

**COMMITTEE FOR PUBLIC ASSOCIATIONS AND RELIGIOUS
ORGANIZATIONS,
STATE DUMA, RUSSIAN FEDERAL ASSEMBLY**

XXI
БЕК
**ПРЕДСТАВИТЕЛЬНАЯ
ВЛАСТЬ**

ЗАКОНОДАТЕЛЬСТВО, КОММЕНТАРИИ, ПРОБЛЕМЫ

XXI CENTURY
**REPRESENTATIVE
POWER**

LEGISLATION, COMMENTARIES, PROBLEMS

SUMMARIES IN ENGLISH NO 2003 - №1 (49)

MOSCOW 2003

Summaries in English

Editor-in-Chief

A.P.Lyubimov

Editor of the English Edition

A.N.Domrin

Editorial Board:

A.S.Avtonomov, A.S. Barsenkov,
A.N.Domrin, V.A.Koretski,
V.F.Koultchitski, V.A.Lepekhin,
A.P.Lyubimov, M.V.Matasov

Editorial Council:

V.I.Zorkaltsev (head of the Council),
S.N.Babourin, V.G.Vyshniakov, U.V.Zorin,
V.V.Igrounov, V.N.Lysenko, O.O.Mironov,
V.A.Popov, M.M.Prusak, A.V.Uss

Design:

A.P.Lyubimov.

Correspondents:

in the United States: Iowa City – A.N.Domrin

Phone: (10-1) 319-335-9034; fax:319-335-9019

E-mail:alexander-domrin@uiowa.edu;

in Italy: Naples – I.Marino

Phone: (39-081) 764-35-01

in Canada: Ottawa – P.Doutkevitch

Phone: (613)520-27-92, Fax520-40-64

E-mail:pduktiew@ccs.carleton.ca

in Azerbaijan: Baku – V.B.Aliev

Phone: (8-1099412) 987-456

Founded in November 1994.

The views of the editors board do not necessarily coincide with the authors' opinions.

All rights reserved.

Contents

Attention. Advertisement for the subscribers (p. 2, cover)

Our congratulations to prof. Berman (p. 3, cover)

Editor-in-Chief's Column

Tendencies of World Law Development. Interview of Editor-in-Chief of "Representative Power - 21st Century: Legislation, Commentaries, Problems" Journal **A.P. Lyubimov** and Correspondent **B.A. Osipian** with a World-Known American Professor Harold Joseph Berman (February 12, 2003)

Parliamentary Ethics

M.P. Rokitsky, *On Adoption of the Code of Parliamentary Ethics of a Deputy*

Shared Competence

A.N. Chertkov, *Foundations and General Principles of Definition of the Forms of Federal Legislative Regulation on the Issues of Shared Competence*

Law-Drafting Technics

A.Yu. Tsarev, *On the Rules of Juridical Technics in Legislation-Drafting (Part 2)*

V.V. Ksenofontov, *The Problems and Ways of Development of Legislation*

Women's Congress

T.V. Chertoritckaya, *Dialogues on Women's Movement*

S.T. Bezikov, *Man and Woman in Modes of Gender Logics*

T.P. Lysenko, *An Example for Russia. The First Congress of Women of Tula's Region*

Tax Reform

N.G. Schitova, *Perspectives of Development of Legislation on Tax Reform in Russia (Part 2)*

Philosophy of Law and Religion

B.A. Ossipian, *The New Legal Testament for Deputies of Parliaments in the World, or The Constitutional System of Legal Responsibility of Legislators. A View from Echmiadzin (Part 1)*

Quality of Production

M.S. Pashova, *Legal Problems of Quality of Agricultural Production in Russia*

Local Self-Government

M.I. Grankin, *Constitutional Regulation of Bodies of Local Self-Government*

Law and Anti-Globalists

E.V. Skurko, *The Movement of Anti-Globalists (Social and Legal Aspects)*

Analysis of Criminal Law

O.A. Gavrilov, *Logical and Semantic Analysis of Provisions of the Current RF Criminal Code*

Culture and Law

V.D. Sysoev, *Service to Law is by Choice; Service to Literature is by Destiny*

Reviews

A.N. Domrin, *Who Lost Russia? Memoirs of a Loser* ("The Russia Hand" by Strobe Talbott (Random House, 2002))

Juridical Practicum

Attorneys of "Braginsky & Partners" Law Firm of the Moscow City Bar Answer the Questions of Our Readers

On the Author

Representative Power - 21st Century. Legislation, Commentaries, Problems

/ **Alexei P. Lyubimov, Editor-in-Chief; Alexander N. Domrin, Editor of the English Edition.** - Moscow: 2001. No.4. – 8 pages

If you have any questions about publications in the magazine, its distribution or advertisement, call or send a fax:

095/292-14-81, 292-53-12 or send an Email message to lubimov@duma.gov.ru ("Attention: Representative Power")

to lubimov@duma.gov.ru ("Attention: Representative Power")

© "Representative Power – 21st Century"

Editor-in-Chief's Column

A.P. Lyubimov, Contemporary Development of Russian Parliamentarism.

The author continues his analysis of a problem which was originally raised in

No.2-3, 2001 of the magazine. He summarizes the main trends of development

of modern Russian parliamentarism. He speaks about certain similarities with the parliamentary developments in the beginning of the 20th Century: rapid formation of the party system, dissolution of representative bodies (for instance, in 1993), etc.

The author stresses positive elements of contemporary parliamentarism: improvement of the legislative process, growing number of adopted laws, formation of factions in the State Duma, pluralism of views and real freedom of their expression, improvement of implementation of new legislation, growing interaction between branches

and power and their cooperation, growing interaction between deputies and their electorate, further development and improvement of Russian federal legislation.

At the same time, the author does not overlook certain negative aspects: lack of effective parliamentary control over the executive power, ineffective planning of the legislative work and underdeveloped legislative technique, absence of comprehensive systematization of legislation.

In conclusion, the author speaks about the necessity of evolutionary development of Russian parliamentarism.

Resolution of the Moscow City Duma

On Representatives of the Legislative (Representative) and Executive Branches of Power of the City of Moscow in the Federation Council of the RF Federal Assembly

Following Federal Law of August 5, 2000 No.113-Φ3 “On Formation of the Federation Council of the RF Federal Assembly”, the Moscow City Duma defined rules and procedure of appointment of representatives of the Legislative (Representative) and

Executive branches of power of the City of Moscow in the Federation Council of the RF Federal Assembly. It also defined the principles of voting of the Moscow City representatives in the Federation Council on certain questions and bills.

Systematization of Legislation

N.N. Lityagin, *On the Topical Problems of Systematization of Legislation (Concluded).*

The author speaks about the necessity of interdepartmental coordination of draft decisions on repeal of normative legal acts, their changes and amendments. This should lead to avoidance of duplication of legal acts. The task is complicated and quite peculiar. Particular attention was paid to the preparation of the RF Code of Laws. The Code comprises federal laws, acts of the RF President and RF Government, acts of bodies of state

power in the RSFSR and USSR which are still in effect on the territory of the Russian Federation. Depending on types of acts, lists of legislation include acts of legislative bodies of the Russian Federation and RSFSR, RF President, RF Government, RSFSR Council of Ministers and RSFSR Council of People’s Commissars (SNK), USSR legislative bodies, USSR Council of Ministers and USSR SNK.

When proposing to repeal the USSR legal normative acts, it’s necessary to add that

they lose their effect on the territory of the Russian Federation. The USSR legal normative acts is that they cannot be changed or amended during the preparation of the Code of Laws. A “succession clause” is another peculiarity of those USSR acts which are still in effect on the territory of the Russian Federation. If they mention any abolished bodies of state power, it’s necessary to name their successor when making a proposal about abolishment of such acts. If there is no any definite successor body at all, the Russian Federation with all its new bodies of state power is to be considered such a successor.

When discussing the process of preparation of the Code of Law, the author criticizes the existing Classifier of Legal Acts. In his opinion, some titles of the Classifier are too narrow or

disproportionate (for instance, “Environmental Monitoring” (index 110.010.040) and “Environmental Information” (index 110.010.050)). Sometimes too specific legal information can be useful to a narrow circle of legal experts, but might confuse a mass consumer (title “General Procedure in the RF Constitutional Court” (index 180.030.040)). Relations between titles of the Classifier are sometimes obscure. Section “Privatization of State and Municipal Residential Premises” (index 050.020.060) of the Title “Housing” doesn’t have a reference to Section “Privatization of State and Municipal Property” (index 030.090.070) of the Title “Housing”) of the Title “Civil Law”. Certain sections have too vague or incomplete titles (for instance “Influence of Changes in Currency Rates” (index 080.150.040)).

Against MoneyLaundering

A.P. Lyubimov, *Institutional Measures Against Money Laundering.*

The article is an attempt of a practical commentary and scientific analysis of the procedure of adoption of laws aimed against legalization of “dirty money” (money laundering), their interrelation between themselves and with international norms and standards in this sphere, as well as of possible consequences of their adoption and implementation.

The article analyzes the so called Volfsberg Principles, as well as federal laws of May 28, 2001 No.62 “On Ratification of Convention on Laundering, Exposure, and Confiscation of Criminally Earned Income”, of August 7, 2001 № 115 “Against Legalization (Laundering) of Criminally Earned Income”, and the Strasbourg Convention on Laundering, Exposure,

and Confiscation of Criminally Earned Income.

The author compares those acts to norms and standards of international law. In his opinion, a big number of blanket norms is the main deficiency of the Law “Against Legalization (Laundering) of Criminally Earned Income”.

The author claims that the use of different units of monetary measures in Law No.151 and Federal law of August 7, 2001 No. 121 “On Changes and Amendments to Legal Acts of the Russian Federation as a Result of Adoption of the Federal law “Against Legalization (Laundering) of Criminally Earned Income”, on the one hand, and the new edition of the RF Criminal Code, on the other hand, might lead to a situation when Article 174 of the RF Criminal Code will not be effective in

respect of financial deals larger than 600,000.00 Roubles, but smaller than 2,000 minimal salaries.

The author analyzes new norms in legislation on commercial, revenue and

banking secrets. He also considers powers and status of the federal organ responsible for control over implementation of the above-mentioned normative legal acts.

Russian Property Abroad

V.G. Vyshniakov, Legal Problems of Use of Property Abroad (Part 1)

The author analyzes legal aspects of acquiring, owning and restitution of Russian property abroad in the context of Russia's succession to the USSR. The people is the subject of the right to Russia's property abroad. The state, represented by the RF Federal Assembly, shall exercise the right of owner, as a representative of the people. The author states that the system of administration of Russia's property abroad has been criminalized, and the activities of law enforcement agencies in this sphere is often ineffective.

Russia's property abroad includes immovable property and movables, securities, shares and stocks belonging to the Russian Federation, currency and other valuables, real estates, state credits and investments abroad, etc.; property of those former USSR ministries and departments as well as of nongovernmental organizations that had all-Union (all-Russian) status in the USSR and RSFSR and exercised general state functions; property of religious organizations, etc.

The author notes that privatization of Russia's property abroad is illegal. Division of the USSR property was exercised with gross violations of norms of international law. V.G. Vyshniakov comes to a conclusion that the right to property shall belong to the state where such property is located. At the same time foreign state property has functional immunity. If a state uses its property on the territory of another state to maintain its sovereignty or exercise its political functions (for instance, to have diplomatic and consular offices), then it shall be considered a subject of international law, and its property has immunity from jurisdiction of the state where it's located. If a state (through its bodies and organs) participates in property turnover on the territory of a foreign state, then it is considered a foreign private person and its property doesn't have such immunity. Turnover of such property is regulated by norms of private international law and national legislation of a foreign state. The author urges branches of the Russian Government to promptly adopt necessary legislation of the Russian Federation in this sphere.

Foreign Experience

Ivan Marino, Decentralization and Growth of Regionalism in Italy

The author considers the procedure of adoption of the Constitutional Law "Amendments to Chapter 5 of Part 2 of

the Constitution". He analyzes new norms of the law. For instance, according to the law, communes, provinces, big cities and

regions acquire their own administrative organs, has their charters, budgets, powers and competence on the basis of the Constitution. The law divides spheres of activities and powers between the state and provinces. In the legal sphere, for instance, provinces can adopt their legislation, but the Center determines the main principles of the legislation. Besides, provinces get a

right to sign treaties with other states when it's allowed by state laws. The law provides for an establishment of a special fund to support less developed territories. In specially determined cases, the central government has a right to intervene and replace administration of regions, big cities, provinces and communes on the whole territory of the Italian state.

M.B. Tsalikova, *U.S. President and Congress in Foreign Affairs (Part 1)*

The author analyzes the role of the U.S. President and Congress in foreign affairs. Congress has important constitutional functions in this sphere including its right to declare war. According to the Constitution, Congress declares war and the Executive wages it. Congress adopts federal budget. Congress declared war five times in the U.S. history: war of 1812, Mexican war of 1848, Spanish war of 1898, World War I and World War II.

At the same time, the role of the U.S. President in foreign affairs is bigger than that of Congress. It's the President who is actually responsible for the U.S. foreign policy. He is also considered an official representative of the United States in international relations.

Wide powers of the U.S. President in this sphere are based on practice and precedent. President enjoys nearly absolute powers in emergency situations. Yet, extraordinary powers of

the U.S. President need to be approved by Congress. That's not always an easy task. Quite frequently in the past, Congress refused to intervene even when Presidents violated law and traditions. M.B. Tsalikova considers a decision of 1936 (*United States v. Curtiss-Wright Export Corporation*) by Judge Sutherland, who declared that President shall be free of legislative checks when considering complex and delicate international problems.

U.S. Congress also approves all international treaties signed by President. Some Presidents, like Woodrow Wilson, didn't consult the U.S. Senate at the stage of negotiations, and sometimes it back-lashed (like when the Senate refused to ratify the Versailles Treaty). Nowadays important aspects of international relations are not often decided by a treaty.

When writing the article, the author used extensive historical and legal material. She quotes many Russian and foreign publications.

Culture and Law

V.D. Sysoev, *Under Protection of Law. Pushkin and Law*

Legal and political knowledge in Pushkin's works is the subject of research by V.D. Sysoev. In his

opinion, for instance, the very first sentences of Pushkin's ode "Liberty" contain a condensed version of theory of

state and law in European countries with its restriction of autocracy by law,

equality before law.

Commonwealth

P.V.Guryanov, K.V.Talerov, *Russia and Belarus: Transition to the Rule of Law.*

The authors analyze the emerging legislative system of the Union state and its collisions. They draw attention of law-makers to certain defects and deficiencies of the Union legal system including the system of courts of the Union state.

The authors also consider provisions of the Treaty "On Formation of a Union State". A Union state has an exclusive list of legal normative acts: laws, foundations of legislation, decrees,

regulations, directives and resolutions. Plus decisions of the Union State Court and conclusions of an Accounting Chamber. The authors make an attempt to define their legal force in respect of the system of the Union legislation and of the Russian legislation. However, they don't consider legislation of Belarus.

In their conclusion, laws of the Union member states should not contravene the Union legislation.

Public Opinion

N.N. Gavrilova, *Demographic Crisis in Russia (Part 2).*

N.N. Gavrilova completes her article whose publication was begun in No.2-3 / 2001.

She writes about a critical situation in public health, shrinking life expectancy and growing infant mortality in the country. In her opinion, those negative effects can be explained by collapse of social and living standards in Russia, destruction of the public health system which was to be reformed rather than destroyed.

The author states that Russia doesn't have a demographic policy. From her

point of view, growth of life expectancy shall be a priority of the Russian government. This task relates to improvement of the public health system and its financial support.

Strategic goals of social and demographic policy shall be predetermined by the necessity to improve the quality of life in the country, eradication of "demographic waves", allow families to have as many children as they want which presumes a relatively high level of material wealth.

V.I. Volkov, V.A. Kozlov, B.A. Minin, *On Practical Aspects of the Development of Social Production*

The authors describe an idea of creation - together with foreign partners, experts of the Eastern European Union - of a project Russian European Agency "Development".

The goal of Agency "Development" is an intensification of social development of branches of industry and regions caused by creation and realization of the procedure of accumulation, concentration and evaluation

of social and economic effectiveness and dissemination of effective innovations on request of federal and regional authorities, entrepreneurs and public organizations.

Russia possesses a great creative potential and powerful intellectual

resources. The authors believe that if combined with experience and creative potential of other (first of all, Western) countries, such Russian characteristics are sufficient to radically improve its development.

References, Bibliography, Reviews

Legislative Process. Definition. Elements. Stages

(M.: Yurisprudentsia, 2000. R.F.Vasiliev, ed.) [reviewed by A.A. Yashin]

The reviewer of the book observes that legislative process is one of defining factors of formation and development of the Russian Federation as a democratic state based on the rule of law.

The book contains a detailed description of the legislation process. The author defines this process and describes its stages: from drafting a bill

and its adoption by the representative branch of government to promulgation of the act and its publication.

The book is the newest complex edition which analyzes all elements of legislative process including a new (for Russian state and society) phenomenon - the lobbying. The book combines the best qualities of a deep and thorough scientific edition and practical manual.

Economic Security and Investments (Theory and Practice)

(M.: REA, 2000. E.A.Oleinikov, ed.) [reviewed by A.P. Lyubimov]

A collective of authors of the book analyzed a significant number of sources dedicated to economic security, the role of investors and management in the Russian economics of the 21st Century. The book is a continuation of several previous analytical materials prepared by two collective of authors headed by Academician of the Russian Academy of Sciences (RAN) V.K.Senchagov and E.A.Oleinikov,

Academician of the Russian Academy of Dialectical and System Research (RADSI) and International Academy of Information.

The reviewer believes that the book contains very useful material not only about economic security of the country, but about the concept of economic security and its role in transformation of national economy, including its agrarian sector, in the new conditions of market relations.

About the Authors

Viktor Grigorievich Vyshniakov – State Duma deputy (1993-1999), Doctor of Law, Professor.

Vyacheslav Ivanovich Volkov – Executive Secretary of the Expert Council of the Russian Government, Professor of the Russian Academy of Economics, Candidate of Economics, Academician of MAN IPT and Russian Academy of Space Research, Corresponding Member of the Russian Academy of Engineering.

Irina Nikolaevna Gavrilova - Doctor of History, Head of Laboratory of Problems of Social Partnership of the RAN Institute of Comparative Political Studies, author of numerous publications, including books on demographic problems.

Platon Vladimirovich Gurianov – Deputy Head of Student Political Club of the Moscow State University of Commerce (since 1998).

Vladimir Alekseevich Kozlov – Expert of the “Center of Strategic Research” Foundation, Doctor of Technical Sciences, Senior Research Fellow.

Nikolay Nikolaevich Lityagin - Assistant Professor, Corresponding Member of the International Academy of Information Processes and Technologies.

Boris Alekseevich Minin - President of the International Academy of Social Development, member of the Expert Council on Social Security and Social Development (of the State Duma), Candidate of Technical Sciences, Doctor of Economics, Professor, Academician of the International Academy of Information.

Alexei Pavlovich Lyubimov - Candidate of Law, Corresponding Member of MAN IPT, Head of a division of the State Duma’s Law Department, expert in Public (Constitutional) Law. Member of the Russian Union of Journalists. Author of more than 160 publications including books “Parliamentary Law of Russia. Main Sources”, “Lobbyism as an Institution of Constitutional Law”, “Constitution of the Russian Federation. Album”, “Classification of Lobbyism”, “Legal Institutions of Democracy in Russia and Europe. Elections, Lobbyism and Parliamentarism”.

Ivan Marino – Correspondent of “Representative Power -the 21st Century”.

Vyacheslav Dmitrievich Sysoev - Academician of the International Academy of Information, Doctor of Information Sciences, RAEN Corresponding Member, Co-Chairman of the RF Union of Writers, author of more than 25 books and many publications in the sphere of legal information, criminal studies, history of Russian jurisprudence, literature studies.

Kyrill Vladimirovich Talerov – Head of Student Political Club of the Moscow State University of Commerce, Chairman of the student Council of the Institute of Commercial Law.

Marina Borisovna Tsalikova - Senior Lecturer of the North Ossetian State University Law School.

Alexander Alekseevich Yashin - Candidate of Law, Councillor of the Law Department of the RF Central Election Commission.

Legal Scientific and Practical Edition

If you have any questions about publications in the magazine, its distribution or advertisement (or information materials), call or send a fax: 095/292-14-81, 292-53-12 or send an Email message to lyubimov@duma.gov.ru (“Attention: Representative Power”)

The authors should send their articles on paper and a computer disc, with a brief information about yourself.

In order to avoid duplication of materials they should be discussed with the editor.

The magazine has a right to reduce the material and change the title.

УДК 32.5

ББК 67.400.6

П 711

Summary Editions of “Representative Power - the 21st Century are issued in Russian, English and French.

Representative Power - 21st Century. Legislation, Commentaries, Problems
/ **Alexei P. Lyubimov, Editor-in-Chief; Alexander N. Domrin, Editor of the English Edition.** -
Moscow: 2001. No.4. – 8 pages

Оригинал-макет изготовлен 06.08.2001. Подписано в печать 28.08.2001

Гарнитура Петербург. Печать офсетная. Бумага офсетная. Усл. печ. л.5.8 . Тираж 999 экз. Заказ № 4/2001

Отпечатано отделением выпуска официальных изданий ФИПС

121873, г. Москва, Бережковская наб., д. 24 стр. 2.
