

## INTRODUCTORY NOTE TO AMENDMENTS TO THE 1993 CONSTITUTION OF THE RUSSIAN FEDERATION CONCERNING INTERNATIONAL LAW (2020)

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### Background

The Russian Constitution was adopted by a referendum on December 12, 1993. It was inspired by Western constitutional traditions and internationally recognised democratic and human rights values.<sup>1</sup> The Constitution established three core features of the Russian constitutional order, all breaking with the Soviet past:

- The Constitutional provisions on the foundations of the constitutional system, the protection of human rights, and constitutional review are unchangeable and cannot be amended, except via the summoning of a new Constitutional Assembly/national referendum (art. 135).
- The Constitution established a strongly monist approach to international law, integrating it into the Russian legal order and giving priority to duly ratified international treaties and agreements to override conflicting domestic laws (art. 15(4)).<sup>2</sup>
- The Russian Constitutional Court enjoys exclusive competence to interpret the Constitution via binding<sup>3</sup> precedents.<sup>4</sup>

Before 1993, the function of the concept of “sovereignty” was to protect the Soviet system of socialist government and the supremacy of Soviet law, and in particular the supremacy of the fundamental principles of the socialist state order (democratic centralism, socialist legality, absence of protection of private property, opposition to colonialism, etc.), over abundant conflicting international rules. The Soviet legal doctrine did not recognize the primacy of international law over national law as a matter of principle.<sup>5</sup> The 1993 Russian Constitution gave “sovereignty” a new meaning and rejected all the core elements of the Soviet legal heritage, in particular with regard to the implementation and application of international law within the national legal order.<sup>6</sup>

### The 2020 Amendments

The constitutional amendments of 2020 do not contradict the foundations of the Russian constitutional order enshrined in the two first chapters of the 1993 Constitution. The majority are entirely unsurprising, including the clause making a new Mr. Medvedev unnecessary, enshrining Vladimir Putin’s ability to stay in power without any limit on the number of presidential terms. However, that is not the focus of this note; instead we examine the relationship between Russian law and international law.<sup>7</sup>

The amended Article 67*bis* consolidates the status of Russia as a legal successor of the Soviet Union;<sup>8</sup> the amended Article 69(1) retains the guarantee of rights of indigenous and extinct peoples in accordance with universally recognized principles of international law and international obligations of the Russian state; the amended Article 79*bis* reinforces two fundamental principles of international law within the Russian legal order—the principles of peaceful coexistence and of non-interference. Further, Article 67(2*bis*) formalizes three grounds for changing Russian state borders (delimitation, demarcation, re-demarcation) that had been covered by relevant federal law;<sup>9</sup> the amended Article 69(3) obliges the state to protect the interests “compatriots” abroad—an obligation elevated from a federal law.<sup>10</sup> The amended Article 79<sup>11</sup> blocks the application of international treaties and agreements that are contrary to the constitutional principles and/or limit rights and freedoms of man and citizen found in the Constitution and prohibits the enforcement of international court decisions contradicting the Constitution, thus codifying previous Constitutional Court decisions.<sup>12</sup>

From a strictly dogmatic legal point of view, there was no need for all these amendments to be included in the Constitution. They bring absolutely nothing new. This equally applies to all the amendments mentioned above, including

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the new wording of Article 79, which became particularly politicized, notwithstanding the fact that it reflects a mainstay idea embraced by numerous constitutional systems in Europe, which led the Court of Justice of the European Union, in one example, to block the EU's accession to the European Convention on Human Rights (ECHR), notwithstanding an obligation lying on the Union to accede.<sup>13</sup>

### **The Enforcement of International Judgments: From *Anchugov and Gladkov* to *YUKOS***

Consideration of the background of the amendments is crucial. The enforcement of European Court of Human Rights (ECtHR) judgments has become an extremely politicized and notorious topic in Russia since 2013, triggered by the ECtHR judgment of July 4, 2013, *Anchugov and Gladkov v. Russia*.<sup>14</sup> In this case, the ECtHR found a conflict between the ECHR and the provisions of the Article 32(3) of the Russian Constitution, which demands the disfranchisement of prisoners. The ECtHR was thus developing its *Hirst v. the United Kingdom*<sup>15</sup> case law line. While the United Kingdom could theoretically comply (but chose not to), the Russian case is different: Article 32 is part of the unchangeable part of the Constitution. The ECtHR thus put the Russian authorities into an impossible position and the reaction was swift: the Constitutional Court, unsurprisingly, established in case no. 21-P of July 14, 2015 that the Constitution prevails over the ECtHR's reading of the Convention.<sup>16</sup> The Russian media and opposition did not accept this decision and blamed the Constitutional Court for preparing the base for mass non-compliance by the Russian Federation with the international human rights standards.<sup>17</sup>

On June 11, 2015, a number of members of the State Duma (the Russian parliament) (MPs) requested the Constitutional Court to verify the constitutionality of the provisions of six Russian laws that, in their opinion, contradicted the Constitution, as they required the execution of the ECtHR judgments even if such judgments conflicted with the Constitution and the rulings of the Constitutional Court.<sup>18</sup> The international press immediately linked the parliamentary request with the judgment of the ECtHR on the case *OAO Neftyanaya kompaniya YUKOS v. Russia*,<sup>19</sup> obliging Russia to pay nearly two billion euros in compensation for the breach of the Convention.<sup>20</sup> It is also possible that the numerous cases concerning Russian military intervention in the Ukraine, as well as the annexation of the Crimea, could have played a role here.<sup>21</sup>

Guided by the established practice of Russian constitutional interpretation premised on the strong monist tradition, as explained above, the Constitutional Court rejected the MPs' claims in its judgment of July 14, 2015. All the provisions of the Russian laws about which the MPs complained were declared to be in line with the Constitution. In the opinion of the Constitutional Court, the recognition of certain provisions of the Russian law as unconstitutional due to the necessity of implementation of the ECtHR case law could only deteriorate the balance in the Russian system of the protection of human rights and create disharmony between European human rights protection system and the Russian legal order.

The Constitutional Court argued, however, that Russia's participation in international agreements does not imply any transfer of the national sovereignty. According to its approach, no international treaty, including the ECHR as interpreted by the ECtHR, can put into question the primacy of the Constitution within the Russian legal order. The Constitutional Court stressed that the Constitution and the ECHR were based on the same democratic values, so any conflict between these documents would be truly exceptional. Should such a conflict occur, Russia had to abandon the enforcement of the respective ECtHR judgments in favor of the primacy of the national Constitution. The Constitutional Court opined that this approach is attuned to the practice established in other countries and must be based on the ideas of non-self-isolationism, mutual respect, and dialogue between different human rights protection systems. It is implied in the dialogical ideal of the rule of law, which implies that the Russian Constitutional Court possesses the exclusive competence to question the constitutionality of the execution and enforcement of ECtHR judgments within the Russian legal system.<sup>22</sup>

In response to this case law, the State Duma amended the Russian Federal Constitutional Law "On the Constitutional Court of the Russian Federation,"<sup>23</sup> explicitly empowering the Constitutional Court to verify the compliance of decisions of intergovernmental bodies with the standards of the protection of human rights in the Constitution, and to consider the enforceability of such decisions in the Russian legal order.

On March 11, 2016, the European Commission for Democracy, through the Law of the Council of Europe (the Venice Commission), adopted its interim report,<sup>24</sup> which found that the law, as amended, was not compatible with Russia's international obligations, which may prevent the implementation of international court decisions in the Russian legal order. According to the Venice Commission, if the Constitutional Court of Russia is not able to resolve the conflict between the Constitution and a decision of an international institution/court, it does not exclude the decision from being enforced in accordance with the international obligations of Russia, even if that requires amending the Constitution. The Venice Commission supported the idea of dialogue between the national and European judiciaries and asked Russia to refrain from taking unilateral measures on the basis of the amendments. The Russian Constitutional Court responded on April 19, 2016, when it underlined, in judgment no. 12-P, that dialogue is impossible in the context of subordination between the legal systems.<sup>25</sup> The Constitutional Court explained that the execution of the ECtHR judgment in the case of *Anchugov and Gladkov v. Russia*, including amending the conflicting Russian law with the purpose of allowing all convicted people in Russia to vote, was impossible. While it is difficult to assess how this uncompromised position taken by the Constitutional Court corresponds with Article 79 of the Constitution, which allows for the delegation of sovereign powers to international bodies on the ground of international obligations, it is undeniable that a request to amend the unamendable part of the national constitution coming from Strasbourg could be a step too far, making the case somewhat straightforward.

More complex issues, showing the worries of the Venice Commission to have been justified, followed on October 12, 2016, when the Russian Ministry of Justice requested the Constitutional Court to review the constitutionality of the enforcement of the ECtHR judgement in the case of *OAO Neftyanaya Kompaniya YUKOS v. Russia*. The Constitutional Court ruled that the ECtHR had failed in its interpretation of the Convention and the Russian constitutional provisions,<sup>26</sup> referring—quite unhelpfully—to its own case law related to the *YUKOS* case,<sup>27</sup> found wanting by the ECtHR. The case seems to be a clear example of what one of us characterized as “attempts of the Russian State to protect itself from usually justified complaints of its own citizens through recourse to international courts by underlying the unjust ruthlessness of such courts.”<sup>28</sup> Yaroslavtsev J and Aranovsky J dissented, finding the case inadmissible, since the request of the Ministry of Justice by its nature intended to justify the Ministry's failure to comply with the ECtHR judgment. With the 2016 judgment no. 12-P, but even more so with 2017 no. 1-P, the Russian Constitutional Court embarked on a path of fine-tuning the monist approach to international law, which has been one of the pillars of the Russian Constitution since its adoption in 1993. Much will depend on the progress of the political process of ensuring compliance at the Council of Europe level—the position of other members as well as the bodies of the organization: a national court decision obviously does not make the judgment of the ECtHR less binding.<sup>29</sup>

### **Conclusion: Codifying the Disengagement with International Courts**

The constitutional amendments of 2020 formally signaled the end of an era and essentially reconfirmed the established practice of the Constitutional Court. The new wording of Article 125 § 5bis b allows the Constitutional Court to consider the compatibility of binding acts of the ECtHR, the Eurasian Economic Union, and the Union State of Russia and Belarus's institutions, with the Russian Constitution of 1993. Even though the Venice Commission criticized the latter amendments to Article 79 of the Russian Constitution and called for changing it in a more pragmatic way, the Venice Commission did not find direct violations of Russia's commitments under the ECHR provisions therein.<sup>30</sup>

The new wording of Article 79 of the Russian Constitution does not, however, conflict with Article 15(4) of the Russian Constitution in that it does not question the primacy and direct effect of international law in the Russian legal order beyond the exceptional circumstances to be reviewed by the Constitutional Court, merely articulating, to agree with Aleksey Ispolinov, the modalities of monism's operation in the country's legal system.<sup>31</sup> All in all, the outlook for broadening the dialogue between the Russian Constitutional Court and the international supranational structures is grim, leaving little place for optimism. The ties with the Council of Europe are weakening from year to year. The supranational competences of the Eurasian Economic Union are yet to take shape, but here too the position of the Constitutional Court is identical to its approach to the ECHR;<sup>32</sup> the latest constitutional amendments apply here in full.

## ENDNOTES

- 1 S.E. FINER ET AL., *COMPARING CONSTITUTIONS* 17 (1995).
- 2 Gennady M. Danilenko, *Implementation of International Law in the CIS States: Theory and Practice*, 10 EUR. J. INT'L L. 51 (1999). This significantly distinguished the Russian system from all other post-Soviet states. See Roman Petrov & Paul Kalinichenko, *The Europeanization of Third Country Judicia-ries Through the Application of the EU Acquis: The Cases of Russia and Ukraine*, 60 I.C.L.Q. 325, 336 (2011).
- 3 Art. 6, Federal Constitutional Law no. 1-FKZ of 21 July 1994 "On the Constitutional Court of the Russian Federation", SZ RF, 1994, No 13, art. 1447.
- 4 Valerii Zorkin, *Precedent Character of the Decisions of the Constitutional Court of the Russian Federation*, 12 J. Russian L. 3-9 (2004).
- 5 NATALIA BLATOVA, *MEZHDUNARODNOE PUBLICHNOE PRAVO* 64 (1987).
- 6 See Danilenko, *supra* note 2, at 51-69.
- 7 *Cf.*, most importantly, Aleksey Ispolinov, *Popravki v Konstitutsiju i prioritet mezhdunarodnogo prava: v poiskakh novoi formuly (Constitutional Amendments and the Primacy of International Law: In Search of a New Formula)*, ZAKON.RU (Jan. 22 2020); Lauri Mäliksoo, *International Law and the 2020 Amendments to the Russian Constitution*, 115 AJIL 78 (2021) (and the literature cited therein).
- 8 See Treaty of Succession in Relation to External Public Debt and Assets of the USSR, Dec. 4, 1991 (*Current International Law*. Vol. 1. M. 1996).
- 9 See Zakon RF o Gosudarstvenoi granitse Rossiiskoi Federatsii [Law of the Russian Federation on the Russian Federation State Boarder] *Vedomosti S'ezda Narodnykh Deputatov i Verkhovnogo Sovieta Rossiiskoy Federatsii* [Record of the Congress of the People's Deputies and the Supreme Soviet of the Russian Federation], 1993, No. 17, Item 594.
- 10 See Federal'nyi Zakon RF o Gosudarstvennoi Politike Rossiiskoi Federatsii v otnoshenii sootchestvennikov za rubezhom [Federal Law of the Russian Federation Concerning the Compatriots Abroad], *Sobranie Zakonodatel'stva Rossiiskoi Federatsii* [SZ RF] [Russian Federation Collection of Legislation] 1999, No. 22, Item 2670.
- 11 Article 79 (as amended in 2020): "The Russian Federation may participate in interstate associations and transfer to them part of its powers according to international treaties and agreements, if this does not involve the limitation of the rights and freedoms of man and citizen and does not contradict the principles of the constitutional system of the Russian Federation. Decisions of interstate bodies adopted based on the provisions of international treaties ratified by Russia in their interpretation that is contrary to the Constitution of the Russian Federation will not be subject to enforcement."
- 12 Paul Kalinichenko, *The Constitutional Order of the Russian Federation and Its Adaptability to European and Eurasian Integration Projects*, in *POST-SOVIET CONSTITUTIONS AND CHALLENGES OF REGIONAL INTEGRATION: ADAPTING TO EUROPEAN AND EURASIAN INTEGRATION PROJECTS* 181-82 (Roman Petrov and Peter Van Elsuwege eds., 2018).
- 13 Opinion 2/13, ECLI: EU:C:2014:2454; Dimitry Kochenov, *EU Law without the Rule of Law*, 34 Y.B. EUR. L. 74-96 (2015).
- 14 Anchugov and Gladkov v. Russia, App. Nos. 11157/04 and 15162/05 (July 4, 2013), <http://hudoc.echr.coe.int/eng?i=001-122260>.
- 15 Hirst v. the United Kingdom, App. No. 74025/01 (Oct. 6, 2005), <http://hudoc.echr.coe.int/eng?i=001-70442>.
- 16 Postanovleniye Konstitutsionnogo Suda RF No. 21-P Po delu o provere konstitutsionnosti polozhenii stat'i 1 Federal'nogo zakona "O ratifikatsii Konventsii o zashchite prav cheloveka i osnovnykh svobod i Protokolov k nei", punktov 1 i 2 stat'i 32 Federal'nogo zakona "O mezhdunarodnykh dogovorakh Rossiiskoi Federatsii", chastei perboi i chetvertoi stat'i 11, punkta 4 chasti chetvertoi stat'i 392 Grazhdanskogo protsessual'nogo kodeksa Rossiiskoi Federatsii, chastei 1 i 4 stat'i 13, punkta 4 chasti 3 stat'i 311 Arbitrazhnogo protsessual'nogo kodeksa Rossiiskoi Federatsii, chastei 1 i 4 stat'i 15, punkta 4 chasti 1 stat'i 350 Kodeksa administrativnogo sudoproizvodstva Rossiiskoi Federatsii i punkta 2 chasti chetvertoi stat'i 413 Ugolovno-protsessual'nogo kodeksa Rossiiskoi Federatsii v svyazi s zaprosom gruppy deputatov Gosudarstvennoi Dumi [Judgment of the Constitutional Court of the Russian Federation of 14 July 2015 No 21-P, on the case concerning the review of constitutionality of the provisions of Article 1 of the Federal Law "On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms and Protocols thereto", Items 1 and 2 of Article 32 of the Federal Law "On International Treaties of the Russian Federation", Sections 1 and 4 of Article 11, Item 4 of Section 4 of Article 392 of the Civil Procedure Code of the Russian Federation, Sections 1 and 4 of Article 13, Item 4 of Section 3 of Article 311 of the Arbitration Procedure Code of the Russian Federation, Sections 1 and 4 of Article 15, Item 4 of Section 1 of Article 350 of the Administrative Judicial Proceedings Code of the Russian Federation and Item 2 of Section 4 of Article 413 of the Criminal Procedure Code of the Russian Federation in connection with the request of a group of deputies of the State Duma] *SOBRANIE ZAKONODATEL'STVA ROSSIISKOI FEDERATSII* [SZ RF] [Russian Federation Collection of Legislation] 2015, No. 30, Item 4658.
- 17 Anna Pushkarskja, *Konstitutsionnyi sud razreshil ne ispolnjat' reshenija ESPCh [Constitutional Court Allowed not to Follow ECtHR Decisions]*, *KOMMERSANT*" (July 14, 2015), <https://www.kommersant.ru/doc/2767837>; Anastasiia Kornja, Ol'ga Churakova, *Konstitutsionnyi sud ob'jasnil, kak mozžno ne vypolnjat' reshenija ESPCh*, *VEDOMOSTI* (July 15, 2015), <https://www.vedomosti.ru/politics/articles/2015/07/15/600611-konstitutsionnii-sud-obyasnil-kak-mozhno-ne-vipolnyat-reshe-niya-espch>; Ol'ga Selivestrova, *Khodorkovskii zajavil o smerti Konstitutsii Rossii i predlozhit' prinjat' novuju. Po ego mneniju, Kreml' otkazalsja ot glavnogo zakona strany [Khodorkovsky Announced the Death of the Constitution of Russia and Proposed to Adopt a New One. According to Him the Kremlin Denounced the Fundamental Law of the Country]*, *MOSKOVSKII KOMSOMOLETS* (Dec. 16, 2015), <https://www.mk.ru/politics/2015/12/16/khodorkovskiy-zayavilo-smerti-konstitucii-rossii-i-predlozhit-prinyat-novuyu.html>.



- 18 Cf. Postanovlenie Konstitutsionnogo Suda RF ot 01.12.2013 N 27-P “Markin” Po delu o proverke konstitutsionnosti polozenii stat’i 11 i punktov 3 i 4 chasti chetvërtoï stat’i 392 Grazhdanskogo protsessual’nogo kodeksa Rossiïskoï Federatsii v svjazi s zaprosom prezidiuma Leningradskogo okružnogo voennogo suda [Judgment of the Constitutional Court of the Russian Federation of 6 December 2013 N 27-P *Markin* on the case concerning the review of constitutionality of the provisions of Article 11 and points 2 and 4 of the fourth part of Article 392 of the Civil Procedural Code of the Russian Federation in connection with the request of the Praesidium of the Leningrad circuit military court] SOBRANIE ZAKONODATEL’STVA ROSSIÏSKOI FEDERATSII [SZ RF] [Russian Federation Collection of Legislation] 2013, No. 50, Item 6670.
- 19 OAO Neftyanaya Kompaniya YUKOS v. Russia, App. No. 14902/04 (June 24, 2014), <http://hudoc.echr.coe.int/eng?i=001-106308>.
- 20 Ivan Nechepurenko, *Russian Constitutional Court Determines Moscow Not Bound to All Human Rights Court Rulings*, THE MOSCOW TIMES (July 14, 2015), <https://themoscowtimes.com/news/russian-constitutional-court-determines-moscow-not-bound-to-all-human-rights-court-rulings-48135>.
- 21 See *Ukraine v. Russia* (I), App. No. 20958/14 (Dec. 16, 2020); *Ukraine v. Russia* (II), App. No. 43800/14; *Ukraine v. Russia* (III), App. No. 49537/14 (Sept. 1, 2015); *Ukraine v. Russia* (IV), App. No. 42410/15 (Dec. 16, 2020); apart from the inter-state applications, there are currently more than 1400 individual applications related to the events in Crimea or the hostilities in Eastern Ukraine pending before the ECtHR.
- 22 Cf. Dimitry Kochenov and Matthijs van Wolferen, *Dialogical Rule of Law and the Breakdown of Dialogue in the EU*, EUI Working Paper Law 2018/01 (2018).
- 23 Federal’nyï konstitutsionnyï zakon RF o N-7 FKZ O vnesenii izmenenii v Federal’nyï konstitutsionnyï zakon “O Konstitutsionnom Sude Rossiïskoï Federatsii” [Federal Constitutional Law of the Russian Federation no. 7-FKZ introducing amendments to the Federal Constitutional Law no. 1-FKZ of July 21, 1994, as amended], Sobranie Zakonodatel’sтва Rossiïskoï Federatsii [SZ RF] [Russian Federation Collection of Legislation] 2015, No. 51 (Part I), Item 7229.
- 24 Interim Opinion on the Amendments to the Federal Constitutional Law On the Constitutional Court of Russian Federation, Adopted by the Venice Commission at its 106th Plenary Session (Venice, Mar. 11–12, 2016), Opinion No. 832/2015, CDL-AD (2016) 005.
- 25 Postanovlenie Konstitutsionnogo Suda RF ot 19.04.2016 N 12-P po delu o razreshenii voprosa o vozmozhnosti ispolnenija v sootvetstvii s Konstitutsieï Rossiïskoï Federatsii postanovlenija Evropeïskogo Suda po pravam cheloveka ot 4 ijulja 2013 goda po delu “Anchugov i Gladkov protiv Rossii” v svjazi s zaprosom Ministerstva iustitsii Rossiïskoï Federatsii [Judgment of the Constitutional Court of the Russian Federation of 19 April 2016 N 12-P on the case concerning the resolution of a question of the possibility of enforcement in conformity with the Constitution of the Russian Federation of the judgment of the European Court of Human Rights of 4 July 2013 in the case of *Anchugov and Gradkov v. Russia* in connection with the request of the Ministry of Justice of the Russian Federation] SOBRANIE ZAKONODATEL’STVA ROSSIÏSKOI FEDERATSII [SZ RF] [Russian Federation Collection of Legislation] 2016, No. 27, Item 2480.
- 26 Postanovlenie Konstitutsionnogo Suda RF ot 19.01.2017 N 1-P Po delu o razreshenii voprosa o vozmozhnosti ispolnenija v sootvetstvii s Konstitutsieï Rossiïskoï Federatsii postanovlenija Evropeïskogo Suda po pravam cheloveka ot 21 ijulja 2014 goda po delu “OAO Neftjanaja kompanija ‘YUKOS’ protiv Rossii” v svjazi s zaprosom Ministerstva iustitsii Rossiïskoï Federatsii [Judgment of the Constitutional Court of the Russian Federation of 19 January 2017 N 1-P on the case concerning the resolution of a question of the possibility of enforcement in conformity with the Constitution of the Russian Federation of the judgment of the European Court of Human Rights of 21 July 2014 in the case of *OAO Oil Company YUKOS v. Russia* in connection with the request of the Ministry of Justice of the Russian Federation] SOBRANIE ZAKONODATEL’STVA ROSSIÏSKOI FEDERATSII [SZ RF] [Russian Federation Collection of Legislation] 2017, No. 5, Item 866.
- 27 Postanovlenie Konstitutsionnogo Suda RF ot 14.07.2005 N 9-II Po delu o proverke konstitutsionnosti polozenii stat’i 113 Nalogovogo kodeksa Rossiïskoï Federatsii v svjazi s zhaloboi grazhdanki G.A. Poljakovoï i zaprosom Federal’nogo arbitrazhnogo suda Moskovskogo okruga [Judgment of the Constitutional Court of the Russian Federation of 14.07.2005 N 9-P on the Case Concerning the Verification of Constitutionality of the Provisions of Article 113 of the Tax Code of the Russian Federation in Relation to the Complaint of Citizen A.G. Polyakova and the Request of the Federal Arbitration Court of the Moscow District] SOBRANIE ZAKONODATEL’STVA ROSSIÏSKOI FEDERATSII [SZ RF] [Russian Federation Collection of Legislation] 2005, No. 30 (Part II), Item 3200.
- 28 Paul Kalinichenko, *K voprosu o kollizii mezhdju postanovlenijam ESPCh i Konstitutzijej Rossii v svete pozitivnoj konstituzionnogo Suda RF (On the question of the collision between a judgment of the ECtHR and the Constitution of Russia in the light of the approach of the Russian Constitutional Court)* AKTUAL’NYE VOPROSY ROSSIÏSKOGO PRAVA 42 (2016).
- 29 Élisabeth Lambert Abdelgawad, *The Enforcement of ECtHR Judgments*, in THE ENFORCEMENT OF EU LAW AND VALUES (András Jakab and Dimitry Kochenov, eds., 2017).
- 30 Opinion on draft amendments to the Constitution (as signed by the President of the Russian Federation on 14 March 2020) related to the execution in the Russian Federation of decisions by the European Court of Human Rights, adopted by the Venice Commission on June 18, 2020 by a written procedure replacing the 123rd Plenary Session, p. 68 (CDL-AD(2020)009-e).
- 31 Ispolinov, *supra* note 7.
- 32 Opredelenie Konstitutsionnogo Suda RF ot 03.03.2015 N 417-O Po zaprosu Arbitrazhnogo suda Tsentral’nogo okruga o proverke konstitutsionnosti punkta 4 Porjadka primenenija osvobodzhenija ot uplaty tamozhennykh poshlin pri vvoze otdel’nykh kategorii tovarov na edinuju tamozhennuju territoriju Tamozhennogo sojuza (“Avangard-Agro-Orël”) [Order of the Constitutional Court of Mar. 3, 2015, No. 417-O On the Request of the Arbitration Court of the Central Circuit Concerning the Verification of Constitutionality of Point 4 of the Provision of the Implementation of the Exemption from the Payment of Customs Duties upon Importation of Certain Categories of Goods to the Unified Customs Territory of the Customs Union (*Avangard-Agro-Orël*)] VESTNIK KONSTITUTIONNOGO SUDA RF [Bulletin of the Constitutional Court of the Russian Federation] No. 5 (2015).

AMENDMENTS TO THE 1993 CONSTITUTION OF THE RUSSIAN FEDERATION CONCERNING  
INTERNATIONAL LAW (2020)\*  
[July 4, 2020]

The Constitution of the Russian Federation

Article 15(4)

“4. The universally-recognised norms of international law and international treaties and agreements of the Russian Federation shall be a component part of its legal system. If an international treaty or agreement of the Russian Federation establishes other rules than those envisaged by law, the rules of the international agreement shall be applied.”

Статья 15(4)

“4. Общепризнанные принципы и нормы международного права и международные договоры Российской Федерации являются составной частью ее правовой системы. Если международным договором Российской Федерации установлены иные правила, чем предусмотренные законом, то применяются правила международного договора.”

Article 79 (as amended in 2020)

“The Russian Federation may participate in interstate associations and transfer to them part of its powers according to international treaties and agreements, if this does not involve the limitation of the rights and freedoms of man and citizen and does not contradict the principles of the constitutional system of the Russian Federation. Decisions of interstate bodies adopted based on the provisions of international treaties ratified by Russia in their interpretation that is contrary to the Constitution of the Russian Federation will not be subject to enforcement.”

Статья 79 (в редакции 2020 г.)

“Российская Федерация может участвовать в межгосударственных объединениях и передавать им часть своих полномочий в соответствии с международными договорами Российской Федерации, если это не влечет за собой ограничения прав и свобод человека и гражданина и не противоречит основам

конституционного строя Российской Федерации. Решения межгосударственных органов, принятые на основании положений международных договоров Российской Федерации в их истолковании, противоречащем Конституции Российской Федерации, не подлежат исполнению в Российской Федерации.”

Article 125(5bis b) (as amended in 2020)

“5<sup>1</sup>. The Constitutional Court of the Russian Federation:  
<...>

b) in the order established by federal constitutional law, resolves the issue of the possibility to execute interstate bodies decisions adopted on the basis of the Russian Federation international treaties provisions in their interpretation, which contrary to the Constitution of the Russian Federation, as well as the possibility to execute a decision of a foreign or international (interstate) court, a foreign or international arbitration court (arbitration) imposing obligations on the Russian Federation, if this decision contradicts the Russian Federation public order foundations;”

Статья 125 (5прин б) (в редакции 2021 г.)

“5<sup>1</sup>. Конституционный Суд Российской Федерации:  
<...>

б) в порядке, установленном федеральным конституционным законом, разрешает вопрос о возможности исполнения решений межгосударственных органов, принятых на основании положений международных договоров Российской Федерации в их истолковании, противоречащем Конституции Российской Федерации, а также о возможности исполнения решения иностранного или международного (межгосударственного) суда, иностранного или международного третейского суда (арбитража), налагающего обязанности на Российскую Федерацию, в случае если это решение противоречит основам публичного правопорядка Российской Федерации;”

\*This text is an excerpt of the amendments discussed in the Introductory Note. The full text can be accessed at the website of the State System of Legal Information [государственной системы правовой информации] (visited February 9, 2021), <http://publication.pravo.gov.ru/Document/View/0001202003140001>. The translation of the excerpts appearing here was provided by the authors of the Introductory Note.