

PREFACE

The Council of Federation is presenting its third report « On the State of Legislation in the Russian Federation». This work has become an inalienable part of legislative regulation of public relations. Through joint efforts, the state and society are coherently bringing lawmaking, legal enforcement and monitoring of the legal sphere into a systemic whole. For this reason, our report's full-fledged coauthors include representatives of all branches of power — legislative, executive and judicial, as well as the expert community and a broad circle of non-governmental organizations and scientific research institutes of the country.

The political-legal significance of monitoring and analysis of Russia's legal system is constantly growing. Reports that present the results of this work are gaining a national status. This occurs for the large part thanks to the broad span of members involved. Equally important is that these reports are public in nature, presenting an opportunity for each citizen to see an objective appraisal of the results of the work accomplished by the bodies of state power. Taking these factors into account, the preparation and presentation of the Council of Federation's report may be confidently called the event of the parliamentary year, and this special status demands our constructive and responsible approach.

The Council of Federation will in the future continue expanding the public field of discussion and preparation of such documents. Of course, this is no simple matter. It will require, most likely, the publication of a mass-appeal edition of the report, and involve major efforts at organizing its public discussion. However, this job is worth it. After all, we are talking about the embodiment of the principle of openness of state power, and of constitutional provisions on the right of citizens to take part in the administration of state affairs.

Work on the report has become planned, constant and successive in nature. Planned, because the annual report's preparation has since 2006 been secured by a Regulation of the Council of Federation. Constant, because preparation for the subsequent report begins immediately upon adoption of the completed one.

Succession is guaranteed by the fact that we, by already established tradition, sent out the previous report across almost all of Russia. The Council of Federation received nearly 100 responses that, as a rule, expressed interest, forthrightness and substance. To a large degree, the response data and reviews represented something new and very useful to the legislator. Many of them were incorporated into the provisions of this report. A number of the regions presented similar reports to their constituent entities of the Russian Federation. One may also familiarize oneself with the results of that work in the pages of the present book.

The structure of this report is laid out so as to systemically present the main results of lawmaking and legal enforcement activities at the federal and regional levels, and to reflect both the positive changes and the unresolved problems in these areas. A significant place was assigned to the prospective direction of further legislative development.

The first part of the report is by tradition dedicated to the foundations of the strategy for legal development in the Russian Federation. We operate on assumption that the development of the legal system is dictated by two factors. On the one hand, legislation must lay the groundwork for the implementation of state policy, which gains annual specifications and thematic content in the Address of the President of the Russian Federation to the Federal Assembly. On the other hand, in a legal state, the development of the legal system has self-contained value that may not be made subject to political expedience.

The report presents an estimate of the situation in various fields of Russian legislation and the changes they underwent in 2006. At the same time, special attention is paid to the legislative groundwork set for resolving systemic national problems: demography, corruption, poverty, development of the Arctic and Northern territories, as well as the implementation of youth and naval policies. The relevance of such problems, requiring solutions through a systemic approach and inter-branch regulation, is constantly growing. Finding adequate, including legal, instruments for their resolution is a priority assignment for the legislator.

The second part of the report presents an analysis of the relevant problems facing the legislative groundwork set for state policy in the constituent entities of the Russian Federation. These are not only the old painful problems, such as reform of local self-government and the delineation of authority between levels of power and the creation of beneficial conditions for small and medium-sized business, but also the recently emerging problems, particularly in the area of interethnic and interdenominational relations.

In addition, the main results of the work of the Council of Legislators were also subject to analysis, as was the role of the constituent entities of the Russian Federation in improving the legal system. This part is traditionally prepared on the basis of material submitted to the Council of Federation by state bodies in the constituent entities of the Russian Federation. Here, one finds not only positive but also critical evaluations of the work performed by the Council of Legislators, as well as specific proposals for improving the efficiency of its work. This popular and important body must completely correspond to new realities and tasks.

The report contains a summary of the accumulated practice of legislative and legal enforcement monitoring. One of the conclusions of this part of the report is that the issue of a comprehensive presentation of the results of legal enforcement has not yet been resolved. And this is by no accident. A lawmaker cannot solve this problem alone — efforts must be joined with the executive and judicial branches of power, in other words, with those who are directly enforcing the law. Ways of organizing such cooperation require serious discussion. The report concludes by reviewing the main results of legislative activity. They occasion serious reflection.

On the one hand — positive tendencies are evident in the organization of cooperation between the bodies of constitutional partnership in the strategic planning of the country's development. It is also impossible not to notice the positive turn made by the Government toward resolving the relevant problems of Russia's socioeconomic development, and the transition made by the executive power toward a programmed method of organizing its work in the intermediate perspective. As a result, legislation is becoming more focused and consistent with political objectives.

At the same time, an unbiased analysis shows that no substantive progress in the implementation of state policy priorities has been made. Lawmaking for the large part has retained its chronic shortcomings, which substantially reduce its efficiency. Conclusions and recommendations made in previous Council of Federation reports have so far remained largely unrealized. The same thing also relates to the conceptual issues of creating a legal framework for resolving government policy tasks. The ways and means of implementing state priorities, formulated by the head of state, are often arbitrarily interpreted by the legal entities of legislative initiative.

A well-formed foundation for the conceptual design and legal formulation of state policy's strategic aspects still does not exist. As a result, there are still no underlying state documents for such immediate issues as regional and national policy. An absence of state conceptions on

demographic and migration policies of the Russian Federation prevents the planning of a consistent and long-term system of measures for resolving the demographic crisis, both at the federal and regional levels.

Documents on national security and military capability development also require updating. Of no less importance are the conceptualization designs for the successful realization of systemic national problems.

The acute problem of fighting corruption remains a focus of attention of both the bodies of state power and our nation's citizens. However, anti-corruption legislation remains largely missing to this day. A corresponding law has been held up in the State Duma for the seventh year without any action.

By method of trial and often unacceptably costly error, a search continues for ways to resolve such vital problems as the delineation of authority between the levels of public power, organization of inter-budgetary relations, creation of an executive power system, resolution of the pension system crisis, and regulation of the migration processes. Despite the adoption of the Housing Code of the Russian Federation, which sets the legal foundations for housing and utility service reforms, the sector's condition remains beset by numerous unresolved problems.

The above-listed problems remain unresolved as a consequence of either an absence of the requisite laws, a discrepancy between the goals of the adopted acts and the strategic goals of state development, or the impossibility of the laws' efficient enforcement.

Only this may explain such events as the adoption by the lawmaker of norms that deprive the voter of the right to vote « against all», eliminate an election turnout threshold, and so on. Questions of correspondence of such initiatives to the fulfillment of priority assignments of developing democracy, guaranteeing the legitimacy of legislative bodies of state power and raising citizens' trust in them demands, at the very least, a broad public debate.

Typical miscalculations of the legislative process were also revealed in the preparation of three framework laws in the economic and environmental protection spheres (Water Code of the Russian Federation, Forestry Code of the Russian Federation, and the draft of the federal law «On Subsoils»).

As a result, existing legislation suffers from instability and inconsistency. It is constantly turning into an agglomerate of countless changes that fail to eliminate existing problems and create contradictions. In the long run, this all unacceptably delays the creation of the necessary legal conditions for the stable development of society and the state.

The system of monitoring the state of legislation and legal enforcement has for the large part been formed. Now on the day's agenda — a vital need to create efficient mechanisms for responding to the monitoring work's results. The legislative control system must be capable of not only identifying its inherent shortcomings, but also of swiftly eliminating them.

In addition, three years of experience working on Council of Federation reports convinces us of the need to plan the drafting of legislation on a federal level. The country needs a conceptual document that would permit an annual evaluation of the priorities, content and extent of law-drafting work. I believe that an important place in this approach should be reserved for the resolution of the above-listed problems.

I hope that the present report will meet a ready response from the interested reader. After all, public feedback is an essential condition for the state's ability to adopt and seek the implementation of laws that people need, in short — to resolve our joint goal of establishing a relationship of cooperation between citizens and the state.

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