
CONSTITUTIONAL BASICS OF THE PARLIAMENTARY ACTIVITY IN THE RUSSIAN FEDERATION

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The legislative branch of power, represented by the Parliament is one of the core elements of the system of separation of power in a developed democratic state and an effective part of the “checks and balances” mechanism. In this article the author reviews basics of the constitutional status of the Federal Assembly – the Parliament of the Russian Federation, defines main functions and methods of their implementation. The legislative process is under review as well, since it is one of the core functions of a modern parliament and its stages and participants are defined. The author reviews one of the youngest institutions of Constitutional law as well, which is typical for mixed types of republics – the parliamentary control.

The Federal Assembly—the Parliament of the Russian Federation is the highest federal legislative body in Russia. The Parliament is bicameral, which is typical for federative states and includes two chambers: the Federation Council and the State Duma.

The Federation Council is the permanently acting body, representing interests of the subjects of the Russian Federation in the Russian Parliament. It is formatted by two representatives of each subject of the Russian Federation (in total - 170 members) and plus up to ten percent of this number as a representatives of the Russian Federation, nominated by the President of the Russian Federation.

Competence of the Federation Council is defined by the Constitution of the Russian Federation and clarified in the Regalement of the Federation Council, dated January 30, 2002. It flows from the status of the Federation Council as the body representing the interests of the subjects of the Russian Federation, thus concentrating responsibilities interrelated with the area of federalism [4, P.17]

One of the core functions is participation in the legislative procedure. [1. P 246, 247]. The Fe-

deration Council participates in the development of legislative acts and adopts laws and amendments. The Federation Council possesses the legislative initiative right, which may be used by the Federation Council as a state body and by its members personally. The Federation Council has the right not to express its opinion regarding several types of laws; however there is a constitutional list of laws which is mandatory for review and approval by the Federation Council.

Subjects of the Federation in Russia have the inalienable right to agree with changes of the borders between the subjects. It is done in the form of a local referendum, which later on goes through the approval (in the form of law) process by the Federation Council.

Another function is Approval of Presidential Decrees on the introduction of martial law and of a state of emergency, which is introduced by the President of the Russian Federation in a case of aggression against the State or the threat of aggression.

The Federation Council makes decisions on the possibility of using the Armed Forces of the Russian Federation outside the territory of the Russian

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Federation. Armed Forces of the Russian Federation may participate in peacekeeping and other types of operations abroad only when they comply with constitutional provisions and are approved by the Federation Council.

In accordance with Federal Law #19-FZ "On President of Russian Federation elections" dated by January 10, 2003 and the Constitution of the Russian Federation the Federation Council appoints elections of the President of Russia.

The Federation Council plays an important role in the process of dismissal of the President, making the final decision on the dismissal in accordance with Article 93 of the Constitution of Russia. This decision should be accepted by at least two-thirds of the total list of members of the Federation Council and adopted within three months from the initiative, accepted by the State Duma.

The President of Russia proposes to the Federation Council candidates for the position of the high court's judges. The Federation Council appoints the judges.

Appointment of the Procurator-General of the Russian Federation is done on the basis of the Presidential proposal. When the Federation Council does not approve a candidate, the President proposes another candidate within thirty days. The general term of authority for the Procurator-General is five years. The Federation Council appoints and dismisses the Deputy Chairman and half of the auditors of the Accounts Chamber. The Federation Council may have other authorities regulated by federal laws. For example the Federation Council analyses the proposals of the President for the appointment of the diplomatic representatives in different countries.

The internal structure and activity of the Federation Council is defined by the Constitution, federal laws and the Regalement of the Federation Council. The basis for the decisions taken by the Federation Council is open to collective discussion of the different issues. Parliament's Chamber conducts hearings which may be both open and closed as defined by the Regalement.

The Federation Council elects the Chairman and several Deputy Chairmen. The Chairman and deputies should represent different subjects of the Federation. Most functions of the Chairman and his deputies are of a procedural nature: they conduct sessions, manage the apparatus of the Federation Council and conduct other procedural activity. The Council of the Chamber, which is a permanent collective body, is organized to arrange the activity of the Federation Council. It is formed by the Chairman of the Federation Council, his deputies,

chairperson of all committees and several commissions. Major important bodies of the Federation Council are *committees and commissions*, since the majority of the work is done within these structural bodies. Committees function on a permanent basis, whereas commissions are more *ad hoc* bodies; however, there are still several permanent commissions. All members of the Federation Council except for its Chairman and Deputy Chairmen participate in the activity of one committee. The Federation Council acts on a permanent basis.

The State Duma is the chamber of the Federal Assembly which is formed by national elections. There are four hundred and fifty members, called "the deputies", representing the interests of the Russian population. The Chamber's term of authority constitutes five years. In accordance with the Federal Law № 20-FZ "On elections of the Deputies of the State Duma of the Federal Assembly of the Russian Federation" dated February 22, 2014 the deputies are elected on the basis of a mixed electoral system, combining both proportional and majority systems. Two hundred fifty deputies are elected on the basis of the proportional system: from federal lists under a proportional representation system, another two hundred fifty deputies are elected on the basis of majority system.

The scope of competence of the State Duma is regulated by the Constitution in Article 103 and clarified in the Regalement of the State Duma, dated by January 22, 1998. The State Duma provides agreement to the President of the Russian Federation for the appointment of the Chairman of the Government. The proposal of the candidate is submitted by the President to the State Duma. The State Duma shall consider the candidate nominated by the President of the Russian Federation for the post of the Chairman of the Government of the Russian Federation during the week after the submission of the nomination. If the State Duma rejects the candidates three times for the post of Chairman of the Government of the Russian Federation, the President shall dissolve the State Duma and appoint new elections.

In accordance with Article 117 of the Constitution, the State Duma may express no-confidence in the Government of the Russian Federation by a majority of votes of the total number of the deputies of the State Duma. The President of the Russian Federation is free to announce the resignation of the Government or to reject the decision of the State Duma. If the State Duma again expresses no-confidence in the Government of the Russian Federation within three months, the President of the Rus-

sian Federation shall announce the resignation of the Government or dissolve the State Duma.

The State Duma *appoints and terminates the responsibilities of the Head of the Central Bank*. The term of authority of the Head of the Central Bank constitutes 4 (four) years. The Candidacy is proposed by the President of the Russian Federation. The State Duma *appoints and terminates the responsibilities of the Chairman of the Accounts Chamber and half of the Accounts Chamber auditors*.

The State Duma *appoints and terminates the responsibilities of the Commissioner for Human Rights of the Russian Federation*. The Commissioner for Human Rights of the Russian Federation is the official State Body, which was established to ensure the performance of the State guarantees in the sphere of the State defence of rights and freedoms. The term of authority of the Commissioner is five years. The State Duma is also empowered to resign the Commissioner.

Very typical for the parliament – the State Duma announces the amnesty which is a collective act and means official forgiveness of the past offences. The Amnesty Act is adopted by the State Duma in the form of the Resolution on Amnesty. Commonly the Amnesty Act is associated with special events or holidays.

Within the process of dismissal of the President *the State Duma Accuses the President within the procedure of the official dismissal of the President from his official position*. The proposal for accusing the President should include the defined characteristics of the crime and a clear explanation of the President's role in the performance of this crime and *one-third of State Duma members* should support the initiative of accusing the President. Afterwards, the State Duma forms the special temporary commission on the assessment of the case and the procedure of its performance, which reviews all the relevant documentation and finalizes its opinion in the form of a Conclusion, which should be supported by the majority of the commission. After acceptance, his Conclusion is sent to the Council of the State Duma and not less than two-thirds of the votes of the State Duma members should approve the accusation.

The State Duma *performs activity in the sphere of international relations*, namely ratifies and denounces international agreements, adopts decisions on different aspects of international relations. An international agreement is introduced to the State Duma by the President with the request for ratification thereof. The State Duma reviews and adopts the ratification in the form of federal law, which then, passes to the Federation Council and the President for

promulgation. The State Duma actively participates in inter-parliamentary relations, signing the agreements with foreign parliaments and parliamentary organizations. The Chairman of the State Duma represents its interests in relations with other organizations.

The overall structure of the State Duma is regulated by federal laws. The *Chairman of the State Duma* is the head of the Chamber. The Chairman is elected from and by the deputies of the State Duma by secret voting. It is necessary to gain more than half the votes of the members of the Chamber. Normally such elections are held after the new State Duma has been elected by the voters. Simultaneously with the Chairman the deputies elect the First Vice Chairman and other Vice Chairpersons. The number of Vice Chairpersons is established by the State Duma Regalement. It is worth mentioning that all these people should represent the interests of different party factions.

The *Council of the State Duma* is created for the preliminary preparation and decision of organizational issues. This structural unit is permanently acting. The permanent members with the decision vote are the Chairman of the State Duma, the first Vice Chairmen, Vice Chairmen and leader of the party fractions. The heads of the Committees and Commissions can participate in the activity of the Council, however only with advising votes.

Another structural element of the State Duma is *the deputies' faction*, which is the organized community of the deputies, belonging to the one party. All deputies' factions act on the basis of strict party discipline.

Finally, there are *committees and commission* - the main structural units in the State Duma, where most internal work is done. As a general rule—the committee is the permanent structural unit; the commission is formed on a temporary basis for the decision of certain issues. However, there are still permanent commissions as well, like the Commission on Deputies' Ethics. Committees are formed on the basis of equal representation of the deputies from different deputy factions. All deputies should be members of the committees. This rule applies in such a way, that a deputy should be member only in one Duma committee, however the Chairman of the Duma and Vice Chairmen do not enter into any committee. Committees and commissions work in the form of meetings, so that there should be not less than two meetings within the month, once two weeks. A quorum constitutes more than half of the deputies.

There are two sessions within the year: *the spring session* from January 12 until June 20 and

the autumn session from September 1 until December 25. The State Duma conducts hearings twice a week. The President, Chairman of the Government, ministers, members of the Federation Council, the Commissioner for Human Rights, judges of the Constitutional Court and Supreme Court, Chairman and auditors of the Accounts Chamber, the Procurator-General, and the Head the Chief Elections Commission may present on the hearings. Members of the Government may be invited to participate and provide answers to deputies' questions.

The activity of the elected deputies of the State Duma is terminated in the following situations: expiration of the term of authorities; early termination of the authorities by the President of the Russian Federation.

Early termination is possible in two situations: when the State Duma is in conflict with the President or in conflict with the Government.

One situation of the *conflict between the President and the State Duma* is possible, when, in accordance with the Constitution the President proposes the nominee for the position of the Chairman of the Government and the State Duma rejects this proposal three times, done by the President. The President dismisses the State Duma and appoints the Chairman of the Government by himself.

A second situation of the *conflict between the Government and the State Duma* takes place when the State Duma votes for non-confidence in the Government. In this situation if the State Duma votes for non-confidence twice within three months the President should make a decision and choose, whether the State Duma or the Government is dismissed. If the President dismisses the State Duma new elections should take place within four months after the dismissal date.

The Constitution of Russia proclaims the following *limitations for the dismissal* of the State Duma: its activity cannot be terminated within one year of the elections, within the period of the President's official dismissal, starting from the announcement of the charge of the President by the State Duma and until the Federation Council confirms the charge and within six months up to the expiration of the President's authority.

The competence of the Federal Assembly is realized in the form of laws, which are adopted by the chambers, thus the Federal Assembly actively participates in the *legislative process* [1. P. 260, 262]. The Federal Assembly reviews the following types of laws: laws on amendments to the Constitution, Federal Constitutional laws and Federal laws. The Legislative process

includes several mandatory stages, which are important and follow in a certain sequence. Only completion of one stage permits transfer to the next one. All the stages are formalized and duly documented; all the rights and obligations of the participants are fixed by the constitutional regulations. This is quite typical for most of modern states [2. P. 15, 28]

First stage is called the *Legislative initiative* [2. P. 46] - when authorized bodies, empowered by the rights concretized by the Constitution, initiate drafts of constitutional and ordinary federal laws. In accordance with Article 104 of the Constitution of Russia, the right for legal initiative belongs to: the President of Russia; the Federation Council; members of the Federation Council; deputies of the State Duma; the Government of Russia; legislative bodies of the subjects of the Russian Federation; the Constitutional Court of Russia, the Supreme Court of Russia, within the scope of competence of these courts, which is limited by the Constitution and federal legislation.

The next stage is a *review by the Federal Assembly*, which includes the review by the State Duma and a further review by the Federation Council. In Russia the only way for the law to go through Parliament is to be introduced to the State Duma and afterwards move for review by the Federation Council, but not vice versa.

The draft of the Law is introduced by the subject of the legislative initiative to the State Duma and is forwarded to the Chairman of the State Duma.

Readings are the legal form of the discussion and approval of the law draft. The legal draft considers the review in the State Duma in three readings. There is still a possibility for the draft to be approved after the first reading and we will review this procedure in this chapter in more detail. *The First reading* is the primary review of the draft by the State Duma deputies. Within the primary review the main provisions of the draft are being discussed and the question of the general necessity of the law, the overall concept and compliance with constitutional provisions. The responsible committee provides its position as well.

Within *five days* after acceptance in the first reading the draft is sent to the subjects of the legislative initiative. Within the first and second readings the subject of the legislative initiative may propose amendments to the law, which are further consolidated and provided for discussion during the *second reading*.

The Second reading means the discussion of the draft in detail by the deputies of the State Duma. This is the most detailed discussion

of the draft within the State Duma, when the proposed amendments are being discussed and voted on. The competent Committee gives advice on the list of amendments for rejection. In the case that the deputies agree with them—they reject such amendments. The discussion concerns the amendments for approval, the deputies' vote on them and as the result of the discussion the list of the approved amendments is created. After the second reading is finished deputies vote on acceptance of the draft in the second reading. The draft, accepted in the Second reading, is sent to the competent Committee for further adaptation in accordance with the amendments accepted.

The Third reading is the final reading of the draft of the law. It means the general discussion on the law with all amendments, agreed on the Second reading and incorporated into the draft text. It is not permitted to introduce any changes on the stage of the third reading, however in some situations, if supported by the majority of the deputies, the draft may be returned to the Second reading, where it can be discussed in more detail. In accordance with the Reglement of the State Duma the draft of law can be voted in Second and Third readings on the same day, in which case the final law draft is ready and legal and linguistic expertise of the draft has taken place.

If the draft is accepted it means that the law is approved by the State Duma. For approval by the State Duma the federal constitutional law should get two-thirds of the deputies' votes (301 votes). For approval of the ordinary federal law it is necessary to get a majority of votes (226 votes). This rule is applied to all readings in the State Duma. After the review and approval of the law in the State Duma the law is transferred to the Federation Council within five days.

The Federation Council plays an important role in the legislative process in the Russian Federation; however its participation varies, depending on the type of law and type of question, covered by the concrete law. In accordance with Article 106 of the Constitution of the Russian Federation the Federation Council is obliged to review the following types of federal laws: on the federal budget; on federal taxes and duties; on finance, currency, credit, customs' regulations, monetary emission; on the ratification and denunciation of international agreements; on the question of the status of the State border; on issues of war and peace. The Federation Council *is also obliged* to review the *Laws on Amendments to the Constitution* and the *Federal Constitutional Laws*.

The Federation Council should review the law *within fourteen days* of its provision to the Federation Council by the State Duma. When the law is entered into the plenary meeting of the Federation Council it is reviewed during one discussion. Upon discussion the Federation Council makes the decision on whether to approve or to decline the law. Federal law is approved by the majority of votes; Federal Constitutional Law is approved by a qualified majority (*three-quarters of the voices*). If the Federation Council is late with the review and does not provide its opinion within fourteen days, the term is prolonged to the next meeting of the Federation Council.

If the Federation Council approves the Law it is transferred further for review by the President of the Russian Federation. If the Federation Council declines the Law it is returned to the State Duma for consideration. The rejected law is supported by the official resolution by the Federation Council with clarification of the list of articles and parts opposed by the Federation Council, which is necessary to conciliate with the State Duma. The proposal to create the Conciliation Commission to solve all the disagreements may also be part of this official resolution.

The State Duma may *overcome the objection and opinion of the Federation Council* by the voting of the qualified majority, when two-thirds of the State Duma vote for the edition of the law, adopted by the State Duma; the objections of the Federation Council are treated as overcome and the law is transferred to the President for signature within five days.

The next important stage is called *promulgation by the President of the Russian Federation*. Promulgation means the sanctioning of the law by the Head of State—the President of the Russian Federation. Promulgation consists of two stages: *signature by the President and publication of the law*. Promulgation is very important on the way to the full legal force of the law and all the stages should be completed in full [5. P. 144, 145].

In accordance with Article 107 of the Constitution of the Russian Federation the President signs the law and publishes it. The President should sign it within fourteen days of receipt of the law from the Federation Council or use his *veto right*. Veto is one of the control functions of the President, permitting him to influence the legislative process on the stage of promulgation. The President of the Russian Federation possesses a *suspensive veto right*, which he may use for *ordinary federal laws*. A veto right cannot be applied for the Federal Constitution laws as

well as for the laws of amendments to the Constitution. When the President agrees with the law—he signs it within fourteen days and sends it for official publication. If the President uses his veto right, the law is treated as rejected and is returned to the Federal Assembly for further review.

Federal law should be officially published within *seven days* after the President has signed it. Official publication means publication in printed and internet sources, directly mentioned in the law. Federal laws enter into force on the expiration of *ten days* after the law has been officially published, until another term is directly mentioned in the law.

The Russian Federation is a republic of a *mixed type*, where the government is controlled by the Parliament, thus the parliamentary control is a widely used mechanism. The Federal Law “*On Parliamentary Control*” systematized all the forms of control in Russia and clarified the principles and forms of application.

Parliamentary control pursues several purposes. It is a valuable mechanism in the revealing of key problems in government activity; it assists in the support of the constitutional rights of a person, helps to strengthen legality and acts as an instrument in corruption mitigation [3. P. 148].

Parliamentary control can be applied in *the following forms*: review by the State Duma of the question of confidence in the Government of the Russian Federation; taking measures by Chambers of the Parliament, committees of the Parliament and the Accounts Chamber on parliamentary control in the sphere of budget relations; hearings by the State Duma of the yearly reports by the Government on the performed activity, including answers to the questions from the members of Parliament; review by the State Duma of the annual reports by the Central Bank of the Russian Federation; hearings by the State Duma of the reports, done by the Chairman of the Central Bank; making Parliamentary inquiries, done by the Chambers; arranging deputies’ inquiries, done by the

deputies of the State Duma and members of the Federation Council; hearings of the reports, done by the ministers and other governmental officials within “governmental hour”; hearings of the Chairman of the Government, deputies of the Chairman of the Government, the Procurator-General, Chairman of the Central Bank, other state officials in review of the extraordinary situations; appointment and dismissal of the Chairman of the Accounts Chamber, his deputy and its auditors; coordination between members of the Parliament and auditors of the Accounts Chamber; coordination between members of the Parliament and the Commissioner for Human Rights in the Russian Federation; hearings by the Federation Council of the annual reports of the Procurator-General of the Russian Federation on legality and law and order maintenance in the Russian Federation; invitation of Government officials and other state officials to the Parliamentary committees and commissions; sending representatives of the Federal Assembly for the participation in the current activity of the organizations of different forms; conducting Parliamentary hearings; conducting Parliamentary investigations.

As a result of the measures taken for parliamentary control the chambers of the Russian Parliament are empowered to entrust the committee or commission of the Chamber to develop a relevant draft of federal law; propose the relevant state body or state officials to take measures for the mitigation of the violations of law and elimination of the reasons for such violations; review an issue of confidence in the Government; apply to the Procurator’s office or the Investigative Committee of the Russian Federation; dismiss officials, whose dismissal is with the participation of the legislative body. No doubts, that the Parliament of the Russian Federation – the Federal Assembly plays important and valuable role in the mechanism of separation of power, established by the Constitution of 1993 and implemented during more than twenty years of constitutional development.

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КОНСТИТУЦИОННЫЕ ОСНОВЫ ПАРЛАМЕНТСКОЙ ДЕЯТЕЛЬНОСТИ В РОССИЙСКОЙ ФЕДЕРАЦИИ

Законодательная власть, представленная парламентом, в развитом демократическом государстве является основой функционирования системы разделения властей, эффективным элементом системы сдержек и противовесов. В данной статье автор рассматривает основы конституционно-правового статуса Федерального собрания – парламента Российской Федерации, определяет основные функции и методы их реализации. Детально изучается законодательный процесс, являющийся одной из ключевых функций современного парламента, выявляются его этапы и участники. Автор уделяет также внимание

и относительно новому институту конституционного права в России, характерному для республик смешанного типа – парламентскому контролю.

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Ключевые слова:

Федеральное Собрание Российской Федерации, парламент, Российская Федерация, Россия, Государственная Дума, законодательный процесс, парламентский контроль, Совет Федерации, депутат парламента, федерация.

Keywords:

The Federal Assembly, parliament, Russian Federation, Russia, the State Duma, legislative process, parliamentary control, the Federation Council, member of the parliament, federation.

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