

National Research University Higher School of Economics

As a manuscript

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**Legitimation Strategies of the Decisions of the
Constitutional Court of Russia: reasoning in politically significant cases**

SUMMARY OF THE DISSERTATION

for the purpose of obtaining academic degree

Doctor of Philosophy in Political Science

Academic Supervisor:

Doctor of Sciences in Philosophical Sciences, Professor

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Moscow, 2021

I. General characteristics of the research

1. Relevance of the research topic and statement of research problem

Despite the fact that the decisions of the Constitutional Court of the Russian Federation (hereinafter also referred to as the Constitutional Court of Russia, the Court, CC) are recognized as acts of the highest legal force in the territory of the Russian Federation, the issue of the legitimacy of this type of court decisions is not clear. Being an institution of mixed political and legal nature, the Constitutional Court of the Russian Federation is inevitably bound, not only by legal, but also by political motives in its decision-making. The decisions of this judicial instance can have the feature of legitimacy, not only from a legal point of professional view, which often understands legitimacy in the narrow sense (from the point of view of legal positivism) as legality, but also from a political science point of view, which presupposes a broader interpretation of the concept of legitimacy and includes, along with legality, additional qualities such as recognizing a decision as fair (supporting the decision with authority, traditions, support of the public opinion, etc.). The need to enforce the legitimacy of court decisions is fixed by the Constitutional Court of the Russian Federation in the text of one of the decisions¹. Seeking legitimacy is conditional on the Court's application of specific legitimation strategies.

The main purpose of this work is to consider the political component of constitutional justice based on the theory of institutionalism and constructivism. The research focuses on the Constitutional Court of Russia and its decisions on politically significant cases. The work reconstructs the strategies of legitimation that the Court applies in these decisions. The sources of information for this study are the texts of court decisions, internal documents of the Court, publications in the media, speeches of officials, the positions of representatives of the legal community in the field of law and politics, public opinion polls. This allows us to consider the institution of constitutional justice in the framework of the political process.

¹ See para. 2 p. 6 of the Judgment of the Constitutional Court of the Russian Federation No. 21-P dated July 14, 2015.

Working with cases consists of analyzing the argumentation in each case from the point of view of its legal and political nature. As a result of the analysis, specific strategies of legitimation were identified that the Court uses in topical politically significant cases, considered in the most recent period from 2009 to 2020². The novelty of the author's approach is determined by a special study of the relationship between legal and political argumentation in substantiating court decisions in politically significant cases.

The subject area of the research is connected with a number of advanced domestic and foreign scientific directions, to which it is possible to refer and apply the conclusions made in the course of this work. Studying the issue of the legitimacy of decisions of constitutional justice bodies, the role of the latter in the country's political system, and their importance for regime transformation is one of the leading directions of political science³. The interdisciplinary nature of the research involves addressing a number of general theoretical issues: the place of constitutional justice between law and politics; the concept of legitimacy and the process of legitimation in general terms, as well as in relation to judicial decisions; regime features of the functioning of the institution of constitutional justice; the specifics of Russian constitutionalism; methodology for the analysis of court decisions.

Despite the fact that in domestic political and legal science the legitimacy of decisions of the Constitutional Court of the Russian Federation is practically not studied, there are some scientific works studying the role of the institution of the Constitutional Court in the political system of Russia⁴, analyzing the current state

² The choice of this time interval is associated, on the one hand, with the editions of the FKZ "On the Constitutional Court of the Russian Federation" dated February 6, 2009, and on the other hand, with the constitutional reform of 2020, expressed in the amendments to the Constitution of the Russian Federation, introduced by the Law of the Russian Federation on an amendment to the Constitution of the Russian Federation from March 14, 2020, No. 1-FKZ, entered into force on July 4, 2020, and in the new edition of the FKZ "On the Constitutional Court of the Russian Federation" dated November 9, 2020.

³ Landfried C. (Ed.). *Judicial Power: How Constitutional Courts Affect Political Transformations*. Cambridge: Cambridge University Press, 2019. 408 p.; Lang A.F.; Wiener A. *Handbook on Global Constitutionalism / Research Handbooks on Globalisation and the Law series*, Edward Elgar Publishing, 2017, 480 p.; Sajo A., Uitz R. *The Constitution of Freedom: An Introduction to Legal Constitutionalism / Oxford University Press*, 2017. 478 p.

⁴ See, for example: Trochev A. *Judging Russia. The Role of the Constitutional Court in Russian Politics 1990–2006 / Cambridge University Press*, 2008.

and specifics of Russian constitutionalism⁵, as well as reconstructing and explaining its process development⁶. The latter have acquired particular relevance in the light of the constitutional reform that took place in Russia in July 2020, the explanation of the meaning of which has also been sufficiently fully considered⁷. All this determines the relevance of this study turning to the study of the legitimation strategies used by the Constitutional Court.

2. The definitions used in the work

Within the framework of this study, the author has in mind the theory of legitimacy in general, as it is understood in modern political science. In the literature, it has been developed concerning various levels of power and decision-making - "the legitimacy and legitimation of the political system," "the legitimacy and legitimation of the institution of constitutional justice," and so on. But the focus of this paper is on the development of the problem of legitimation of decisions of constitutional justice bodies.

The theory of legitimacy assumes several types of legitimacy, depending on its source of formation. We will single out "input legitimacy" - "given", depending on the properties and legitimacy of the institution (institutional legitimacy), "output legitimacy" - the legitimacy that the person who carries out legitimation by ensuring compliance with the necessary procedures when making a decision (procedural legitimacy), as well as influencing its content (substantive legitimacy). Both "input" and "output" legitimacy determine the subsequent perception of a particular act (decision) or action as legitimate on the part of the subject that makes such an assessment.

With regard to decisions of the Constitutional Court, legitimacy is the quality of a court decision, which expresses the degree of its recognition by society. This

⁵ "Constitutional principles and ways of their implementation: the Russian context." Analytical report. Ed. A.N. Medushevsky. M., STI, 2014

⁶ Medushevsky A.N. The theory of constitutional cycles / A. N. Medushevsky. - 2nd ed. - M.-Berlin: Direct-Media, 2015.821 p.

⁷ See for example: A.N. Medushevsky. Constitutional reform - 2020 from the standpoint of the theory of legitimacy // Theoretical and applied jurisprudence, №4. 2020. Pp. 15-30.

quality is created by the deliberate actions of the Court aimed at achieving its main goal (ensuring the compliance of the decision with the Constitution). Such actions include the implementation of institutional regulations, procedures, and contribute to the achievement of an acceptable compromise by the participants in the political process. The overall objective of the Court is to give to the decision the character of legitimacy in the eyes of society and political power.

The actions that the actor carries out to fit his decisions with the properties of legitimacy and the process of taking actions is legitimation. The methods that the actor uses to give the decision the property of legitimacy - the strategy of legitimation. Direct analysis of the text of the court decision allows us to fully draw a conclusion about the substantive legitimacy, as well as to get an idea of both the institutional and procedural components of the legitimacy of the court decision.

Legitimation within this research is the process of carrying out purposeful actions through which a social phenomenon acquires the property of legitimacy. In the case of a decision of the Constitutional Court, this is the process of giving the decision not only legal force (in the narrow, formal sense) but also legitimacy in the sociological sense. If we rely on the constructivist understanding, legitimacy is a product of the purposeful activity of the Court to endow its decision with its own.

Legitimation strategies are a set of doctrinal principles, methods of interpretation, argumentation, and substantiation of decisions that the Constitutional Court uses to recognize its decision as legitimate from a legal and political point of view.

Within the framework of this study, the legitimation strategies of the decisions of the Constitutional Court are ways (and their combination) of imparting the quality of legitimacy to the decision, which is enshrined directly in the text of the court decision and is purposefully applied by the Constitutional Court of the Russian Federation in the course of carrying out activities for the administration of constitutional justice, which has the main goal of ensuring the compliance of the decision Of the Constitution of the Russian Federation. Strategies for legitimizing court decisions are implemented both taking into account the Court's own interests

- maintaining the level of confidence in the Court on the part of citizens and on the part of other state authorities, and taking into account the interests of other actors - society as a whole, individual citizens, public authorities, the state as a whole, the interests of the international community, the interests of individual supranational entities and organizations. The implementation of a specific strategy presupposes that the Court is familiar with the positions of other actors when making a decision, and must be supported by certain explanatory content, taking into account the feedback of various actors to the decision.

Of course, certain actions to give legitimacy to the decision are taken by the Court both in the process of making a specific decision and outside it, including before the decision is made - through the implementation of certain scientific and methodological activities, the public activity of individual representatives of the Court (mainly its Chairman). This study examines only those strategies applied by the Court that can be reflected directly in the text of the decision containing the Court's reasoning and used as the main source of data for this study.

The term "reasoning" of the decision of the Constitutional Court is understood in this study in a narrow sense, as meaningful arguments and arguments (both legal and political), allowing to explain the conclusions made by the Court in the framework of the consideration of a particular case and come to a final decision (resolution) expressed in a judicial act. Among such arguments, the Court uses an appeal to facts, scientific research, the relevance of events from the point of view of the political situation, the current political situation, the preservation of social stability, and so on. Justification can have various purposes and addressees, including clarification of the position of the Court to society to legitimate judicial decisions, to which this work is devoted.

Here, it becomes necessary in this paper to operate with the concept "political"⁸ in relation to the Constitutional Court of the Russian Federation and its

⁸ Here the application of the characteristic "political" in the text of this work explains. The concept of "political" is the subject of close attention of political scientists and a sensitive concept that has textbook justifications in the works of Arendt H. and Schmitt K. The concept "political", as well as in modern interpretations, for example, A. Filippov Schmitt: Two Concepts of the Political // Salikov A.N. and I.O. Dementyev, ed. The Contemporary Significance of Hannah Arendt's Ideas: Proceedings of an International Conference. Kaliningrad: Publishing house

decisions (in the meaning of "political institution", "political argumentation", "political motive", "political decision"). In this paper, politics is understood as activities aimed at resolving various issues of public life in order to satisfy the interests of the entire society and the state, or those of individual actors, as well as resolving conflicts between the state and society. "Political" means "related to or shaping politics." This characteristic is quite appropriate for a judicial decision, if only because the court is, first of all, a body of state power, and the Constitutional Court is a judicial institution that carries out its activities directly in the political context and on political issues. As a result, the Constitutional Court has a special scope of powers that allow it to interpret and explain the norms of the legislator, as well as to expand, supplement, and sometimes replace them, i.e. engage not only in law enforcement but also in rulemaking. Thus, the Court performs some functions of the legislator - it regulates relations in a certain way, that is, it implements some policy (which gives rise to the problem of a "counter-majoritarian dilemma" consisting in the paradox of the admissibility and appropriateness of the lawmaking of the court as a non-democratically elected body, which is detailed in the first Chapter of dissertation research and is mentioned below). In this sense, as distinct from the Court's own legal function, the characteristic "political" is used in this work. As applied to the argumentation, this characteristic means the appeal of the Court to sources other than legal ones, turned beyond the law, which is the subject of the purposeful implementation by the Court of legal regulation that is not directly prescribed and normatively not defined by the legislator. It must be stipulated that the distinction between legal and political arguments and motives for making a decision is made in this work artificially for the purposes of analysis, but in the text of the decision it is not formally distinguished by the Court (see the remark in section 2 of the dissertation research).

of the Baltic Federal University. I. Kanta, 2015.S. 52-65. URL: http://kant-online.ru/wp-content/uploads/2015/12/ARENDT_SBORNIK_s_Annotats_posob-dragged-5.pdf; or understanding from new positions, for example, here: N.Yu. Savin. Political theory and the concept of the political // POLITIA, No. 1 (92), 2019. P. 6-21. URL: [http://politeia.ru/files/articles/rus/Politeia-2019-1\(92\)-6-21.pdf](http://politeia.ru/files/articles/rus/Politeia-2019-1(92)-6-21.pdf)

3. The theoretical and methodological basis of the research (methodology)

In this study, the Constitutional Court of the Russian Federation is understood as a public authority of a mixed political and legal nature, functioning within the framework of the institution of constitutional justice.

Institutionalism was used as a methodological framework for research, which requires several important parameters. First, the Constitutional Court of the Russian Federation as an actor does not function autonomously, but in the political system, which entails the repetition of some of its properties⁹. Secondly, the focus of the Court as an actor is to ensure the legitimacy of its actions and decisions in the eyes of other actors (which can include in general - both society and the state, or their individual elements - political parties, individual media, the expert community, the first persons of the state, individual departments interested in decision-making, the business community, international organizations, etc.). Third, the Court acts in a conscious, purposeful, and rational manner¹⁰. At the same time, it is more appropriate to understand rationality as validity, which implies compliance with the main goal of the Constitutional Court - ensuring the compliance of legal norms with the Constitution of the Russian Federation. Fourthly, the Court operates under conditions of a number of restrictions¹¹, primarily of a legal nature - powers, options for decisions, procedural rules for making decisions are defined in the Constitution of the Russian Federation and the Federal Constitutional Law "On the Constitutional Court".

A separate focus on the process of “constructing” legitimacy requires a constructivist approach in addition to institutionalism¹². Legitimacy, being not a fixed concept, becomes a construct created as a result of strong-willed strategic

⁹ Frolov D.P. Methodological institutionalism - a new approach in the philosophy of science // URL: <https://cyberleninka.ru/article/n/metodologicheskii-institutsionalizm-novyy-podhod-v-filosofii-nauki>

¹⁰ Grossmann I., Eibach R., Koyama J., Sahi Q. B. Folk standards of sound judgment: Rationality vs. Reasonableness, 2017.

¹¹ Buchanan J., Tullock G. The calculus of Consent. Logical foundations of constitutional democracy / Buchanan J. M. Works. M., 1997. (in Russian).

¹² Knyazeva E.N. Epistemological constructivism // Philosophy of Science. Issue 12: The Phenomenon of Consciousness. Moscow: IP RAS, 2006. URL: <https://iphras.ru/uplfile/root/biblio/ps/ps12/7.pdf>; Alekseeva T.A. Thinking Constructivist: Opening a Polyphonic World // Comparative Politics №1 - 2014. P. 4-21. URL: <http://lawinfo.ru/catalog/6653/7136/1/7761>

actions of the Constitutional Court of the Russian Federation and reflected in its decisions. Constructivism pays special attention to legitimation as the construction of reality using linguistic means¹³, which is especially relevant for legal creations¹⁴ - regulations, arguments, and more broadly - decisions. Signs of legitimacy and strategies of legitimation can be identified by analyzing the content (text) of specific court decisions.

Thus, **the main research question** of this work is what strategies of legitimation does the Constitutional Court of the Russian Federation use and how do they relate to the place of the Court in the Russian political system?

4. Basic research parameters

The **aim of this study** is to identify the strategies of legitimation used by the Constitutional Court of Russia in its decisions enacted from 2009 until 2020.

Research objectives:

- Formulation of the concepts of “legitimacy” and “strategy of legitimation” in relation to judicial decisions of the body of constitutional justice;
- Identification through empirical analysis of the specific strategies of legitimation used by the court and applied in court decisions of the Constitutional Court of the Russian Federation, which give in addition to legal force, the feature of legitimacy to a court decision and the position of the court on a specific issue;
- Creation of a methodology for court decisions analysis to identify features of a specific strategy of legitimation;
- Identification of the qualitative characteristics and place of the Constitutional Court of Russia as an institution of the Russian political system, based on the results of the research.

The subject of this research is the strategies for the legitimation of decisions of the Constitutional Court of the Russian Federation, expressed in the activities of

¹³ Berger P., Luckmann T. The Social construction of reality. A treatise on the sociology of knowledge. M.: Medium, 1995. P. 153.

¹⁴ See: Teubner G. How the Law Thinks: Toward a Constructivist Epistemology of Law // Law and Society Review, Vol. 23, No. 5, pp. 727-757, 1989. URL: <https://ssrn.com/abstract=896502>

the Constitutional Court of Russia to impart legitimacy to the decision in order to implement a specific legal policy on the concrete issue of the constitutional and legal sphere.

Research design: methods, selection of empirical data, scope and limitation of the research

This work is a qualitative study (case study), which is based on the analysis of written sources within the framework of the activities of a specific institution of constitutional justice - the Constitutional Court of the Russian Federation. The key place among them is occupied by the actual final decisions of the Constitutional Court of the Russian Federation, adopted in various forms – judgement («postanovleniye»), resolution («opredeleniye»), conclusion («zaklyucheniye») - on individual issues. The dissenting opinions of judges are the most important object of analysis and are considered together with the decision of the Court as an integral part of it. Normative legal acts, internal documents of the Court (regulations, practice reviews, informational and analytical materials, etc.), publications in the media, data of opinion polls are used as additional sources.

Object of study

Within the framework of this research, court decisions are considered in a narrow sense, as decisions of a court with the authority to administer constitutional justice and the competence to make decisions on the conformity or non-conformity with the constitution of normative legal acts adopted by state legislatures of various levels. The empirical part of this study is devoted to the analysis of court decisions of the Constitutional Court of the Russian Federation. The object of the study was the activity of the Constitutional Court of the Russian Federation, expressed directly in decisions on the compliance or non-compliance with the Constitution of the Russian Federation of legislative acts affecting the fundamental norms and basic rights and freedoms of a citizen, enshrined in the basic law of the country.

For the first step of the initial analysis, 20 “politically significant” decisions made over the entire history of activity of the Constitutional Court of the Russian

Federation the year 1995 until 2020 (in the form of resolutions, rulings and conclusions, see Appendix No. 1, Table No. 1) were considered.

The main principle for selecting a case was their “significant” character. “Politically significant” can be considered a decision that, being significant for one or a number of actors in the political system, significantly changed the legal regulation of a specific issue that became the subject of the appeal and caused a certain resonance and public discussion in professional and political circles, became the subject of media attention. A distinctive feature of the solutions chosen for the analysis is the sharp polarization of opinions on its subject. To make the study more representative, decisions were selected that demonstrate the legitimation strategies used by the Court, characteristic of the period under review.

For a detailed analysis during the second step of the analysis, the decisions made by the Court in the current period of its activity - from 2009 to the constitutional reform of July 2020, were selected.

This time period represents a separate (modern) stage in the development of the Court. A distinctive feature of the current stage is the great dependence of the Court on the executive and legislative authorities. This dependence is due to changes in legislation, the most significant of which was the new procedure for the election of the Chairman of the Constitutional Court (previously elected by members of the judiciary, currently - being elected by the Federation Council on the proposal of the President of the Russian Federation) in July 2009, as amended in the course of the 2020 constitutional reform (in detail about for the evolution of the Court's powers, see section 2.1 of the dissertation research). The subject of chosen decisions affects various areas of legal regulation - international legal, criminal, tax, fundamental rights of a citizen, protection of private property.

For a detailed analysis, 4 decisions of the Constitutional Court of the Russian Federation were selected, which resolved legal conflicts in different areas, depending on the norms of the Constitution of the Russian Federation, to which these decisions correspond. Thus, the following decisions made in the current period of

the Court's operation (from 2009 until 2020) are selected as the main categories of analysis:

1) The relationship between the norms of international and national law - about the possible disregard for decisions of the European Court of Human Rights (part 4 of the article 15 of the Constitution of the Russian Federation), on the example of the Judgment of the Constitutional Court of the Russian Federation of July 14th, 2015 No. 21-P.

2) The issue of a moratorium on the death penalty as capital punishment for criminal offenses (part 2 of article 20 of the Constitution of the Russian Federation), on the example of the Judgment of the Constitutional Court of the Russian Federation of 02.02.1999 N 3-P, Resolution of the Constitutional Court of the Russian Federation of 19.11.2009 N 1344-O-P.

3) The issue of responsibility for violation of the rules for holding rallies and assemblies (article 31 of the Constitution of the Russian Federation), using the example of the Judgment of the Constitutional Court of the Russian Federation dated February 10, 2017 No. 2-P, with explanations given in the Judgment of the Constitutional Court of the Russian Federation dated February 11, 2020 No. 264-O-R.

4) The issue of tax policy in terms of including individuals in subsidiary (additional) liability for tax violations of organizations (articles 55, 57 of the Constitution of the Russian Federation), on the example of the Judgment of the Constitutional Court of the Russian Federation of 08.12.2017 N 39-P.

Each group of decisions is represented by one key ("politically significant") decision, and subsidiary decisions – if needed. The key decision is analyzed according to a number of parameters developed on the basis of existing theoretical approaches to the concept of legitimacy and essential for answering the research question posed in the work. The analysis of the decision includes a comparison of the reasoning used by the court with the previous legal position on a similar category of cases, with the practice of foreign and international courts, the presence of continuity of the judicial doctrine, the presence/absence of support for the decision

taken by specific influence groups / political actors and satisfaction with the adoption of a specific decision their interests, etc. These features formed the basis of the methodology detailed in Appendix No. 2. An additional source of information during the analysis of each case was also the context of the decision-making, the opinions of the professional community, individual officials and the population. The revealed features of legitimation, which found their place in the considered decisions, are combined into separate strategies. Subsequently, the identified strategies were classified depending on the type of legitimation to which they relate.

5. Literature review and contribution to the discussion of the problem in existing literature

The study of issues of legitimation is inextricably linked with the development of theoretical approaches to legitimacy. The concept of legitimacy, being one of the central categories of this study, requires a study of both legal and political science views on this matter. The legal interpretation of legitimacy often coincides with the concept of legality, and the sociological (including political science) understanding presupposes the presence of public recognition or approval as a mandatory criterion of legitimacy¹⁵. The theory of legitimacy has been developed in sufficient detail in political science, the main subject of study here is the legitimacy of power, political regime, political systems and political institutions, in general¹⁶.

Less attention is paid to the study of the issue of the legitimacy of judicial decisions. The largest number of publications in this area was made by American lawyers and political scientists. These studies tend to focus on the legitimacy of decisions of the US Supreme Court¹⁷, European Union courts, and the competence

¹⁵ For details on the differences between legal and sociological legitimacy, see Richard H. Fallon, Jr., *Legitimacy and the Constitution*, 118 HARV. L. REV, 2005. P. 1787, 1795-96.

¹⁶ See works widely cited in political science studies: Meyer J., Rowan B. Institutionalized organizations: formal structure as myth and ceremony. *American Journal of Sociology*, 83, 1977, pp. 340-363; March, J.G., Olsen, J. P. Organizing political life: what administrative reorganization tells us about government. *American Political Science Review*, 77, 1983, pp. 281-297; Merton, R. K. Social structure and anomie. *American Sociological Review*, 3, 1938, pp. 672-682; Mill, J. S. *Considerations on Representative Government*. South Bend, Ind.: Gateway, 1962 [1861]; Rawls, J. The basic structure as subject. Pp. 257-88 in *Political Liberalism*. New York: Columbia University Press, 1993.

¹⁷ Luna E. *Constitutional Road Maps*//*The Journal of Criminal Law and Criminology*, Vol. 90, No. 4 (Summer, 2000), pp. 1125-1250; Meiers F.-J. *The Return of the Imperial Presidency? The President, Congress, and U.S. Foreign Policy*

of the European Court of Human Rights¹⁸. Another area of research is the study of the role of constitutional courts in non-democratic regimes, on the example of countries such as Egypt¹⁹, Korea²⁰, India²¹, Pakistan²². It should be noted that the experience and scientific approaches to legitimacy above can be applied to Russian realities.

Given the ambiguity of the concept of legitimacy, it becomes absolutely necessary to make a number of clarifications regarding the application of this term to court decisions. Within the framework of this dissertation research, the legitimacy of court decisions can have an external source (or “input legitimacy”), which depends on the institutional position of the Court and its interaction with other branches of government, as well as internal (“output legitimacy”), depending on the content of the decision and its reasoning. The court is an independent body of state power with exclusive competence to administer justice in a wide range of cases. In those cases when we talk about a constitutional court, we are dealing with a court of a very special nature. The Constitutional Court is primarily a body of constitutional control, that is, control over the application of the norms of the fundamental law of the state. It is the interpretation and resolution of special legal issues, without consideration of the circumstances of specific cases, that is the main purpose of the existence of such a court. "Special" questions of law are associated with special constitutional norms that determine the foundations of the state system, determine

after 11 September 2001//American Studies, Vol. 55, No. 2 (2010), pp. 249-286; Caplan L. Who Cares About Executive Supremacy?: The scope of presidential power is the most urgent—and fundamentally ignored—legal and political issue of our time//The American Scholar, Vol. 77, No. 1 (WINTER 2008), pp. 20-24.

¹⁸ See for example: Laurence R. H., Alter K. J. Legitimacy and Lawmaking: A Tale of Three International Courts//Theoretical Inquiries in Law, Vol. 14, 2013, pp. 479-503; Madsen M.A. From Cold War instrument to Supreme European Court: the European Court of Human Rights at the crossroads of international and national law and politics // Law and Social Inquiry. 2007. № 32. P. 137-159; Lindseth P.L. Power and legitimacy: reconciling Europe and the nation-state. Oxford : Oxford University Press, 2010.

¹⁹ Moustafa T. Law versus the State: The Judicialization of Politics in Egypt// Law & Social Inquiry, Vol. 28, No. 4 (Autumn, 2003), pp. 883-890; Odeh L.A. The Supreme Constitutional Court of Egypt: The Limits of Liberal Political Science and CLS Analysis of Law Elsewhere// The American Journal of Comparative Law, Vol. 59, No. 4 (FALL 2011), pp. 985-1007.

²⁰ Ginsburg T. Confucian Constitutionalism? The Emergence of Constitutional Review in Korea and Taiwan//Law & Social Inquiry, Vol. 27, No. 4 (Autumn, 2002), pp. 763-799.

²¹ Beller G. E. Benevolent Illusions in a Developing Society: The Assertion of Supreme Court Authority in Democratic India//The Western Political Quarterly, Vol. 36, No. 4 (Dec., 1983), pp. 513-532.

²² Newman K. J. Pakistan's Preventive Autocracy and Its Causes//Pacific Affairs, Vol. 32, No. 1 (Mar., 1959), pp. 18-33; Sayeed K. B. Pakistan's Constitutional Autocracy//Pacific Affairs, Vol. 36, No. 4 (Winter, 1963-1964), pp. 365-377.

the basic principles according to which the state functions, basic values, protected rights and interests of society. Touching upon the foundations of the state and social structure, these issues are not only and not so much legal, but also political. Accordingly, the constitutional court administers justice in political matters by adjudicating on matters of law, but unconditionally with politics. In this case, court decisions are important not only in view of their application to a specific case in the future, but also concern the entire political system. The resolution of the constitutional court on the conformity, or otherwise, non-conformity with the constitution of the legislator's norm is, in fact, the identification of deviation in the functioning of the political system and the work of a particular authority, a statement of the fact that the real political picture does not correspond to the (conditionally) ideal and embodied in the constitution. In this case, the court decision of the constitutional court becomes an act that is mandatory and reflects the status of the political system, capable of detecting contradictions, shortcomings, and, as a result, identifying, emphasizing and resolve the existing conflict between state and society, or generating a new conflict between participants in the political system.

Realizing that a judicial decision as an act of a constitutional court is “conflict-defining”, the decision itself as a prescription may cause disagreement among various participants (actors) of the political system. In this regard, it is the legitimacy of the court decision that becomes the guarantee of correct constitutional justice and the stable functioning of the entire political system.

Here it is appropriate to dwell in a little more detail on the meaning of the conflict between the branches of state power and the role of a court decision in its resolution.

It should be noted that in public discourse the question of the legitimacy of decisions of a constitutional court (or any other court that resolves issues of compliance with the constitution of legal acts) arises precisely in those cases when a court decision conflicts with the position of any of the actors in the political system.

In a significant part of the literature, the issue of the legitimacy of court decisions is considered through the prism of the problem of interaction between the

competent court and the legislator, the so-called “countermajoritarian difficulty”. This term was formed and is used primarily in American legal and political science in relation to the practice of the American Supreme Court (carrying out, among other things, constitutional justice)²³. In general terms, the dilemma is related to the assessment of the legitimacy of the powers of the court for judicial review of acts of legislative bodies. The democratic principle assumes that a specially created body, formed on the basis of elections, in which everyone can take part, has the right to make laws. However, the existence of the institution of revision of legal acts suggests that a judicial body that has not been democratically elected has the right to recognize acts issued by representatives of the people as unconstitutional and invalid. Overcoming the counter-majoritarian complexity is to understand the meaning of the judicial-constitutional review of laws. Firstly, the court, recognizing the act of the people's deputies as unconstitutional, does not so much infringe on the rights of the majority, who elected the legislature democratically, but protects the rights of the minority, whose interests may suffer when laws are passed, but whose rights are guaranteed by the country's fundamental law. Secondly, the court, empowered with the authority to revise acts, has special knowledge in the field of law and is a professional performing body, and is accordingly capable of making an independent legal examination of a specific determination. This interpretation, of course, is relevant not only for democratic countries, in which constitutional justice has a long history.

The situation is somewhat different in the regimes, which in this paper will be designated as “regimes with limited pluralism” in order to avoid discussions about the concept and types of democracy and non-democracy. The study of the problems of constitutionalism in non-democratic countries is of particular research interest today. At the same time, it would not be entirely appropriate to apply these conclusions to Russia. As Georg Vanberg notes in his work on the Constitutional Court of Germany, while Western constitutional judges are being accused of

²³ For details on the countermajoritarian dilemma, see: Friedman B. The history of countermajoritarian difficulty, part 1: The road to judicial supremacy // The New York University Law Review, 1998.

excessive influence and influence on political processes and directly on the government and the legislature, the Russian Constitutional Court, on the contrary, "suffered direct attacks on their independence and have been much less successful in establishing significant constraints on the governments they are intended to control"²⁴.

The most prominent expert in this area is Tamir Mustafa, who studies judicial institutions in authoritarian countries. For example, studying the role of the constitutional court in the political system of Egypt, he comes to the conclusion that it is this court that is the most important vehicle for protecting the rights of the opposition, developing suffrage and ensuring basic rights and freedoms²⁵. Established by an authoritarian leader, the Constitutional Court began to perform functions truly characteristic of this judicial institution and did not turn into a legal interpreter of the autocrat's decisions, but on the contrary, became the only force capable of correcting a radical undemocratic political course.

Another popular direction of research continues to be the study of the ways of constitutional transformation in post-communist regimes. An illustrative example is the crisis of constitutionalism, which sharply manifested itself in Poland at the end of 2015 and is still relevant today. Analysis of the causes of the crisis shows that "the power of the constitutional courts is a political issue, depending on the political majority and public support."²⁶ Moreover, it is precisely in this political meaning that the role of the constitutional court lies in countries with "recent democratic traditions and authoritarian past."²⁷

These studies lead us to the conclusion that the constitutional court may have the feature of legitimacy that is different from the legitimacy of the political system in which it operates, and also invite us to pay closer attention to the opposite situation - the role of the constitutional court in the legitimation of the regime as a whole.

²⁴ Vanberg G. *The Politics of Constitutional Review in Germany*. Cambridge University Press, 2004. P. 173.

²⁵ Moustafa T. *Law versus the State: The Judicialization of Politics in Egypt*// *Law & Social Inquiry*, Vol. 28, No. 4 (Autumn, 2003), pp. 883-890.

²⁶ Mrozek A., Sledzinska-Simon A. *Legitimacy of Constitutional Courts and the Rule of Law: A Comparative View of the Polish Constitutional Crisis* // *Comparative Constitutional Review*, No. 1 (116), 2017, p. 64.

²⁷ *Ibid.*, p. 77.

Traditionally, it was believed that the very existence of a body of constitutional control and supervision in the form of a separate constitutional court or another court, endowed with its functions, is possible only in democratic countries. In turn, it is the judicial authorities that are the guarantors of the protection of the rights and freedoms of citizens and create the democratic character of the political system. In other systems, it is impossible or practically impossible to ensure the independence of the court, which is the primary characteristic of a constitutional justice body²⁸. These conclusions were based on the experience of studying the "classical" Western models of constitutional justice bodies, primarily the US Supreme Court²⁹.

However, the specifics of the country's legal and political system, as well as the specifics of the functioning and scope of powers of the Russian Constitutional Court, require the development of their own positions on the legitimacy of court decisions. There is a significant amount of literature devoted to the issues of Russian constitutionalism and the activities of the Constitutional Court of the Russian Federation. The researchers focus on theoretical issues of constitutionalism³⁰; the issue of the practice of the Russian Constitutional Court³¹, judicial activism³² and interpretation of legal norms by the Constitutional Court³³, analysis of judicial

²⁸ Tate C.N. Why the expansion of Judicial power/ The global expansion of the judicial power, ed. by Tate N.C., Vallinder T. N.Y.: 1995.

²⁹ For example, the classic work by Robert Alan Dahl: Dahl R.A. Decision-Making in a Democracy: The Supreme Court as a National Policy-Maker // Journal of Public Law. Vol. 6. 1957. P. 279-295.

³⁰ Avakyan S.A. Russian constitutionalism: several theses on urgent tasks // Legal world. 2015. N 2. Aranovsky K.V., Knyazev S.D. The role of the constitution in the political and legal arrangement of Russia: initial circumstances and modern expectations // Comparative constitutional review. 2013. N 3.; Vitruk N.V. Constitutionality in the context of the legal life of modern Russia // Russian justice. 2007. No. 7 (15); Bondar N.S. The strategy of Russian constitutionalism: from political illusions to legal realism // Journal of Russian law. 2015. N 11.; Medushevsky A.N. Constitution as a symbol and tool for the consolidation of civil society // Social sciences and modernity. 2013. No. 3; B.A. Strashun Constitutionalism: Ideal, Reality and Possible Perspective // Constitutionalism: Ideal and / or Reality: Collection of materials from the round table discussion on February 4, 2011 / Ed. B.A. Strashun, I.A. Alabaster. Moscow: Institute of Law and Public Policy, 2012.

³¹ Bondar N.S. The concept of "living" (judicial) constitutionalism: research methodology in the light of the practice of constitutional justice // Theory and practice of Russian constitutionalism: collection of reports of the scientific-practical conference dedicated to the 75th anniversary of the birth of academician O.E. Kutafin, June 26, 2012. M., 2013.; Gadzhiev G.A. Methodological problems of the "precedent revolution" in Russia // Journal of constitutional justice. 2013. N 4 (34).

³² Belov S.A. Value justification of decisions as a manifestation of judicial activism of the Constitutional Court of the Russian Federation // Comparative constitutional review. 2012. N 2.; A.I. Kovler Electoral law and its selective interpretation: On the issue of judicial activism // Human rights. 2013. N 10.; Marchenko M.N. Judicial lawmaking and judicial law. Moscow: Prospect, 2011.

³³ Gadzhiev G.A. Official interpretation of the constitution: a combination of ontological and epistemological approaches // Jurisprudence. 2012. No. 1; Petrushev V.A. On the doctrinal interpretation of law by judges of the Constitutional Court of the Russian Federation // Constitutional and municipal law. 2008. N 16.; Sergevnin S.L. On the issue of the interpretation of the Constitutional Court of the Russian Federation / Constitutional control: doctrine

argumentation³⁴, problems of execution of decisions of the Constitutional Court³⁵. Recently, the number of analytical interdisciplinary works devoted to the functioning of the constitutional justice body in Russia has increased³⁶. Among them, a prominent place is represented by research directly on decisions of the Constitutional Court of the Russian Federation, carried out at the Institute of Law and Public Policy³⁷.

Nevertheless, the question of the legitimacy of court decisions in the Russian legal and political science literature has not yet been developed. For a long time, the legal doctrine avoided the concept of "legitimacy" and operated exclusively with the concept of legality, especially in the Soviet era³⁸. At present, the interest of legal scholars in the concept of legitimacy is growing rapidly³⁹. Some of them raise the

and practice: materials of the international conference dedicated to the 20th anniversary of the Constitutional Court of the Russian Federation (St. Petersburg, October 28-29, 2011) / ed. V.D. Zorkin. M.: Norma, 2012.

³⁴ Soboleva A.K. Topical jurisprudence. M.: Dobrosvet, 2002.; Soboleva A.K. Values of the judgment: Valery Dmitrievich Zorkin versus Tamara Georgievna Morschakova // *New Justice*. 2009. No. 1.; Mikirtumov I.B. Argumentation and legitimacy: the Markin case // *RATSIO.ru*. 2015. No. 15, pp. 97–133.

³⁵ Nesmeyanova S.E. Execution of decisions of the Constitutional Court of the Russian Federation as an element of judicial protection. // *Scientific notes of the Faculty of Law. Issue 9 (19)* / Ed. A.A. Liverovsky. SPb.: Publishing house of the St. Petersburg state. University of Economics and Finance, 2007. Omarov S.M. Problems of the Federal Assembly's Execution of Decisions of the Constitutional Court of the Russian Federation // *Constitutional and Municipal Law*. 2012. N 1.

³⁶ Grigoriev I.S. Political Science of Courts: Subject and Research Program // *Political Science*. - 2012. - No. 3. - P. 258-275.; Sungurov A. Y., Semikova A.E. Legal political science or political science of law: a sketch of the research field // *Social sciences and modernity*. - 2017. - No. 5. - S. 83-93.

³⁷ See, for example, the book by authors: Ivanov L.O., Vinogradov T.P., Gavrilova O.A., Grebenshchikova Y.S., Manzhosova E.K., Markina A.A., Mednikova D.S., Nefedova E. A., Odoeva O.S., Podoplelova O.G., Khramovoy T.M.: *Constitution in the decisions of the Constitutional Court of Russia (1992–2016)* / Under total. ed. L.O. Ivanova. 3rd edition / M.: Institute of Law and Public Policy, 2017. 1303 p.

³⁸ See: Denisenko V. V. Legitimacy as a legal category: substantiation of the concept // *Russian Journal of Legal Research*, 2018. - No. 2 (15). P. 86-89.

³⁹ See, for example, articles by V.V. Denisenko: Denisenko V.V. Legitimacy as a characteristic of the essence of law. Introduction to the theory. Monograph. M.: Yurlitinform, 2014. 184 p.; Denisenko V.V. Irrational and rational legal systems and legitimation of the law in them // *Izvestiya VUZov. Jurisprudence*. 2014. No. 4 (315). URL: <https://cyberleninka.ru/article/n/irratsionalnye-i-ratsionalnye-pravovye-sistemy-i-legitimsiya-v-nih-zakona> (date accessed: 09/10/2020); Denisenko V.V. Democracy of rule-making: legitimation in various types of legal thinking // *Bulletin of the VI Ministry of Internal Affairs of Russia*. 2014. No. 1. URL: <https://cyberleninka.ru/article/n/demokratizm-normotvorchestva-legitimsiya-v-razlichnyh-tipah-pravoponimaniya> (date of access: 09/10/2020); works by I.L. Chestnova: Chestnov I. L. The problem of the legitimacy of law: reflections "on the margins" of the monograph by V. V. Denisenko "legitimacy as a characteristic of the essence of law" // *Izvestiya VUZov. Jurisprudence*. 2014. No. 6 (317). URL: <https://cyberleninka.ru/article/n/problema-legitimsnosti-prava-razmyshleniya-na-polyah-monografii-v-v-denisenko-legitimsnost-kak-harakteristika-suschnosti-prava> (date of access: 09.09.2020); Chestnov I.L. Legitimacy as a sign of law // *Vestnik MGOU. Series: Jurisprudence*. 2018. No. 3. URL: <https://cyberleninka.ru/article/n/legitimsnost-kak-priznak-prava> (date accessed: 09/10/2020); and also Antonov M. The. Legitimacy and action of law // *Proceedings of the Institute of State and Law of the Russian Academy of Sciences*. 2018. No. 3. URL: <https://cyberleninka.ru/article/n/legitimsnost-i-deystvie-prava> (date accessed: 09/10/2020).

issue of the "legal quality"⁴⁰ of decisions of the Constitutional Court of the Russian Federation. Others talk about the "convincing arguments" of his decisions⁴¹. At the same time, the Constitutional Court of the Russian Federation in its decisions directly points to "legal and social legitimacy" as the necessary qualities of judicial institutions⁴². The question of the need to develop a "doctrine of substantiation and legitimacy of court decisions" is raised in the course of comprehensive legal and political science studies on the current state and problems of Russian constitutionalism by A.N. Medushevsky⁴³. Thus, the author notes that the result of the absence of such a doctrine "are serious contradictions in the interpretation of the basic constitutional principles and their correlation, and most importantly, in the perception of court decisions by society."⁴⁴ A.N. Medushevsky suggests possible directions of research on this issue and a number of parameters for constructing a doctrine of legitimacy⁴⁵. He also developed the theory of constitutional cycles, which is based on an understanding of the dynamics of constitutional development through the evolution of the conflict of constitutional expectations with the norms of the Constitution, expressed primarily in the form of a crisis of legitimacy⁴⁶. This theory is applied in the dissertation research as an interpretational one to explain the results obtained. Thus, there is a need to fill in the gaps in the concept of the legitimacy of court decisions and its adaptation for the Russian context in Russian studies.

6. Statements to be defended and the main results of the research

⁴⁰ Petrov A.A. The legal quality of decisions of the Constitutional Court of the Russian Federation: formulation of the issue and some practical problems // Comparative constitutional review. - 2014. - No. 2. P. 95-110.

⁴¹ Blankenagel A., Levin I. G. In principle, it is impossible, but it is possible! .. The Constitutional Court of Russia and the case of binding decisions of the European Court of Human Rights // Comparative Constitutional Review, 2015, no. 5.

⁴² Clause 6 of Judgment No. 21-P dated July 14, 2015.

⁴³ "Constitutional principles and ways of their implementation: the Russian context." Analytical report. Ed. A.N. Medushevsky. M., STI, 2014.

⁴⁴ Ibid., p. 68.

⁴⁵ Medushevsky A.N. Constitutional control and political choice in transitional societies: to the problem of the legitimacy of judicial decisions in the post-Soviet space // Bulletin of the Constitutional Council of the Republic of Kazakhstan. Astana, Issue 18, 2011. P.49-64.

⁴⁶ Medushevsky, A.N. The theory of constitutional cycles / A. N. Medushevsky. - 2nd ed. - M.-Berlin: Direct-Media, 2015. P. 821.

1) The legitimacy of judicial decisions can be of several types - institutional, depending on the institutional conditions of the functioning of the Constitutional Court of the Russian Federation, substantive - based on the argumentation reflected in the text of the judicial act, procedural - depending on the procedure for making and considering the decision. The formation of the first type depends on the powers of the Court and its role in the political system of Russia, determined by the current legislation, the current historical moment, and the socio-political context. Substantive and procedural legitimacy depend directly on the Court and its purposeful activities to form and substantiate a decision on a specific legal issue – argumentation and to identify and comply with procedural requirements in order to ensure subsequent legitimacy. Legitimation of the decisions of the Court in the process of endowing a decision with the property of legitimacy, which can be exercised by the Court through various strategies.

2) The legitimation strategies used by the Court are objectified directly in the text of the judgments and can be established by analyzing their content and reflected in the argumentation used by the Court to substantiate its position.

3) To analyze the texts of the Court's decisions, a methodology has been developed that allows identifying signs of legal and political argumentation that are closely related to the legitimation strategies used by the court (see Appendix No. 2, Table No. 2). This division is conditional, it is a methodological device that allows you to identify arguments whose nature is mixed, more or less legal, or more or less political features. The methodology is original and makes a certain contribution to the study of the issue of the legitimacy of decisions of the Constitutional Court of the Russian Federation.

4) As a result of the analysis, the features that are characteristic of the Court as an institution functioning in conjunction with other elements of the political system have been established. Due to the specifics of their powers, the greatest interaction is between the Constitutional Court of the Russian Federation and the legislative authority represented by the State Duma and the Federation Council. The court evaluates the acts adopted by the legislature for compliance with the Constitution,

and also partially performs lawmaking functions, both directly - dealing with the interpretation of the Constitution and creating a new normative understanding of a specific legal issue, and indirectly - addressing recommendations for improving legislation. A characteristic feature of the considered decisions adopted by the Court after 2009 is the adoption of decisions on the conformity of the verified legal acts with the Constitution, but only in the constitutional and legal sense identified by the court. This approach testifies to the loyal approach of the Court to the legislator and the formal absence of conflict in their positions. It also corresponds to the publicly declared intentions of the President of the Constitutional Court for the implementation of the "single policy" by the state authorities. The executive body of power and, concretely, the President of the Russian Federation play an important role in the formation of the Court, which has intensified after the amendments to the Constitution of the Russian Federation in July 2020. Considering the significant role of the executive power in lawmaking, which is expressed in many of legislative initiatives, the mutual existence of government bodies today is indeed a single and harmoniously functioning mechanism.

5) As a result of the study, the legitimation strategies for decisions of the Constitutional Court of the Russian Federation, used in the considered cases, were identified depending on the source of legitimacy.

It is reasonable to group the legitimation strategies used by the Court, which are reflected in decisions, depending on their nature as follows:

1. Institutional

1.1. the significant role of judicial discretion in decision-making (the role of the Court itself, and in relation to the prospects for further application of the decision by courts of other instances);

1.2. replenishment of regulatory deficiencies admitted by other branches of government, with a partial replacement of their functions;

1.3. evaluating the performance of other authorities and providing them with recommendations for implementation.

2. Content-oriented

- 2.1. selective application of legal norms and other sources of law;
- 2.2. the application of an expansive interpretation of the rule of law;
- 2.3. demonstration of the Court's own position as an important argument in decision-making;
- 2.4. using legally sound arguments as the main reasoning for making a decision;
- 2.5. application of a teleological interpretation, supported by non-legal arguments, such as “efficiency”, “constitutional identity”, “assessment of political expediency”, “established tradition”, etc.;
- 2.6. change of the Court’s legal position, previously formed on similar cases.

3. Procedural

3.1. the desire to correct legislative norms, the constitutionality of which is verified by the Court through “establishing” their constitutional and legal meaning, and not through the recognition of such norms as inappropriate to the Constitution of the Russian Federation;

3.2. using the institution of dissenting opinion as a means of legitimation - the presence of dissenting opinions forms alternative positions reflected in the decision, testifying to the pluralism of opinions in court and the democratic nature of decision-making. The lack of dissenting opinions on a number of decisions testifies to the legitimacy of the decision due to the alleged consensus of the judges regarding it.

3.3. refusal to consider the application on the merits with the formulation of the refusal in the text of the position on the appeal.

6) The tendencies identified in clauses 4 and 5 correspond to the concept of constitutional cycles, reflecting the phase of the presence of a conflict of the legitimacy of constitutional norms with the expectations of individual actors. In the cases considered in this work, both citizens and individual authorities interested in making specific decisions appear as such actors. A characteristic feature of this phase of the constitutional cycle is the need for reconciliation and compromise, which the Constitutional Court provided by its decisions in the cases considered. In

the period following that covered by this research, the constitutional reform of July 2020 confirms this conclusion.

7) The novelty of the research lies in identifying strategies that the Court uses to legitimize its own decisions within the framework of its own policy of law, the proposed classification of these strategies, as well as in demonstrating their functioning of the identified strategies in the process of making specific decisions of the Court.

The provisions to be defended specified above characterize **the contribution to the discussion of the problem in existing literature**, which consists primarily of: the development of the concept of legitimacy and legitimation in relation to court decisions; the proposal of a methodology for analyzing a judicial decision; the identification of specific features of the functioning of the institution of Russian constitutional justice; the development of interdisciplinary approaches in political studies of mixed political and legal institutions.

7. Approbation

The results of the dissertation research were presented to the attention and discussion of the scientific community in the framework of the following scientific events:

The annual conference of the Russian Association of Political Science "Political Representation and Public Authority: Transformational Challenges and Prospects", Moscow, Moscow State Pedagogical University, November 27-28, 2020, the topic of the report is "Legitimation strategies of the decisions of the Constitutional Court of the Russian Federation";

Seminar of the Graduate School of Political Sciences of the Higher School of Economics, Moscow, May 13, 2020, the topic of the report is "Legitimation strategies of the decisions of the Constitutional Court of the Russian Federation";

Research Seminar of the Center for the Study of Discretion and Paternalism of the University of Bergen (Norway), June 20, 2019, the topic of the report is "Political

arguments for judicial legitimacy: the Resolution of the Russian Constitutional Court No. 21-P of July 14, 2015 ";

International scientific conference of students, graduate students and young scientists "Lomonosov-2019", Moscow State University, Moscow, April 12, 2019, the topic of the report "Political motivation in the legal argumentation of decisions of the Constitutional Court of the Russian Federation, on the example of Resolution No. 21-P 14.07.2015".

In the course of work on the dissertation, the following works were published in leading peer-reviewed scientific journals recommended by the NRU HSE:

1. Komshukova O.V. Does the court think politically? Experience of the Constitutional Court of Russia // Political Science. 2019. No. 4. P. 312-331.

2. Komshukova O.V. Political reasoning in the decisions of the Constitutional Court of the Russian Federation: analysis of the Judgment of July 14, 2015, No.21-P // Comparative constitutional review. 2019. No. 3 (130). P. 110-126.

3. Komshukova O.V. Between a hammer and anvil: the argumentation of the Constitutional Court of the Russian Federation on the issue of death penalty abolition // Comparative constitutional review. 2020. No. 5 (138). P. 112-133.

II. The main content of the research

The first chapter, "Theoretical Aspects of the Legitimation of the Decisions", provides an overview of the theoretical literature on the issues of legitimacy and legitimation. First of all, paragraph 1.1 explains the place of the institution of constitutional justice, which is central to this study, between law and politics. Further, the main approaches to understanding legitimacy and the concept of legitimacy in political science are considered, starting with Max Weber and ending with modern approaches (sections 1.2.1. And 1.2.2 of the dissertation research). The first of them is the "sociology of faith", which implies the importance of subjective beliefs and perceptions, and the second is the "sociology of political systems", reflecting the institutional and systems approach in political science, claiming

objectivity and freedom from subjective evaluations. For this study, Lipset's institutional understanding of legitimacy as the “output” effectiveness of an institution, expressed in acceptability of and satisfaction with such an institution, has also become significant⁴⁷. Legitimation is presented as a derivative of legitimacy and is based on the theory of legitimacy. As one of the main categories of sociology and political science, legitimacy becomes an integral part of almost any theory of power. At the same time, the concepts of legitimacy and legitimation of power are closely related to the concepts of the regime stability (often democracy), instruments and symbols of power, and the form of exercising power.

The most relevant direction in the study of legitimacy is an empirical approach that would be applicable to modern political systems. In this regard, the approaches to legitimation developed in the theory of organizations seem to be appropriate. Thus, the strategic approach understands legitimacy as an operational resource, which can be used to achieve the desired goal. This approach presupposes the dependence of legitimacy on the actions of a decision-maker (manager) who, through his actions and the use of unlimited symbols, rituals, and other tools in order to combat external constraints, is able to impart legitimacy to a decision or action⁴⁸. In this case, legitimation is used purposefully and can be predicted.

The same trends can be traced in the theory of law. Law, like political science, sociology has long been reoriented towards an empirical understanding of legitimacy. The normative understanding of legitimacy is true for Hans Kelsen's pure theory of law, which remains the property of the history of philosophy and law, a theoretical construct. Section 1.3. shows the main state of research in the study of the legitimization of court decisions (given in paragraph 5 "Literature review and contribution to the research area" in section I of this Resume). The chapter ends with a clarification of the theoretical features of the concepts of legitimacy and legitimation in relation to this study, the main of which is the narrow focus of work on constitutional legitimacy.

⁴⁷ See Lipset's definition: M. Lipset Political Man: The Social Bases of Politics. M., 2016. P. 60.

⁴⁸ Ashforth, B. E., & Gibbs, B. W. 1990. The double-edge of organizational legitimation. *Organization Science*, 1: 177-194.

The second, empirical chapter, "Constitutional Court in the political system of Russia" examines legitimacy in an applied aspect due to the practice of the Constitutional Court of the Russian Federation. The chapter opens with Section 2.1 "The Place of the Constitutional Court in the Russian Political System and the Basis of its Activity". It examines the features of the historical development of the Constitutional Court in Russia, which has existed in a modern form since February of 1995⁴⁹, the content of its powers and features of the legal regulation of its activities, demonstrates the place of the Court in the political system, reveals the potentially conflicting nature of its activities in relation to other branches of government, fixes the historical role of the Court. A certain place in the work is paid to the institutional changes that followed the 2020 constitutional reform. In section 2.1.4, a generalizing conclusion is made about the place of the court in the political system of Russia. This section also touches on the institutional changes that followed the 2020 constitutional reform.

The third chapter "Strategies for the legitimation of judicial decisions in the practice of the Constitutional Court of the Russian Federation: an empirical study" examines legitimation in an applied aspect to the practice of the Constitutional Court of the Russian Federation. Section 3.1 "Theoretical and methodological basis of research" is devoted to the adaptation of theoretical concepts for the purpose of the study, substantiates the methodological framework of the study, and defines the basic concepts used in the work (given in paragraph 3 "Theoretical and methodological basis of research" in section I of this Resume). The choice of the methodological framework of the study determined its interdisciplinary nature.

Section 3.2. "Strategies for the legitimation of court decisions in the practice of the Constitutional Court of the Russian Federation" is an empirical part of the dissertation research. As an empirical basis for the study, the main court decisions were studied, the selection of which took place in two stages. At the first step, an

⁴⁹ Since 1989, there has been a Committee for Constitutional Supervision, in 1991 the Constitutional Court of the RSFSR was formed, however, the Constitutional Court of the Russian Federation was created only with the adoption of the Constitution of the Russian Federation on 12.12.1993 and the specialized Federal Constitutional Law "On the Constitutional Court of the Russian Federation" on 21.07.1994, and began its work only in February 1995.

analysis of 20 major decisions was carried out, which made it possible to demonstrate the evolution of the court's approach on politically significant issues.

At the second step, for a detailed analysis, decisions made by the Court in the modern period of its activity - from 2009 and later were selected. The main parameter for selecting a case was their "politically significant" nature. "Politically significant" means a decision considered as such by individual actors and that significantly changed the legal regulation of a specific issue that became the subject of the appeal, and caused a certain resonance and public discussion in professional and political circles, became the subject of mass media attention. For greater representativeness of the study, decisions were chosen, the subject of which affects various areas of legal regulation - international law, criminal, tax policy, fundamental rights of a citizen, protection of private property. Each group of decisions (case) is represented by one key decision and a number of subsidiary ones, which illustrate the evolution of the legal position of the Constitutional Court before and after the key (main) decision under consideration. Each case is studied taking into account the conditions of its adoption, the socio-political context of its adoption, the position of representatives of the professional community regarding the decision of the Court, the positions of various actors on this issue, including public opinion polls.

In the section 3.2.3. the "Methodology for case analysis" is presented. The methodology contains combined analysis parameters that can be used to analyze directly the texts of court decisions. Such parameters are developed on the basis of existing theoretical approaches to the concept of legitimacy and essential for answering the research question posed in the work. The analysis of the decision includes a comparison of the reasoning used by the court with the previous legal position on a similar category of cases, with the practice of foreign and international courts, the presence of continuity of the judicial doctrine, the presence/absence of support for the adopted decision by specific influence groups / political actors and satisfaction with the adoption of a specific decision their interests, etc. Proceeding

from the parameters above, legal and political argumentation is identified, and specific cases are analyzed.

Section 3.3. "Case analysis: basic observations regarding the legitimation strategies of the decisions of the Constitutional Court of the Russian Federation" is directly the empirical part of the dissertation research. As a result of the application of the above methodology of a case analysis (see paragraphs 3.2.3 and 3.4), including the analysis of the argumentation of specific cases to separate their legal, but most importantly, political orientation, some characteristic features were identified that demonstrate how the Court legitimates its decisions. The following cases were analyzed:

1. On the issue of the place of international treaties and decisions of the ECHR in the legal system of Russia (Article 15 of the Constitution of the Russian Federation): *Judgment of the Constitutional Court of the Russian Federation No. 21-P of July 14, 2015.*

Content: secured the possibility of Russia not to comply with the decisions of the European Court of Human Rights, binding on it, as a party to the European Convention for the Protection of Human and Civil Rights and Freedoms, established the primacy of the Constitution of the Russian Federation over international law.

Significance: established a new hierarchy of legal norms, consolidated new powers of the Constitutional Court of the Russian Federation, created the possibility of non-enforcement of decisions of the ECHR (including the decision in the case "Shareholders of OJSC Oil Company Yukos v. Russia), exacerbated relations between Russia and the Council of Europe

Feature of legitimation: change of position of the Court regarding the subject of the case; a broad interpretation of the norms of the Constitution was given; provided guidance for the executive branch to address to the Constitutional Court their requests for enforceability of ECtHR decisions if there are any objections; the expansion of the powers of the Constitutional Court of the Russian Federation was a signal for the legislative branch of government to consolidate the new powers in federal constitutional legislation; the reason of the main motivation is the existence

of disagreements between the Court and the ECHR and the desire to protect constitutional identity.

2. On the issue of the abolition of the death penalty (Article 20 of the Constitution of the Russian Federation) *Resolution of the Constitutional Court of the Russian Federation dated November 19, 2009 No. 1344-O-R* (clarification of the Resolution of the Constitutional Court of the Russian Federation dated 02.02.1999 No. 3-P)

Content: determined the fate of the abolition of the death penalty in Russia and extended the moratorium established by the ruling of the 1999 Constitutional Court of the Russian Federation for an indefinite period due to the need to fulfill international obligations under the Protocol No. 6 to the European Convention on Human Rights, signed by Russia, but not ratified.

Significance: filling the legislative gap in regulation of the death penalty abolition, ensuring the fulfillment of international obligations regarding the abolition of the death penalty.

Feature of legitimation: broad interpretation of norms, filling the gap in regulation, admitted by the legislative authority; justification of the decision taken by "established tradition".

3. On the issue of holding rallies and meetings (Article 31 of the Constitution of the Russian Federation): *Judgement of the Constitutional Court of the Russian Federation dated February 10, 2017 No. 2-P*

Content: recognition of the constitutionality of Article 212.1 of the Criminal Code of the Russian Federation, which implies criminal prosecution for violation of the procedure for organizing or holding public events only on the basis of the repeated occurrence of such violations, however, indicated a number of additional features that the court should take into account when sentencing the case.

Significance: elimination of the bias in legal regulation, settlement of the conflict associated with a resonant case ("Ildar Dadin case"), the introduction of new legal practices (administrative prejudice, relapse).

Feature of legitimation: a new constitutional meaning is given to a rule of law that is mandatory for the courts; a recommendation was given to the legislator on adjusting regulatory norms, legitimizing the norms of responsibility for violating the legislation on rallies.

4. On the issue of tax policy (articles 55, 57 of the Constitution of the Russian Federation): *Judgement of the Constitutional Court of the Russian Federation of 08.12.2017 N 39-P*

Content: The decree confirmed the legality of tax and other authorities' collection of arrears from individuals holding positions in taxpaying organizations who have not paid taxes. It confirmed the relevance of an intensive policy to replenish tax revenues to the budget, despite the absence of direct permits for such measures in tax legislation.

Significance: elimination of excessive "bias" in the regulation of liability for tax violations committed by the legislator, settlement of the conflict related to a high-resonant case ("Akhmadeeva case").

Feature of legitimation: correction of distortions in regulation, the establishment of the constitutional and legal meaning of norms, the recommendation to courts of various instances for law enforcement, legitimation of a tough tax policy.

As a result of the analysis the conclusion about the legitimation strategies used by the Court (see point 5 of "the main results of the research and the provisions for the defense" of this resume), the political motivation of such decisions, the role of the Court as an element of the country's political system.

The analysis made it possible to draw a conclusion about some of the peculiarities of the functioning of the institution of constitutional justice in Russia during the period considered in the work from 2009 to 2020. Among them are the following:

The legitimacy of the decisions of the Constitutional Court as its main quality

When making a decision, the Constitutional Court of the Russian Federation really realizes the need for compliance of its decision not only with the norms of

law, but also with legitimacy "at the exit" - the general concepts of fairness and acceptability of such a decision in the eyes of the "masses" and the general public. It seems that it is the giving to the decision of the property of legitimacy that determines the presence of other (non-legal) attributes with which the court endows its decision. This circumstance obliges the Constitutional Court to go beyond the legal framework that traditionally limits the judiciary and to use the instruments of legitimation that are traditionally used by other political bodies or systems.

Political motivation of the decisions

The desire to meet the expectations of the current political regime, society and the international political situation determines the nature of the decisions taken. In the cases considered in the paper, the Court ensured legitimacy in the eyes of society through the complex application of such means as an appeal to a global, declarative goal, a slight softening of the strict norms of the legislator by establishing a rather vague requirement to clarify all the circumstances of each specific case, but at the same time local resolution of issues (concrete cases) and the main thing is to relieve public tension in relation to the case of specific persons who have filed a complaint.

Public speeches and the role of the Chairman of the Constitutional Court of the Russian Federation in legitimizing decisions

The Chairman of the Constitutional Court Valery Zorkin plays a key role in substantiating the appropriateness of Court decisions. He leads an active public life, constantly making announcements and interpreting the positions of the Constitutional Court. His detailed speeches and publications are aimed at a wide audience and are aimed at explaining the meaning of a specific decision of the Constitutional Court of the Russian Federation and the deep motives, intentions and beliefs that underlie the positions of the court. Most of these clarifications are aimed at clarifying the underlying political motives that led to the decision and fostering loyalty to the decisions taken by the court. This makes them an important tool that the Constitutional Court uses to legitimize its own decisions, and, moreover, to raise the very question of the legitimacy of a particular decision.

The Constitutional Court of the Russian Federation as a Part of the Political System

The decisions made by the Constitutional Court of the Russian Federation are made in the name of the Russian Federation. Nevertheless, the Constitutional Court of the Russian Federation is an independent body that has the right to make decisions at its own discretion, guided by the provisions of the Constitution, its own expert assessment of the circumstances of the case and the interpretation of legal norms. As an element of the political system, the Constitutional Court of the Russian Federation reflects its properties and position, shares its course on "sovereignty" and puts sovereignty in the hierarchy of constitutional principles and values higher than human rights. Together with other government bodies, it implements "political will".

Distribution of the burden of responsibility for political decision-making and the role of the Court in the political system

The coherence and interaction of parts of the political system in making political decisions inevitably entails the sharing of the burden of responsibility for their adoption. The cases considered in the study indicate the significant role of the Constitutional Court of the Russian Federation in regulating controversial issues arising during the implementation of legal provisions and coming into conflict with the rights and interests of citizens. The "loyal" method of regulation applied by the court with the use of a specific "teleological" (i.e., conditioned by the pursuit of a certain goal) abstract interpretation allows to promptly resolve conflict situations, practically without requiring an immediate change in legislation, but is generally binding for application.

The practice of the Court in the context of the theory of constitutional cycles

This study draws attention to those norms of the Constitution of the Russian Federation and the Federal Constitutional Law "On the Constitutional Court of the Russian Federation" in regulating the activities of the Court, which were changed as a result of the constitutional reform of 2020. The constitutional reform was predictable in terms of the theory of constitutional cycles. Indeed, the trend that was

visible in this work at the first stage of the analysis of the Court's decisions, when in the 90s the Court took an active position in terms of significant adjustments to legislative norms and the adoption of radical decisions in opposition to the opinion of the executive power and the legislator, a moderate pace of the period 2000s and the loyal position of "soft" adjustment of decisions in the 2010s corresponds to the theory of constitutional cycles, the course of which was started by the adoption of the new Russian Constitution in 1993. In accordance with the stages of development of constitutionalism, which the theory of constitutional cycles suggests⁵⁰, after the adoption of the Constitution of the Russian Federation in 1993, it was corrected taking into account the realities of that time. This was facilitated by the active practice of the Constitutional Court of the Russian Federation in resolving conflict issues between branches of government at various levels, challenging individual political decisions of senior officials and the limits of their powers, in establishing the meaning and content of fundamental constitutional rights. This corresponds chronologically to the period of the Court's activity up to the 2000s, which can be conditionally called the stage of basic constitutional stability. In the future, in the changing practice of the Court on a significant broad interpretation of many norms, one can notice "erosion of constitutional consensus" in the form of a discrepancy between the legislator's positions and the basic provisions of the Constitution, which individual citizens appealed to the Court for the protection of their rights. Based on the example of the studied cases, it can be concluded that there is a significant desire and need on the part of the Courts to reconcile political realities with the norms of the Constitution and the expectations of society and individual citizens that took place after 2009. This situation, when a conflict of norms, actual political activity and expectations is inevitable, indicates a "lack of legitimacy" of the entire constitutional order and is inevitably resolved in the form of a new consensus and the achievement of new stability. The consensus was expressed in a short period of discussions on the draft Constitution and its successful adoption in 2020. According

⁵⁰ Medushevsky A.N. The theory of constitutional cycles / A. N. Medushevsky. - 2nd ed. - M.-Berlin: Direct-Media, 2015. Pp. 744- 819.

to the theory, the next step should be to identify problematic and conflicting places of the new constitution, which will also need to be adjusted. The role of the Constitutional Court in this process can be judged on the basis of its new practice, which developed after the amendments to the FKZ "On the Constitutional Court of the Russian Federation", which entered into force on November 9, 2020 and affected primarily its powers. We believe that in this case, there may be a change in the strategies of legitimation that the Constitutional Court of the Russian Federation uses in its decisions, the conclusions of which were made in the course of this study.

III. Conclusion

The Constitutional Court of Russia, which main function is constitutional control and which administers justice in a very special, state-legal sphere, and protects the fundamental rights and interests of citizens, perform an important function in reaching a compromise between the interests of the state and society. The most important task of the Court is to ensure the legitimacy of its own decisions when making them.

The legitimation of the decision of the Constitutional Court, firstly, is provided from the outside - by its institutional position in the system of government bodies - and is impossible without understanding the specifics of the interaction of different branches of government. Secondly, the legitimation of the Court's decision occurs through the implementation of specific strategies, which are reflected in the argumentation used by the Court in a particular case.

The methodology for analyzing the Court's decision, which allows one to take into account all the variety of aspects reflected in its text, made it possible to identify a number of strategies used by the Court to legitimate decisions. Such strategies can be conditionally divided into institutional, that is, depending on the scope of the Court's powers and its place in the political system, substantive - depending on the type and actual content of specific arguments used by the Court when making a

decision, and procedural - depending on the procedure for considering the appeal and adoption. decisions on it.

In the course of this study, it was possible to analyze the decisions of the Constitutional Court of Russia by identifying the relationship between legal and political reasoning in substantiating the decisions of the Court in politically significant cases. This made it possible to reconstruct the strategies used by the Court to legitimize decisions in the framework of the cases considered. The results obtained allowed us to conclude the role of the institution of constitutional justice in the Russian political process, the place of the Constitutional Court in the country's political system.

The constitutional amendments that took place in July 2020 are a natural step in the development of the constitutional cycle. The strengthening of the role of the executive branch in the political system, which is reflected, among other things, in the increased dependence of the Court on this branch of government, has become a noticeable result of the constitutional reform. The logic of the development of the constitutional cycle allows us to expect an active position of the Court in reconciling the new norms of the Constitution to the already existing legal provisions and the accepted legal positions of the higher courts using the studied legitimation strategies.

Further areas of research can be the development of a theoretical component of legitimacy and legitimation in relation to court decisions, including a special conceptualization of these concepts, improvement of the methodology for analyzing court decisions, testing the methodology on a larger number of court decisions, the use of other methodological approaches to the specified research subject (including conducting expert surveys, interviews), researching the practice of the Constitutional Court after the reform of 2020, comparing conclusions about the legitimacy of decisions of the Constitutional Court of the Russian Federation and the legitimacy of the political system of Russia or its individual elements.

Appendix 1. Table 1. The main decisions of the Constitutional Court of the Russian Federation in the period from 1995 to 2020

№	Act details	Subject area and article of the Constitution	Applicant	Resolution	Meaning and consequences
	Time period from 1995 until 1999 years				
1.	Judgment of July 31, 1995 No. 10-P	checking the constitutionality of the Russian President Decrees on military operations in the framework of the counter-terrorist operation in the Chechen Republic and the North Caucasus	Federal Assembly	Declared as compliant with the Constitution	
2.	Resolution of January 18, 1996 No. 2-P	<i>Article 95 (principle of separation of powers)</i> Verification of the constitutionality of the Charter of the Altai Territory, which provides for the election of the Governor not in direct elections, but by voting of the legislative body	Altai Territory Administration	Declared as not compliant	The prohibition of the election of the executive body by the legislative Indicated violations of the principle of separation of powers
3.	Resolution dated November 5, 1998 No. 134-O	<i>Article 81 On the powers of the President</i> Request of deputies of the State Duma on the interpretation of the provisions on the possibility of running for President for more than 2 terms	The State Duma	-	A ban has been formulated for the President of the Russian Federation B.N. Yeltsin to run for a third consecutive term; It is permissible to run for a third term with a missing term
4.	Resolution of 11 December 1998 No. 28-P	<i>Article 111 On the appointment of the Prime Minister</i> Request for interpretation of the provisions of the article on the dissolution of the State Duma	The State Duma Deputies		The Court confirmed the possibility of nominating one and the same candidate for the post of Chairman of the

		after the threefold rejection of the candidacy of the Chairman of the Government of the Russian Federation submitted by the President - about the possibility of a proposal for the appointment of the same candidate			Government in case of rejection by the State Duma. Dissenting opinion of N.V. Vitruk - candidates should be different every time. The court sided with the President, earlier in 1998 there was twice a situation with the re-nomination of a candidate for the position of Chairman with a subsequent rejection - S. Kirienko (three times, approved in an office on April 24, 1998), V.S. Chernomyrdin (twice, after it was approved by E. Primakov on September 11, 1998)
	Time period from 1999 until 2008 years				
5.	Judgment of February 2, 1999 No. 3-P *	<i>Article 20 Right to life, 19 Equality of rights of citizens</i> On refusals to satisfy petitions for consideration of cases by jury courts and the possibility of execution of the death penalty	Moscow City Court, citizens of the Russian Federation	Standards comply with Constitutions with some peculiarities	A moratorium has been established pending the formation of a jury trial in all constituent entities of the Russian Federation
6.	Judgment dated October 30, 2003 No. 15-P	<i>Article 29 Prohibition of unfair campaigning, Freedom of speech and information</i> Checking the constitutionality of qualifications as pre-election campaign information media activities	Group of deputies, citizens of the Russian Federation	Some of the norms are recognized as not compliant with the Constitution	Distinguished between the concepts of election campaigning and information; The relationship between the norms on freedom of expression and freedom of information and electoral rights has been determined

7.	Judgment dated February 1, 2005 No. 1-P	<i>Article 13 Multiparty system</i> Verification of the constitutionality of the Law "On Political Parties" establishing a numerical threshold for registration of a political party in the amount of at least 10 thousand people. and the presence of the party in more than 50% of the subjects of the Russian Federation	Baltic Republican Party	Declared as compliant with the Constitution	Party supporters' threshold creates equal opportunities for all regions to participate in political life
8.	Judgment of July 14, 2005 No. 9-P	<i>Article 41 Presumption of innocence</i> Verification of the constitutionality of the provisions of the Tax Code of the Russian Federation on the possibility of bringing to responsibility for tax offenses beyond the statute of limitations	PJSC "Oil Company" YUKOS "and the Arbitration Court of the Moscow District	Declared as compliant with the Constitution	Allowed to collect tax penalties outside the statute of limitations Allowed to initiate a criminal case against the owners of PJSC "Oil Company" YUKOS "
9.	Judgment dated 21.12.2005 No. 13-P	<i>Article 32 guarantee of electoral rights, 55 inadmissibility of diminishing the rights of citizens</i> Verification of the constitutionality of the law on the appointment of the heads of the subjects of the federation to the office by the legislative body of the subject of the federation on the proposal of the President of the Russian Federation	V. Grishkevich, citizen of the Russian Federation, deputies from the party "Union of Right Forces", citizens of the Russian Federation	Declared as compliant with the Constitution	Determined the status of the governor as a person directly subordinate to the President Confirmed that a person can be appointed to the post of governor not only by direct elections We came to the conclusion that there is no guarantee in the Constitution of the elections of the subject of the federation Justified the change in position (paragraph 4 of this table) by

					changing the socio-historical context
10.	Judgment dated July 16, 2007 No. 11-P	<i>Article 13 Multiparty system</i> Verification of the constitutionality of establishing a numerical threshold for registration of a political party in the amount of at least 50 thousand people.	Russian Communist Workers' Party - Russian party of communists	Declared as compliant with the Constitution	
Time period from 2009 until 2019 years					
11.	Resolution dated 19.11.2009 No. 1344-O-P*	<i>Article 20 Right to life</i> Request for clarification on the possibility of using the death penalty in connection with the elimination of the formal grounds for the moratorium - the establishment of jury trials in all constituent entities of the Russian Federation in 2010	Judge of the Supreme Court of the Russian Federation V.A. Davydov	Clarifications are given to the previously adopted Judgment No. 3-P dated 02.02.1999 (clause 6 of this table)	The moratorium was extended due to the existence of international legal obligations to abolish the death penalty
12.	Judgment dated February 14, 2013 No. 4-P	<i>Article 19, 31 Right to equality before law and court;</i> <i>The right to assemble peacefully</i> Checking the constitutionality of the new edition of the Federal Law "On Assemblies, Rallies, Demonstrations and Picketing" and the Administrative Code	Deputies of the State Duma, citizen of the Russian Federation E.V. Savenko (Limonov)	Recognized as compliant with Constitution in a certain constitutional sense, or inconsistent with the Constitution	Obligated the legislature to make a number of clarifications regarding the terminology used and the procedure for imposing punishment for violating the rules for holding mass events
13.	Judgment dated March 19, 2014 No. 6-P	Verification of the constitutionality of the Treaty on the annexation of Crimea	Russian President V.V. Putin	Recognized as compliant with the Constitution	Consideration of the case on the merits and adoption of a decision was carried out with a deviation from the usual constitutional procedural order

14.	Judgment dated April 8, 2014 No. 10-P	<p><i>Article 13 Equality of public associations, political diversity, 19 equality before the law, 29 freedom of speech and information, 30 the right to association, etc.</i></p> <p>Checking the constitutionality of the Law "On foreign agents" (amendments to the Federal Law "On Non-profit organizations" and the Federal Law "On Public Associations")</p>	Non-profit organizations, ombudsman	Recognized as compliant with the Constitution	Clarifications are given to the concepts of "political activity as capable of influencing (including through the formation of public opinion) on the decisions of the authorities; Clarified non-application of the terms "political" to human rights and charitable organizations
15.	Judgment dated 14.07.2015 No. 21-P *	<p><i>Article 15. On the hierarchy of sources of law</i></p> <p>Verification of the constitutionality of the norms of international treaties on mandatory execution of decisions of the European Court of Human Rights that could potentially contradict the Constitution</p>	Group of State Duma deputies	Recognized as compliant with the Constitutions in the established constitutional and legal sense	<p>The place of international acts in the legal system subordinate to the Constitution of the Russian Federation has been determined</p> <p>In exceptional cases, it is possible to refuse to execute decisions of the European Court of Human Rights</p> <p>Expansion of the powers of the Court</p>
16.	Judgment dated January 19, 2017 No. 1-P	<p><i>Article 15. On the hierarchy of sources of law</i></p> <p>On the possibility of enforcing the judgment of the ECHR of July 31, 2014 in the case Shareholders of OJSC Oil Company Yukos v. Russia</p>	Ministry of Justice of the Russian Federation	The impossibility of execution was recognized	<p>The interpretation of the norms of Russian law applied in the judgment of the ECHR is at variance with the interpretation of the Constitutional Court</p> <p>A resolution cannot be considered binding if the interpretation applied in it is at</p>

					variance with the Constitution of the Russian Federation
17.	Judgment dated 10.02.2017 No. 2-P *	<i>Article 31 Right to Assemble Peacefully</i> Verification of the constitutionality of article 212.1 of the Criminal Code of the Russian Federation responsibility for repeated violation of the rules for holding rallies	I.I. Dadin, citizen of the Russian Federation	Recognized as compliant with Constitution in the established constitutional and legal sense	A number of parameters have been established, the observance of which is mandatory when resolving a case and sentencing: - the need to take into account the degree of consequences - presence of guilt - the fact of administrative offenses does not in itself entail criminal liability
18.	Judgment dated 08.12.2017 No. 39-P *	<i>Article 55 inadmissibility of derogation of rights by laws, 57 rights of a taxpayer</i> Verification of the constitutionality of the rule on bringing to financial liability for tax obligations of the organization in the absence of the fault of the individual	G.G. Akhmadeeva, S.I. Lysyak and A.N. Sergeev, citizens of the Russian Federation	Recognized as compliant with Constitutions in the established constitutional and legal sense	When sentencing, the courts are recommended to take into account the circumstances of the case, the degree of guilt, the financial situation of the accused.
19.	Resolution of 19.01.2017 No. 1-P	Request on the possibility of enforcing the judgment of the ECHR of 31.07.2014 in the case "PJSC Oil Company Yukos v. Russia" Ministry of Justice of the Russian Federation	Ministry of Justice of the Russian Federation	The execution of the judgment of the ECHR was declared impossible.	Second case considered after the introduction of the new power of the Court to decide the issue of the enforceability of ECtHR decisions
20.	Conclusion dated March 16, 2020 No. 1-3	<i>Article 3 The principle of democracy</i> Verification of the constitutionality of the law on the amendment to the Constitution,	Russian President V.V. Putin	Recognized as compliant with The Constitution	Consideration of the case on the merits and adoption of a decision was carried out with a deviation from the usual constitutional procedural order;

		which has not yet entered into force, "On improving regulation of certain issues of the organization and functioning of public authorities"			Permissibility of changing certain provisions through the amendment law; The admissibility of holding "all-Russian voting" not directly stipulated by the Constitution, but verified by the Law, for its "constitutional legitimation."
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(*) This marks the decisions of the Constitutional Court of the Russian Federation, the argumentation of which was analyzed as the main case in the dissertation research.

Appendix 2. Table 2. Methodology for analyzing the decision of the Constitutional Court of the Russian Federation

I. Formal parameters of the regulation	
1.1. Title and details; 1.2. Initiators of the consideration of the case (applicant); 1.3. Composition of the court (if any); 1.4. Case background; 1.5. Argumentation (general logic, highlights); 1.6. The resulting part of the decision (outcome of the case).;	
II. General characteristics of arguments	
Features of legal reasoning	Features of political reasoning
1. Relevant and / or reliable; 2. Clarity, unambiguity of used formulations, interpretations, conclusions; 3. Consistency and logic of argumentation and conclusions; 4. The reliability of the sources and facts used; 5. Pluralism (arguments for different options).	1. Irrelevant and / or unreliable; 2. Uncertainty, ambiguity of terms and arguments; 3. Inconsistency in the presentation of argumentation and conclusions; 4. There is no verification of the reliability of the sources and facts used; 5. Consecutive representation and defense of only one position, without counter-arguments.
III. The meaningful nature of the arguments	
Signs of legal reasoning	Signs of political reasoning
Possible questions: What rules does the court refer to? How appropriate is the reference to this rule? To what extent is the interpretation of the norm consistent with the previously used interpretation in court orders? How does	Possible questions: How do the arguments influence the perception of the judgment as a whole? To whom is it addressed and to who is the use of the appropriate techniques directed? What

<p>this norm help in formulating and explaining the decision? How consistent are the applicable rules, their interpretation and interpretation given by the court, with the practice of applying such rules?</p>	<p>is the purpose of their application? What can their application indicate?</p>
<p>Appeal to sources of law:</p> <ol style="list-style-type: none"> 1. Articles of the Constitution of the Russian Federation; 2. Norms of legislative acts; 3. Norms of international law; 4. Reference to the court's own practice (other decisions) in this category of cases; 5. Reference to the court's own practice (other decisions) in other categories of cases; 6. Reference to decisions of international courts (in particular, the ECHR); 7. References to decisions of constitutional courts of other states; 8. Reference to expert opinion and opinion of the legal community, legal doctrine. 	<ol style="list-style-type: none"> 1. Appeal to rationality, efficiency, benefit; 2. Appeal to "authority" - to individuals, statuses, positions; 3. Appeal to values, "collective morality", historical, cultural characteristics; 4. Appeal to "pathos" - emotions, experience, feelings; 5. Reference to the political situation, a specific historical moment; 6. References to sources of law are not correct, not explained.
<p>IV. Features of the assessment of abstract categories</p>	
<p>Features of legal reasoning</p>	<p>Features of political reasoning</p>
<p>1. Categories are assessed in terms of generally accepted norms and principles of law.</p>	<p>1. Categories are assessed from the point of view of the interests of specific subjects, groups, political actors.</p>

<p>2. There is continuity and consistency of the court's legal positions on similar issues.</p> <p>3. The hierarchy of principles, norms and values is determined by legal regulations.</p>	<p>2. The hierarchy of principles and the meaning of categories is given depending on the current political situation, political situation, historical context.</p> <p>3. Imperative prioritization regardless of legal regulations.</p>
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V. Speech and stylistic features

Features of legal reasoning	Features of political reasoning
<p>1. Use of clericalisms, legal terminology, legal formulas, facts.</p> <p>2. The absence of an individual author, a collective author without individualizing signs, the author's detachment from the subjects of the narrative ("impersonality").</p> <p>3. The use of emotionally neutral expressions.</p> <p>4. Use of constructions with passive, modal verbs.</p>	<p>1. Use of evaluative categories, ambiguous vague concepts, broad interpretation of terms and concepts, the use of "slogans".</p> <p>2. The presence of an individual author, the ratio of the author and the reader and the identification of the author in a group (we), the opposition of the author to other subjects (they, others).</p> <p>3. Emotional, expressive expressions, in some cases - aggressive.</p> <p>4. Use of constructions with active verbs.</p>