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Deputy's request in the Constitutional Court of the RF against execution of the decisions of European Court of Human Rights

Abstract: In connection with inquiry of a group of the parliamentarian of the State Duma of RF, it is considered the most important issue of legal policy of Russian Federation - actually calling into question an applicability of the decisions of European court of human rights at our territory.

Keywords: European Court of human rights; Constitutional Court of Russian Federation; European Convention on Human Rights; ratification of European Convention on Human Rights; execution of the decisions of European Court of Human Rights.

Since, a matter of the request of a group of the deputies of the State Duma of the Federal Assembly of the RF may have scaled consequences for all people of Russia. An author has his own point of view on this matter, based on his long researches [7, p. 85-92; 8; 9; 10; 11, p. 64-72; 12, p. 90-101; 13, p. 53-63; 14, p. 96-104], and believes necessity to express his ideas as to this matter. Unfortunately, appointment of the consideration date happened very fast, and it is quite probable, that the present article will be published after awarding of a resolution of the Constitutional Court of the RF. It is possible, that point of view of the Constitution Court on an essence of the request will be opposite than the deputies', and it is possible, it could have been other if our point of view has been heard. There is remained to hope that in future, appointing the court sessions on important matters, the Constitution Court of the RF will provide an opportunity to scientific community to express their ideas, and position of the scientists and practitioners will not be ignored.

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I will say in the end…

The powers of the deputies of the State Duma of the RF are finalized soon, and a group of the parliamentarians as summarizing their activities decided to analyze the work, which has been earlier done by them and their colleagues of the earliest convocations, at a subject of constitutionality.

On 11th June 2015, 93 parliamentarians of the State Duma submitted a request on checking of constitutionality of the provisions of the article 1 of the Federal law "On ratification of 'Convention for the Protection of Human Rights and Fundamental Freedoms' and its Protocols", parts 1 and 4 of the article 11, cl. 4 of the part 4 of the article 392 of the Civil Procedure Code of the RF, parts 1 and 4 of the article 13, cl. 4 of the part 3 of the article 311 of the Arbitration Procedure Code of the RF, parts 1 and 4 of the article 15, cl. 4 of the part 1 of the article 350 of the Code of Administrative Court Procedure of the RF, cl. 2 of the part 4 of the articles 413 of the Criminal Procedure Code of the RF, cl. 1 and 2 of the articles of Federal Law "On international treaties of Russian Federation".

Preparatory to analyzing this request, let's remember some events prior entering of Russia in the Council of Europe and signing of the European Convention for the Protection of Human Rights and Fundamental Freedoms (further also – European Convention).

Do you remember how everything has begun…

First of all, we suppose pertinent to remind that the European Convention was just adopted only like a one of the first steps on the way of providing of collective implementation of some from the rights stipulated in the Universal Declaration of Human Rights. The idea of collective ensuring of the human rights and freedoms was arisen in the middle of 20 century, once the world community was tried to understand the reasons of barbarism of the Second World War and to make measures in order never to repeat this. Total contempt to human rights in fascist Germany turned out with millions victims at whole of the world. Shoot of disrespect to human rights and

freedoms in this country overgrew and gave terrible fruit – hatred and mass murders of people, moreover under cover-up of "the law", and then this turned out horrible war.

Universal Declaration of Human Rights was declared due to the facts that neglect and contempt to the human rights were caused barbarian acts, which revolt human conscience. Creation of the world, in which people will have freedom of speech and belief and will be free from fear and need, has been declared as high aspiration of people. That is an idea is the fact that a collective responsibility for ensuring of human rights and freedoms may provide a protection of these rights and freedoms, even when an individual is not be protected at his country, and to notify retreatment from the standards of respect of human rights and freedoms.

This idea is not alien to Russia, it had been long grown in our country, about which were testified the works of the Russian jurisprudents in 19 – at the beginning of 20 centuries. In 1991, with purpose of establishing of the rights and freedoms of man and citizen, his/her honour and dignity as a supreme value of the society and state, and necessity to lead the legislation of the RSFSR in compliance with generally recognized international standards of the rights and freedoms of man, the President of the RSFSR was lodged in the Supreme Soviet of the RSFSR a project of the Declaration of the rights and freedoms of man and citizen. The initiative of the President of the RSFSR was supported with Decision of the Supreme Soviet of the RSFSR no. 1920-I dated on 22 November 1991. Declaration of the Rights and Freedoms of Man and Citizen was accepted as main landmark for activity of all public bodies, according to which "*the rights and freedoms of man belong to him/her from birth. Generally recognized international norms, relating to the human rights, have an advantage before the laws of the RSFSR and directly create the rights and duties of the citizens of the RSFSR*".

On 7th May 1992, Russia officially lodged a statement about entering in the Council of Europe (before adoption of new Constitution of the RF). Later, Russia, being planned its participation in the Council of Europe and European Convention,

had submitted a project of Constitution of the RF at international expertise. Three plenary sessions of the European Commission for democracy through the law (Venetian Commission of the Council of Europe) were dedicated to the project of the Constitution of the RF [4, p. 81-100] and no wonder that many provisions of the Constitution of the RF coincide with the provisions of international treaties, to which Russia was planned to join.

The verbatim reports of the sessions of the State Duma, at which had been discussed the issues of joining to the Council of Europe and European Convention for the Protection of Human Rights and Fundamental Freedoms, clearly show that the main goal of joining to these international treaties was to provide the citizens of our country more protection from violation of the rights of man. So, being spoken at the session of the State Duma on June, 1994, V.P. Lukin, a chairman of the Committee of the State Duma on international affairs at that time, had explained that joining to the European Convention is a necessity for common people when their rights would be violated " to addition to our supporting they would be supported with the European structures; independently our attitude to these structures they have a long practice, very long and experienced technology of human rights activity" [1].

Under discussion of the issues on entering to the Council of Europe at the session of the State Duma in 1996, a chairman of the Committee of the State Duma on international affairs marked the following goals of entering to the Council of Europe: "If we enter to the Council of Europe then it would the single such case, when obviously that this is not benefit for our authorities, especially to executive ones. Opposite, it will be benefit to our citizens, to concrete citizens who have elected us, that is presented to be very important. Why? Because, the Council of Europe - an organization that is mainly involved in human rights activity. There is existed the European Court, and if we sign appropriate documents then the European Court would be made decisions on cases of concrete citizens, certainly, as soon these cases pass through all national judicial instances. I think this it is a good chance to prevent bureaucracy and arbitrariness our authorities, which sometimes is very strong" [2].

Under discussion of a project of the Federal law on joining of Russian Federation to the Charter of the Council of Europe, I.S. Ivanov, an official representative of the President of the RF, a first deputy of the Ministry of Foreign Affairs of the RF, a chairman of the Interdepartmental commission on preparation to joining of Russian Federation to the Council of Europe also pointed as argument that "a whole Chapter of the Russian Constitution on Rights and Freedoms of man and citizen had complied at the base of the Convention of the Council of Europe for Protection of the Human Rights and Fundamental Freedoms" [3].

Signing of the Convention, its ratification and transmission of the ratification instruments to the Council of Europe was the next step. The Federal law no. № 54-ФЗ of 30 March 1998 "On ratification of the European Convention for Protection of Human Rights and Fundamental Freedoms" included the provisions of the Convention into the legal system of Russia [17, p. 280-291; 18, p. 26-30].

Being joined to the Council of Europe and the Convention, Russia joined together with High Contracting Parties to collective commitments to provide of each, who is under their jurisdiction, the rights and freedoms set forth in the Convention (art. 1 of the Convention).

Uniqueness of the Convention is in the fact that it creates positive commitments of the states-participants thereby principally distinguishing from international treaties of classic type [5]. *All persons, who are under jurisdiction of a High Contracting Parties*, are the beneficiaries of it. The Convention creates the commitments of a state-participant concerning to the citizens of the country, to any individual, who is on its territory, including an obligation to apply effective means of protection against violations of the rights and freedoms, which protected with the Convention. Moreover, implementation of this commitment does not depend on interrelations with other states, is not a subordinated, like in common international law, to the principle of reciprocity.

It is unknown, whether it was taken into consideration by the group of deputies. Though, during examination of this request this data should be taken into account

with Constitutional Court of the RF. Though, we have some doubts that the most part of this request was generally subjected to consideration.

Was there a boy?

First of all, we will analyze the opportunity of considering of the matter about constitutionality of the article 1 of the Federal law "On ratification of Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols".

So, a group of parliamentarians of the State Duma is challenging conformity of the article 1 of the Law no. 54-ФЗ to the Constitution of the RF, as if there were no any attempts of the deputies of the State Duma to challenge the ratification instruments.

In definition of 2nd July 2013 no. 1055-O "On refusal to accept to consideration of the request of the deputies' group of the State Duma about checking to constitutionality of the Federal law "on ratification of the Protocol about joining Russian Federation to Marrakesh Agreement on establishing of the World Trade Organization dated on 15th April 1994" the Constitutional Court of the RF made clear that "checking by the Constitutional Court of Russian Federation of constitutionality of the Federal law about ratification of international treaty, … on common rule, might be fulfilled only before entering of this international treaty to a force… . Different would be contradicted to generally recognized principle of international law "pacta sunt servanda" and called into question an observance by Russian Federation of voluntarily accepted international commitments, including those, which come from the Vienna Declaration about the law of international treaties. In addition, this would be contradicted to the article 125 (cl. "g" of the part 2) of the Constitution of Russian Federation and specifying provisions of sub-clause "g" of the cl. 1 of the part 1 of the article 3 of Federal Constitutional law "On Constitutional Court of Russian Federation", in compliance with which the Constitutional Court of Russian Federation is authorized to resolve the matters about conformity to the Constitution

of Russian Federation, only those the international treaties of Russian Federation, which are not entered in a force".

We believe that in this case the above indicated legal position is also subjected to application. All the more, the group of parliamentarians, challenging constitutionality of the Law no. 54-ФЗ, contests the content of the international treaty. This follows from the fact that a text of the request formulated at the following way: "Article 1 of the Federal law "On ratification of Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols" no. 54-ФЗ from 30.03.1998, in which is confirmed recognition by Russian Federation "ipso facto" should be recognized incompliancy to the Constitution of Russian Federation also without special agreement of the European Court's jurisdiction in that part, in which the indicated norm allows recognizing and executing at a territory of Russian Federation judicial acts of the ECHR, entering in contradiction with the norms of the Constitution of Russian Federation and decisions of the Constitutional Court of Russian Federation".

So, phrase about recognition of "ipso facto" also without special agreement of jurisdiction of the European Court of Human Rights as a mandatory on the matters of interpretation and application of the Convention and its Protocols is a reproduction of the article 46 of the European Convention for Protection of Human Rights and Fundamental Freedoms in edition, which existed before the Protocol no. 11 to the Convention. This article of the Convention before entering into a force of the Protocol no. 11 said: "Any High Contracting Party may declare any time that it recognizes "ipso facto" and mandatory jurisdiction of the Court without special agreement in respect of the matters relating to interpretation and application by the present Convention".

Correspondingly, there is a hidden attempt in this matter to challenge a part of international treaty, in addition in a non-valid edition. We should remind that the Convention presently acts in wording of the Protocol no. 14, which was ratified by the Federal law no. 5-ФЗ dated on 4th February 2010 "On ratification of the Protocol

no. 14 to the Convention for Protection of Human Rights and Fundamental Freedoms introducing changes into a control mechanism of the Convention dated on 13th May 2004". The following rule is contained in an edition of the article 46 of the Convention: "High Contracting Parties undertake to abide by the final judgment of the Court in any case to which they are parties".

Moreover, the request of the deputies' based on wrongful presupposition that obligation of the decisions of the European Court of Human Rights follows only from the article 1 of the Law no. 54-ФЗ. This approach based on ignoring of the Federal Constitutional law no. 1-ФКЗ dated on 31st December 1996 "On judicial system of Russian Federation", in part 3 of the article 6 of which is fixed: "Obligatoriness of the decisions… of international courts in a territory of Russian Federation is determined with international treaties of Russian Federation". This norm could not be disputed by the group of deputies, though in actual, it is called by them into question. In our view, this is a ground to refuse in consideration of the deputies' request.

As a substantiation of the request, the deputies show the Decision of the ECHR on a case of "OAO Neftyanaya kompaniya YUKOS v. Russia" dated on 20th September 2011 and 31st July 2014, and also the Decision of the ECHR on a case of "Anchugov and Gladkov v. Russia" dated on 4th July 2013, supposing that these decisions contradict to the resolutions of the Constitutional Court of RF and the Constitution of the RF. Correspondingly, the deputies group assert that the Russian courts and other public bodies must unconditionally execute decisions of the ECHR even contrary the Constitution of the RF and is absent any mechanism of resolution of this legal situation.

Unfortunately, the deputies forgot that the Federal Constitutional law no. 9-ФКЗ dated on 4th June 2014 "On introduction of the changes in the Federal Constitutional law "On the Constitutional Court of Russian Federation"" were introduced alterations in article 101, which made wider the grounds for addressing of the courts with request to the Constitutional Court of RF: "Under re-examination of a case in connection with acceptance a decision by interstate body for protection of human

rights and freedoms, which establish that under application of the law or some its provisions is violated in Russian Federation of human rights and freedoms, a court, in established by the procedural legislation, coming to conclusion that the case might be resolved after confirmation of its conformity to the Constitution of Russian Federation apply to the Constitutional Court of Russian Federation about checking to constitutionality of this law".

In addition, asserting that there is no in Russian Federation of mechanism to resolve the collisions, the authors of the request forgot about the mechanism, which was offered in Resolution of the Constitutional Court of the RF no. 27-П dated on 6th December 2013 "On a matter about checking the constitutionality of the provisions of the article 11 and clauses 3 and 4 in part 4 of the article 392 of the Civil Procedure Code of Russian Federation in connection with a request of the Presidium of Leningrad District military court". In the named resolution the Constitutional Court of the RF found possible addressing to the Constitutional Court of the RF at the stage of execution of a decision of the ECHR, though, had offered the following: in situation, when considered legislative provisions will be recognized in course of constitutional proceedings non-contradicting to the Constitution of the RF, the Constitutional Court of the RF, in frames of its competence, determines possible constitutional ways of realization of a decision of the ECHR.

Ignoring presence of such mechanism, the deputies' group insists on recognition as non-constitutional the parts 1 and 4 of the article 11, cl. 4 of part 4 of article 392 of Civil Procedure Code of the RF, parts 1 and 4 of article 13, cl. 4 of part 3 of article 311 of Arbitration Procedure Code of the RF, parts 1 and 4 of article 15, cl. 4 of part 1 of article 350 of the Code of Administrative Proceedings of the RF, cl. 2 of part 4 of article 413 of Criminal Procedure Code of the RF. It might be evaluated as putting a matter, which has been resolved by the Constitutional Court of the RF and so like an attempt of revision brought resolution of the Constitutional Court of the RF. A part of disputed norms regulates only the matters about application of the norm of

material law, under this, a priority of the norms of international law is directly fixed in material and legal laws (e.g. in article 7 of the Civil Code of the RF).

Moreover, disputed procedural norms reproduce the provisions of part of article 15 of the Constitution of the RF: "If international treaty of Russian Federation established different rules than stipulated by the law, then the rules of international treaty are applied". Correspondingly, an attempt of their disputing is a hidden attempt of criticism of the provisions of the RF Constitution, the attempt to revise the base of the constitutional order of Russian Federation in non-provided by the Constitution of the RF procedure[1].

In addition, we should note that an attempt to tie the norms indicated (about priority application of the norms of international law) with the norms about reconsideration on new and newly discovered circumstances is wrong, as the norms of material law are not applied under resolution of an issue about reconsideration on new and newly discovered circumstances.

Any specialist in procedures knows that production on newly founded and new circumstances consists on the two stages. At the first stage, a court examines an application about reconsideration on new and newly discovered circumstances, checking an availability of the circumstances, under which a chance of re-consideration was foreseen by a lawmaker.

When a court examines an application about reconsideration on newly discovered circumstances, it establishes only earlier unknown to a court and applicant circumstances and determines a level of their influence onto trueness of a decision made. Clause 6 of the Resolution of the Plenum of Supreme Court of the RF no. 31 dated on 11th December 2012 "On application of the norms of Civil Procedure Code of Russian Federation under examination of applications and representations by the courts about reconsideration on newly discovered or new circumstances entering into legal force of judicial decisions" clarified that "in compliance with article 396 of the Civil Procedure Code of the RF, a court considers indicated applications and

[1] Provisions of article 15 of the Constitution of the RF form the base of the constitutional order of Russian Federation and cannot be changed in an order established by the Constitution of the RF (art. 6 of the Constitution of the RF). .

representation at court session, examines evidences, which represented in confirmation of availability of newly discovered or new circumstances on a case, hears explanations of participants, produces other necessary procedural actions, which should be reflected in a record of court session". That is this part of consideration is purely technical – is examined especially procedural matter about availability of newly discovered or new circumstances, about establishing of these circumstances, to which a lawmaker ties an opportunity reconsideration and the fact that they could do sufficient influence in a result of consideration of a case.

At this stage a court repeals a judicial decision or refuses in this, though considers a case on merit and does not examine new evidences, does not solve a matter about material law applied.

The next stage – new consideration of a case, which in case of repealing of judicial resolution is considered by a court in compliance with rules of proceedings in a court of first instance, where is resolved a matter about applied material law, including an opportunity to apply to the Constitutional Court of the RF if there are doubts in constitutionality of the norms.

This is a truism, which is known any student. This should be taken in consideration by the deputies under applying to the Constitutional Court of the RF. Though, this is not the main mistake of the request's authors. They insist on recognition of the norms of procedural codes as non-constitutional ones, referring as a sample in the execution's problems of the ECHR's decisions on a case of "OAO Neftyanaya kompaniya YUKOS v. Russia" dated on 20th September 2011 and 31st July 2014, and also the Decision of the ECHR on a case of "Anchugov and Gladkov v. Russia" dated on 4th July 2013. Though, problems of execution of these decisions of the ECHR have not been associated with application of the procedural norms. Being familiarized with a card of the case, which was a base of applying to the ECHR, the author did not see that anybody had applied with application to the Moscow Arbitration Court about reconsideration on new or newly discovered circumstances. Moreover, it seems that this case could not be reconsidered, because

existing judicial practice is such that if a party of dispute is liquidated, then in compliance with part 1 of article 150 of the Arbitration Procedure Code of the RF, production on a complaint or application about reconsideration is dismissed[2]. It is not important how right such practice for this case as, properly speaking there was no any applying about reconsideration.

In addition, as it was rightly noted by a representative of the MFA of Russia in the Constitutional Court of RF, a decision of the ECHR dated on 2011 on the merits of the complaint of "YUKOS" was not appealed by Russia. In our view, a matter on compensation's size awarded by the ECHR on a case of the "YUKOS" is not only a non-ground for disputing of procedural norms, and also might not be an object of proceedings at the Constitutional Court because it is closely linked with evaluation of the actual circumstances, and not the matters of the law.

As for the second case, under detailed familiarization with a text of the decision of the ECHR on a case of "Anchugov and Gladkov v. Russia" we came to conclusion that at time of the ECHR decision brought the both of applicants were released and therefore their attempt to reconsider would be failed as at present their rights are not violated and they can take part in elections. The author conducted a search of information about their attempts to reconsider of the judicial acts though there were no found such information. Consequently, there are no grounds for formulation of the question about constitutionality of procedural norm on reconsideration.

Interpretation of the constitutional norms about a ban to elect might be brought only under presence of appropriate reason, request or complaint. Though, there is no any request in the Constitutional Court of the RF.

Actually, following to the existed judicial practice ("Hirst v. United Kingdom", no. 2), the European Court recognized in a case of "Anchugov and Gladkov v. Russia" the fact that fixed by the Russian legislation non-elective ban to participate in parliament elections as the voters for all convicted persons sentenced to

[2] On June 2015 there became known about adoption by the Constitutional Court of the RF a complaint of citizen of D.A. Tatarinov on violation his constitutional rights cl. 5 of part 1 of article 150 of the Arbitration Procedure Code, on consideration of which this approach might be changed.

imprisonment, violates the article 3 of the Protocol no 1 to the Convention. Though, we cannot recognize that the non-elective ban is stipulated by the Constitution of the RF. Part 3 of article 32 of the Constitution of the RF stipulates that those citizens have no right to elect and to be elected, who, in compliance with court's sentence, are imprisoned. Though, reference to court's sentence in the Russian constitutional norm means that a ban to elect might be individual punishment of the court decision. Since the European Court does not demand providing all convicted persons with the right to elect ("Scoppola v. Italy", no. 3), a lawmaker has the right to foresee a categorization and/or individualization of a punishment as deprivation the right to elect (bringing of such punishment for commission of certain kinds of crimes with consideration of specific circumstances of each case)[3].

Voting prohibition of all convicted persons is an automatic recognition of anti-sociality of a person during his/her imprisonment, based on an idea that the imprisoned person is not socialized. Unfortunately, there can be often watched how a person released from a prison is become a potential criminal as he/she cannot find his/her place at society. Though, there are correctional programmes directed to socialization of the criminals. Implementation of these programmes in Russia, restoring the right to elect for some citizens might be a chance to feel themselves like the members of a society and motivated them for further correction.

In addition, the Constitutional Court of the RF pointed out many time: establishing of criminal responsibility and punishment without considering of a personality of accused person and other circumstances having objective and reasonable grounds and assisting of an adequate legal evaluation of social danger as the crime, so and a person, who committed of it, and application of the measures of responsibility without considering of the circumstances which characterizing a personality of accused individual would contradicted to the constitutional prohibition of discrimination and the principles of humanism and justice expressed in the

[3] See initiative record of the Interregional public organization "Правозащитный Центр «Мемориал" on a case about checking of constitutionality of some federal laws adopted in connection with ratification of the Convention for Protection of Human Rights and Fundamental Rights.

Constitution of the RF [6]. Though, these judgements could be related to the case if considered request of the parliamentarians directed to disputing of the norms of electoral legislation.

Thus, the group of the deputies was not presented sufficient facts and reasons about uncertainty of disputing norms of procedural codes. As for the clause 4 of part 4 of the article 392 of the Civil Procedure Code of the RF, its appearance in the Code is resulted by execution of the decision of the Constitutional Court of the RF no. 4-П dated on 26th February 2010 "On a case about checking of constitutionality of the part 2 of the article 392 of the Civil Procedure Code of Russian Federation in connection with the complaints of citizens of A.A. Doroshka, A.E. Kot and E.Yu. Fedotova." The Constitutional Court of the RF pointed out in this decision that "… in purpose of uniform and proper legal regulation, and authorizing with the Constitution of Russian Federation and legal positions, including in the present Decision, a federal lawmaker has the right to make alterations into the Civil Procedure Code in order to guarantee an opportunity of reconsideration, entering into a force, court's decisions in the cases of establishing by the European Court of Human Rights of the violations of the provisions of the Convention for Protection of Human Rights and Fundamental Freedoms under consideration by a court of common jurisdiction of specific case, in connection with acceptance of a decision, on which an applicant had applied to the European Court of Human Rights" [16, p. 142-154].

However, before ratification of the European Convention for Protection of Human Rights and Fundamental Freedoms the Constitutional Court of the RF in a resolution no. 4-П dated on 2nd February 1996 "On a case about checking of constitutionality of the clause 5 of part 2 of the article 371, part 3 of the article 374 and clause 4 of part 2 of the article 384 of the Criminal Procedure Code of the RSFSR in connection with complaints of citizens of K.M. Kulnev, V.S. Laluyev, Yu.V. Lukashov and I.P. Serebryannikov" had clarified: from the article 46 (p. 3) of the Constitution of the RF, recognizing the right of everybody to apply to interstate bodies for protection of human rights and freedoms, follows that decisions of the

interstate bodies enable to be resulted with reconsideration of specific cases by the higher courts of Russian Federation. It opens a way for powers of the latter to repeated examination of a case to change earlier accepted decisions, including the decisions accepted with the highest public court instance.

Thus, resuming, we may do the following conclusion: applying to the Constitutional Court of the RF with application about non-constitutionality of the provisions of the article 1 of the Federal law "On ratification of the Convention for Protection of Human Rights and Fundamental Rights and its Protocols", the parts 1 and 4 of the article 11, cl. 4 of part 4 of the article 392 of the Civil Procedure Code of the RF, the parts 1 and 4 of the article 13 and cl. 4 of part 3 of the article 311 of the Arbitration Procedure Code of the RF, parts 1 and 4 of the article 15, cl. 4 of part 1 of the article 350 of the Code of Administrative Court Procedure of the RF, cl. 2 of part 4 of the article 413 of the Criminal Procedure Code of the RF *are not corresponded to the criteria of admissibility, and also in connection with the fact that uncertainty of disputed norms is absent*. In our view, this is a ground for dismissal of production on the request of the parliamentarians' group, though, there might be right a Plenipotentiary representative of the President of the RF M.V. Krotov, who not supporting the deputies' request, believed necessity to recognize the disputed norms corresponding to the Constitution of the RF.

As for the provisions of constitutionality of the clauses 1 and 2 of the article 32 of Federal law "On international treaties of Russian Federation" about duties of the President of the RF and the Government of the RF and other public bodies to take measures to implement the international treaties of Russian Federation, then these norms provide only with competence, and duties of international treaties is stipulated at the article 5 of the law, according to which:

"1. In compliance with the Constitution of the RF, international treaties of Russian Federation together with generally recognized principles and norms of international law are the integral part its legal system.

2. If international treaty is established other rules than stipulated by the law, then the rules of international treaty are applied.

3. Provisions of officially published international treaties of Russian Federation, which are not required for application to adopt the domestic acts, are acting in Russian Federation directly…"

We understand that execution of the decisions of the ECHR is not always easy and simple, Russia has certain difficulties with execution some of them, though, we believe that availability of these difficulties is not ground for the request about constitutionality of disputed norms and recognition them as non-constitutional. In addition, whether this request is an attempt to evade the provisions of the article 55 of the European Convention, which stipulated a refusal from other means of arguments regulating in respect of interpretation or application of the provisions of the Convention and not to use other means to regulate a dispute, than provided by the Convention?

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