

ISCKMC 2020**International Scientific Congress «KNOWLEDGE, MAN AND CIVILIZATION»****LEGISLATIVE PROCESS AND THE DIVISION OF
JURISDICTIONS IN THE RUSSIAN FEDERATION**

Kazban Samatovna Inalkaeva (a)*

*Corresponding author

(a) Chechen State Pedagogical University, Grozny, Russia, Kazban1961@mail.ru

Abstract

The article discusses the main directions of interaction between federal and regional legislators in the legislative process, including typical shortcomings in exercising the right of legislative initiative by parliaments. The general principles of the legislative process, such as democracy and legality, were studied. Of particular importance is the observance of the principles of validity of a legislative initiative and consistency of the process. The effectiveness of legislative activities is determined by the efficiency of one of the legislative initiative which is often carried out by the representative bodies of the regions. Based on the analysis of domestic and foreign doctrines, the grounds for weak efficiency of legislative initiatives were revealed and ways to improve their effective implementation were suggested. The legislative initiative is associated with federal and regional subjects and should serve as one of the guarantees of rights of the regions within the legal field. It is based on the timely implementation and forecasting of prerequisites for legislative initiatives, as well as on the legal literacy of legislators, which will allow us to regulate the most important issues of social life in terms of consistency and prevention and maintain a social order in the legal field.

2357-1330 © 2021 Published by European Publisher.

Keywords: Federal parliament, legislative process, legislative initiative, regional legislator, legal expertise, region of the Russian Federation



1. Introduction

The relevance of the issue is due to the fact that reforms of the legal system of Russia, the rule of law require perfect laws (Petrova & Shovkhalov, 2016). This problem is of paramount importance for adoption of effective laws, timeliness and accuracy of legislative decisions determining economic, political and social reforms. Ineffective laws are the basis for imperfect legislation which has a negative effect on public life. It is quite possible to assume that this circumstance has become one of the reasons for the idea about the non-binding nature of laws and unpunished violations. Another point confirming the relevance of this study is that federal relations are dynamically developing in Russia; the regions use their right to create their own legislation.

2. Problem Statement

Russian legal acts are characterized by inconsistency, lack a mechanism for their implementation. As a result, there is a large number of laws which do not really regulate social relations. The problem of effectiveness of legal norms has many aspects, one of which is an imperfect legislative process. The actions that precede the direct submission of a draft law to the legislative body are of particular importance. Among them, one can mention the identification of a subject of the future law, draft development, identification of possible contradictions between draft acts and current legislation. The form of laws has acquired particular relevance due to significant changes in the system of regulatory legal acts of the Russian Federation.

It seems expedient to plan regional legislative activities in relation to regional and federal draft laws submitted to the State Duma. Therefore, the practice of submitting draft laws to the State Duma will improve quality of draft laws and allow streamlining the legislative procedure.

In modern Russia law science, there are no complex systemic studies on this issue.

3. Research Questions

The Russian Federation belongs to countries with a wide range of subjects of the legislative initiative. In the United States, the legislative initiative can be exercised only by members of the Congress. When the president or members of the government suggest adopting a draft law, a member of the Congress who is a political "friend" of the president can submit it for discussion. Apparently, the circle of "friends" of the US presidents is growing: the US administration is interfering in almost all events in the world economy and politics, while pursuing a policy to the detriment of interests of the American people. The high activity of the executive power in the legislative process of the United States and its main satellites (Great Britain, Canada, etc.) gives grounds to talk about a decline in the legislative initiative of parliamentarians, a trend to increase the initiative of executive bodies. This trend is manifested in the Russian Federation (Inalkaeva, 2019).

Participants in the federal legislative process are as follows: the President, the Federation Council, members of the Federation Council, deputies of the State Duma, the Government of the Russian Federation, 85 regional parliaments, the Constitutional Court and the Supreme Court of the Russian

Federation, which have the right to initiate legislation on issues of their jurisdiction (Piskunova, 2015). Article 134 of the Constitution of the Russian Federation endows regional parliaments and other bodies with the right of constitutional initiative. This rule is referred to "untouchable" constitutional provisions, because it can be changed by constitutional amendments.

In preparing proposals for amending the Constitution, regional parliaments must strictly abide by article 136 of the Constitution. According to the Federal Law "On the Procedure for Adopting Amendments to the Constitution of the Russian Federation", regional parliaments prepare their proposals for amending Chapters 3–8 of the Constitution as a draft Law of the Russian Federation on amendments to the Constitution of the Russian Federation. It must formulate either the text of a new article, or the text of its new version, or exclude the article from the Constitution. The form of proposals to revise the Constitution has not been established by the federal legislation. The Constitution does not provide for the procedure of decision-making on proposals for amending the Constitution. Such decisions should be established by laws or regulations of regional parliaments.

Amendments are submitted by regional parliaments to the State Duma. A draft law of the Russian Federation on amendments to the Constitution approved by the State Duma is sent to the Federation Council within five days from the date of approval. A law of the Russian Federation on amendments to the Constitution is sent to the regional parliaments for discussion.

The law of the Russian Federation on amendments to the Constitution has to be approved by the two-thirds of the regional parliaments. Regional parliaments are obliged to consider the draft law within one year from the date of its adoption. The appropriate resolution is sent to the Federation Council within fourteen days.

Regional parliaments prepare draft federal laws on matters of joint jurisdiction and send them to the State Duma (part 1 of Article 104 of the Constitution). In this process, the regional parliaments provide assistance to the Federal Assembly. The draft law is sent to the State Duma. It has to meet certain requirements. According to Part 3 of Article 104 of the Constitution, draft laws introducing or abolishing taxes, tax exemption, regulating government loans, changing financial obligations of the government may be introduced to the State Duma only if there is an opinion of the Government of the Russian Federation. Draft laws of the regional parliaments cannot be accepted for consideration without the conclusion of the Government. This is aimed at limiting the scope of draft laws that are not associated with the federal budget.

An analysis of regulations of the regional legislative has shown that procedure for preparing legislative initiatives for the federal parliament is not regulated by their laws. According to Article 3 of the Procedure of the Parliament of the Chechen Republic regulating the legislative initiative, the legislative activity of the Parliament of the Chechen Republic involves exercising of the right of legislative initiative and adopting republican legal acts on all issues outside the jurisdiction of the Russian Federation. Legal acts of the Parliament of the Chechen Republic on matters of joint jurisdiction are valid until relevant federal laws are adopted. After the adoption of federal laws, legal acts of the Parliament of the Chechen Republic have to be brought into line with them within a month. The Parliament of the Chechen Republic has the right to submit draft acts for consideration by the President and the

Government of the Russian Federation if are within the competence of the President and the Government of the Russian Federation (Inalkaeva et al., 2017).

At the same time, some regions regulate the procedure for preparing a legislative initiative. For example, according to Article 27 of the Procedure of the People's Assembly of the Republic of Dagestan, the right of legislative initiative is exercised by the People's Assembly of the Republic by submitting a draft law or amendments to the laws regulating matters of joint jurisdiction to the State Duma. The right of legislative initiative is exercised in accordance with the Rules of the People's Assembly. There is a list of documents required to exercise the right of legislative initiative (Kutafin & Kozlova, 2012).

As for initiating amendments to the Constitution of the Russian Federation and their approval by the regions, it is still premature to talk about the effectiveness of such a form. However, one can judge about the consolidated work of regional legislators in 2008 and 2014. All 85 regional parliaments approved the amendments introduced by the President of the Russian Federation within one month, which made it possible to amend the Constitution of the Russian Federation in a very short time (Beketova, 2013).

Some regions have attempted to initiate amendments to the Constitution. In 2013, the Parliament of the Chechen Republic sent a draft federal law on amendments to Art. 67 of the Constitution; however, territorial changes in the boundaries of the regions require the consent of the region. However, according to Part 3 of Article 67 of the Constitution, the consent is required for internal territorial transformations.

Even a slight change in the federal legislation requires the adoption of regional regulatory legal acts aimed at bringing regional legislation in line with the federal one (the adoption of any federal law requires the preparation of 5–10 regional laws).

According to Artamonov (2013), one more shortcoming of the modern regional legislation is the fact that regional legislators do not seek to establish a clear correspondence between names of the laws and goals they indicate in the preambles. This leads to the incorrect correlation of these acts with provisions of federal laws, create problems in understanding the content of regional laws.

The Constitution does not establish how decisions on amendments to the Constitution are made. Therefore, regional parliaments can make such decisions in accordance with the procedures established by the regional laws, or in the manner established by the regulations (amendments to the Constitution of the Russian Federation made in 2008, 2014).

To come into force, the Law of the Russian Federation on Amendments to the Constitution must be supported by at least two-thirds of regional parliaments. According to its most important features, this rule-making is a special procedure.

Another rule-making obligation of the regional parliament is to take part in the federal legislative process, which consists in agreeing draft laws on matters of joint jurisdiction with government authorities of the regions (Lukyanchikova, 2009).

The State Duma submits such projects to the regional parliament, which must give feedback within 30 days. If the regional parliament and the highest executive body of more than one third of the regions oppose the adoption of the draft law, the State Duma may create a conciliation commission.

Some scholars argue that it is difficult to receive a draft law from the State Duma, study and discuss it at a session of the regional parliament, make changes and send it back to the State Duma within

a month. This rule makes the consideration of proposals and comments on the draft law dependent on the federal legislation. Accordingly, at the federal level, a rule on guarantees for the regional parliament should be established to support its rule-making interests in the federal legislative process. It would also be advisable for members of the regional parliament to participate in parliamentary hearings.

To increase the role of the legislative initiative of the regional parliament, it would be advisable to support the opinions of researchers on the adoption of federal laws on the legislative initiative of the regions.

4. Purpose of the Study

The purpose of the article is to reveal the reasons for weak efficiency of the legislative process and suggest ways to improve its effective implementation. Based on the regulatory and legal framework, the legal support of activities of the regional parliament has various forms: high-quality analysis of legislation; planning of the legislative work; legal and specialized examination of draft laws; ensuring the participation of lawyers and specialists, legal research organizations in activities of the regional parliament; efficient operation of legal departments of these bodies; organization of public participation in the preparation and discussion of draft laws; conducting opinion polls and other research in the field of legislation. Scientific developments can be used in research and constitutional law courses.

5. Research Methods

The solution of these tasks predetermines the use of the dialectical and legal-logical methods used to analyze legal norms regulating social relations; the comparative legal method was used to compare the content of stages of the legislative process; the analytical method was used to process information about the legislative activity of the parliament in order to obtain new knowledge; the statistical method was used to systematize numerical information and data on qualitative characteristics of the phenomenon.

6. Findings

The theoretical conclusions drawn will contribute to the development of scientific knowledge about features of legislative activities.

7. Conclusion

To exercise the right of legislative initiative by regional parliaments and improve the system of interactions between federal and regional legislators, a set of measures should be taken.

First, it is necessary to organize a systematic work of federal and regional legislators, taking into account both the federal legislation and practice of its implementation. The federal parliament should be provided with functions of consolidation, coordination and methodological support for all representative bodies.

Second, it is necessary to improve the legal training of deputies and representative bodies by holding seminars, conferences and other forums.

Third, it is necessary to enhance the role of the Federation Council by supporting and consolidating such initiatives in the State Duma, holding parliamentary hearings on legislative initiatives of the regions.

Fourth, it is necessary to improve the legal regulation of exercising the right of legislative initiative.

The authors suggest adopting such Federal laws as the laws "On the Federal Assembly", "On regulatory legal acts", "On the legislative process". There is an obvious need for a comprehensive federal law, establishing uniform requirements for draft laws, quality criteria, procedures for their discussion and adoption. Therefore, it is necessary to share fears of scientists about the possibility of excessive discretion and regulation of such issues in the Rules of the State Duma.

References

- Artamonov, A. N. (2013). *Legislative process in the constituent entities of the Russian Federation: on the example of the constituent entities of the Federation of the Southern Federal District* [Master Thesis]. Moscow.
- Beketova, S. M. (2013). Features of the legislative process in the constituent entities of the Russian Federation in the modern period. *Vest. of VSU. Ser. Right*, 1, 26.
- Inalkaeva, K. S. (2019). Regional parliament in the federal legislative process. *Quest. of Russ. and Int. law*, 9(8A), 38–44. <https://doi.org/10.34670/AR.2019.89.8.004>
- Inalkaeva, K. S., Tepsuev, M. S., & Matyeva, A. R. (2017). Regional electoral committees as a direct democracy institution. *J. Home Archives*, 9(2), 1375–1387.
- Kutafin, O. E., & Kozlova, E. I. (2012). *Constitutional law of Russia*. Prospect.
- Lukyanchikova, E. F. (2009). *Proceedings for the adoption of normative legal acts by legislative (representative) bodies of state power of the constituent entities of the Russian Federation: constitutional and legal research* [Doctoral dissertation]. Belgorod.
- Petrova, A. T., & Shovkhalov, Sh. A. (2016). Growth Prospects for Market of Muslim goods in Russia. *Indian J. of Sci. and Technol.*, 9(46), 435–441.
- Piskunova, E. A. (2015). *Legislative process in the regions of the Russian Federation* [Master Thesis]. Moscow.