions and tasks entrusted to them and by their character having State significance are comparable with urban districts;

allow no reproduction by laws of subjects of the Russian Federation of the only possible version of the order of election and place in the system of bodies of local self-government of head of a municipal entity of rural settlements as well as those urban settlements, which do not belong to urban settlements indicated in the previous paragraph, and may not restrict the possibility to envisage in charters of these municipal entities election of head of the settlement on municipal elections as well as independently determine the place of head of the municipal entity in the structure of bodies of local self-government of a respective settlement;

when reproducing by laws of subjects of the Russian Federation of specific version of the order of formation of a representative body, the order of election and place in the structure of bodies of local self-government as the only possible with regard to individual municipal entities belonging to one and the same kind of municipal entities, contemplate application of normatively fixed criteria of determination of the composition of such municipal entities, reflecting objective peculiarities of exercise of local self-government, including the degree of concentration of public functions and tasks entrusted to them, by their character having State significance. In any event, they allow the possibility of such reproduction as the only possible version with regard to a municipal entity, to which directly or within a certain category of municipal entities special (particular) legal status has been attributed by the federal law, influencing the exercise of local self-government on this territory as well as with regard to the administrative centre (capital) of a subject of the Russian Federation;

contemplates no entering in the composition of a representative body of heads of settlements, elected by representative bodies of settlements out of the number of candidates, recommended by a contest commission on the outcome of the contest.

The Constitutional Court also recognized as not contradicting the Constitution of the Russian Federation the contested provisions of the Law of the Irkutsk Region.

In the event of formation in any municipal entity of bodies of local self-government contrary to the constitutional law meaning of the contested norms revealed in this Judgment, these bodies of local self-government shall continue to function till the end of the term for which they were elected (formed). Heads of settlements, elected by the representative bodies from the number of candidates recommended by the contest commission on the outcome of the contest and forming part of the representative body of a municipal district, are subject to replacement by representatives from the number of deputies of representative bodies of settlements. If amendments envisaging the way of filling the post of head of a rural settlement in accordance with the law of a subject of the Russian Federation have not been made to the charter of a rural settlement by the moment of entry of this Judgment into force, respective rural settlements are entitled to preserve the former model of the structure of bodies of local self-government, applied by them prior to adoption of a respective law of a subject of the Russian Federation.