

Conflict at Russia's Constitutional Court

The Constitutional Court of Russia has for long been the only state institution to have avoided internal feuds. This time is now over.

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The internal dissension came into the open after the public statement by Nikolai Vetruck, Court's Vice-Chairman. He called upon Valery Zorkin to resign and promised that, unless his demand had been met, he would resign himself. Vetruck said that he had the backing of the "majority of the Constitutional Court".

Plot

That the Constitutional Court has been able longer than the others to preserve its image of a close-knit workable team of like-minded colleagues is explained by the judges' personal efforts, but not by the absence of contradictions among them. Initially the mantles were donned by people who were too independent in their judgements to play at "monolithic" unity. Disputes on the cases being discussed sometimes heated the Court to the limit. But the judges invariably had enough professional tact not to take them beyond the confines of the consulting room.

The same happened when several judges disagreed with Valery Zorkin's participation in the political collisions at the end of last year and the beginning of this year. In their view, the question was of directly transgressing Paragraph 3 of Article 14 of the Law on the Constitutional Court: "A judge cannot take part in political acts." They told the chairman bluntly about this, but elected not to wash their dirty linen in public.

At the same time Yeltsin's team happened to be increasingly interested in the reverse being true. By spring it had concluded that it was not so much the Supreme Soviet or the Congress as the Constitutional Court that was the main obstacle in the way to the presidential scenario: "authoritarianism, a new Constitution, dissolution of the existing legislative structures". An obstacle because the Court alone can declare the President's steps to be unlawful, and its own decisions — to be final and not liable to appeal.

As it turned out from private conversations, however, almost three-quarters of the judges supported Yeltsin's scenario. But they did that in their personal capacity, as lawyers. And as members of the Court they would stand up for the norms of the 1978 Constitution.

Conflict

Yeltsin's entourage reasoned that no one can be invulnerable. And they were

not wrong. One of Zorkin's weak points is his inability for behind-the-scenes "chess-like" games with calculations for many moves ahead. Moreover, the Court's chairman took it too close to heart in a purely human way that Yeltsin was spurning him... Zorkin's waverings suggested that his nerves had been worked up to the extreme.

Quite unexpectedly for many Nikolai Vetruck (who had for more than five years worked as Zorkin's chief at the chair of public law disciplines at the Higher Juridical School by Correspondence of the USSR Ministry of Internal Affairs, and who is now his deputy) passed over from the position of a zealous advocate of the Constitution now in force (in the writing of which he once played a part) to that of just as zealously upholding Yeltsin's proposals, while criticizing Zorkin. He was joined by Ernest Ametistov, Anatoly Kononov and Vladimir Oleinik. On the other hand, a stand in Zorkin's defence was taken by Garis Gadzhiev and Boris Ebzeyev. Viktor Luchin, a former party functionary who previously had not reason for drawing closer to Zorkin, also decided to support him, largely out of a simple desire to annoy Yeltsin and company.

In parallel disputes took a sharp turn around the personality of Vyacheslav Savelyev, the Constitutional Court's chief of staff who had been brought in and patronized by Zorkin. Not everyone liked his manner of conduct and his desire to get considerable authority. However, the chairman did not respond even to this displeasure.

And, lastly, the six judges' visit to Yeltsin in May. The visitors hoped that their outing would be kept secret. The President hoped that there would be seven judges — a majority. The hopes of both were disappointed, and the conflict came out into the open.

Culmination

Following this, the presidential team tried the method of direct pressure which had already been rehearsed on Ruskoi. Just like the Vice-President's chancellery, the Constitutional Court was and still is in material dependence on the managerial department of the President's administration. And now Zorkin has been evicted from his dacha in Ogarevo and deprived of an armoured limousine. An indexation of pay has been held back for the court's staff. Hints are being made that there are compromising materials for most of the judges.

Lastly, on the eve of Russia's Independence Day all guards from the security service in the Court's building were replaced with militiamen. Before leaving the building, the professional guards put up a poster: "Esteemed staff members of the Court! We are leaving in compliance with

the President's decree. Thank you for everything. You can understand how we feel." Next to these words there is someone's addition: "Come back".

What is important is that the replacement of the guards is fully in accordance with the law, even with two laws: on the Constitutional Court and on the protection of state institutions. The previous steps did not violate the law either.

Final stage

Tamara Morshchakova, perhaps the most balanced and tactful of all of Zorkin's opponents, does not believe that a split has occurred at the Court: "I don't understand this word. All the time we have held different positions on issues being discussed. Even today we can, all the thirteen of us, take a seat at one table and start a constructive discussion. And that not everyone has personal amiability in relations with one another? But this is good. The most important thing is that there should be professional understanding."

"Everyone is now interested in whether a change of the Chairman will take place," says Tamara Morshchakova. "I believe that any judge who has tied himself up with politics must resign of his own free will."

Zorkin responded without the slightest delay: "Some judges, as far as I have heard, voice their own different points of view. This is their right." He said that he would not send in his resignation and that work at the Court was taking its normal course.

The latter contention is close to reality. The judges are studying the cases accepted for examination, and are not inclined to overdramatize internal contradictions.

Nikolai Vetruck has found himself in an awkward position. To all appearances, he must keep his promise and submit his resignation insofar as he doesn't "consider it possible to carry on work with the incumbent chairman". Because — if the chairman doesn't resign on his own — he cannot be either reelected or replaced. In accordance with the Law on the Constitutional Court, "the powers of the judge are terminated: at his own request for resignation, upon reaching the age of 65, upon the entry of a verdict of guilty into force, in the event of recognized incapacity or death". "A judge cannot be relieved of the post of Chairman other than on a personal application on the relinquishment of these powers."

Of course, there are different means of paralyzing the Court's work to make the Chairman quit. For instance, several judges send in their resignations. Then the Court continues to exist formally, but becomes ineligible to pass verdicts.

But for the time being the Constitutional Court has remained "the foundation of Constitutional order in the country", as Valery Zorkin put it the other day. The paradox, however, is that both branches are pulling the Court towards themselves, snatching now at the stick and now at the carrot.