

CONSTITUTIONAL LEGAL SUPPORT OF THE UNITY, STABILITY AND COHERENCE OF RUSSIAN LEGAL SYSTEM

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The subject. The paper is devoted to the issues of the system of constitutional legal guarantees of unity, stability and consistency of the Russian legal system, the problems of their effective implementation.

The purpose of the paper is to reveal the actual problems of constitutional legal support of the unity, stability and coherence of the Russian legal system.

The methodology of the study includes general scientific methods (analysis, synthesis, comparative method, description) as well as particular academic methods (formal-legal method, interpretation of legal acts).

Results, scope of application. It is revealed that the constitutional legal support of unity, stability and consistency of the Russian legal system occurs by means of action of two types of special constitutional legal guarantees: conflict and competence ones. A number of problems of effective support of the unity, stability and consistency of the domestic legal system are identified. The problems include gaps and other defects of constitutional regulation, the lack of a legal mechanism to ensure the supremacy of the foundations of the constitutional system and others.

Conclusions. There is a number of amendments to the existing constitutional legislation proposed to solve the identified problems.

1. The system of constitutional and legal guarantees of unity, stability and consistency of the domestic legal system.

Constitutional and legal provision of unity, stability and consistency of the Russian legal system, in our opinion, occurs through the operation of a system of constitutional legal guarantees, among which conflict and competence should be highlighted.

Conflict guarantees take the main place among constitutional and legal guarantees of unity, stability and consistency of the Russian legal system. They establish the principles of the hierarchical organization of the system of existing legal norms. These guarantees are established by hierarchical conflict of laws rules of constitutional law. They do not define the subjects of specific constitutional legal relations, do not fix the measures of constitutional legal coercion for violation of the hierarchy of existing legal norms, but only indicate the sources of the norms of Russian law and establish the ratio of these sources in the domestic legal system. Among the conflict of guarantees should be highlighted:

1) *constitutional*, established in the Constitution of the Russian Federation. As a result of their actions, the following hierarchy of norms of law develops: the norms of the first chapter of the Constitution of the Russian Federation possess the highest legal force and supremacy, which other provisions of the Constitution of the Russian Federation must comply (part 2 of Article 16). The latter heads the hierarchy of sources of legal norms (part 2 of Article 4, part 1 of Article 15), followed by the legal provisions of international treaties of the Russian Federation, generally accepted principles and norms of international law, as well as the Federal Treaty (part 4 of Art. 15, para 4 part 1 of Section Two). International constitutional laws of the Russian Federation must comply with federal constitutional laws that have supremacy over federal laws (part 3 of article 76). The latter have supremacy over laws and other regulatory acts of constituent entities of the Russian Federation, with the exception of those adopted on the exclusive jurisdiction of constituent entities of the Russian Federation (part 5, 6, Art. 76). Federal laws also have supremacy over the legal acts

of the President of the Russian Federation (part 3 of article 90), which in the hierarchy of legal acts take precedence over acts of the Government of the Russian Federation (part 1 of Article 115).

2) *legislative*, which are established in federal constitutional laws and federal laws and specify the constitutional conflict of guarantees. Since the decision adopted at the referendum of the Russian Federation cannot be changed except by adopting a new referendum or in the manner specified in the decision itself, it has supremacy over all normative legal acts, except the Constitution of the Russian Federation (part 4 of Article 83 of the Federal Law "On the referendum of the Russian Federation"). Acts of the highest official of a constituent entity of the Russian Federation in the hierarchy of legal acts are below federal legislation, regulations of the President of the Russian Federation, decrees of the Government of the Russian Federation, the constitution (charter) and laws of the constituent entity of the Russian Federation (clause 22 of Article 22 of the Federal Law "On General Principles of Organizing Legislative (Representative)" and executive authorities of the constituent entities of the Russian Federation", hereinafter - Federal Law № 184). These are just some of the legal collision guarantees.

Competent guarantees outline the terms of reference of subjects of constitutional and legal support of the highest legal force of the Constitution of the Russian Federation and the supremacy of federal legislation. All of these actors are involved in the provision of designated objects through, mainly, the use of constitutional and legal coercion measures. The relevant activities of the competent state authorities are aimed at preventing and eliminating violations of the hierarchy of existing legal norms. In this regard, it seems appropriate to distinguish two sub-types of competence guarantees depending on the purpose:

1) *preventive competence guarantees* (hereinafter - preventive guarantees) are implemented in order to prevent breaches of the hierarchy of existing legal norms and prevent the adoption and entry into legal force of acts and public law contracts containing norms contrary to the above regulatory requirements;

2) *restoring competence guarantees* (hereinafter referred to as restoring guarantees) are aimed at eliminating violations of the hierarchy of existing legal norms by suspending validity, cancellation, termination, recognition of normative legal acts that are contrary to the superior, as well as unconstitutional and illegal regulatory agreements; legal coercion of law enforcement agencies and officials to the non-use of unconstitutional and illegal law. Depending on which act acts as a source of hierarchical collision, one can speak of the corresponding competence guarantees.

Decisions taken at the referendum of the Russian Federation, detract from the supremacy and supreme legal force of the Constitution of the Russian Federation. Among the precautionary guarantees in respect of these acts, the legislator provided for the prevention of the adoption of an unconstitutional referendum by means of constitutional control measures (part 1–2 of Article 23 of the Federal Constitutional Law "On the referendum of the Russian Federation", paragraph 5.1 of Article 3 of the Federal Constitutional Law on the Constitutional Court of the Russian Federation"). In the literature it is noted that the Central Election Commission of the Russian Federation (hereinafter - the CEC of the Russian Federation) carries out a preliminary check of the issues proposed for the referendum (Part 13 of Article 15 of the Federal Law Commission "On the referendum of the Russian Federation") [1, p. 30] - in fact, it is entrusted with the functions of preventing the violation of the supremacy of federal legislation. However, the Constitutional Court of the Russian Federation in its decision indicated that the CEC of the Russian Federation carries out only a preliminary check, which does not contradict the Constitution of the Russian Federation. Meanwhile, the CEC of the RF not only checks, but also, based on the results of the check, makes the "appropriate decision" [1, p. 30]. The recovery guarantee in this area is only the legally fixed possibility of canceling or changing the relevant decision by adopting a new federal referendum decision or in the manner provided for by the decision itself (part 4 of Article 83 of the Federal Law "On referendum of the Russian Federation").

International treaties of the Russian Federation. In order to prevent the entry into legal force in respect of the Russian Federation of international treaties that are contrary to the Constitution of

the Russian Federation, there are a number of warning guarantees, among which are constitutional and legislative. Ratification (as well as denunciation) of international treaties of the Russian Federation is carried out in the form of a federal law subject to mandatory review by the Federation Council, after which the President of the Russian Federation signs the ratification letter (clause b, c) of Art. 86, clause d of Art. 106 of the Constitution of the Russian Federation). The latter is also responsible for the signing of international treaties of the Russian Federation. The obligatory participation of both chambers of the federal parliament in the ratification of international treaties of the Russian Federation helps to prevent the expression of the consent of the Russian Federation to be bound by unconstitutional international treaties of the Russian Federation. There are no constitutional restrictions on the signing of international treaties of the Russian Federation.

The above constitutional provisions were developed in the Federal Law "On international treaties of the Russian Federation" (hereinafter - the Federal Law № 101). It establishes a number of legal warning guarantees in the field of international law-making with the participation of Russia. An open list of the forms of expression of consent of the Russian Federation to the obligation of the international treaties of the Russian Federation for it is formulated and the procedure for the implementation of these forms is regulated (Art. 6, 11–22). The expression of such consent in certain Federal Law number 101 cases when the proposed international treaty of the Russian Federation regulates the most important social relations is carried out exclusively in the form of a federal law (article 14, paragraph 1 of Article 15, paragraph p. A) of paragraph 1 of Article 20, paragraphs "a" of paragraph 1 of article 21, article 22 of the Federal Law No. 101). The information support of the federal parliament by the federal executive authorities (clause 1, 2, Article 7) contributes to its timely response in case it discovers rules that are contrary to the Constitution of the Russian Federation of an international agreement that has not entered into force. A proposal to conclude an international treaty of the Russian Federation that contradicts the norms of federal legislation is submitted to the head of state or to the Government of the Russian Federation only in agreement with the Ministry of Justice of the Russian Federation, which draws up the corresponding conclusion.

The most important warning guarantee in the field of international lawmaking is constitutional control (clause. "G", part 2, Article 125 of the Constitution of the Russian Federation). This constitutional provision is developed by the federal legislator, who established the procedure for the consideration of cases on the verification of constitutionality of an international treaty of the Russian Federation that has not entered into force (Article 88–91 of the Federal Law on Constitutional Court of the Russian Federation, Article 34 of the Federal Law No. 101) . Such verification is not an obligatory stage of international law-making with the participation of the Russian Federation. Of course, the current procedure for consideration by the Constitutional Court of the Russian Federation of relevant cases applies only to international treaties of the Russian Federation concluded by ad referendum, which is reflected in paragraph 1 of Art. 89 of the Federal Constitutional Law "On the Constitutional Court of the Russian Federation": the appropriate request is valid if an international treaty of the Russian Federation is subject to ratification by the State Duma or approval by another federal body of state power.

Among the restoring guarantees, designed to correct the already existing situation of the contradiction of international treaties of the Russian Federation to the Constitution of the Russian Federation, the law provides only for the suspension of international treaties of the Russian Federation and the termination of their validity (Article 35 of the Federal Law No. 101). According to Federal Law No. 101, all federal laws on the termination or suspension of international treaties of the Russian Federation are subject to mandatory review by the Council of the Federation (clause 3 of Article 37). Also in the Federal Law No. 101, the powers of the President of the Russian Federation are expanded: he has the right to suspend the operation of any international agreement approved by federal law as binding. The actual reason for this is the emergence of the need to take immediate measures, the scope of which is not defined by the legislator (paragraph 4 of article 37 of the Federal Law No. 101). The State Duma has the right to reject the relevant draft federal law of

the President of the Russian Federation, and only after that the validity of the contract is subject to renewal.

Federal legislation. The system of constitutional preventive guarantees in the field of federal lawmaking opens up the obligation to review in the Federation Council the draft laws regulating the most important public relations (Article 106, Part 2 Article 108 of the Constitution of the Russian Federation). The laws of the Russian Federation on amendments to the Constitution of the Russian Federation cannot enter into force without the approval of legislative (representative) bodies of state power by at least two thirds of the subjects of the Russian Federation (Article 136). The latter, in expressing their disagreement with the amendments being made, can proceed not only from their own interests, but also by revealing the inconsistency of the amendments with the foundations of the constitutional system of Russia, the threat to the unity, stability and consistency of its legal system. The upper house of the federal parliament has the right to reject the federal law passed by the State Duma (part 4 of Article 105). The President of the Russian Federation, regarding the adopted and approved federal law as contrary to the higher standards of the federal legislation and international treaties of the Russian Federation, can use the constitutional veto right (part 3 of article 107). This indicates a constitutional “filtration” mechanism in which the Council of the Federation, the President of the Russian Federation, the Government of the Russian Federation and regional parliaments prevent the adoption and entry into force of laws contradicting the foundations of the constitutional system, higher acts and regulatory agreements that threaten the unity, stability and consistency of the national legal system.

Legislative warning guarantees in the field of federal lawmaking are enshrined in the Federal Law on the Government of the Russian Federation, Federal Law "On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation". The profile committee of the State Duma returns to the initiator a draft law of the Russian Federation on an amendment to the Constitution of the Russian Federation if the conditions and procedure established by the legislator for introducing an amendment proposal to the Constitution of the Russian Federation are not met (Part 2 of Article 4 of the Federal Law "On the Procedure for Adopting and Enacting Amendments to Constitution of the Russian Federation"). The constitutional amendment cannot be adopted in an expedited manner - the law provides that the relevant bill is considered exclusively in three readings (part 1 of Article 5 of the Federal Law "On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation"). All of the above serves as a barrier to the introduction of provisions into the Constitution of the Russian Federation that contradict the foundations of the constitutional system and strengthen the unity, stability and consistency of the domestic legal system. A resolution adopted by the Federation Council on establishing the results of consideration of the relevant law by the legislative (representative) bodies of the constituent entities of the Russian Federation can be appealed to the Supreme Court of the Russian Federation (part 4 of Article 11 of the Federal Law "On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation"). Thus, the highest federal judicial body of general jurisdiction participates in the prevention of the entry into force of the relevant law, which contradicts the procedural rules of federal legislation. The Government of the Russian Federation may send to the chambers of the Federal Assembly mandatory official disclosure or distribution at meetings of official reviews on federal laws and bills considered by the chambers with the possibility of pointing out contradictions to higher legislation (Part 6 of Article 36 of the Federal Law Commission on the Government of the Russian Federation).

Sub-legal warning guarantees in the field of federal lawmaking are among the procedural and parliamentary guarantees and are formulated in the regulations of the chambers of the Federal Assembly. Thus, the draft law is subject to legal expertise for compliance with federal legislation acts with the drawing up of a conclusion (part 2, 3 of Article 112 of the Resolution of the State Duma of the Federal Assembly of the Russian Federation “On the Regulations of the State Duma of the Federal Assembly of the Russian Federation”, further - the Regulations of the State Duma). This conclusion should be presented by the responsible committee of the State Duma in all readings, and

its presence is a necessary condition for the adoption (approval) of the law in an expedited manner, bypassing the second and third readings. Constitutional norms on the right of presidential veto are detailed in the Regulations of the State Duma (paragraph "g" of part 2 of Article 114, part 8 of Article 119, paragraph of "e" part 1 of Article 122, paragraph "d" part 1 clause 123.1, clause "c" of clause 124.1 clause, "b" of part 2 of Article 134 of the Regulations of the State Duma).

The Constitution of the Russian Federation formulates a number of constitutional restorative guarantees in this area. As established by the Constitutional Court of the Russian Federation, the chambers of the Federal Assembly are not entitled to carry out an authentic interpretation of acts of federal legislation in their rulings. Consequently, in the case of detection of hierarchical collisions, the federal parliament eliminates them through lawmaking. The most important constitutional restoring guarantee in this area is the federal constitutional review (Section "a" part 2, part 6 of article 125). The procedure for reviewing cases of compliance with the Constitution of the Russian Federation with normative acts and treaties between them is established in the the Federal Constitutional Law "On the Constitutional Court of the Russian Federation" (Chapter IX).

The measures of federal constitutional control, judicial control by the courts of general jurisdiction, along with measures of prosecutorial supervision, are general re-establishing competence guarantees that the norms of regional legislation and by-laws comply with the highest legal force of the Constitution of the Russian Federation and the supremacy of federal legislation. Courts of general jurisdiction consider cases challenging regional legislation and sub-legal regulatory legal acts (Art. 20, 21 CAS RF). But even when the subject of judicial review is not the legality of an act, the court, establishing the inconsistency of the act of the public authority or official with the federal law, international legal norms, the legislation of the subject of the Russian Federation, decides in accordance with the legal provisions that have the greatest legal force. At the same time, courts of general jurisdiction are not authorized to verify the constitutionality of acts (part 2 of Article 120 of the Constitution of the Russian Federation, part 3 of article 5 of the Federal Law of the Federal Law "On the judicial system of the Russian Federation", Part 2, 3 Art. 15, part 5 of Art. 208 CAS RF) .

Cases about challenging regulatory legal acts are initiated, mainly at the initiative of prosecutors. The Constitution of the Russian Federation in matters of determining the basis of prosecutorial supervision was limited to the blanket standard of Part 1 of Art. 129. This constitutional provision is specified in the Federal Law "On the Prosecutor's Office". Having found a legal act that is contrary to the law, the prosecutor or his deputy protest or initiate a judicial control procedure (Section 1, Article 23). In the 1990s, prosecutorial response became one of the decisive legal means of bringing the legislation of constituent entities of the Russian Federation in line with the Constitution of the Russian Federation, preventing the sovereignty of republics, eliminating a real threat to unity, stability and consistency of the domestic legal system , unity and territorial integrity of Russia .

Federal bylaws. A large array of precautionary guarantees in respect of secondary legislation is not required - it is enough to fix the legal mechanisms for the speedy restoration of constitutional legality. In order to prevent a situation of hierarchical collision, authorities and officials in lawmaking consult with advisers, legal departments, etc. In addition to judicial control and prosecutorial oversight, federal legislation has established a number of other restorative guarantees in this area. Thus, the Council of Federation is authorized to approve decrees of the President of the Russian Federation on the introduction of a state of emergency or martial law (clauses "b", "c" of Part 1 of Article 102 of the Constitution of the Russian Federation). This guarantee is restorative, since by the time of approval the relevant decree has already been adopted and is valid, and it is not only the validity of its adoption that is evaluated, but its compliance with federal law, which ensures the supremacy of the latter. Any act of the Government of the Russian Federation in the event of a conflict with federal legislation and decrees of the President of the Russian Federation may be repealed last (part 3 of article 115 of the Constitution of the Russian Federation). The Prosecutor General of the Russian Federation notifies the President of the Russian Federation about the facts of violation by the Government of the Russian Federation of the

supremacy of federal legislation, the highest legal force of the Constitution of the Russian Federation, which increases the effectiveness of this guarantee (Section 3 of Article 24 of the Federal Law "On the Prosecutor's Office of the Russian Federation"). The government of the Russian Federation, in turn, has the right to cancel the acts of any federal executive bodies or suspend the validity of these acts (Part 7 of Article 12 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation"). Any act of the Government of the Russian Federation in the event of a conflict with federal legislation and decrees of the President of the Russian Federation may be repealed last (part 3 of article 115 of the Constitution of the Russian Federation). The Prosecutor General of the Russian Federation notifies the President of the Russian Federation about the facts of violation by the Government of the Russian Federation of the supremacy of federal legislation, the highest legal force of the Constitution of the Russian Federation, which increases the effectiveness of this guarantee (Section 3 of Article 24 of the Federal Law "On the Prosecutor's Office of the Russian Federation"). The government of the Russian Federation, in turn, has the right to cancel the acts of any federal executive bodies or suspend the validity of these acts (Part 7 of Article 12 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation"). Any act of the Government of the Russian Federation in the event of a conflict with federal legislation and decrees of the President of the Russian Federation may be repealed last (part 3 of article 115 of the Constitution of the Russian Federation). The Prosecutor General of the Russian Federation notifies the President of the Russian Federation about the facts of violation by the Government of the Russian Federation of the supremacy of federal legislation, the highest legal force of the Constitution of the Russian Federation, which increases the effectiveness of this guarantee (Section 3 of Article 24 of the Federal Law "On the Prosecutor's Office of the Russian Federation"). The government of the Russian Federation, in turn, has the right to cancel the acts of any federal executive bodies or suspend the validity of these acts (Part 7 of Article 12 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation").²⁴ FZ "On the Prosecutor's Office of the Russian Federation"). The government of the Russian Federation, in turn, has the right to cancel the acts of any federal executive bodies or suspend the validity of these acts (Part 7 of Article 12 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation").²⁴ FZ "On the Prosecutor's Office of the Russian Federation"). The government of the Russian Federation, in turn, has the right to cancel the acts of any federal executive bodies or suspend the validity of these acts (Part 7 of Article 12 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation").

Legislation and subordinate regulatory legal acts of the subjects of the Russian Federation. The subjects of the Russian Federation independently legislate precautionary guarantees in the field of regional lawmaking. Among them are the powers of the constitutional (statutory) courts of constituent entities of the Russian Federation to exercise preliminary control when amending the constitution (charter) of a constituent entity of the Russian Federation.

The restoring guarantee in the sphere of regional law-making is the authority of the President of the Russian Federation to suspend the effect of normative legal acts of the executive authorities of the constituent entities of the Russian Federation until the matter is resolved by the court (part 2 of article 85 of the Constitution of the Russian Federation). The Government of the Russian Federation, plenipotentiaries of the President of the Russian Federation in federal districts (Part 4 of Article 44 of the Federal Law Code of the Russian Federation "On the Government of the Russian Federation", paragraph 6 of the Presidential Decree "On the Plenipotentiary Representative of the President of the Russian Federation in the Federal District").

The constitutional (statutory) courts of the constituent entities of the Russian Federation occupy a strictly defined place among the subjects of constitutional and legal support for the studied constitutional values that implement restorative guarantees in the field of regional lawmaking. Scientists note that in a short time they got stronger and forced to talk about themselves as effective independent instruments of legal policy. It is known, for example, the Decree of the Constitutional Court of the Republic of Bashkortostan of February 5, 2002, which, against the background of

political contradictions between the center and the subject of the Russian Federation, stated: "The Republic of Bashkortostan must bring its legislative base in line with federal legislation". This decision testifies, according to A.V. Bezrukova and A.A. Kondrasheva, that these courts "do not replicate the mistakes of their constitutions (charters), but follow the letter and spirit of the Constitution of the Russian Federation" [2, p. 31], which contributes to strengthening the unity, stability and consistency of the domestic legal system.

Municipal regulations. In the sphere of municipal lawmaking, among the restoring guarantees, the legislator provides for measures of prosecutorial response and judicial control; the highest executive body of the state of a constituent entity of the Russian Federation may challenge in court a municipal regulatory legal act that contradicts the higher regulatory acts (subsection "e" of paragraph 2 of article 21 of the Federal Law No. 184).

2. Gaps and other defects of constitutional regulation.

In view of the dominant provisions of the Constitution of the Russian Federation in the entire domestic legal system, it is extremely important that its provisions be complete and consistent. Meanwhile, the Constitution of the Russian Federation has a lot of flaws in legal techniques and conflicts. So, based on the literal interpretation of the norms of Art. 15 of the Constitution of the Russian Federation, it has supremacy only in the system of legal acts (part 1); only regulatory legal acts are subject to mandatory publication if they affect the rights, freedoms and duties of the individual (part 3). At the same time, the international treaties of the Russian Federation that have entered into force are also officially published (Article 30 of the Federal Law No. 101). It is necessary to fill this constitutional gap. It is also necessary to specify the notion of the generally recognized principles and norms of international law (part 4 of article 15 of the Constitution of the Russian Federation).

The obvious constitutional gap is laid in the norms of Part 1 and 2 of Art. 76 of the Constitution of the Russian Federation. From the literal interpretation of the second part of this article, it follows that federal by-laws cannot generally be adopted on joint jurisdiction, as indicated in the doctrine [3, p. 149]. The resulting uncertainty in the implementation of this provision became the basis for sending to the Constitutional Court of the Russian Federation requests from the executive authorities of a number of subjects of the Russian Federation. The court noted that the bylaws are not mentioned in the first part of this article and carried out an extensive interpretation of both parts, since otherwise it turns out that Russia cannot even take individual law enforcement acts in its own sphere. Expansion of the named constitutional provisions is required.

The Constitution of the Russian Federation lacks provisions on the form of the laws of the Russian Federation on amendments to the Constitution of the Russian Federation and their legal force. So, with a literal interpretation of the norm, Part 4 of Art. 15 of the Constitution of the Russian Federation, it is possible to come to a paradoxical conclusion about the supremacy of the norms of international law over any laws, including the Laws of the Russian Federation on amendments to the Constitution of the Russian Federation. It is also required to provide in the Constitution of the Russian Federation the entire procedure for their adoption, since, on the basis of the provisions of the current legislation, the acts that amended the Constitution of the Russian Federation must comply with the procedural rules enshrined in acts of lesser legal force.

The Constitution of the Russian Federation does not provide for the possibility of changing the preamble and Section Two - thus the ambiguous provision of the Federative Treaty in the system of sources of current legal norms is conserved. However, it seems that the Federal Treaty is an atavism in modern political and legal conditions, its legal force is subject to reduction to the legal force of other agreements on the delimitation of the objects of competence and powers. Separately, it should be noted that the definitive norm of Section Two, defining the concept of a Federative Treaty, contains the wording of "sovereign republics", which is unacceptable (para. 4, item 1).

The Constitution of the Russian Federation also has a number of constitutional conflicts. So, I.A. Umnova notes that the principle of equality of constituent entities of the Russian Federation

enshrined in the Constitution of the Russian Federation (part 1 of Article 5) is refuted by itself (part 1, 2 of article 66, part 2 of Article 68, etc.) [4, p. 27].

The establishment of general principles of taxation and fees in the Russian Federation is attributed by the Constitution of the Russian Federation to the joint jurisdiction of the Russian Federation and its subjects (paragraph "i" of Article 72), but is carried out exclusively by federal law (part 3 of Article 75), which contradicts part. 2 Art. 76 of the Constitution of the Russian Federation. To this it should be added that the issues of taxation and fees can be considered as an integral part of financial regulation, which is constitutionally attributed to the exclusive jurisdiction of the Russian Federation (clause "g", Article 71). Collisions of this kind are caused by excessively extensive language, which also gives rise to defects, since it disavows constitutional provisions. This negatively affects the level of constitutional legality and sense of justice, giving rise to constitutional nihilism [5, p. 16].

Another constitutional conflict in the sphere of delimitation of the objects of competence and powers is the contradiction between the provisions of paragraph "c" of Art. 71 and p. "B" Art. 72: protection of the rights and freedoms of a person and a citizen, the rights of national minorities are simultaneously related to the sphere of their own jurisdiction of the Russian Federation, and to the sphere of its joint jurisdiction with the subjects of the Russian Federation. It is necessary to eliminate the indicated contradictions.

3. The problem of the legal force of the norms of the first chapter of the Constitution of the Russian Federation and ensuring their supremacy in the domestic legal system.

It should be recognized that the constitutional norm on the supremacy of the provisions of the first chapter of the Constitution of the Russian Federation (part 2 of article 16) is fictitious due to the absence of a mechanism to ensure it. The corresponding mechanism should be provided for in the Constitution of the Russian Federation itself, while the Constitutional Court of the Russian Federation should act as a subject of constitutional and legal support. I.A. Kravets believes that it is the Constitutional Court of the Russian Federation that should consider the issue of compliance of the amendments to the Constitution of the Russian Federation with the fundamentals of the constitutional system [6, p. 6].

In our opinion, the powers of the federal judicial body of constitutional review should be expanded so that it checks for compliance with the fundamentals of the constitutional order all laws amending the Constitution of the Russian Federation. To do this, you need to make changes to the Constitution of the Russian Federation with the aim of obliging the Council of the Federation to appeal to the Constitutional Court of the Russian Federation with a request to verify the constitutionality of the RF Law on Amendment to the Constitution of the Russian Federation that has not entered into legal force. At the same time, it will be necessary to supplement the Federal Law "On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation" article 6.1 "Checking the law of the Russian Federation on the amendment to the Constitution of the Russian Federation for its compliance with the foundations of the constitutional system of the Russian Federation." Such a reform will require amending the Federal Law on the Constitutional Court of the Russian Federation. These amendments should be made in order to oblige the Council of the Federation to send a request for verification of the constitutionality of the law of the Russian Federation on amending the Constitution of the Russian Federation after the adoption of this law.

4. The problem of the legal force of some constitutional provisions .

Among the fundamentals of the domestic constitutional order, there is a categorical constitutional ban on depriving a citizen of the Russian Federation of citizenship on any grounds (part 3 of article 6 of the Constitution of the Russian Federation). Nowadays, among the large-scale threats to national security, experts point out the return to the country of citizens of the Russian Federation who went to regions with heightened terrorist activity to replenish the ranks of members of radical Islamic terrorist structures [7, p. 50]. The need to block the entry and exit channels for terrorists from Russia was discussed by President of the Russian Federation V.V. Putin speaking at the meeting of the Board of the FSB of Russia in March 2015. Since September 2017, the range of

grounds for cancellation of the decision on granting citizenship has been expanded, in fact, by the fact that the court has entered into force on the commission of a naturalized person to at least one of the crimes stipulated by the law. This can be qualified as forced desperate attempts to circumvent the Constitution of the Russian Federation at the highest political level due to the impossibility of changing the provisions of Part 3 of Art. 6 of the Constitution of the Russian Federation except by adopting a new Constitution (Art. 135 of the Constitution of the Russian Federation).

Constitutions of a number of foreign states directly establish the institution of deprivation of citizenship or provide for the possibility of its introduction (Portugal [8, p. 754], Italy [8, p. 107]), which does not contradict the Universal Declaration of Human Rights (Part 2 of Art. 15). However, an attempt to introduce this institution should be treated with the utmost care in view of the extraordinary importance of the institution of citizenship for the full realization of the fundamental rights and freedoms of man and citizen.

5. Problems of the hierarchy of sources in the Russian Federation norms.

Conflict guarantees are scattered in the current legislation, their system is affected by gaps. In particular, the legislator did not clearly define the issue of the legal force of resolutions of the chambers of the Federal Assembly of the Russian Federation and their position in the system of regulatory legal acts. It should be noted that certain provisions of the regulations of the chambers of the federal parliament raise questions about their legal nature. So, the repeated rejection of the draft federal budget law is allowed only together with the raising of the issue of no confidence in the Government of the Russian Federation (part 12 of article 120 of the Regulations of the State Duma). Is this restriction constitutional in nature? According to the Regulations of the Federation Council, the absence of a conclusion of the Government of the Russian Federation on a draft law providing for expenses covered by the federal budget *can* serve as a basis for the chamber's rejection of the relevant bill (part 4 of article 103). However, the Constitution of the Russian Federation does not accept the dispositive method of regulating these relations: the relevant bills can be introduced *only* if there is a conclusion of the Government of the Russian Federation (part 3 of article 104). Legislative regulation is required on many issues included in the subject of regulation by the regulations of the chambers of the Federal Assembly.

In the science of domestic constitutional law, it is noted that the Constitution of the Russian Federation does not say anything about the relationship between regional laws and federal bylaws and does not establish the rules for resolving contradictions between them. According to the correct remark of S.V. Nikitin, "these regulations are, as it were, in different planes of the regulatory space that do not intersect directly with each other" [9, p. 49]. It seems that the contradictory position of regional legislation in the hierarchy of sources of existing legal norms and the non-optimal division of powers between the Russian Federation and its subjects are of the same nature. The presence of the institution of joint jurisdiction between Russia and the constituent entities of the Russian Federation does not allow the constitutionality to consolidate the principle of the supremacy of federal law, not legislation. Meanwhile, the operation of this principle would eliminate a serious contradiction in the hierarchy of sources of legal norms.

Among the grounds for judicial repeal of a decision adopted at a referendum of a constituent entity of the Russian Federation, its contradiction is provided for by federal law (clause 7 of Article 73 of the Federal Law "On Basic Guarantees of Electoral Rights and the Right to Take Part in the Referendum of Citizens of the Russian Federation"). But this does not correspond to the constitutional provision on the primacy of regional legislation within its own jurisdiction of the subjects of the Russian Federation (Part 6 of Art. 76 of the Constitution of the Russian Federation), since referendum decisions of subjects of the Russian Federation have supremacy over other acts of the subject of the Russian Federation. It is necessary to eliminate this contradiction.

Finally, it seems justified to adopt a special law (most likely, the level of a federal constitutional law), which determines the position of sources of legal norms in the system of national law.

6. Problems of ensuring the supremacy of federal legislation in the context of international lawmaking.

The primacy of international law is difficult to reconcile with the establishment of the procedure for the entry into force of international treaties of the Russian Federation in federal law (Article 24 of the Federal Law No. 101). At the same time, the Constitution of the Russian Federation stipulates that the international treaties of the Russian Federation that do not correspond to it are not subject to entry into force and application (part 6, article 125). At the same time, no constitutional mechanism has been established, aimed at the inevitability of the consideration of the international treaties of the Russian Federation that have not entered into force in the Constitutional Court of the Russian Federation. The main problem, the researchers believe, is to abstain from eligible subjects from appealing to the Court, as a result of which by 2013 the constitutionality of only one international treaty was verified - the Protocol on the accession of the Russian Federation to the Marrakesh Agreement Establishing the World Trade Organization [10, p. 24].

The federal legislation provides only one case of a mandatory appeal to the Constitutional Court of the Russian Federation after expressing consent to be bound by it of the international treaty (Sec. 4 of Art. 7 FKZ "On the order of adoption in the Russian Federation and the formation within it of a new subject of the Russian Federation"). Meanwhile, it is possible that an international treaty of the Russian Federation contains rules requiring the amendment of certain provisions of the Constitution of the Russian Federation. In this case, the decision to consent to its obligation for the Russian Federation is possible only in the form of a federal law only after making appropriate amendments to the Constitution of the Russian Federation or revising its provisions in the prescribed manner (Article 22 of the Federal Law No. 101). However, there are no constitutional guarantees of the inevitability of checking the constitutionality of both the relevant law of the Russian Federation on amending the Constitution of the Russian Federation and the international treaty of the Russian Federation, the introduction of which required the introduction of this constitutional amendment. Note that, according to the Constitution of the French Republic, in the event that the Constitutional Council establishes that the international agreement is unconstitutional, ratification or approval of such an agreement is possible only after revising the Constitution (Article 54) [11, p. 44]. The absence of such a provision in the Constitution of the Russian Federation is evaluated in the science of constitutional law as an annoying constitutional gap [10, p. 26].

7. Problems of constitutional and legal status of federal subjects of constitutional and legal support for the unity, stability and consistency of the domestic legal system.

It seems that in Russia there is an imbalance in the powers of certain subjects of such security in favor of the President of the Russian Federation. So, the validity of any international treaty of the Russian Federation, the decision on consent to the binding nature of which was taken in the form of a federal law, may be suspended by the President of the Russian Federation (clause 4 of article 37 of the Federal Law No. 101). In this case, the actual reason for the suspension is the occurrence of cases "requiring the adoption of urgent measures." Thus, the President of the Russian Federation, by adopting a special Decree and simultaneously submitting to the State Duma a draft of the relevant federal law, is able to overcome the supremacy of international treaties over federal legislation in the system of normative legal acts.

The authority of the President of the Russian Federation to repeal the decrees and orders of the Government of the Russian Federation (part 3, Article 115 of the Constitution of the Russian Federation) is not balanced by any "counterbalances", which is regarded by individual scientists as an invasion of the jurisdiction of the Constitutional Court of the Russian Federation [12, p. 46]. It seems that in this case the President of the Russian Federation should suspend the effect of unconstitutional decisions and orders of the Government of the Russian Federation until the matter is resolved in the Constitutional Court of the Russian Federation. In our opinion, in view of this, the provisions of Part 3 of Art. 115 of the Constitution of the Russian Federation. The powers of the head of state to suspend the regulations of the executive authorities of the constituent entities of the Russian Federation, on the contrary, should be expanded: among the grounds of this measure of constitutional and legal coercion, there is a lack of contradiction between these acts by decrees of the President of the Russian Federation and resolutions of the Government of the Russian Federation.

The constitutional legal statuses of the subjects for whom ensuring the highest legal force of the Constitution of the Russian Federation and the supremacy of federal legislation is the main activity are subject to significant problems. According to the information of the Constitutional Court of the Russian Federation, as of 2008, 27 positions reflected in decisions of the Constitutional Court remained unenforced by law. Since then, important innovations have been introduced into legislation - in particular, the constitutional and legal responsibility of senior officials of constituent entities of the Russian Federation for their failure to comply with the decision of the Constitutional Court of the Russian Federation (clause 3.2 of Article 29.1 of the Federal Law No. 184). In general, to date, the mechanism for enforcing the decisions of the Constitutional Court of the Russian Federation has been formed [13 , p. 90]. At the same time, the Constitution of the Russian Federation does not provide for measures of constitutional legal coercion against bodies and officials that do not repeal acts deemed unconstitutional. This is due to the fact that it does not provide for such a legal consequence of declaring any act or contract unconstitutional, as its mandatory cancellation by an authorized person under the threat of the application of measures of constitutional and legal coercion. As a result, some state authorities bear the corresponding responsibility due to the legal grounds in the legislation, while others have the opportunity to sabotage the decisions of the Constitutional Court of the Russian Federation with impunity. This happened for a decade with the execution of the Resolution of the Constitutional Court of the Russian Federation of January 27, 2004 No. 1-P, where it was established the need to adopt a federal constitutional law a , which would consolidate the powers of the Supreme Court of the Russian Federation to review cases challenging regulatory acts of the Government of the Russian Federation, verification of which is not within the exclusive competence of the Constitutional Court of the Russian Federation. FCL "On the Supreme Court of the Russian Federation" was adopted only in 2014. It appears that this constitutional gap should be eliminated by adding to Art. 125 of the Constitution of the Russian Federation on the consequences of non-execution of decisions of the Constitutional Court of the Russian Federation, which undermines the authority of the judiciary, law and order [14, p. 141], which threatens state unity in the aspect of the unity of the national legal system.

According to the current legislation, the competence of the Supreme Court of the Russian Federation does not have the authority to consider cases on challenging resolutions of the chambers of the Federal Assembly of the Russian Federation (clause 1 of part 4 of article 2 of the Federal Law Commission on the Supreme Court of the Russian Federation). This is an obvious legal gap, since such regulations are clearly subordinate to the law.

The level of constitutional regulation of the foundations of the legal status of the prosecutor's office of the Russian Federation is puzzling. The federal legislator has left a new edition of Art. 129 of the Constitution of the Russian Federation only a blanket rule, wholly giving the relevant questions at the mercy of the federal legislator. The provisions on the prosecutor's office of the Russian Federation as a single centralized system were excluded from the Constitution of the Russian Federation. Meanwhile, the legislator should fill in Art. 129 of the Constitution of the Russian Federation content. It should list such principles of work of the prosecutor's office of the Russian Federation as centralization (it is categorically impossible to prevent "regionalization", decentralization of the prosecutor's office with the reassignment of prosecutors to state authorities of the constituent entities of the Russian Federation); independence in the exercise of their powers from public authorities and public associations; supervision over the observance of the Constitution of the Russian Federation and the execution of laws as an exclusive function of the prosecutor's office of the Russian Federation, incompatible with the possibility of replacing other public authorities.

In addition, the federal legislation lacks a number of the most important powers of the Prosecutor General of the Russian Federation. So, neither the Constitution of the Russian Federation nor the laws stipulate its authority to apply to the Constitutional Court of the Russian Federation to verify compliance of normative legal acts with the Constitution of the Russian Federation in the manner of abstract regulatory control. Meanwhile, it was revealed by the

Constitutional Court of the Russian Federation. The competence of the Prosecutor General of the Russian Federation to appeal to the Constitutional Court of the Russian Federation on the issue of violation of constitutional rights and freedoms of citizens by the law applied or to be applied is enshrined only in the Federal Law "On the Prosecutor's Office of the Russian Federation", while in the Federal Law "On the Constitutional Court of the Russian Federation" (as well as in Constitution of the Russian Federation) does not contain references to the Prosecutor General of the Russian Federation as a subject of appeal to the federal body of constitutional justice. We believe that the identified legislative and constitutional gaps must be eliminated and the Prosecutor General will be given the right of legislative initiative in the federal parliament, which will require changes in part 1 of Art. 104 of the Constitution of the Russian Federation. The absence of such a right from the Prosecutor General of the Russian Federation is a constitutional gap, since it is he who has the most complete information about the state of law in the country, which would allow it to react quickly and efficiently in case of identification of gaps in legal regulation.

Finally, in our opinion, it is required to raise the constitutional and legal status of the prosecutor's office of the Russian Federation, which would require inclusion in Art. 129 of the Constitution of the Russian Federation, an amendment stating that the powers, organization and procedure for its activities are determined by federal constitutional law.

8. Problems of constitutional and legal status of regional subjects of constitutional and legal support of the highest legal force of the Constitution of the Russian Federation and the supremacy of federal legislation .

The most significant problems in this area are related to the status of constitutional (statutory) courts of the constituent entities of the Russian Federation. They relate to the implementation of the principles of unity of the judicial system and the independence of judges in the implementation of regional constitutional control, the validity of decisions of constitutional (statutory) courts of subjects of the Russian Federation, as well as certain gaps in legal regulation in the field of regional constitutional justice.

It seems that the activity of these courts is based on principles that are in serious contradiction with the constitutional principles of domestic justice. This is a direct consequence of the fact that the bodies of constitutional control of the subjects of the Russian Federation, as noted by S.E. Nesmeyanova, initially emerged as an element of manifestation of regional separatism [15, p. 16]. In particular, according to Art. 124 of the Constitution of the Russian Federation, financing of courts is made only from the federal budget and should ensure the possibility of full and independent administration of justice in accordance with federal law. This constitutional provision is in direct, clear contradiction with the norms of Art. 3, Part 2 of Art. 27, Part 2 of Art. 33 FKZ "On the judicial system of the Russian Federation", according to which the financing of regional constitutional control bodies, unlike all other courts in Russia, is carried out exclusively at the expense of the budget of the relevant subject of the Russian Federation. There is a clear, overt hierarchical constitutional legal conflict, an anti-constitutional norm in the act of the level of federal constitutional law, which has been in effect for 20 years now! This is just one of the many defects in the legal regulation of the status of constitutional (statutory) courts of constituent entities of the Russian Federation, to exclude which constitutional law in science offers solutions from eliminating certain constitutional legal conflicts and gaps to abandoning the institution of constitutional and statutory courts of constituent entities of the Russian Federation [16, p. 105-108].

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