

CHAPTER I

LEGISLATIVE GROUNDWORK FOR THE PRINCIPAL DIRECTIONS OF DOMESTIC AND FOREIGN POLICY OF THE RUSSIAN FEDERATION

1.1. Development of the state, institutes of civil society, and guarantees of people's rights

In his Address to the Federal Assembly for 2006, the President of the Russian Federation identified the following priorities of state development:

guaranteeing the rights and freedoms of citizens, efficient organization of the state, and development democracy and civil society, with which none of the current problems facing the country may be resolved;

improving relations between the federal center, constituent entities of the Russian Federation and local governments, and continuing the devolution of power process. This includes a transfer to the regions of a part of the federal budget's investment resources.

In 2006, work continued on the legal provision of party system development, strengthening the regulatory requirements on candidates to be deputies in legislative bodies of power, and improving election law. In response to a call made by the head of state to the leaders of the major parties, the legislator devoted substantial attention to the problem of averting the display of extremism and the incitement of ethnic hatred during election campaigns. After all, ethnic conflicts grew more frequent in 2006, drawing ever-broader public outrage.

Searches for the optimal balance between the spending authority granted to various levels of power and the sources of financing are being constantly updated by the results of monitoring of previously adopted legislation. One of the most significant initiatives in this area became the State Council of the Russian Federation session held on July 21, 2006 and dedicated to the mechanisms of cooperation between the federal and regional bodies of executive power in preparation of integrated regional socioeconomic development programs.

Another key priority of state development identified by the Russian President was the solution to the problem of citizens' trust in the institutes of state power, a requisite condition for which is the state's ability to adopt nondiscriminatory laws and to firmly seek their implementation. This may be achieved through a reorganization of the entire system of legislative regulation — starting with the mechanisms of conceptual planning and legal formulation of the goals of legislative activity, and concluding with issues of responsibility of the lawmaker for the adopted decisions.

One of the doctrines of Russian state policy identified in the Address to the Federal Assembly for 2006 was the continued improvement of the political system of the Russian Federation, and the strengthening of the vertical of power, institutes of democracy and civil society.

A number of laws were adopted in 2006 aimed at raising the role political parties play in elections at all levels of power, strengthening internal party discipline, increasing the responsibility carried by candidates and election associations for violations to the law on preventing extremist activity, as well as on raising the requirements on candidates to deputy positions of all levels of state power.

This is, first of all, the Federal Law «On Making Changes to Individual Legislative Acts of the Russian Federation in the Part of Clarifying the Procedure for Nominating a Candidate for Elected Positions in State Power», which, in particular, bans the withdrawal of those deputies from factions of the legislative (representative) body of state power of the constituent entity of the Russian Federation who were elected by candidates lists that were used to distribute deputy mandates in the said body of state power of the constituent entity of the Russian Federation. Concerning a deputy of the State Duma, a condition was secured on the termination of his powers should he leave the faction on the basis of a personal statement. In addition, the legislator clarified that a party may not nominate a candidate who is a member of a different party.

The same goals are served by the Federal Law «On the Fundamental Guarantees of Election Rights and the Right to Participate in a Referendum of Citizens of the Russian Federation», and the Procedure Code of the Russian Federation, which particularly provides that a party may be refused registration of its list of candidates if before the start of or during the election campaign, this election association violated the ban on agitation with the use of calls inciting social, racial, national or religious hatred. The Federal Law introduces a ban on the election to state bodies of the Russian Federation of citizens who have been sentenced to prison for committing grievous and (or) especially grievous crimes; convicted of committing crimes of extremist nature and having on the day of the election vote a non-overturned or outstanding conviction for said crime; have been subjected to administrative punishment for the propaganda and public demonstration of Nazi attributes and symbols, and also against which an effective court decision established fact of violation of the law setting limits on the conduct of election campaigns (for example, on agitation, incitement of social, racial and ethnic hatred).

The above federal law makes provision for the revocation of the registration of a candidate (list of candidates), including for the repeated use by the candidate (head of an election association) of the advantages of his official or job position, in case of discovery of facts of bribery of voters by the association, its election agent, authorized representatives, and also other entities acting on their behalf, organizations, or the candidates themselves. Limits were also confirmed on counter-agitation by a candidate against his election opponents. Registered candidates and parties are banned from using television or radio airtime in order to agitate against other candidates and parties, to describe certain negative consequences in case of citizens' election of their political opponent, and in general to disseminate information that creates a negative image of their opponent in the eyes of the voters. In addition, the given federal law revokes the voter turnout threshold.

The Federal Law «On Making Changes to Individual Legislative Acts of the Russian Federation in the Part of Clarifying the Requirements on Replacements in State and Municipal Positions» expands the requirements placed on candidates for deputy positions of all levels of state power. These individuals and others, including members of the Council of Federation and deputies, do not have the right to hold the citizenship of a foreign state or a residence permit or other document confirming the right to permanent residence on the territory of a foreign state.

The Federal Law «On Making Changes to Individual Legislative Acts of the Russian Federation in the Part Canceling the Method of Voting Against All Candidates (Against All Lists of Candidates)» at elections of all levels excludes the possibility of voting «against all», as a consequence of which the required changes to election law have been made.

The Federal Law «On Procedure of Reviewing Appeals of Citizens of the Russian Federation» is aimed at improving the institutes of democracy and civil society, and securing the guarantee of implementation of citizens' political rights. This federal law regulates legal

relations associated with a citizen of the Russian Federation practicing his constitutional right to appeal to state bodies, bodies of local self-government, as also sets the procedure for how the citizens' appeals are reviewed by state bodies, bodies of local self-government and their civil servants.

The Address to the Federal Assembly of the Russian Federation for 2006 notes that the required legal base, guaranteeing further democratization of Russian society and improvement of the state legal mechanism, has been formed. Fundamental elements of this legal mechanism have become the Federal Law «On the Public Chamber of the Russian Federation» and the Federal Law «On Parliamentary Investigation of the Federal Assembly of the Russian Federation». These new legal institutes are, without doubt, needed by civil society and essential for the construction of a legal state in Russia.

These federal laws are linked to each other in a systemic connection, with the first one regulating issues of public control over the activities of state power, and the second — issues of parliamentary control over the activities of federal bodies of the executive power. These federal laws were adopted in 2005, but work on their improvement and creation of conditions for the implementation continued in 2006.

Thus, the federal law on parliamentary investigation has regulated the procedure of how the chambers of the Federal Assembly of the Russian Federation conduct investigations into facts and circumstances that have negative consequences for society and the state, and has firmly determined the subject of parliamentary investigation, basis for its initiation, organizational forms of conduct, principal provisions concerning its conduct procedure, as well as the responsibilities of civil servants and citizens who have been brought into the process of parliamentary investigation.

Inclusion of the institute of parliamentary investigation in the domestic legal system was made by taking into account its organizational and structural detachment, both from other forms of parliamentary control and other types of investigation. For this reason, a key element of the parliamentary control mechanism became a clear delineation between the limits set by both criminal and civil procedures as well as administrative laws, and the goals and objectives standing before the parliamentary commission.

In order to guarantee the implementation of article 49 of the Constitution of Russian Federation, which sets an exclusive legal procedure for citizen convictions, the law determines that the subject of parliamentary investigation may not be the determination of criminal guilt of specific persons.

The creation of an efficient mechanism of parliamentary control, as a special form of response by the legislative power to events prompting particularly broad public outcry, is assisted by a legislatively assigned responsibility by civil servants to submit the requested copies of documents and information. Civil servants and citizens, invited by the commission, must appear before its session and provide all of the required testimony about the facts and circumstances under review.

The law establishes that civil servants carry administrative or criminal responsibility, in accordance with the legislation of the Russian Federation, for refusing to submit, or avoiding to submit, the documents or information requested by the commission or its working group; refusing to provide testimony; providing knowingly false answers to questions posed by the commission; and failing to appear before the commission session without a legitimate excuse. The commission's activity is limited to one year, which should sufficiently mobilize and discipline the commission into conducting its investigations. The law does not provide for an extension of the term. An energetic monitoring of this federal law's application has led to the introduction of certain changes.

Because the Federal Law «On Parliamentary Investigation of the Federal Assembly of the Russian Federation» presumes such a new form of activity by parliamentarians as participation in the work of parliamentary commissions and working groups, a corresponding addition is

introduced to the Federal Law «On the Status of a Member of the Council of Federation and the Status of a Deputy of the State Duma of the Federal Assembly of the Russian Federation».

The regulatory bylaws of the Council of Federation, in addition to other forms of parliamentary control — the «parliamentary hour» and parliamentary inquiry — have confirmed the procedure for the chamber's participation in parliamentary inquiry, determined the particular procedure for chamber members to initiate the procedure of parliamentary inquiry, adopting a decision for its conduct, forming the membership of the Council of Federation part of the commission, and the resolution of other issues.

Thus, a parliamentary inquiry may be initiated by a group of Council of Federation members consisting of no less than one-fifth of the Council of Federation's members, which prepares and addresses a written appeal to the Chairman of the Council of Federation. Causes for such an appeal are events of which parliamentarians gain knowledge. The Chairman of the Council of Federation determines a responsible committee (commission), which based on the results of expressed proposals, prepares a conclusion and a draft resolution of the Council of Federation.

In its conclusion, the responsible committee (commission) determines the agreement of the written appeal made by members of the Council of Federation with the requirements established in the Federal Law «On Parliamentary Investigation of the Federal Assembly of the Russian Federation», which states that the appeal must contain facts and circumstances that are subject to parliamentary investigation, and which justifiably need to be, and may be, investigated. At the same time, the part of the commission made up of Council of Federation members is formed, and the candidacy of its co-chairman is proposed. It is established that the commission's co-chairman representing the Council of Federation carries equal rights.

The decision for the Council of Federation to support the initiative to stage a parliamentary investigation is adopted by a majority from the total number of chamber member votes, and is formulated by a resolution.

Because agreement from two chambers of the Federal Assembly is required to conduct a parliamentary investigation, the Council of Federation resolution is address to the State Duma. If a group of deputies comes out with an initiative to conduct a parliamentary investigation, and it is then supported by the State Duma, the corresponding State Duma resolution will be examined by the Council of Federation. In case the Council of Federation does not collect the required number of votes to support either the initiative of its chamber members or the corresponding State Duma resolution, then the parliamentary investigation is not performed.

In conclusion of its work, the parliamentary commission prepares a findings report, which must be confirmed by both chambers of the Russian parliament. The Council of Federation may ask the parliamentary commission to clarify individual provisions of the findings document, upon which, the document is adopted by a majority of votes from the total number of chamber members.

If the Council of Federation approves the findings report after a similar decision by the State Duma, then the Chairman of the Council of Federation address it to the President of the Russian Federation, the Government of the Russian Federation, as well as for publication and posting on the Internet. If the findings report is not confirmed by one of the chambers of the Federal Assembly, the parliamentary investigation is considered over, and the commission is disbanded.

It should be noted that in the current year, after the adoption of the given federal law and its addition to, and development in, the chamber's Regulations, no decisions to initiate a parliamentary investigation have yet been made. Improvements to the legislative and regulatory groundwork of the institute of parliamentary investigation will be made once the practical experience of its implementation is collected.

At the level of regulations of the chambers of the Federal Assembly, a procedural basis has been determined for regulating cooperation between the chambers of the Federal Assembly with a new civil society institute — the Public Chamber of the Russian Federation. Representatives

of the Public Chamber of the Russian Federation have been offered the right to take part in the work of committees and commissions of the Council of Federation, and to be present at the chamber's planning sessions.

The main lines of activity of the Public Chamber may become: the gauging of public opinion in the legislative process, and improving ties between the various institutes of civil society, including at the level of constituent entities of the Russian Federation, with the parliament of the Russian Federation, and other organs of public power.

The Public Chamber's expert evaluation of draft legislation helps promote the implementation of its key task of establishing public control over legislation, especially in areas of protection of citizen rights, state social policy and public security issues. The Council of Federation, in case such a request comes from the Public Chamber, must hand over to it all documents and materials necessary for an expert evaluation of the draft legislation. The committees and commissions of the Council of Federation are responsible for preparing this set of documents. The results of this expert review must be examined at a session of the Council of Federation. A member of the Public Chamber may appear before the session to present the expert evaluation's findings.

The expert evaluation of draft legislation may be initiated by the committees and commissions of the Council of Federation and be held based on an appeal from the chambers of the Federal Assembly. The optimal form of cooperation between the Council of Federation and the Public Chamber of the Russian Federation is the institute of plenipotentiary representatives. The representative of the Council of Federation to the Public Chamber of the Russian Federation is appointed by the Chairman of the Council of Federation from among the members of the Council of Federation. Similar procedures have been introduced to the Regulations of the State Duma.

Even now, the Russian Federation fully meets the main criteria and international standards of a federal, democratic, legal state. A balanced federal policy has helped restore constitutional order in the constituent entities of the Russian Federation, strengthened the vertical of executive power, permitted a legislative delineation of authority between levels of public power, and guaranteed a full-fledged and efficient partnership between federal and regional bodies of state power. A federal form of government fully reflects the multinational makeup of the Russian population, preserves its ethnic cultural diversity, and peace and harmony between the people who populate our country.

Experiences of the Russian empire, the USSR and the modern history of the Russian Federation have proven that it is impossible to construct Russia from a single stencil that should fit all, that it is impossible to administer all processes and to exercise all power from the center.

Russia objectively needs a strong regional power, which carries the right to independently exercise its existing authority in the economic and social development spheres. At the same time, it also needs a strong central power, which has the will to decide macroeconomic and domestic issues. Both of these may only be guaranteed by a federal form of state government, representing a harmonious combination of centralization and decentralization, unity and diversity. In recent years, the legislative base of federal relations has been undergoing intensive improvements, establishing general organizational principles for legislative and executive bodies of state power in the constituent entities of the Russian Federation.

One of priorities of lawmaking activity still remains the task of delineating powers between the Russian Federation and the constituent entities of the Russian Federation. The logic of federal reform has led to a broadening of authority enjoyed by regional bodies of power.

The major Federal Law «On Making Changes to Individual Legislative Acts of the Russian Federation in Connection with the Advancement of Delineation of Powers» was adopted in 2006. The law envisions the handover to bodies of state power of the constituent entities of the Russian Federation of individual federal powers on administering property of the Russian Federation, on exercising control over how the quality of provided medical services corresponds to the established public health standards; on issuing medical licenses, control over the

quality of education, and many other issues in the areas of public health and education. The resources to exercise the assigned federal powers will be provided in the form of federal budget subsidies. After all today, with the regions acting as more responsible links in the vertical of power, it is essential to step away from excessive centralization, delegate additional powers to the regions and to provide them with sufficient resources to implement their tasks.

A significant, from the standpoint of federal relations, direction of state policy is the enlargement of the constituent entities of the Russian Federation.

Federal constitutional laws «On the Creation Within the Russian Federation of a New Constituent Entity of the Russian Federation as a Result of the Union of the Kamchatka Kray and Koryak Autonomous Okrug», and «On the Creation Within the Russian Federation of a New Constituent Entity of the Russian Federation as a Result of the Union of the Irkutsk Oblast and the Ust-Ordyn Buryat Autonomous Okrug» were both adopted in 2006.

Along with the adopted federal constitutional laws on the creation of new constituent entities of the Russian Federation, improvement continued in current legislation in this area, particularly through changes to the federal constitutional law «On the Creation Within the Russian Federation of a New Constituent Entity of the Russian Federation as a Result of the Union of Perm Kray and the Komi-Permyatsk Autonomic Okrug». This law introduced new regulations establishing the number of deputies in the Legislative Assembly of the new constituent entity of the Russian Federation (60 deputies), and creating a procedure for their election. In this manner, legislation is developing a universal mechanism for creating bodies of state power in the new constituent entities of the Russian Federation that come into being through unions.

A legislative priority of no less significance is the promotion of the role played by constituent entities of the Russian Federation in the efficient use of their own natural resource, industrial, scientific and technological, and human resources potentials. In this case, it implies the legal provision of power to the constituent entities of the Russian Federation in areas of joint competence, on issues of property management and use, and on implementing financial obligations.

An analysis of legislation adopted in 2006 in the area of federal relations shows that past steps made in reforming federal relations and local self-government are in need of correction. There is also a need to adopt new approaches to forming state regional policy, so that it could adequately match prevailing conditions.

For a qualitative improvement in the efficiency of state policy, it is essential to resolve the problem of efficient cooperation between the federal and regional bodies of state power: the constituent entities of the Russian Federation must participate in the development and adoption of decisions on strategic issues of the country's social and economic development, its foreign-political and foreign-economic activities, and state construction.

The experience of countries with long histories of federal relations shows that a truly stable, viable federation is created in places where the constituent entities of the federation are economically self-sufficient. In other words, they are able to provide for the basic needs of their populations, to operate a state administration office, to meet their obligations through their own economic resources and budgets. In Russia, there are slightly more than 10 self-sufficient «donor» regions. The rest are financially dependent. In order to overcome this dependence, the establishment of financial equality between the regions must be prioritized and consolidated legislatively, and special conditions, methods of financing and regional budget allocation created for constituent entities of the Russian Federation that rely on high levels of subsidies.

A solution to the key problem of regional policy — a leveling of disparities between the territories' socioeconomic development — is found by way of offering specific regions selective assistance through federal budget and non-budget funds. However, the procedure by which decisions are reached on providing assistance to the constituent entities, is not based on any joint, firmly established groundwork of regulations. The employed legal regulations are scattered across numerous pieces of legislation, with the case being that some regulations of a sub-legislative nature actually dominate over federal laws.

Analyzing legislation concerning the delineation of power, one comes to the conclusion that adoption of these laws came under extreme circumstances. Such practices do not validate themselves. They must be replaced by a strategic vision of processes that occur in the area of delineation of power, with a legislative preemption of problems that arise in the process of delineation of power, and a balanced and scientifically-grounded approach to the legal regulation of these problems.

A need has come about to improve the program-targeted instruments for socioeconomic regional development. New modern mechanisms of resource investment are needed in the regions, which will be capable of providing noticeable economic changes and to substantially improve the quality of services offered to the population.

The legal base for regulating ethnic relations, which for the large part was formed in the early 1990s, does not fully meet the modern needs of the state and society. As a result, federal and regional bodies of power do not possess a sufficient array of legal instruments for the efficient implementation of an ethnic policy, or to monitor the ethno-political situation in the Russian Federation.

Work on such a draft law has continued now for more than three years. Without doubt, the adoption of a legislative act establishing the groundwork for state policy in the area of ethnic development would be an essential and responsible measure. But it will achieve its goal only under condition of a simultaneous introduction of corresponding changes to budget legislation and other legal acts of the Russian Federation, establishing a delineation of power between the bodies of state power of the Russian Federation, the bodies of state power in the constituent entities of the Russian Federation, and bodies of local self-government.

Legislative support for the development of the legal system continued in 2006 in accordance with the priorities of the addresses of the President of the Russian Federation to the Federal Assembly for 2002-2006. In a planned manner, the court organization system continued undergoing improvements, with courts created in new constituent entities of the Russian Federation, and issues on improving the efficiency of the due process of the law being addressed legislatively.

In an effort to improve citizens' access to public justice, the number of judicial district was increased in 15 constituent entities of the Russian Federation. There were improvements to legislation on military courts, justices for peace in the Russian Federation, criminal and civil procedural legislation, all taking into considerations of both practice and enforcement.

The special feature of the Council of Federation's work in 2006 for improving the legal system became the goal of supporting the integration of the Russian Federation into the world and European legal spheres. After all, in order for Russia to normally function within the framework of the World Trade Organization and other international organizations, the Russian justice system must be constructed by taking into account the generally accepted principles and standards of international law that function in the legal arena. The priority of this task was predetermined by the need to stage a special analysis of the legal enforcement practices of international and Russian courts, with the aim of clarifying the existing problems of legislative support, as well as the development of corresponding recommendations for improving Russian legislation.

The legal system is composed of generally accepted principles, standards of international law, and international agreements of the Russian Federation, as indicated in part 4 of article 15 of the Constitution of the Russian Federation. If an international agreement of the Russian Federation establishes rules other than those envisioned by law, then the rules of the international agreement are applied. Thus, the priority of international agreements of the Russian Federation in relation to Russian law is established.

International agreements of the Russian Federation are make up elements of the legal system. In accordance with the status of the International Court of Justice the United Nations, a court adjudicates disputes in accordance with international law, applying international conventions and general principles of the law, as recognized by the civilized nations.

Eleven international judicial tribunals are currently function in Russia. From the moment of Russia's ratification in May 1998 of the European Convention on Human Rights, some 50,000 petitions from Russian citizens have been filed with the European Court for Human Rights. Some 60 rulings were issued, and another 200 cases are being examined. Russians won 11 cases, for which the Government of the Russian Federation must pay out some 700,000 euros. Russia holds sixth place in terms of number of cases accepted for review by the European Court. A ruling by the European Court for Human Rights sets in motion an intergovernmental mechanism, as a result of which changes may be introduced to the legislation of the Russian Federation, and the legal enforcement practice may be corrected, including that of judicial practice.

Recently, the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation, and the Supreme Arbitration Court of the Russian Federation have begun the frequent application of practices employed by the European Court for Human Rights in its hearings, which is especially important for the defense of human rights in Russia.

Today, the principles and standards of international law have moved from the realm of theory directly into the common practice of the courts, which base their rulings both on the standards of domestic state legislation, and the articles of the Universal Declaration of Human Rights, the International Covenant in Civil and Political Rights, and the European Convention on Human Rights and Fundamental Freedoms.

For courts of regular jurisdiction, transparency, publicity of proceedings, and the observance of reasonable procedural deadlines are not simply declarations, but mandatory regulatory requirements for each case. One of the most difficult problems of the modern Russian legal system's efficacy is the execution of Russian court decisions. European Court resolutions on this account already represent around 40 percent out of all those issued.

The problems of the Russian judicial-legal system, which are vividly reflected in European Court for Human Rights rulings against Russia, and which demand a quick legislative solution, are: the duration of legal proceedings; the problem of the oversight institute; an absence of procedural clarity for direct application of rulings issued by the European Court of Human Rights by regular jurisdiction courts; the obligation to consider the legal positions of the European Court for Human Rights, not only for judges but also for legislative bodies, including the Federal Assembly of the Russian Federation, and others.

Appeals by citizens of the Russian Federation to the European Court for Human Rights testifies to a desire for just courts, and tells the bodies of constitutional partnership about the insufficiently effective performance of the Russian justice system, which is in the first order affords protection against violations of human and civil rights and freedoms.

The development of Russian legislation in the legal sphere for the purpose of its harmonization with the legislation of developed European countries assumes continued work in 2007 on improvements to domestic legislation in connection with Russia joining international agreements that regulate the fight against corruption, strengthen the criminal responsibility of legal entities, improve court enforcement action, and address the declaration of income, etc.

In 2006, a planned monitoring is being enforced of the implementation of the Federal Law «On the General Principles of Organization of Local Self-Government in the Russian Federation», as well as of the reforms of local self-government in general. The law regulated the procedure for reviewing citizen appeals to bodies of local self-government. Work also continued on expanding the list of issues of local significance.

For the most part, the local level was assigned issues that must be resolved together with the bodies of state power, and in particular: participation in preventive measures against terrorism and extremism, and also the mitigation of its consequences; creation of conditions for the development of local traditional amateur and folk art, and participation in the preservation, revival and development of popular arts and crafts; establishment of conditions for the development of physical culture and mass sports, the organization of official physical health-improvement and sporting events; creation of conditions for small business development; organization of events

for working with youth and children; protection of cultural heritage sites of local significance; organization of citizens' subsidies for the payment of housing and communal services; creation of conditions for the development of agricultural production in the settlements, and the expansion of the market for agricultural goods, raw material and farm-produced food.

A general shortcoming of legislative regulation remains the muddy formulation of issues of local significance, which prevents an unambiguous delineation between the bodies of local self-government and bodies of state power. The appointment of a certain issue as one of local significance means not the right, but the obligation for bodies of local self-government to resolve them, and moreover, to do so through local budget means. However, an expansion of the list of locally significant issues continues without making room for corresponding financial-economic provisions, and without introducing corresponding corrections to the budget and tax legislations of the Russian Federation, ones that would permit to raise local budget revenues and help resolve such issues.

It appears that federal legislation does not fully guarantee the implementation of the principle of guaranteed execution of powers that transferred to the regional level. One of the options for strengthening the guarantee of local self-government implementation could be the introduction of changes to the tax and budget legislations, aimed at raising local budgets revenues by amounts required to resolve the new issues of local significance.

Effective January 2006, the Federal Law of December 31, 2005 No. 199-FZ «On Making Changes to Individual Legislative Acts of the Russian Federation in Connection with the Advancement of the Delineation of Powers» has vested the following powers on bodies of local self-government:

- to participate in the performance of powers not yet vested in them, with provision for the expenditures through municipal budget resources, if federal laws envision such participation;

- to undertake expenditures through local budget resources on the performance of powers not yet vested in them, if the opportunity to undertake such expenditures is envisioned by federal laws;

- to provide, through municipal budget resources, additional measure of social support and social assistance for individual categories of citizens, regardless of whether such a right exists in the provisions of federal law.

At the same time, this federal law provides that financing for the stated powers is not a responsibility of the municipalities, is performed when possible, and is not a condition for the appropriation of additional funds from other budgets of the budget system of the Russian Federation.

Still unresolved, in our opinion, remains the problem of taking into account the typology of municipal districts once the bodies of local self-governments are vested with new powers. In the course of monitoring of the implementation of municipal reforms, unresolved problems associated with the territorial aspect were also discovered. Thus, substantial disparities remain in living conditions, and in how the needs of the country's population are attended, depending on the municipal district's location.

In particular, territories of the Far North are characterized by low densities of the municipal districts' residing populations (in individual cases, less than 100 people), as well by the inaccessibility of some settlements. The implementation of regional and federal programs on resettling residents from the Far North regions and from settlements with poor prospects for future development, has lead to a steady decline in the populations of the Far North municipal districts. Without the property essential for the execution of functions of local self-government, low investment attraction, absence of prospects for developing an independent revenue bases in the remaining municipal districts, the functioning of local self-government in such municipal districts becomes practically impossible. In certain cases, the situation is further hampered by the fact that unions between rural settlements are complicated by their location in places of difficult access and remoteness to each other.

In connection with this, a need has arisen to regulate the procedure for the potential abolition of a municipal district if its residents stop performing the function of local self-government. A corresponding legislative initiative has been introduced to the State Duma by the Magadan oblast Duma.

The procedure for organizing local self-government in newly created constituent entities of the Russian Federation that result from unions between constituent entities of the Russian Federation, has not been fully regulated. In cases of unions between the Irkutsk oblast and the Ust-Ordynsk Buryat autonomous okrug, and also between the Kamchatka region and the Koryak autonomous district, administrative-territorial units with special statuses were formed, which became part of new constituent entities of the Russian Federation. These local self-governments were created with consideration of their special statuses as new constituent entities of the Russian Federation. Currently, this is performed on the basis of agreements between the joining constituent entities of the Russian Federation: the autonomous district transforms into a municipal district, equal in status to a metropolitan region. It is presumed that improvements to legislation in the part of securing the legal statuses of these special territories will continue, since practical needs exist to guarantee the rights of the populations of such territories to local self-government, and to take into account the special statuses of these new, to the Russian legal realm, types of territorial entities.

A legal ambiguity also remains concerning the status of a deputy, member of an elected body of local self-government, an elected local self-government official. Today, in the predominant majority of municipal territories, elected officials of bodies of local self-government perform their duties without the appropriate labor, procedural and legal, as well as social guarantees. This situation is causing serious tensions in the bodies of local self-government. For this reason, work continued in 2006 on improving legislative provisions that define the specifications of officials in bodies of local self-government.

A serious step in the development of organizational foundations of local self-government will be taken with the adoption of the law «On Municipal Service in the Russian Federation», which is aimed at securing the unity of the basic principles of organization of municipal service in the constituent entities of the Russian Federation. It not only establishes the concepts of municipal service and municipal worker, but also provides for an interconnection between the state civil service and municipal services.

One of the more problematic issues, which determines the economic health of municipal districts, remains the question of delineation of municipal property rights between the municipal units of various types.

In 2006, the federal legislator settled the issue of property delineation between various types of municipal entities, which created the opportunity to start the process of delineating municipal property. However, the legislation retains regulations that have ambiguous meanings in practice. The need to delineate property arises not only in newly created municipal districts, but also in municipal districts that existed before the reforms began. This especially concerns constituent entities of the Russian Federation that initially had a two-tier territorial organization of local self-government. These now need to redistribute property between the cities, rural settlements and the municipal districts within whose boundaries they are located. Concerning the delineation of property between municipal units, it remains unclear how and at what level the coordination of such proposals occurs, and what documents are required for the transfer of property.

The issue of formalizing and registering the redistributed municipal property remains of major importance. Before the registration of rights, the new property owner has the right to use the property transferred to him for free. However, still unregulated is the question of the particular circumstances of registration rights to property before it is transferred to a new owner as part of a redistribution or delineation process. By virtue of the general provisions of legislation on the registration of property rights, before it is transferred to a new owner, the rights of the preceding owner to a property have to be registered. Practice shows that many sites listed in the

register of municipal property have never undergone state registration, and that most of the municipal enterprises remain unregistered as property complexes.

Since the delineation of rights to public property is closely interlinked with the delineation of authority between the bodies of various levels of power, the precision with which issues of local significance are defined for municipal units of various types, and the presence of delineation criteria, become very relevant. At the same time, the existing norms regulating the list of issues of local significance often fail to allow to firmly determine which properties must remain in the ownership of a specific municipal district, which are subject for transfer to a public entity of a different level, and which are to be privatized or converted. The introduction to legislative standard that gives bodies of local self-government the right to participate in the administration of state tasks creates the need to determine which properties will be used to accomplish these duties. In addition, in a number of federal laws, the bodies of local state government are vested with powers that in essence belong to the state, but are granted these without the procedure of transferring the corresponding financial and material needs. This type of regulation of the rights and obligations of bodies of local self-government, which grants a much broader spectrum of responsibilities compared to those originally stated as being of local significance, leads to a conclusion that changes must be made to the criteria by which the makeup of municipal property is determined. To resolve these problems, a Council of Federation legislative initiative is being prepared on changes to the Federal Law «On the General Principles of Organization of Local Self-Government in the Russian Federation».

Socioeconomic changes, along with those to science and technology, in the more developed countries of the world have produced an objective basis for creating an information society, in which knowledge and information become the determining factor in public life and the economy, while information and communication technologies form the deciding factors in improving the level and quality of life.

In 2006, a series of federal laws were adopted in the Russian Federation that provide for the improvement to the legislative basis of the country's information development, and specifically: «On Counter-Terrorism», «On Advertisement», «On Information, Information Technologies and Security of Information», «On Personal Records», etc.

The Ministry of Information and Communications of Russia, in cooperation with the interested federal bodies of the executive power, is taking measures aimed at implementing the adopted laws and preparing the corresponding normative acts of the Government of the Russian Federation. At the same time, shortcomings in the regulatory provisions of the Russian Federation in the area of information use, and information and communication technologies, remain one of the key factors restraining the development of the information technologies field.

A great deal of work lies ahead on improving the institute of protecting intellectual property in the area of information, creating conditions for preventing the spread of counterfeit goods; managing federal information resources, and formulating their legal status by taking into account both the need to guarantee their openness and adherence to the legitimate limits aimed at protecting the interest of the state, citizen and society. It is further essential to create a modern documents database.

Together with resolving this issue, it is essential to start creating legal and economic conditions for outstripping growth of investment in the production of information technologies, goods and services. At the same time, an insufficient level of national infrastructure development and the absence of the required coordination of state utilization programs for information and communication technologies, implemented at the expense of the federal budget and the budgets of the constituent entities of the Russian Federation, are today substantial factors restrain development of this field.

As world experience proves, the foundation of success in the modern world lays in the preservation and development of human capital assets, which must be viewed as a most important priority of state policy. The information society demands well-directed efforts from the

state, aimed at developing science, improving the system of preparing and employing staff, and forming society's information culture.

It is also essential to resolve application tasks involved in the creation of branch information systems. Particularly, the Federal Law «On Transportation Security» stipulates the creation of a unified state information system on transportation security. This system contains automated and centralized personal databases about passengers, created with the movement of passengers.

The expanding information space of Russia is making new demands on guarantees for citizen protection against encroachment by extremist circles. The legislator's efforts will be directed at perfecting the legal mechanisms of control over the appearance in the media, including the Internet, of information of extremist nature, containing calls for terrorist activity or justifying the use of terrorism, advocating pornography, the cult of violence and cruelty.

Further improvements pertain to the regulatory groundwork on the recognition of electronic documents as court evidence, on the use of information and communication technologies in determining application mechanisms for the state's migration policy, and support of export along with technical regulations in the area of information technologies.

Considerable expansion is necessary of the area of international cooperation by the Russian Federation in the field of new information technologies, in connection with the Russian Federation's planned ascension to international agreements on common criteria for evaluating information technology security. The development of an information society must be based on the latest achievements of the scientific and technological process.

Further steps supporting the country's economic growth are impossible with an effectual development strategy for state bodies. Large-scale reforms in state service sector are being accomplished in accordance with the Federal Program on «Reform of State Service in the Russian Federation».

Work is continuing on the formation of an integrated system of state service; a series of problems are being resolved related to regulatory-legal formulation and performance mechanism improvement in the various types of state service, and a system of state service administration is being formed. Key federal laws — on law enforcement service, on military service, on medical insurance of state workers, on state pension provision for citizens who undergo state service and to members of their families — are currently being prepared.

Still not regulated at the federal level are issues on the relationship between federal state service employment and employment with the state services of the constituent entities of the Russian Federation, and the creation of a commission on compliance with official civil servant conduct requirements and conflict of interest resolution.

In addition, resolutions of the Government of the Russian Federation still do not exist in the areas of: provision of subsidies on the acquisition of housing for federal state civil servants; procedure and conditions for placement of orders for professional equipment; raising the qualification and training of federal state civil servants; procedure for calculating the seniority period of federal state civil servants, and inclusion in it of other periods of substitute appointments.

The fact that individual general norms of basic laws have not yet become direct action standards hinders the establishment of an institute of state civil service and impedes the implementation of a comprehensive approach to its reform. A remaining key goal is the creation of legislative opportunities for a strategy on development, administrative reform, reform of the budgetary process, and local self-government.

A new edition of the Budget Code of the Russian Federation is almost exclusively aimed at continuing the budget reform process, but it still fails to foresee the issue of independent financial regulation for the Federal Assembly of the Russian Federation.

In view of this, the Council of Federation is working on amendments to the Budget Code of the Russian Federation in the part on presenting financial autonomy to the chambers of the Federal Assembly of the Russian Federation, including the right by the Council of Federation and the State Duma of the Federal Assembly of the Russian Federation to independently set and

approve annual and three-year budgets, as well as the standards and regulations for financial and logistic support of their operation.

Improvement in how state bodies are organized and function, implemented within the frameworks of the Conception of Administrative Reform, leads to new demands for state service, its legal regulation, and financial and economic provision.

The adoption and implementation of the federal laws «On the System of State Service of the Russian Federation» and «On the State Civil Service of the Russian Federation» have failed to resolve a number of issues relating to how state service is performed in the legislative bodies of power, both in the center and in the constituent entities of the Russian Federation. These laws, in essence, are the Russian official's «labor code».

In pursuance of the requirements of the Federal Law «On State Civil Service of the Russian Federation», a Decree of the President of the Russian Federation confirmed a Register of the offices of federal state civil service, which represents a universal classifier of the offices of federal state civil service. It provides the standardized titles of the offices of federal state civil service, which are classified according to categories and groups, and shared between the federal bodies of executive and legislative power, and also formulates such concepts as efficiency and effectiveness of professional occupation.

At the same time, introduction of new technologies aimed at supporting legislative activity is impossible without the corresponding training and retraining of staff at all levels — federal, regional and local. It should be noted that the scientific and education centers being created within the frameworks of the «Education» national project could turn into smithies that release parliamentary workforces for countries of the Commonwealth of Independent States and other nations.

The Council of Federation is currently developing a draft of the Federal Law «On the Federal Assembly — Parliament of the Russian Federation» that consolidates the notion of «state parliamentary service» and foresees the particular qualities of its performance while also providing guarantees for state parliamentary officials.

At the moment, Russia has no specialized university that could professionally prepare state officials who guarantee the functions of parliament, or newly elected parliamentarians who join professional lawmaking for the first time.

The legislation of the Russian Federation does not designate service in parliament as a separate type of state service, even though service in the bodies of legislative power has significant particularities and specifications that need to be taken into account. Thus, legislation about the foundations of state civil service does not fully take into account the particularities of state parliamentary service, such as: conditions for entry into state parliamentary service; qualification demands for state parliamentary workers; appointments procedure for positions within the administration of legislative (representative) state bodies; social guarantees for state parliamentary workers; the system of qualification and re-qualification for civil servants involved in guaranteed the work of parliament.

In contrast to state workers in the executive bodies of power, who organize the performance of already adopted laws, civil servants in the legislative bodies of power support the work of members of the Council of Federation and State Duma deputies, through whom the citizens of the Russian Federation realize their constitutional right to manage the affairs of the state. For this reason, legislative (representative) bodies of power must be supported by staff of the highest professional level.

Existing legislation does not take into account the «double allegiance» of state workers employed in the administrations of committees and commission of the Federal Assembly — first to the head of the Administration and his deputies, and also to the chairman and deputy chairmen of the committee (commission); as well as the particularities of legal regulation concerning the «(assistants) aides» category of workers. For this reason, it is proposed to legislatively secure parliamentary service as a type of state civil service.

Especial attention here should be paid to the experience of foreign legislation in this field, which takes precise account of the special status of state workers in legislative bodies of power, their participation in the legislative process, as well as their roles, goals and functions in the professional provision for the work of deputies, senators and parliament as a whole.

An analysis of world experience in parliamentary activity shows both the use and importance of parliamentary service. Many world countries have adopted special legislative acts that regulate the status, structure and function of parliamentary administrations, and the procedure of how civil service is performed in them. For example, in Canada, the main laws and regulations organizing relations in this field are the laws «On the Canadian Parliament», «On the Hiring Procedure and Working Conditions of Administration Staff of the Canadian Parliament»; in Great Britain — it is the law «On the Organization of the Work of the House of Commons»; and in France — the law «On Rights and Obligations of Officials».

The introduction of the concept «state parliamentary service» attaches a special status to workers in legislative (representative) state bodies, on whose professionalism, competence and knowledge depend the quality of adopted laws, their «performance ability» and the whole creation of a single legal arena in the Russian Federation.

The monitoring of legislative and legal enforcement in the area of state construction has shown that the main efforts of the legislative and executive branches were directed on the implementation of political goals and assignments set before them by the President of the Russian Federation. Federal legislators, first of all those in the Council of Federation, brought up a new layer of problems. Those, for example, like the role of the legal enforcement practices of international courts in the development of the national legal system, the goals and contents of the information policy of the state, and so on. In order to guarantee a timely and adequate response to the problem of ethnic strife, the Council of Federation under agreement with the President of Russia created a Joint Commission on ethnic policy and relations between the state and religious organizations.

Nevertheless, no substantive advances in the implementation of state policy have been seen. The lawmaking process for the large part retained many of the previously detected systemic shortcomings, which significantly diminish its efficiency. The conclusions and recommendations of previous reports made by the Council of Federation remain, for the most part, unimplemented.

To this day, a proper foundation for the conceptual development and legal formalization of the strategic aspects of state policy has not been created. The result — an absence of funding for state documents on such relevant issues as regional and ethnic policy. The goals and criteria for reforming the number of the constituent entities in the Russian Federation have not been created. By method of trial and often inadmissibly costly error, a search continues for solutions to such vital problems as the delineation of powers between the levels of public power, the organization of inter-budgetary relations and the development of the system of executive power.

The same also concerns the conceptual issues of creating a legal framework for resolving the goals of state policy. The content and means of implementing political priorities formulated by the head of state are often being arbitrarily interpreted by the legal entities of legislative initiative. As a result, legislative norms appear that revoke the right to cast a vote «against all», that eliminate the election turnout threshold, and similar items. The question of the correspondence of such initiatives to the solution of the priority tasks of developing democracy, guaranteeing the legitimacy of bodies of the representative branch, and raising its level of trust in the eyes of citizens, at the very least demands a broad public debate.

The consequence of the above problems remaining unresolved is either the absence of the required laws, or the non-correspondence of the intent of the adopted acts to the strategic goals of government development, or the inability to implement these efficiently.

As a result, current legislation in the area of state construction suffers from instability and inconsistency. Ever more, it is turning into an agglomeration of endless changes that fail to fill in the existing gaps and create new contradictions. This, in the end run, inadmissibly delays the

creation of the necessary legal conditions for the stable development of society and the state. The legislative branch is demonstrating an inability to adopt quality laws demanded by the country's President, which makes it impossible to speak of their «fairness».

The system of monitoring the state of legislative and legal enforcement has, for the most part, been created. Now on the day's agenda — creation of an effective mechanism for responding to the results of the conducted monitoring work. The system of legislative regulation must be able not only to identify the pressing shortcoming in a timely manner, but also to swiftly eliminate them.

1.2. Social development of Russia

According to the latest addresses by the President of the Russian Federation to the Federal Assembly of the Russian Federation, the main goal of the country's socioeconomic development is to improve the level and quality of life of the population.

The Address of the President of the Russian Federation to the Federal Assembly of the Russian Federation for 2006 set the goal of directing additional investments into the social sphere to guarantee the growth of people's well being, stimulate the birthrate and support families, lower the death rate and extend life expectancy. For the first time, a program was proposed focusing on long-term material support for women who have children, on the development of preschools and obstetrician agencies that assist families during childbirth and early parenting.

The Address to the Federal Assembly for 2006 also confirmed the priority of work focused on guaranteeing a dignified life for the elderly generation; a proposal was made to raise pensions in 2007 by a total of 20 percent.

A priority direction of social legislation development in 2006 became the drafting of a set of normative legal documents on the implementation of specific measures of the demographics policy, aimed at raising the birthrate, reducing the death rate of the population and optimizing the migration processes.

The main vectors of the social-cultural sphere of development in 2006, as well as its legislative groundwork, are aimed at implementing the «Public Health», «Education», and «Affordable Housing» projects, which intend to improve the quality and affordability of services in these industries for all social demographic groups of the population.

A planned monitoring and improvement of labor legislation were also pursued in 2006. Over the course of 2006, federal laws were adopted touching on almost all aspects of provision for the constitutional right to work.

The most important in the field of labor relation for 2006 was Federal Law No. 90 of June 30, 2006, which implemented significant content and legal-technical changes to the Labor Code of the Russian Federation.

The Labor Code of the Russian Federation was adopted in 2001 as a compromise document, and it was already apparent at the time that not all of its provisions would work with equal efficiency. The monitoring of the practice of its implementation showed that on the whole, it guaranteed the implementation of the constitutional right to work, but was still not free of problems and shortcomings. For this reason it was necessary to adopt the above-mentioned federal law, which made amendments to almost 300 articles of the Labor Code of the Russian Federation, while also adding 13 new ones. The regulations of the Labor Code of the Russian Federation are being brought in line with the conventions and recommendations of the International Labor Organization (ILO).

Among its legal novations — precision of the fundamental positions of labor relations, which establish a new social order in society and status roles for subjects of labor relations. Thus, the list of relations regulated by labor legislation was appended by relations on mandatory social security, the concept of forced labor was expanded, labor legislation was made more precise, a universal procedure was established for taking into account the opinions of workers of the legislative body in case of adoption by their employer of local normative acts that contained elements of regulatory law.