

Prospects of Regional Constitutional Justice in Russia

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ABSTRACT

The study is devoted to the analysis of regional constitutional justice in Russia. The study examines the legal nature of the constitutional (statutory) courts of the constituent entities of the Russian Federation, their powers and possibilities for further development, as well as conducts a critical analysis of the decisions of the Constitutional Court of Russia, including the Opinions of the Constitutional Court of March 16, 2020, which, in fact, may lead to the liquidation of the above courts, since, According to the Court, the Constitution contains an exhaustive list of courts within the judicial system of the Russian Federation, and this list does not contain constitutional (statutory) courts of the constituent entities of the Federation; describes the negative consequences of such a scenario. The result of the study is the justification for the need to preserve regional constitutional justice of constitutional (statutory) courts of the constituent entities of the Russian Federation, as well as the right of the constituent entities to their judicial systems within the framework of the judicial system of the Russian Federation. This is possible if based on Article 118 of the Constitution of the Russian Federation in a new version the federal legislator leaves a dispositive norm granting regions the right to establish their constitutional (statutory) courts in the Federal Constitutional Law "On Judicial System in the Russian Federation". The significance of such a decision is certainly great, since these courts are not only one of the signs of the statehood of the constituent entities of the Federation, but also the most important tool for protecting the rights, freedoms and legitimate interests of citizens living in the territories of the relevant constituent entities. Further developments related to the adoption of a number of federal laws in order to bring them into line with the Constitution after the adoption of amendments to it, will show the prospects for the development of regional constitutional justice and the entire judicial system of Russia as a whole. Consequently, further research on the subject will be required, taking into account the relevant developments.

Keywords: *Constitutional (statutory) courts of subjects, legal positions of the Constitutional Court of the Russian Federation, human rights, trends of regional constitutional justice*

I. INTRODUCTION

The formation of a new statehood of Russia occurred at the beginning of the 1990s of the last century. It was then that the institutions were created that never existed in the Soviet period, such as the institution of the president, the institution of the permanent parliament, the institution of the constitutional justice, etc.

The creation of the Constitutional Court of the Russian Federation, in particular, epitomized a new stage in the development of the state and society. Thus, the authorities expressed their readiness to function within the framework of the constitutional field and be controlled by a specialized body that exercises high professional constitutional judicial control. The Constitutional Court was thus embedded in the mechanism of separation of powers, thus creating an important counterweight to the legislative and executive powers. In accordance with the then existing Constitution and the Law on the Constitutional Court adopted on July 12, 1991, the Constitutional Court was proclaimed the highest body of the judiciary for the protection of the constitutional system

and was vested with rather broad powers. In particular, the Court exercised judicial power by considering cases on the constitutionality of international treaties and normative acts (laws, decrees of the President, decisions of the Government, etc.), the activities of political parties and other public associations, law enforcement practice, resolving disputes on the competence between various state bodies, and issuing conclusions in cases established by the law. In the future, the competence of the Court has changed. An equally important achievement was the formation of regional constitutional justice bodies, i.e. courts of the constituent entities of the Russian Federation. Given the great importance of constitutional justice for the construction of a legal and democratic state, let us express some opinions specifically about the constitutional (statutory) courts of the constituent entities of the Russian Federation.

According to Part 3 of Article 118 of the Constitution of the Russian Federation, "the judicial system of the Russian Federation is established by the Constitution and the Federal Constitutional Law". At the same time, the Federal Constitutional Law has the greatest legal force after the Constitution of the Russian Federation, surpassing other federal laws, including procedural codes. The

constitutional (statutory) courts of the constituent entities of the Russian Federation are part of the judicial system of Russia and are provided for in Article 27 of the Federal Constitutional Law “On Judicial System in the Russian Federation”.

It is known that today constitutional justice is represented at two levels: federal – the Constitutional Court of the Russian Federation and regional – constitutional and statutory courts of the constituent entities of the Russian Federation.

Needless to say that the Constitutional Court of the Russian Federation has the leading role in establishing the constitutional justice, and its activities directly affect both legislation and constitutional (statutory) proceedings in the constituent entities of the Federation. Despite the fact that the bodies of the regional constitutional justice have their competence, in almost all aspects of their activities they are guided by the Constitutional Court of the Russian Federation, including substantiating their decisions with legal positions expressed in the decisions of the Constitutional Court of the Russian Federation. In this regard, the principles of activity and procedure of constitutional (statutory) courts are established not arbitrarily, but by analogy with the norms of the Federal Constitutional Law “On the Constitutional Court of the Russian Federation”, which determines the development directions common to the entire constitutional justice.

The competence of constitutional (statutory) courts of the constituent entities of the Russian Federation is established by Part 1 of Article 27 of the Federal Constitutional Law “On Judicial System in the Russian Federation”, constitutions, charters of the constituent entities of the Russian Federation and their laws on given courts.

At first glance it may seem that the subject of verification in regional justice bodies and federal courts intersects, if we talk about checking regional and municipal acts. That is not really true. Constitutional (statutory) courts check regional and municipal acts for compliance with constitutions and charters of the constituent entities, while the courts of the general jurisdiction and the arbitration courts – for compliance with the federal law. At the same time, the same municipal act may comply with the federal law and do not comply with the regional basic law, for example, if the latter provides an expanded list of rights and guarantees compared to the federal law.

By checking the act for compliance with the constitutions and charters of the constituent entities, the regional body of constitutional justice can and should not only base its decision on the text of the Basic Law, but also on the entire federal and regional legislation. This does not mean that such a court checks the act for compliance with the federal law, but it can use the federal law to understand the provisions of the constitution or the statute of the relevant entity, which, like any Basic Law, has concise and, to a certain extent, declarative content.

It should also be noted that the consideration of citizens’ requests for verification of acts is not a right, but a duty of constitutional (statutory) courts, since according to Part 1 of Article 47 of the Constitution of the Russian Federation, “no one can be deprived of the right to consider his case in

that court and by the judge to whose jurisdiction it is assigned by law”. For a proper consideration of the case, the court is simply obliged to address the entire array of the Russian legislation, and not be limited only to regional or municipal norms. A different interpretation would deprive constitutional (statutory) courts of the opportunity to comprehensively consider citizens’ appeals. In addition, the regional court does not compare the checked norm with the federal law, but, as already stated, reveals the content of the norms of the Basic Law through concepts, categories and designs used in the federal law.

It is worth paying attention to another interesting feature of those regions where the constitutional (statutory) courts were created – the presence of alternative jurisdiction. In those constituent entities of the Russian Federation where the bodies of the regional constitutional justice are not created, a citizen, challenging, for example, municipal acts, can appeal only to federal courts. In the same entities where the constitutional (statutory) courts are established, a citizen can choose whether to apply to the constitutional justice authorities or to the federal court for the protection of his rights, he can even file two parallel appeals. For procedural legislation, this is a standard situation referred to as alternative jurisdiction of the applicant’s choice, and it occurs not only when challenging acts.

This right of a citizen to determine a court to protect his rights is guaranteed by Article 45 of the Constitution of the Russian Federation, and the choice of a constitutional (statutory) court by citizens as a court to protect their rights and freedoms indicates their effectiveness and relevance.

The availability of a constitutional or statutory court in a constituent entity of the Russian Federation is a positive factor. In addition to the already mentioned possibility for the inhabitants of this constituent entity to have an additional mechanism for protecting their rights, such a court acts as an important sign of statehood representing high level of development of the entire system of state authorities in this constituent entity, including legislative, executive and judicial bodies. It can be said that the constituent entities of the Russian Federation, where there are no constitutional (statutory) courts, violate the constitutional principle of separation of powers enshrined in Article 10 of the Constitution of the Russian Federation. This principle is universal, i.e. it must be implemented at both federal and regional levels.

2. MATERIALS AND METHODS

The methodological basis of the study includes both general scientific and special methods (systemic-structural, formal-logical, historical, comparative-legal, etc.). The normative and empirical basis consists of the Constitution of the Russian Federation (including the latest amendments that entered into force on July 4, 2020), the constitutions and charters of the constituent entities of the Russian Federation, as well as decisions of the Constitutional Court of the Russian Federation that mediate the studied relations of the constitutional

(constitutional) courts of the constituent entities of the Russian Federation.

3. ON THE PLACE OF CONSTITUTIONAL (STATUTORY) COURTS IN THE JUDICIAL SYSTEM OF THE RUSSIAN FEDERATION:

It is known that the judicial system of the Russian Federation is formed by the federal courts and the courts of the constituent entities. The latter include constitutional (statutory) courts and the magistrate's courts. But if the magistrates function in all constituent entities of the Federation, then the constitutional (statutory) courts are created in only 15 constituent entities (in 12 republics – constitutional courts, in 2 regions – Sverdlovsk and Kaliningrad and the city of federal significance St. Petersburg – statutory courts). In another 34 constituent entities, the creation of such courts is recorded in their constitutions (statutes), however, so far there is no progress related to the establishment of these courts [1–5]. The constitutional (statutory) courts of the constituent entities of the Russian Federation under the Federal Constitutional Law “On Judicial System in the Russian Federation” are part of the judicial system of the Russian Federation. However, they are defined as courts of the constituent entities of the Russian Federation, each of which independently decides on their creation, i.e. the constituent entities have the right, but are not obliged to create such courts.

It should be noted that similar courts exist in some other federations. For example, in Germany, constitutional courts operate in all lands, and in Switzerland in two cantons [6, 7].

Thus, the constitutional (statutory) courts (their main purpose is to serve the constitutions (charters) of the constituent entities of the Russian Federation, to ensure the real separation of powers, to protect society from the state and the constitution (charter) from society and functionaries) are objectively determined by the special sphere of state legal relations, fit into the state legal reality of the constituent entities of the Russian Federation and embody the constitutionally permissible exercise of judicial power in the form of constitutional proceedings at the level of these constituent entities [8].

The basic powers of constitutional (statutory) courts are determined by the Federal Constitutional Law “On Judicial System in the Russian Federation”. It stipulates that these courts are created by a constituent entity of the Russian Federation to consider issues of compliance with the laws of the constituent entity of the Russian Federation, regulatory acts of state authorities of the constituent entity, local self-government bodies of the constituent entity, the constitution (charter) of the constituent entity of the Russian Federation, and also interpret the constitution (charter) of the constituent entity of the Russian Federation; decisions taken by them within their powers cannot be reviewed by another court.

Interpreting these provisions, the Constitutional Court of the Russian Federation concluded that the competence of the constitutional (statutory) courts established by the federal law is not exhaustive, and the regional legislator has the right, taking into account the nature of these courts and within the limits of his powers, without violating the competence of the federal courts, to supplement the federally established powers of the constitutional (statutory) courts [9]. Such additional powers of these courts, which are reflected in the legislation of the constituent entities of the Russian Federation, include, in particular: resolving disputes on the competence between state authorities of the constituent entity of the Russian Federation, between these bodies and local authorities; verifying the constitutionality of the treaties of the constituent entity of the Russian Federation; checking the constitutionality of the acts applied or to be applied in a particular case by citizens' complaints; implementing preliminary standard control (draft) acts amending and supplementing the constitution (charter), as well as acts submitted for referendum; participating in the procedures related to the dissolution of the legislative (representative) body of state power and the removal of the highest official of the constituent entity of the Russian Federation from office, with his taking the oath; providing a court message to the parliament of the constituent entity of the Russian Federation [10–15].

In accordance with the current legislation, the constitutional (statutory) courts serve the purposes of protecting the constitutional system, the fundamental rights and freedoms of a person and a citizen, the rule and direct operation of constitutions (charters) in the territory of the relevant constituent entity of the Russian Federation. They deal exclusively with the issues of law, refrain from establishing and investigating factual circumstances whenever it falls within the competence of other courts and other bodies; do not consider cases pending before the Constitutional Court of the Russian Federation (for example, defined by law in the Republic of Adygea). The right to communicate to these courts when they exercise standard control in some cases is vested not only with state authorities and local self-government bodies of the constituent entities of the Russian Federation, but also with federal bodies – prosecutors and federal courts at the level of the constituent entity of the Russian Federation, as well as magistrates, public associations (the associations of low-numbered peoples of the North are especially distinguished in the Republic of Sakha (Yakutia)), human rights commissioners, notary chambers, etc. [16].

In accordance with Article 4 of the Federal Constitutional Law “On Judicial System in the Russian Federation”, the Russian Federation has federal courts, constitutional (statutory) courts and magistrates of the constituent entities of the Russian Federation, which make up the judicial system of the Russian Federation. The courts of the constituent entities of the Russian Federation include: constitutional (statutory) courts of the constituent entities of the Russian Federation, magistrates who are judges of the general jurisdiction of the constituent entities of the Russian Federation; Constitutional Court of the Russian

Federation; Supreme Court of the Russian Federation; courts of cassation of general jurisdiction, courts of appeal of general jurisdiction, supreme courts of the republics, regional, regional courts, courts of the federal cities, courts of autonomous regions and autonomous areas, district courts, military and specialized courts, make the system of federal courts of general jurisdiction; district arbitration courts, arbitration appeal courts, arbitration courts of the constituent entities of the Russian Federation and specialized arbitration courts make up the system of federal arbitration courts.

The analysis of these provisions of the given article leads to the following conclusions:

- the totality of all existing courts in Russia constitutes the judicial system of the Federation.
- there are other systems within this system, namely the system of federal courts of general jurisdiction and the system of federal arbitration courts.
- the Constitutional Court of Russia is not included in any other system of federal courts within the judicial system.
- there are no other judicial systems (for example, the judicial systems of the constituent entities of the Russian Federation) other than the federal judicial system.
- neither constitutional (statutory) courts nor magistrate's courts of the constituent entities of the Russian Federation are united in separate systems of courts (neither together, nor each group separately).

Thus, the law provides for the possibility of the existence of a single judicial system of Russia and other systems, but at the moment these other systems include only federal courts. We believe that the regional courts also have the right to form their judicial systems within the framework of the unified judicial system of Russia.

4. ANALYSIS OF THE DECISION OF THE CONSTITUTIONAL COURT OF THE RUSSIAN FEDERATION OF MARCH 6, 2003

In this regard, the decision of the Constitutional Court of the Russian Federation of March 6, 2003 seems particularly interesting. So, at the request of the State Assembly of the Republic of Bashkortostan and the State Council of the Republic of Tatarstan the Court checked the constitutionality of part 1 of Article 27 of the Federal Constitutional Law "On Judicial System in the Russian Federation" [9]. This decision is important in solving the problem of determining the limits of competence of constitutional (statutory) courts of the constituent entities of the Russian Federation [17]. Is the judicial system of a constituent entity of the Russian Federation [18] possible? In the framework of this case the Constitutional Court of Russia thus interpreted the constitutional provisions that the judicial system of the constituent entity of the Federation was denied the very right to exist. What were the arguments of the Constitutional Court?

The court relied in its arguments on the following norms of the Constitution of the Russian Federation: Clauses "g" and "o" of Article 71, Part 3 of Article 118 and Part 3 of Article 128.

Thus, the decision says: "The Constitution of the Russian Federation refers to the jurisdiction of the Russian Federation as a judicial system (Article 71, clause "o") and the establishment of the system of federal bodies of the judiciary, their organization and activities (Article 71, clause "g"), as well as the establishment of the judicial system of the Russian Federation as a whole, which by virtue of Article 118 (Part 3) is determined exclusively by the Constitution of the Russian Federation and federal constitutional laws, and the powers, procedure for the formation and operation of federal courts are established by the federal constitutional law (Article 128, Part 3)".

The clause "o" of Article 71 of the Constitution of the Russian Federation, which contains a list of federal subjects of competence, states that only the Russian Federation independently determines the judicial system. Thus, the Federal Constitutional Law "On Judicial System in the Russian Federation" establishes all types of such courts. At the same time, the legislator established not only federal, but also regional courts. Consequently, clause "o" of Article 71 itself is not an obstacle to the creation of the judicial system of the constituent entity of the Federation.

According to Article 71, Clause "g" of the Constitution, the federal responsibility includes the establishment of a system of federal judicial authorities, the procedure for their organization and activities. It can be seen that this rule mediates relations related only to federal courts, without affecting regional courts. Accordingly, it does not prohibit both the creation of the latter and the formation of the judicial system itself from them.

The Court further refers to Article 118 of the Constitution of the Russian Federation and, based on its content, concludes that the Russian Federation is responsible for "the establishment of the judicial system of the Russian Federation as a whole, which, by virtue of Article 118 (Part 3), is determined exclusively by the Constitution of the Russian Federation and federal constitutional laws". However, there is no term for "the judicial system of the Russian Federation as a whole". The Constitution uses such construction as the "judicial system of the Russian Federation". At the same time, applying the first of these terms, the Court, in fact, indirectly recognizes the very possibility of the existence of other judicial systems, since, if there is a judicial system of the state as a whole, there should be its constituent parts – judicial systems of its constituent parts.

The Constitutional Court further appeals to Part 3 of Article 128 of the Constitution of Russia, which stipulates: "The powers, procedure for the formation and activities of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, the Supreme Arbitration Court of the Russian Federation and other federal courts are established by the federal constitutional law". There is not a single word about the courts of the constituent entities, and even more – there is no ban on their creation.

However, on the basis of these constitutional provisions, the Court concludes: “The question of the delineation of competence in the field of establishing the judicial system in the Russian Federation is thus unequivocally resolved by the Constitution of the Russian Federation itself, which in this case does not imply the delegation of powers of the Russian Federation to its constituent entities, since the federal legislator has the obligation to independently determine the list of existing courts, the system of procedural instances and their competence; the Constitution of the Russian Federation provides for the existence of a unified federal judicial system of the Russian Federation, which includes courts operating in the constituent entities of the Russian Federation, and does not imply independent judicial systems of the constituent entities of the Russian Federation”. In fact, the federal legislator has an obligation to determine independently the list of existing courts, the system of procedural instances and their competence, but this does not deny the rights of entities to their own judicial system, which consists of those regional courts whose list is approved by the federal constitutional law. As can be seen, the Constitutional Court quite freely here interprets the text of the Basic Law [19].

The court in its decision emphasizes: the Federal Constitutional Law “On Judicial Systems in the Russian Federation” in the procedure for implementing the competence of the Russian Federation, established by Article 71 (Clause “o”) of the Constitution of the Russian Federation, along with federal courts operating in the constituent entities of the Russian Federation, provides for the courts of the constituent entities of the Russian Federation, namely constitutional (statutory) courts of the constituent entities of the Russian Federation and magistrates who are judges of the general jurisdiction of the constituent entities of the Russian Federation (Article 4, Clause 4), which together with the federal courts are part of the judicial system of the Russian Federation (Article 4, Clause 2). Consequently, constitutional (statutory) courts and the magistrate’s courts operate on the basis of the Constitution of the Russian Federation and federal laws and cannot be considered as an independent system of judicial power of a constituent entity of the Russian Federation that is not part of the judicial system of the Russian Federation.

What is this conclusion based on? On the absence or small number of such courts? But this is not the fault, but, rather, the trouble of the constituent entities of the Russian Federation. Perhaps, at this historical stage, the creation of some other courts is indeed impossible or impractical. But after some time, it may become necessary and possible to create, for example, administrative, labor, juvenile and other courts at the level of constituent entities, then the judicial system will form from them or will it still be a simple set of regional courts?

Conspicuous is the following thesis contained in the reasoning part of this decision: regional courts, together with federal courts, are part of the judicial system of the Russian Federation, but cannot be considered as an independent system of judicial power of a constituent

entity of the Russian Federation that is not part of the judicial system of the Russian Federation. At least four groups of questions thus follow.

1. Are the courts of constituent entities included in the judicial system of the Russian Federation alone, since they are refused to “group” into the system? Why can’t they join as a regional system?
2. Why in this part of the decision does the Court refuse to use the term “judicial system of a constituent entity of the Russian Federation” and resort to the use of a different term, namely, “the system of judicial power of a constituent entity of the Russian Federation”? We believe that these concepts are not identical.
3. Does the formula “regional courts cannot be considered as an independent system of judicial power of a constituent entity of the Russian Federation” mean recognition of the possibility of the existence of a “non-independent system of judicial power of a constituent entity of the Russian Federation”?
4. What is the main negation in the analysis: “regional courts cannot be considered as an independent system” or “regional courts cannot be considered as an independent system outside the judicial system of the Russian Federation”?

The failure to recognize the judicial system of the constituent entities of the Russian Federation, in our opinion, runs counter to the constitutional principle of separation of powers. The latter involves the establishment and functioning of legislative, executive and judicial bodies at both the federal and regional levels. There are opinions in the legal literature that support this position. V.A. Kryazhkov, for example, commenting on the decision of the Constitutional Court of February 1, 1996 on the “Chita Case” [20], writes that “in the constituent entity of the Federation, its own judicial system can be formed within certain limits” [21].

5. AMENDMENT TO ARTICLE 118 OF THE CONSTITUTION OF THE RUSSIAN FEDERATION: DOES REGIONAL JUSTICE HAVE A CHANCE?

The issue of the possibility of recognition of the judicial systems of constituent entities may generally be closed in the light of recent events, since now there is a danger of the liquidation of the constitutional (statutory) courts themselves. It is known that in 2020, numerous amendments were included in the Constitution of the Russian Federation regarding various aspects. In the light of the above, a new version of Article 118 of the Constitution of the Russian Federation seems interesting. Part 3 of this article is supplemented by the following provision: “The judicial system of the Russian Federation is composed of the Constitutional Court of the Russian Federation; Supreme Court of the Russian Federation; federal courts of general jurisdiction; arbitration courts; magistrates’ courts of the constituent entities of the Russian Federation”. Thus, the list of courts constituting

the judicial system appeared in the text of the Constitution. Prior to this, the list was only in the law on the judicial system. It may be noted that this list differs from the list contained in Article 4 of the above law. In particular, the constitutional (statutory) courts of the constituent entities of the Russian Federation, which, as already noted, operate in a number of regions of Russia, were not included in the system of courts of the constituent entities. This wording raises some questions, since the first sentence of Article 118 was not amended. According to this rule, “the judicial system of the Russian Federation is established by the Constitution of the Russian Federation and the federal constitutional law”, i.e. two sources according to which this system is established are indicated here. The interpretation of this rule implies that both the Constitution and the federal constitutional law “On Judicial System in the Russian Federation” establish the judicial system and in this sense their lists may not coincide. In other words, the law may contain courts that are not established in the Constitution and vice versa. Meanwhile, the Constitutional Court of the Russian Federation, which carried out a preliminary check of the text of the law on the amendment of the Constitution, indicated in its Opinion in this part that the list of courts presented in the new version of Article 118 of the Constitution of the Russian Federation is exhaustive [22].

The answer to the question whether constitutional (statutory) courts will be preserved will be given in the Federal Constitutional Law “On Judicial System in the Russian Federation”, which, after the entry of amendments to the Constitution into force, will also be subject to changes. There appear to be at least two possible scenarios. The first is that the legislator, relying on the new version of Article 118 of the Constitution and the Conclusion of the Constitutional Court, will simply bring Article 4 of the law into line with Article 118 of the Constitution, which will mean the elimination of fifteen existing courts of constituent entities. Such an option will be extremely undesirable, since it will affect not only specific people (judges of these courts) [23], but also the institutions of the constituent entities of the Federation, and, therefore, the principle of federal structure will be grossly violated. It is known that according to Part 2 of Article 11 of the Constitution of the Russian Federation, the state power in the constituent entities of the Russian Federation is exercised by the bodies of state power formed by them. The constitutional (statutory) courts are thus regional authorities. Their elimination without taking into account the opinion of the constituent entities by decision of the federal government alone will indicate serious corrosion of the federal structure of the country. Such issues, of course, should be addressed by the actors themselves. It was they who created these courts and no one has the right to deprive them of this right.

The second scenario, in our opinion, corresponds to the current level of development of federal relations. It is for the constituent entities to decide on their own in order to preserve or abolish the existing courts. This is the exclusive prerogative of the actors themselves. Speaking at the meeting of the Working Group on Draft Amendments

to the Constitution, The President of the Russian Federation said responding to a question regarding constitutional (statutory) courts that such courts existed and that, in his opinion, the most powerful entities were able to have them in the structure of regional power.

The absence of constitutional (statutory) courts in most constituent entities of the Russian Federation not only indicates a violation of the principle of the organization of state power, but also leads to a violation of another important constitutional principle – the equality of citizens before the law and the court, regardless of their place of residence (Article 19 of the Constitution of the Russian Federation). It is obvious that in those constituent entities of the Russian Federation where these courts are formed and operate, the citizens receive a double level of judicial protection [24]. One cannot but agree with B.S. Ebzeev, who writes: “the constituent entities of the Russian Federation, where there are constitutional (statutory) courts, are in a position more favorable to the population and to ensure its rights than the absolute majority of constituent entities who, although they have a proper legislative framework, cannot decide to create this institution” [25].

6. CONCLUSION

Considering many years of controversy in scientific circles regarding the legal nature of constitutional (statutory) courts, and in particular the issues of their independent significance [26], we nevertheless believe that their existence is extremely necessary, since they have specific features, such as:

- they are the highest judicial bodies of the constituent entities in the field of constitutional procedure;
- they resolve special categories of legal conflicts that are not under the jurisdiction of any other court;
- their activities are based on special rules (rules for filing applications, holding a meeting, execution of decisions, etc.);
- their activities are regulated primarily by the constitutions (charters) of the constituent entities of the Federation, i.e. their basic laws.

The activities of the bodies of regional constitutional justice undoubtedly play an important stabilizing role in the system of authorities at the level of the constituent entities of the Russian Federation. Meanwhile, the place they occupy in the judicial system of the Federation at the present stage does not meet their high status. The federal legislator, unfortunately, focused all his regulatory efforts only on the federal courts, while the federal state should not only allow the existence of regional courts, but also support their functioning in every possible way. Today, it is the constitutional (statutory) courts that act as real regional courts (world justice, in fact, is a continuation of the federal system of general courts).

In this regard, the opportunity to abolish these courts is particularly relevant. In the event of the worst-case scenario, damage will be caused not only to the judicial

system, not only to the constituent entities of the Federation, but also to Russia as a whole, which is proclaimed as a legal, democratic, federal state in the Constitution. The compliance with these constitutional principles is the key to the progressive development of the Federation, its constituent entities and their institutions, including to ensure respect for constitutional legality, judicial protection of human and civil rights and freedoms at federal and regional levels.

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REFERENCES

- [1] V.A. Kryazhkov, Regional constitutional justice: state and ways of development, *Comparative constitutional review* 3(60) (2007) 156-162.
- [2] O.V. Brezhnev, Problems of organization and implementation of judicial constitutional control in the constituent entities of the Russian Federation, Kursk, 2005.
- [3] D.S. Petrenko, Constitutional (statutory) justice in the constituent entities of the Russian Federation (modern legal problems and prospects), Moscow, 2007.
- [4] S.E. Nesmeyanova, Problems of formation and development of constitutional control bodies in the constituent entities of the Russian Federation, Chelyabinsk, 2003.
- [5] V.N. Demidov, Constitutional (statutory) justice of the constituent entities of the Russian Federation as an institution for the protection of human and civil rights and freedoms, Kazan, 2015.
- [6] V.V. Krovelschikova, Constitutional Courts of Germany, extended abstract of candidate dissertation, Tomsk State University, Tomsk, 2004.
- [7] E.V. Boldyreva, Regional constitutional control in federal states (using the example of the USA, Germany and Russia), *State power and local self-government* 2 (2007) 30-36.
- [8] V.A. Kryazhkov, Constitutional trial in the constituent entities of the Russian Federation, in: M.S. Salikov (Ed.), *Constitutional trial*, Moscow, 2020, pp. 204-219.
- [9] Decision of the Constitutional Court of the Russian Federation No. 103-O of March 6, 2003 at the request of the State Assembly of the Republic of Bashkortostan and the State Council of the Republic of Tatarstan on verification of the constitutionality of Part 1 of Article 27 of the Federal Constitutional Law “On the Judicial System of the Russian Federation,” *Bulletin of the Constitutional Court of the Russian, 2003, No. 4.*
- [10] O.A. Samarina, Application of legal positions of the Constitutional Court of the Russian Federation in social security cases by constitutional and statutory courts of the constituent entities of the Russian Federation, *Bulletin of Perm University. Legal sciences* 4(14) (2011) 137-142.
- [11] K.M. Khudoley, Legislative process in the constituent entities of the Russian Federation through the prism of constitutional interpretation, *Bulletin of Perm University. Legal sciences* 4(22) (2013) 101-110.
- [12] V.N. Demidov, Application of the norms of international law in the constitutional (statutory) justice of the constituent entities of the Russian Federation (on the example of the Republic of Tatarstan), *Bulletin of St. Petersburg University. Law* 1 (2013) 84-91.
- [13] M.A. Chekryga, On the issue of the execution of decisions of constitutional justice bodies, *Bulletin of Tomsk State University* 371 (2013) 144-145.
- [14] K.M. Khudoley, Competence of constitutional (statutory) courts of the constituent entities of the Russian Federation, *Bulletin of Perm University. Legal sciences* 2(24) (2014) 50-61.
- [15] V.N. Demidov, Constitutional (statutory) justice of the constituent entities of the Russian Federation as an institution for the protection of human and civil rights and freedoms, Kazan, 2015, pp. 72-100.
- [16] V.A. Kryazhkov, Constitutional trial in the constituent entities of the Russian Federation, in: M.S. Salikov (Ed.), *Constitutional trial*, Moscow, 2020, p. 206.
- [17] M.S. Salikov, Russian Federation, in: J. Kincaid, G.A. Tarr (Eds.), *Origin, Structure, and Change in Federal Countries*, McGill-Queen's University Press, Montreal and Kingston, 2005, p. 298.

[18] M.S. Salikov, Regional constitutional (statutory) courts: place in the judicial system of the Russian Federation, *Russian law: education, practice, science* 2-3 (2013).

[19] M.S. Salikov, S.E. Libanova, I.Yu. Ostapovich, Constitutional and control rulemaking in the context of the doctrine of a living Constitution, *Bulletin of Tomsk State University* 440 (2019) 219-230.

[20] Decision of the Constitutional Court of the Russian Federation No. -P of February 1, 1996 in the case of verifying the constitutionality of a number of provisions of the Charter – the Basic Law of Chita Region, *Bulletin of the Constitutional Court of the Russian Federation*, 1996, No. 1.

[21] B.S. Ebzhev (Ed.), *Commentary on the decisions of the Constitutional Court of the Russian Federation*, Moscow, 2000, vol. 1, p. 310.

[22] Conclusion of the Constitutional Court of the Russian Federation No. 1-Z dated 16.03.2020 on compliance to provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation of the provisions of the Law of the Russian Federation on the amendment to the Constitution of the Russian Federation “On improvement of Regulation of single issues of organization and functioning of the public power” which did not come into force, and on the conformity of

the Constitution of the Russian Federation with the procedure for the entry into force of Article 1 of this Law in connection with the request of the President of the Russian Federation, *Rossiyskaya Gazeta*, March 17, 2020.

[23] K.M. Khudoley, On some issues of appointing judges of constitutional (authorized) courts, *Bulletin of Perm University. Legal sciences* 4(26) (2014) 72-84.

[24] A.M. Tsaliev, Judicial power of the constituent entities of the Russian Federation: history and modernity, *Russian law: education, practice, science* 4 (2015) 38.

[25] B.S. Ebzhev, Constitutional justice in Russia: consistency and role in ensuring the unity and integrity of the Russian state, in: *Constitutional justice in the Russian Federation: legal regulation, experience, prospects*, Kazan, 2005, p. 15.

[26] K.M. Khudoley, Do you need a constitutional (statutory) court in the subject of the Russian Federation? *Bulletin of Perm University. Legal sciences* 34 (2016) 391-401.