

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

XXVI
БЕК
**ПРЕДСТАВИТЕЛЬНАЯ
ВЛАСТЬ**

ЗАКОНОДАТЕЛЬСТВО, КОММЕНТАРИИ, ПРОБЛЕМЫ

XXVI CENTURY
**REPRESENTATIVE
POWER**

LEGISLATION, COMMENTARIES, PROBLEMS

SUMMARIES IN ENGLISH NO 6 –2003 (54)

MOSCOW 2003

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Founded in November 1994.

Index for subscription 15660,15669

in the cooperative catalogue “Russian press”

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

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Representative Power - XXI Century. Legislation, Commentaries, Problems/ Alexei P. Lyubimov, Editor-in-Chief; Alexander N. Domrin -Editor of the English Edition.

Moscow: 2003. No.6. –12 pages

If you have any questions about publications in the magazine, its distribution or advertisement,
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O.N. Bulakov. Functions of Chambers in Parliaments (Theory & Practice)

Legal literature on parliamentarism contains various formulations designating activities of parliaments: "Parliamentary functions", "the competence of parliament", "parliamentary powers", etc. These terms are used as elements of the same legal definition. According to it, competence is a legal expression of functions.

Most of scholars have similar understanding of parliamentary functions. Usually they refer to law-making, budgetary, executive, administrative, judicial functions and functions in the sphere of foreign policy and in adoption of a new constitution and its amendments (M. Deuverzhe); or influence on the government, adoption of laws, approval of the budget, control over administration, organisation of work of the parliament (D. Kumbson).

We can also divide parliamentary functions into those having constitutional

significance, powers to adopt federal laws and make procedural changes.

According to another criteria, parliamentary functions can be divided into domestic and foreign functions. When realising them, the parliament can exercise legislative, budgetary, control, and ceremonial activities, play its role in formation of various state bodies and adoption of normative acts.

When defining functions of the Federation Council researchers speak about representative, legislative, and control functions, as well as functions on formation of bodies of the government, restraint of the lower chamber, organisational functions and other powers (in the sphere of the foreign relations; questions of war and peace; regarding the head of the state, and other authorities; territories of the state and subjects of the Russian Federation; ceremonial function).

A.L. Sivkov. Alternative Sources of Parliamentary Procedure (Tradition, Precedent, Practice, Interpretation of Standing Orders)

Untimely adoption of laws and their poor quality is an old problem of Russian legislation. It demands a serious consideration of alternative sources of parliamentary procedure.

According to A. Sivkov, it is necessary raise the status of the custom and precedent to the level of a full-scale source of parliamentary law. Technically, it can be done by amending Article 2 of the Standing Orders with a new paragraph: "In case of absence of a necessary norm in legislation and the Standing Orders, the State Duma can make a decision which becomes obligatory for further regulation of similar situations".

Opportunities of interpretation of the Standing Orders as means of decision of procedural problems are insufficiently used by the State Duma.

The State Duma staff should have a special highly skilled and experienced expert in the sphere of the parliamentary law and parliamentary procedure.

Chairman of the State Duma could have a right to influence the parliamentary procedure. He should participate in subsequent elections only as a former Chairman running for a new term and not as a representative of any party or social movement.

Deputies are rarely experts in the sphere of parliamentary procedure. So the State Duma staff should become collectors and keepers of parliamentary traditions and procedures.

To make the State Duma staff a full-scale participant in the legislative process it is necessary to specify the staff's rights and duties and determine its status. Labour relations of parliamentary employees should become more stable.

To bring the status of the State Duma staff into accord with its position as an active participant in the legislative

process, Section 1 of Article 78 of the Standing Orders can be amended. At this moment it says that the State Duma Apparatus provides "legal, organisational, documentary, analytical, and information service for the deputies' activities ". The State Duma should consider replacing phrase "for

the deputies' activities" with "activities of the State Duma".

Even the most perfect Standing Orders can foresee all possible options and collisions inevitably arising in the activities of a parliament. The only possible way out is to refer to alternative sources of parliamentary procedure

O.V. Savushkina. Parliamentary Activities of Political Parties (Part 1)

Separation of powers is based on distinction of state functions. Law-making is the main parliamentary function.

There is no alternative to political parties. Parties aspire to become stronger and increase the number of their seats in the parliament.

Elections of 1999 did not reveal the majority at once, and deputies formed two centres of power - around the Unity and the Communist Party of the Russian Federation. The Government provided its strong support to the Unity.

The Unity faction.

Electoral manifesto of the Unity were not impressive; basically it proclaimed the party's support to the Government. This faction introduced more bills than any other faction in the Duma. The Unity and several other groups formed the centrist majority in the Duma supporting the President and his vision of reforms. They played a considerable role in adoption of Labour and Land Codes, Code of Civil Procedure and other laws. As a result, Russia was recognised as a country with market economy, standards of living of her citizens are growing

Fatherland - All Russia (OVR).

OVR introduced bills to decrease taxation of domestic manufacturers, improve agriculture, increase salaries, etc. The faction's priorities are transformations in social, and economic spheres and in the military sphere. It corresponds with the OVR's pre-election pledges.

The Union of Rightist Forces (SPS).

A detailed economic program and three questions: on the land property, restriction of parliamentary immunity and professional army. Values: human rights and freedoms. Activities of the Union of Rightist

Forces are aimed at liberal reforms: land, judicial, tax, military reforms, education, and protection of the childhood. However, their activities are very ineffective: by the Spring of 2002 only 4 out of 50 of its drafts had been adopted.

Communist Party of the Russian Federation.

The party tries to restore its dominant position in the Duma, promote Socialist principles and orders, oppose the President and his Government. The party's draft laws are blocked by the rightist majority in the Duma. The Communist Party of the Russian Federation is not only a carrier of Communist ideology, but also of nationalist and ultra-patriotic sentiments. The party's has leftist views on social and economic questions and rightist views on political problems.

"Yabloko".

Priorities: human rights and freedoms, development of democracy and the market. Initiatives: introduction of free purchase of land; judicial reform, economic legislation, settlement of the situation in Chechnya. Achievements: an amendment to the Criminal Code on necessary self-defence, adoption of a bill "On State Standard of the General Education". In the author's (quite biased) opinion, "Yabloko" is the most effective faction in the State Duma.

Liberal-Democratic Party of Russia.

Priorities: return from a federal to a unitary form of the state, defence policy, safety. The faction is notorious for radicalism and populism of its initiatives. The party's position in the Duma usually coincides with the position of the Unity faction.

Conclusion.

Characteristic features of the State Duma include lack of a systematic approach,

absence of the legislative policy. They lead to inconsistency, and adoption of contradictory

normative measures.

CONSTITUTIONAL PROCESS

A.P. Lyubimov. The Tenth Anniversary of the Russian Constitution

The Constitution of the Russian Federation is the basic legal document of our country. Its adoption was predetermined by logic of development of the Russian state, its multinational society and civil institutions.

It is possible to articulate the following problems of the Constitution: constitutional lacunas (especially on questions of development of civil society and law-governed state); instability of federal and regional legislation (multitude of changes and amendments, dependence on lobbyist efforts of certain groups); contradictions in understanding of constitutional norms.

Certain things are necessary for overcoming these problems: stricy interpretation of constitutional norms by the Constitutional Court of the Russian Federation; introduction of restrictions in functioning of subjects of constitutional relations in the process of all-state decisions; existence of mechanisms of control over state authorities; application of certain decisions of the Constitutional Court of the Russian Federation regarding control over constitutionality of norms of federal and regional legislation

A.S. Ermolenko. Budgetary Process as an Object of Legal Regulation in Foreign Constitutions

In this article the author considered foreign constitutional experience of budgetary problems.

After long discussions scholars came to a conclusion that since ancient times state budget has been a kind of a nerve center of relations between people, society and state. The importance of means, accumulated and used by the state, has been steadily growing; the process of their gathering, distribution and use has been becoming more and more important.

The author analysed several constitutional acts. Constitution of Federal Republic of Germany (1949) includes section "Finance"; it contains detailed regulation of basics of budgetary process at the federal level. Constitution of Italy of 1947 contains regulations of annual budgets and their executions, as well as on the Accounting Chamber and its activities. Constitution of the Fifth French Republic of 1958 gives a good example of legislative budgetary process,

and regulates the order of interaction between chambers of parliament and the government in the process of adoption of the budget.

That would be wrong not to compare the Constitution of the Russian Federation with foreign constitutions. The Russian Constitution can hardly be considered consistent in its budgetary provisions.

A common provision in most constitutions is a norm to consider drafts of budgets first in the lower and then in the upper chamber of the parliament.

Constitution of the Russian Federation specifies that questions of adoption and change of the federal budget, execution and change of internal financial obligations of the state, introduction, change and repeal of federal taxes and tax collections, exemption of payments cannot be made at a referendum.

The main difference of regular laws and laws on state budget is the periodicity of adoption of budgetary laws.

LEGISLATIVE TECHNIQUE***B. V. Chigidin. Means of Prevention and Correction of Technical Juridical Mistakes in Legislation***

Since technical juridical mistakes are a kind of law-making mistakes, it is possible to work out and describe a specific mechanism for prevention and correction of such mistakes.

The author defines three levels of control over observance of technical juridical rules: technological, procedural and retrospective.

The technological level is a beginning of technical juridical mistakes in general, and gnoseological mistakes in particular.

The procedural level, i.e. the stage of passage of a bill in the parliament, is as important as the first stage.

The retrospective level concerns revelation and correction of mistakes of law-makers. in working federal laws. A uniform system of legislative monitoring has not been created yet, and information about mistakes in current legislation comes from various sources: academic publications, mass media, speeches of parliamentarians and other politicians, analytical reports, etc

CITIZENS' APPEALS***A.V. Belyaev. The Citizen and the State: Topical Questions of Legal and Organizational and Methodological Maintenance of Work with Appeals of Citizens to State Bodies (Part 2)***

The author describes the main elements of structure of Law "On Appeals of Citizens": general provisions, object of legal regulation, definition of concepts; peculiarities; the status of subjects of legal relations, a list of rights and duties; requirements for registration and submission of appeals; actions of officials at reception of appeals; consideration of appeals; adoption by state bodies of decisions after their considerations of appeals; information of citizens with such decisions; execution of the decisions; responsibility of state bodies for violation of their consideration of appeals;

procedure of appeals of decisions of state bodies on appeals of citizens.

The procedure of consideration of appeals should correspond to norms of civil legal procedure.

The author argues that it's necessary to use norms of the Council of Europe dealing with appeals of citizens for further development of Russian legislation (terms of submission of appeals, exact information about the applicants, invitation of applicants to attend the session for consideration of their appeals, participation of lawyers in the process of consideration of appeals).

COMMERCIAL SECRETS***A.P. Berdashkevich. On the Concept of Draft Law "Commercial Secrets" (Part1)***

Various types of secrets - medical, service, national, commercial, etc. - have legal regulations.

Legislative norms on secrets usually have a declarative and reference character; they rarely contain time terms and responsibility provisions. The mechanism of mutual relations of the enterprises and state bodies is contradictory.

Current situation of Russian legislation on commercially valuable information demands its further development.

Questions of use of commercially valuable information are regulated by civil law and provisions of the Civil Code of the Russian Federation, including norms on the civil law responsibility for its disclosure and use.

Draft federal Law “On Commercial Secrets” (introduced to the State Duma on March 24, 2003) provides legal regulation of

commercial secrets, their use and protection of their confidentiality.

RUSSIA & WTO

E.V. Skurko. Problems and Prognosis of Russia's Admittance to the World Trade Organization

The World Trade Organisation (WTO) is the third pillar of the Bretton-Woods system. With two other pillars - World Bank and International Monetary Fund (IMF) - it forms the institutional structure of international trade and economic co-operation. At this moment about 30 states, including the Russian Federation, hold negotiations about their admission to the WTO.

Russia's admittance to the WTO implies her obligation to bring Russian legislation into accord with principles, requirements and norms of the WTO agreements. This process should be completed not later than the date of admittance of the Russian Federation to the WTO.

Russia still has a chance to raise its economy up to the highest standards, and make its not only viable, but also quite competitive. Some parameters show that the

degree of openness of the Russian economy is higher than of its Western counterparts. It is necessary to note that expansion of foreign business into domestic market of the Russian Federation will lead to growth of the rouble's exchange rate in relation to the reserve currency (U.S. dollar).

However, not all scholars believe that it's really necessary to join WTO as soon as possible. On the one hand, when joining the WTO, Russia receives an opportunity to influence activities of this organisation. On the other hand, the Russian legal system and her level of economic development are not ready yet for innovations.

Overall, the author believes that the problem of admittance of the Russian Federation to WTO can be a good pretext to consider what can be done not to worsen, but to raise prosperity and well-being of citizens of Russia.

DEFINITION OF THE STATE

N.V. Ustryalov. Definition of the State (Part 2)

It is common to include motives of obligation into definition of the state.

Some scholars consider political and economic struggle of groups of people the beginning of the class differentiation as a precondition of the state.

Since Engels, sociology has been paying attention to the economic factor in formation of the state. It is obvious that significance of the economic factor has sharply increased since then.

A Marxist statement describing the state as a “machine of violence of one class

against another” is disputable, for the state is not only an arena of class struggle, but of class cooperation too, a regulator of class contradictions, promoting peace and order.

The state is a complex structure; power is its basis. Law is one of its major components. In process of historical development (within the same civilization) states tend to become more legitimate. Power acquires legal character, and submits itself to a mode of legality.

An Interview of a Correspondent of "Representative Power - 21st Century: Legislation, Commentaries, Problems" B.A. Osipyan with the Head of Artsakh Division of Armenian Apostolic Holy Church Archbishop Pargev Srpazan (Nagorno-Karabakh, Shusha, 1 April 2003)

The interview touched upon questions of co-operation between the Armenian Church and the state, the church's role in spiritual education of people, participation of the church in development of current legislation, and cooperation of the Armenian and Russian Churches.

In Pargev Srpazan's words, there is concord in relations between the state and

church in Armenia today, and it's aimed at well-being of all Armenian people. In his opinion, that would be desirable to have a permanent representation of the church in the legislative process.

In Pargev Srpazan's words, the Armenian and Russian churches do not have any considerable contradictions that could prevent their constant and full cooperation.

INTERNATIONAL RELATIONS

A.N. Domrin. A Holiday of Unlearnt Lessons on Downing Street, 10. All Means Were Good to Start a War Against Iraq

As soon as the U.S. Secretary of State Colin Powell quoted Tony Blair's intelligence dossier "Iraq and Its Infrastructure of Concealment, Deceit and Intimidation" in his speech at the U.N. Security Council on February 5, 2003, "The New York Times", "Washington Post" and other leading American mass-media published a sensational material saying that Tony Blair's dossier does not have to do with the results of British intelligence work in Iraq, as it claimed. On the contrary, the dossier (which main purpose was to demonstrate Iraq's unwillingness to cooperate with the U.N. inspectors and its attempts to hide huge arsenals of chemical, bacteriological and other weapons of mass destruction (OMD)) was compilation of three outdated and openly published works. In fact, this compilation was done without permission of its authors. In other words, it was plain plagiarism.

Tony Blair's Cabinet had to admit its guilt and to make a public apology.

That would be easier to call the composers of the Blair's dossier lazy and unprofessional buffoons. But the author of the article finds this explanation too simple. In his opinion, failure of the Blair's dossier can be an operation to discredit and hinder military preparations of the USA and its allies. The operation could be undertaken by "dissidents" from the British special services who understand that American accusations against Iraq don't hold water but exhaust all legal means to persuade Tony Blair and his Cabinet not to join the U.S. in its crusade against Iraq.

The scandal with the Blair's dossier couldn't stop President Bush's military preparations, but it certainly inflicted a serious moral damage on the hostile anti-Iraqi coalition

A.P. Lyubimov, N.G. Schitova. A Review of “WTO: Introduction to the Legal Systems” by E.V. Skurko (V.M. Shumilov, ed. Moscow: Finances Statistics, 2003)

The author describes foundations of the WTO legal system as of a large institution of Commercial Law. The book considers theoretical questions and basic normative legal documents of the WTO; it compares the WTO norms and international legal system.

The WTO is considered as an element of global legal system. The author describes the WTO background and structure of its

governing bodies, problems of the WTO in the modern world. The author also analyses the “WTO Law”, and principles of its activities.

Reader will also be able to get acquainted with certain problems of the WTO having topical interest for the Russian Federation

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УДК 32.5 Summary Editions of “Representative Power - the XXI Century”

ББК 67.400.6 are issued in Russian, English and French.

П 711

Representative Power - XXI Century. Legislation, Commentaries, Problems / Alexei P. Lyubimov, Editor-in-Chief; Alexander N. Domrin, Editor of the English Edition. - Moscow: 2003 No.6- 12 pages

Abstract release is issued at support of Faculty of Public Policy(Politics) The State university - The high school of economy
101990 Moscow, Myasnizkaya, 20, ph. 928-45-60

The original - breadboard model is made 27.11.2003 Is signed in a seal 28.11.2003
Paper offset. Volume. p. 1,2. Circulation of 100 copies The order ¹ 431

It is printed in printing house The State university - The high school of economy
125319 Moscow, Kochnovskij proezd, 3