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## CONSTITUTIONAL FOUNDATIONS OF THE JUDICIAL POWER IN RUSSIA AND THE WORLD

Elena V. Vinogradova<sup>1\*</sup>, Inna L. Danilevskaya<sup>1</sup>, Vasily O. Mironov<sup>2</sup>, Badma V. Sangadzhiev<sup>3,4</sup>,  
Andrey A. Soloviev<sup>5</sup>, Denis A. Shirev<sup>4</sup>

<sup>1\*</sup>*Institute of State and Law of the Russian Academy of Sciences, Moscow, Russia;*

<sup>2</sup>*Vladimir State University named after Alexander Grigorievich and Nikolai Grigorievich Stoletov, Vladimir, Russia;*

<sup>3</sup>*Russian Academy of Education, Moscow, Russia;*

<sup>4</sup>*Peoples Friendship University of Russia (RUDN University), Moscow, Russia;*

<sup>5</sup>*Moscow State Pedagogical University, Moscow, Russia;*

\*Corresponding Author Tursumbai Satymbaevich Kubatbekov, e-mail: [evsfrf@gmail.com](mailto:evsfrf@gmail.com);

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### ABSTRACT

The paper aims to explore the legal nature and essence of the constitutional foundations of the judicial branch of power in the Russian Federation and the world with consideration of the historical experience and modern approaches to the structure and system of operation of constitutional justice found in the law and legislation. The primary research method is the deductive method, which provides for the study of the legal nature of the constitutional court and its place in the system of separation of powers in Russia. The study also employs the inductive method, systemic scientific analysis, and comparative legal and historical methods. The article proves the absence of a theoretical solution to the problem of legal nature and the primary purpose of constitutional control, which, the authors argue, lies in the fact that the principal condition for the establishment of strong judicial power is its high independence. The concept of “judicial law” is in a certain way related to the development of state-monopolistic capitalism, strengthening the position of the state and its apparatus. The idea of “judicial law” is proposed by some authors as a kind of counterweight to state power and bureaucracy. Resorting to the principle of “separation of powers”, these scholars largely overestimate the relative independence of justice from the legislative and executive spheres of functional activity within a single mechanism of state power. The limits of judicial discretion tend to be more narrow, and the scope of judicial discretion is considerably restricted. The application of a legal rule at the discretion of the administration does not always entail the obligation to give reasons. Conversely, the application of a legal rule at the discretion of a court or judge must be motivated by a court order.

**Keywords:** constitution, judicial power, constitutional justice, constitutional court, human rights, state control, separation of powers.