

## The Principle of Maintaining Citizens' Confidence in Law and State Actions during the Practice of RF Constitutional and Statutory Courts

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### Abstract

This article examines the final decisions of constitutional and statutory courts in RF subjects, as well as individual decisions of RF Constitutional Court and the judicial legal positions expressed in them. Judicial practice, established on the basis of control and supervision activities of constitutional justice regional bodies, allows us to consider the principle of maintaining citizens' confidence in the law and the actions of the state as a cross-sectoral legal principle that serves as the criterion to evaluate the constitutionality of legal norms adopted outside the powers of Russian Federation on the subjects of joint jurisdiction of Russian Federation and RF subjects. However, the close relationship between the principle of citizens' confidence maintaining in the law and the actions of the state with the general legal principles of justice, equality, legal certainty and the recognition of a person, his rights and freedoms as the highest value makes it possible to qualify this principle as a general principle of law. According to the judicial practice of the constitutional and statutory courts of RF subjects, the principle of maintaining citizens' confidence in the law and the state actions has its own criteria, each of which can be used for the evaluation of regional constitutional justice activity.

**Keywords:** The principle of law; The prince of maintaining the citizens' confidence in the law and the actions of the state; Constitutional and statutory courts; Subjects of russian federation.



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### 1. Introduction

Trust is a requirement of social life in modern times. There is a direct relationship between economic growth and trust. Mutual trust between people and the law by facilitating economic activity will increase efficiency in the economy (Mathieu, 2001). As we know, the provision of basic human rights is at the heart of the goals of the judicial system, and all the changes in this system must be substantially in line with this ambitious goal. One of the most important types of trust is Confidence of the law. Legal Confidence represents the people's trust in judicial authorities and organizations that are responsible for drafting, implement and monitoring the law. Only when people will trust the principles of the law, they will conclude that their rights are included in the law, and the principles of the law will protect their interests in court. The principles of law are considered as an integral element of the national legal system (Bloy and Parry, 2013) and the system of law, where the solution of the issue about the sectoral differentiation is decided on the basis of various criteria, including the prevailing principles of law (Ouladi and Akbarineh, 2016).

### 2. Methods

The work used as general scientific methods of cognition (analysis, synthesis, generalization, comparison), and private-scientific methods: formal-legal, comparative legal and system-structural. The formal-legal method of research is aimed to establish the specifics of norm content that fix the principle of maintaining citizens' confidence in the law and the actions of the state in RF subjects. The comparative legal method of cognition makes it possible to establish general and specific in judicial acts of constitutional and statutory courts of RF subjects fixing legal positions on the principle of maintaining citizens' confidence in the law and the actions of the state. The use of the system-structural method of the study is aimed at inter-system linkage revealing between the principle of maintaining citizens' trust in the law and the actions of the state (Elazar, 1991) and the legal norms of regional legislation that are the objects of control in the constitutional and statutory courts of RF subjects.

### 3. Results and Discussion

To strengthen the system-forming role of the principles of law, a special importance is attached to judicial enforcement, whereby courts, especially specialized ones, exercise legal qualifications and classify the principles of law (general legal, intersectoral, sectoral, institutional) during judicial norm-control. At the same time, the relevant courts develop their own judicial practice and doctrine in this direction.

Carrying out the legal qualification of law principles, specialized bodies of the judiciary power determine their belonging to the group of general legal, intersectoral, sectoral or institutional, but also contributing to the

transformation of their status (level) by the transfer, for example, from institutional to sectoral, from the sectoral to cross-sectoral group or from the rank of interbranch to general law groups.

In this regard, the principle of maintaining citizens' confidence in the law and the actions of the state is indicative. It is called in the theory and practice of supranational European law the principle of legitimate expectation protection by the court (Burgess, 2006), and in the domestic theory of law - the principle of respect for legitimate expectations.

In the judicial practice of constitutional and statutory courts of Russian Federation subjects, the principle of maintaining citizens' confidence in the law and the actions of the state is used primarily to assess the constitutionality of the legal norms governing public relations in the sphere of joint jurisdiction aspects of Russian Federation and RF subjects.

In particular, the Decree of the Constitutional Court of the Republic of Dagestan (December 10, 2013) (Tahavieva and Nigmatullina, 2017) applies the principle of maintaining citizens' confidence in the law and the state action to housing relations and legal relations related to the issues of social protection and social security of medical workers living or who have worked for at least ten years in rural areas or urban-type settlements.

One of the criteria of this principle, namely, the acquired right based on law should be respected and should be implemented, was considered by the Court as a constitutional basis to change the form and the content of social support for this category of citizens (the transition from social benefits in kind to social support measures in the form of monthly cash payments) along with a single identity status for all. In the context of the principle content concerning the maintaining of citizens' confidence in the law and the actions of the state in close volume, the Constitutional Court of the Republic of Dagestan has also come to a justified conclusion that there is a gap in the national legislation related to the unresolved issue of social support measure provision in relation to this category of persons. Accordingly, in the resolute part of its decision the Court ordered vigorously the legislature of the Republic of Dagestan to remove the identified gap in legal regulation, and to review the applicant's case if there are no obstacles for this law enforcement.

In the Decree of the Constitutional Court of the Republic of Karelia (November 8, 2007) (Saul, 2016), a controversial legal rule establishing the right to free use of a residential area with heating and lighting only for those pensioners who worked at the time of retirement for at least 10 years as pedagogical workers in educational institutions located in the countryside on the territory of the Republic of Karelia, was found to be contrary to the principles of equality, the unity of the legal space and the principle of maintaining citizens' trust in law and the actions of the state.

During the implementation of the constitutional normative control, the Constitutional Court of the Republic of Karelia established the scope of this principle action (general issues of upbringing, education, housing legislation, social protection, including social security), and also defined those provisions of the Constitution of the Republic of Karelia, which are its starting bases, namely: the constitutional obligation of the state to recognize, respect and protect equally all the rights and freedoms of a man and a citizen in accordance with generally recognized principles and norms of international law; the rule of law; the equality of rights and freedoms of a man and a citizen (articles 2, 5, part 2, 16 - parts 1 and 2, 19 of the Republic of Karelia Constitution).

Besides, the Constitutional Court of the Republic of Karelia has identified those legal circumstances that indicated the violation of the very principle of maintaining citizens' confidence in the law and the actions of the state: first, the regulation of legal relations in the Republic of Karelia providing social support in the form of a free living space with heating and electricity for teachers, retired teachers who worked in educational institutions of rural areas for more than 10 years, did not agree with the legal norms of federal legal acts and, secondly, the inability of individuals of the considered category to reside and work permanently on the territory of the Republic of Karelia, to implement the right they have acquired to receive this measure of social support, including by federal normative acts.

The Decree of the Statutory Court of the Sverdlovsk Region (April 16, 2013) "On the case of compliance of the article 48 of the Rules of land use and the development of the urban district of the municipality "city of Yekaterinburg" with the Charter of the Sverdlovsk region approved by the Decision of the Yekaterinburg City Duma (November 13, 2007) N 68/48, in connection with the request of the citizen I.I. Potapova" concerning the legal regulation of public relations to approve the rules of land use and the development of urban districts noted that citizens have the right to rely on local authorities to maintain the principle of maintaining confidence in public authorities, which involves the maintaining of a reasonable stability of legal regulation and the inadmissibility of arbitrary change introduction in the existing system of legal norms.

In the same Decree issued on April 16, 2013, the Statutory Court of the Sverdlovsk Region explains that the maintaining of the reasonable stability of legal regulation means, among other things, the obligation of local government bodies to take into account that the rights formed under the previous legal regulation, as well as the legitimate expectations of the participants that the conditions for the exploitation of land and the consumer properties of homeownership will not deteriorate in connection with the amendment of legal regulation of these relations during the change of the urban planning essential conditions.

The principle of maintaining citizens' confidence in the law and the actions of the state allows us to adjust the regional types of legal practice.

Final decisions taken by constitutional and statutory courts within the limits of the established powers are mandatory for execution on all the territory of RF subject by all bodies of state power and local self-government, officials and legal entities and citizens (the associations of citizens).

However, in those cases where a legal norm (an act) of Russian Federation subject is officially declared not to be the corresponding (contradictory) to the constitution (the charter) of the Russian Federation subject, also partially or by sense attributed to the established law enforcement practice, or, on the contrary, corresponding (not contradicting) to Russian Federation subject constitution (charter), but at the same time, the constitutional (statutory) legal meaning of the rule of law in the system of current legal regulation is revealed, the execution of the judicial Act may acquire a personified character.

Regional legislation and judicial practice of constitutional (statutory) courts provide for the following ways of final decision execution: the revision of previously adopted law enforcement decisions; the application of the norm (the act) of Russian Federation subject in a constitutionally (statutory) legal sense, revealed by a constitutional (statutory) court; the non-application of the norm (act) of the Russian Federation recognized as not conforming (contradictory) to the constitution or the charter of RF subject, including also in part: the non-application of the norm (act) of RF subject recognized as not conforming (contradictory) to the constitution or the charter of RF subject, also in the sense attributed to the established law enforcement practice; the non-application of the norm (the act) of

RF subject, which is given a different interpretation, diverging from its constitutional-legal meaning, revealed by a constitutional (statutory) court.

It should be noted that in such cases, the final decisions of the regional bodies of constitutional justice are of a corrective value, as a rule, since they include law-making initiatives in combination with state-power regulations of an individual character aimed at defect elimination in norms and legal relations.

For example, in Resolution of the Constitutional Court of the Republic of Tatarstan (October 12, 2005) No. 17-P (Sharlet and Smith, 2007), the decision of the Cabinet of Ministers of the

Republic of Tatarstan (April 28, 2004) No. 199 regarding the invalidation of paragraph 11 of the Resolution of the Cabinet of Ministers of the Tatar SSR (6 February 1992) No. 62 "On the implementation of the Resolution of the Council of Ministers of the Tatar SSR (November 15, 1990) No. 415 "On Urgent Measures to Improve the Operation of the Emergency Medical Care Station in Kazan" and to Improve the Organization of first medical aid to the population of the Tatar SSR", by which the appointment of early retirement reward was provisioned to outbound staff and the employees of emergency stations, equated to it.

With the reference to the subject matter on the present case, the Constitutional Court of the Republic of Tatarstan appealed to the legal position of RF Constitutional Court, expressed in Decision No. 11-P (June 3, 2004), according to which the principles of equality and justice on which the exercise of human and citizen rights and freedoms is based, including the right to pension provision, presume legal certainty and the associated predictability of public policy in the sphere of pensions, which are necessary for of the participants to the relevant legal relations can be sure that the right they have acquired on the basis of current legislation will be respected by the authorities and will be implemented without their officially recognized status, acquired rights and the effectiveness of their state protection reduction.

Thus, in the resolution part the Constitutional Court of the Republic of Tatarstan indicated that the recognition of the Resolution of the Cabinet of Ministers of the Tatar SSR (February 6, 1992) No. 62 "On the implementation progress of the Resolution of the Council of Ministers of the Tatar SSR (November 15, 1990) No. 415 "On Urgent Measures to Improve the Work of the Station ambulance service in Kazan" and the improvement of the organization of emergency medical care for the population of the Tatar SSR", which has lost its validity, can not be the basis for the cancellation of early pension payment assigned to ambulance station employees before the adoption of the Resolution by the Cabinet of Ministers of the Republic of Tatarstan (April 28, 2004) No.

199 "On the recognition of certain resolutions of the Cabinet of Ministers of the Republic of Tatarstan for the period from 1990 to 1994 as invalid", as well as to refuse the appointment of an early pension to those workers of emergency medical care stations, whose right to early retirement arose at the time of the impugned norm adoption, but who applied for its appointment after April 28, 2004.

## 4. Summary

Thus, the principle of maintaining citizens' confidence in the law and the actions of the state relates, in accordance with the jurisprudence of constitutional and statutory courts of Russian Federation subjects, to a number of interbranch principles of law, serves as a direct criterion to assess the constitutionality of regional legal norms (acts), including the improvement of law-making and law-enforcement activities of public authorities of Russian Federation subjects.

## 5. Conclusions

Judicial practice allows, first of all, to determine the principle of maintaining the confidence of citizens in the law and the actions of the state within the system of principles of law, and secondly, to establish the forms of the normative consolidation of the principle maintaining citizens' confidence in the law and the actions of the state; thirdly, to establish the priority of the principle of maintaining citizens' confidence in the law and the actions of the state in relation to the acts of regional legislation.

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