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IMPLEMENTATION OF ARTICLE 67.1 OF THE RUSSIAN CONSTITUTION IN THE CONTEXT OF SCIENTIFIC HISTORICAL AND LEGAL EXPERIENCE**

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The subject of the research is the constitutional and legal norms of Article 67.1 of the Rus- sian Constitution. These legal norms are legal means of realizing the subjective right to possess objectively verified knowledge about the past of the state and society and provid- ing guarantees in obtaining such knowledge.

The purpose of article is to confirm or disprove hypothesis that some historical facts have the potential of legalization and may be involved in the process of legal impact on public relations.

The methodology. A systematic approach was used in combination with historical and log- ical methods of cognition. It made it possible to study the theoretical, factual and legal grounds for the implementation of Article 67.1 of the Russian Constitution. The formal legal method was also used. It determined the vector of analysis of the legal source and the internal structure of the legal norms of Article 67.1, as well as the legal and technical fea- tures of their implementation and enforcement.

The main results, scope of application. The article stipulates a set of theoretical, factual and legal grounds for the implementation of Article 67.1 of the Russian Constitution. It is shown that the synthesis of scientific knowledge and historical memory, the object of which is the past of a person, society and the state, lies at the basis of legal practice. Such synthesis contains the potential for the effective implementation of the subjective right to possess objectively verified knowledge of the past and create guarantees in obtaining such knowledge. Scientific historical and legal experience is defined as a necessary condition in achieving the goal of forming an individual and a citizen, resistant to ignorance and misunderstanding of his national identity, reveals its possibilities in substantiating and verifying a historical fact, as well as within the permissible limits of their legalization.

Conclusions. Legal matter is systematic and is strictly organized, therefore it can neither be interpreted arbitrarily, nor applied unreasonably. Article 67.1 of Russian Constitution includes four parts, each of which determines the subsequent one. These parts are also in semantic connection with other constitutional principles and declarations, which together determine the mechanism of legal regulation of a special kind of social relations - relations to the past.

The state as a subject of these relations, on the one hand, is the creator of conditions for a representative scientific search and the establishment of reliable historical facts, for the subsequent popularization of the scientific result. On the other hand, state legally fixes scientifically grounded facts of state and social development, indicating unity and continuity. Article 67.1 of the Russian Constitution represents an attempt to consolidate legally the well-established historical facts. A historical fact becomes a constant of historical heritage for society when it receives public recognition. The loss of such constant is an irreversible loss (possibly even the destruction of a part or a whole society). In this case historical fact can be defined as a historical truth and may become a subject to legalization, subsequently acquiring the status of a legal norm: principle, definitive, declarative, prescriptive or logical rule of law. The legal concept of historical truth should be perceived not as the opposite of historical untruth (lie), not in the sense of “this is good, but this is bad” and “who benefits from”, because emotionality goes beyond the legal framework. The legal concept of histor- ical truth should be perceived as the opposite of an unscientific, hypothetically assumed, yet unproven historical fact.

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1. Introduction

The thought that “jurisprudence and history do not need to be united. And although jurisprudence and history are social phenomena, their union is doubtful "[1], which sounded on the pages of the mass press during the polemic over the amendment of the Constitution of the Russian Federation, especially in the part concerning the historical past, somewhat discouraged me as a law historian and made me think about whether such an angle of social development is possible, when the components (social institutions) of a single living space coexist in parallel without any prospect of contact. And for all the simplicity of the obvious answer, it was not easy to formulate it.

All the acuteness of the discussion of Article 67.1 of the Constitution of the Russian Federation, which unfolded on the eve of universal suffrage, today has largely weakened. The legal fact took place, and the active part of the public lost interest in the issue. However, the problem not only did not exhaust itself by the adoption of the corresponding article of the Basic Law, but to a large extent deepened, outlining a fairly wide range of aspects that require careful analysis and thoughtful reflection from both legal scholars and practitioners due to the fact that any law must act , contributing to the implementation by the subjects of public relations of the law, which is formally defined. The synthesis of theoretical (or, more broadly, scientific) and everyday knowledge, the object of which is the past of a person, society and state, which is the basis of legal practice, contains the potential for the effective implementation of the subjective right not only to possess objectively verified knowledge about this past, but also the right to guarantees in obtaining such knowledge.

Therefore, to enter into a discussion with the author of the position indicated in the quotation above, and with those who share it, is indeed a dubious undertaking. It is important, it seems to us, to consistently form a systemic understanding of the complex processes of legal life (the concept was introduced into scientific circulation by historians of the law of pre-revolutionary Russia) both in society as a whole and in each individual of this community. We are fully aware of the idealistic approach and the prolonged nature of the indicated vector of cognition, but it is difficult to achieve a noble goal if we do not take at least a tentative step in this direction. Let us define several, as it seems to us, the basic segments of knowledge, in the aggregate, ensuring the implementation, including the application of Article 67.1 of the Constitution of the Russian Federation.

The first segment - the theoretical foundations of implementation, picks up a set of provisions that represent the theoretical construction (conceivable model) of the mechanism of legal regulation of specific social relations - relations to the past. The second is the factual foundations of realization, which are directly related to the process of establishing and systematizing historical facts that determine the integrity of the past. And the third is the legal foundations that unite not only a set of legal facts that serve as a source of legal regulation of emerging special types of social relations, but also factors that influence the delimitation of legal and non-legal means of influencing these relations. Thus, it is possible to outline the contours of cognition of a picture filled with the entire palette of colors of the difficult life of mankind, as well as to design a mechanism for the implementation and application of this article. In this regard, the multidimensional experience of legal, historical and other humanities plays an indisputable role.

2. Theoretical grounds for the implementation of Article 67.1 of the Constitution of the Russian Federation.

Let us highlight a number of key theoretical provisions necessary to understand the essence of the issue. First, law, as a social phenomenon, is systemic in nature, that is, it is a set of generally recognized and generally binding formally determined historically determined rules of behavior (norms, dogmas, etc.) that are interconnected and interact, representing unity, integrity. The position is axiomatic, therefore we

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do not make any discoveries. But if you strictly follow this legal axiom, then any expediency of research and interpretation is lost, especially the implementation of law outside this set.

And when, in the heat of political polemics, this or that subject unconsciously or deliberately pulls out of the general legal context a rule of law or an article of a law, especially its individual parts, using them as an argument in favor of his critical position, then this fact cannot be regarded as anything other than ignorance or as demagoguery. In the first case, we are dealing with an imaginary interpretation of law, in the second - with public deception, when law becomes an instrument for manipulating public consciousness or a means of solving unseemly political goals and satisfying someone's ambitions. Unfortunately, the conversation about the implementation of Article 67.1 by the public media comes down precisely to the variant of not systemic comprehension, but to verbiage, emotional distortion of facts. For a professional lawyer, this approach is not acceptable. The legal matter is strictly organized, therefore it can neither be arbitrarily interpreted, nor unreasonably applied.

Article 67.1 includes four parts that are in a logical connection, each conditional on the next. In the first part, the concept of continuity in the state development of Russian society is filled with legal meaning. There are direct indications that the Russian Federation is the legal successor of the USSR, that is, a state historically formed on a territory united by a thousand-year history (part two), which makes it possible to consider it in unity not only as a territorial integrity, but also as a space where it was formed. a socio-cultural community of people, which has axiological constants and which are not permissible to destroy (part three), therefore, the upbringing of the younger generation physically, spiritually and morally resistant to transformations of social life is defined as a future that guarantees the preservation of this state unity and sociocultural values (part four).

The appearance of this article in the Constitution is not accidental. Its content was announced by the preamble of the Basic Law in the 1993 edition: “We, the multinational people of the Russian Federation, united by a common destiny on our land (italics here and hereinafter ours - M.K.), affirming human rights and freedoms, civil peace and harmony, preserving the historically established state unity, proceeding from the generally recognized principles of equality and self-determination of peoples, honoring the memory of the ancestors who passed on to us love and respect for the Fatherland, faith in goodness and justice, reviving the sovereign statehood of Russia and affirming the inviolability of its democratic basis, striving to ensure the well-being and prosperity of Russia proceeding from the responsibility for our homeland before the present and future generations, recognizing ourselves as a part of the world community, we accept the Constitution of the Russian Federation. "

Focusing on the provisions (italics) directly related to the article under consideration, where they received some concretization, one should not exclude other provisions that are in the text of the preamble in a semantic link with the indicated ones, which determine a comprehensive mechanism for the implementation of the rights and freedoms of the individual, person and citizen, living in a multinational state with a worthy historical past, having internal unity and factors of continuity. Elements of this mechanism have found legal confirmation both in the Constitution of the Russian Federation itself (primarily in the second chapter), and in the array of legislation of the Russian Federation of general and sectoral legal impact.

At the same time, we note that we are not dealing with an innovation of modern lawmaking, but with a constitutional tradition to legally enshrine in the preamble or in the articles of the first chapters declarative provisions correlated with the main goals of social development of the state, indicate the most important characteristics at the time of adoption of the Basic Law. forms of the state, to determine the principles of regulation of social relations and morally determined values of the community of people, historically formed in a given state territory and accepting the corresponding public authority.

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Such juridical and technical features are fully consistent with the subject of constitutional law and the social purpose of constitutional legislation - to influence fundamental, key social relations and determine in legal regulation the basic provisions for the state and society, respectively - for other social relations [3, p. 22-23].

Secondly, it should be borne in mind that the implementation of the right is carried out in three forms - the use of subjective rights, the fulfillment of legal obligations and the observance of legal prohibitions, as well as in an optional (special) form - law enforcement. However, this process cannot be distanced from the general process of implementation [4, p. 48] or actions of law [2, p. 414]. Which is understood as "the process of translating the normativity of law into the orderliness of social relations" [4, p. 48] or “informational, goal-motivated and directly regulating influence on social relations within a certain space, time and circle of persons” [2, p. 414]. In this process, two sets of forms are distinguished - a) forms of influence of law and b) forms of realization of law, where the first set of legal forms are factors of the mechanism of legal influence external to the will of the subject, the second is the means of objectifying the actual behavior of subjects, revealing the essence of the legal effect, and resulting from the reaction of subjects to legal impact [4, p. 48]. The external side of the action of the law is associated with the forms and methods "by which the law declares itself", the internal side "is associated with the perception of the law by its addressees" [2, p. 414].

Thus, all the variety of forms of influence of law indicates a complex multivariate state of social relations arising between the state and the individual, even if they are united by a single past, but many-sided, like society itself. Consequently, the introduced Article 67.1 into the Constitution of the Russian Federation cannot be perceived by a professional lawyer only as a simplified form of state influence on the will of the subject of law. Discussions about truth and untruth, about right and wrong, about responsibility and irresponsibility, etc., leading to the conclusion that rejection (primarily by the authorities) of the position of the opposing side (personality, group of persons, etc.) necessarily entails coercion (repression, fine, isolation from society, etc.), that is, the punishment of the individual is precisely the state, which ideologically substantiated and legally enshrined this right in an article of the Constitution of the Russian Federation. Such a judgment is at least ignorance (right first of all), and to a greater extent - not harmless rhetoric aimed at the formation of relations between the state and society of increased conflict in solving issues of civilized development.

Thirdly, the theoretical model of legal influence on social relations includes several interconnected complexes of legal means, each of which has its own role. System-forming is legal regulation - targeted legal impact, directly aimed at streamlining public relations (establishment of law and order) and carried out in the lawmaking and law enforcement activities of the relevant subjects of the state mechanism [5, p. 5; 6, p. 202; 7, p. 93]. These are the spheres of legal impact where the state is responsible for the implementation of normatively established prescriptions that are reflected in legislation or mediated in law enforcement acts (individualized legal regulation).

Thus, law, as a social regulator, possessing a protective function, organizes active (possibly passive) socially significant behavior of participants in public relations, matching it with subjective rights and obligations. The organizing principle of legal regulation determines not only its social purpose, but also makes it possible to establish the limits of state intervention in the life of society. Bearing in mind (previously stipulated) that the means of legal regulation in aggregate represent external factors of influence, then the boundaries of this influence cannot be wider than the space of manifestation of the externally expressed (objectified) behavior of subjects, that is, only there should be a purposeful organizational impact with the help of the system legal means, where social relations are formed that have a legal nature [8, p. 54], which are distinct and stable. The state creates guarantees

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for the realization of the right, defining to the subjects of law the limits (measure) of possible and proper behavior (and not the limits of thoughts or ideas).

However, the behavior of people is conditioned not only and not so much by external requirements as by the volitional principle. It is a well-known fact, but we are only interested in it as a message for thinking about the role of legal influence in the process of implementing the norms of a specific article of the Constitution. Consciousness is a syncretic area of human existence, it is weakly amenable to one-sided external influence. It is formed primarily under the influence of natural genetic and mental factors, then in the process of socialization, a person, acquiring certain knowledge, skills and abilities, shows the ability to substantiate the motives and goals of behavior, make decisions, and act.

Law is among the many factors (morality, religion, custom, tradition, etc.) impact on the consciousness of a person and society. It performs, like all social regulators, an informational, educational, educational, prognostic, axiological function, etc. But with all its power of influence, the law is really powerless in terms of independent regulation of the intellectual, psychological, emotional side of social relations. At the same time, unlike other social regulators, it plays the role of the main mediator (media) between society, its social institutions and power, becomes a kind of buffer, where correspondent ties are mediated, filled with either mutual trust, or partnership, or rejection, or disbelief, or apathy, or other emotions pushing civil society and the state to seek compromise, or parity, or balance, or imperative, etc., so that the emotional background of public life is not overly clouded by unsightly shades of behavior of subjects. Possessing an organizing potential, law allows society and the state to involve in the process of realizing human and civil rights and freedoms, non-legal means, mainly science and economics, which have intellectual and material resources, which together affect the efficiency of legal impact and regulation. Particularly important is the participation of the scientific community in determining the factual grounds for the application of the law.

3. Factual grounds for the implementation of Article 67.1 of the Constitution of the Russian Federation.

The central link should be designated factual - a certain set of facts, that is, reliable spatial and temporal coordinates of objectively occurred historical events that are in chronological connection and indicate a strict sequence and succession of some events by others. Establishing a fact is a matter of historical science, giving the fact a legal status - lawmaking, focused on scientific knowledge. In this regard, the question arises - can continuity, state unity, memory of ancestors, feat of the people, historical truth, historical heritage be a historical fact and subsequently obtain legal certainty within the framework of legal regulation and implementation of law? It was this aspect that got into the field of heated discussions about the possible legalization of emotionally colored historical phenomena.

For an ordinary person who does not have professional historical and legal knowledge, the question in such a formulation is practically impossible to resolve, the answer will be formulated to a greater extent at the sensory level, due to general ideas about the Fatherland and its history, patriotism, human values, etc., concepts “Good and bad”, “important and not important”, “truth and lies”, “dear as a memory and not dear”, “valuable for me personally and for everyone, or not valuable for anyone,” etc. In this In this case, he realizes the right to think freely and freedom of conscience, the right to have his own opinion, it is possible to express it publicly. The Basic Law guarantees him these states (see, for example: Articles 2, 17, 21, 28, 29, etc.), thus does not claim to interfere in this area of human existence - in consciousness.

However, thoughts formed on the basis of everyday judgments and on the analysis of unverified facts can motivate appropriate actions and, in some cases, lead a person beyond the moral and legal framework of socially significant

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behavior. The Constitution defines this framework, introduces non-legal concepts into the legal field (for example, continuity, state unity, memory of ancestors, people's feat, historical truth, historical heritage, etc.) and fills them with legal meaning. The state, empowered to protect society from the misconduct of individual citizens, must in these individual cases use the entire set of legal and non-legal means in order not only to suppress (law enforcement), but to a large extent prevent this in the future.

Prevention is not so much legal as general humanitarian, despite all the complexity of its feasibility, it seems to us, is a more important part of the state's legal policy, since it contributes to progressive development, which is impossible without a deep understanding by the majority of citizens of both state unity, and historical memory, and historical truth. ... In this regard, building partnerships between state institutions and civil society institutions in achieving the goal of creating an educated, thinking, morally resistant to ignorance and misunderstanding of their identity as a person and a citizen is a priority direction in the legal impact and implementation of subjective rights not only to possessing objectively verified knowledge. about the past of their state and people, but also the right to guarantees in obtaining such knowledge.

One of these guarantees we see a wide popularization of the scientific experience of cognition of the past. Both historical science and legal science, like other sciences, operate with knowledge that differs from unscientific views in objectivity, objectivity, reproducibility, evidence, and verifiability. Therefore, in the process of education and enlightenment of the population, the scientific community should act as a guarantor of the reliability of the provided research result. Such a guarantee is closely related to the ethos of science in the classical sense - "an affectively colored complex of values and norms" obligatory for a person of science, "forming a scientific conscience" [9, p. 769]. Scientific conscience, according to R. Merton, is a fundamental, fundamental moral condition for the development of science and strengthening the authority of the scientific community.

However, with the complication of public life, utilization and commercialization of public relations by the end of XX - beginning of XXI centuries. the boundaries of the scientific space become transparent and the scientific community in its individual components merges with other social institutions. This fact correlates with the beginning of a new period in the development of science, when scientific rationality is reflected not only in the objective-subjective knowledge of the surrounding reality, but also sensitively reacts and responds to a social order, which involves the involvement of the scientific community in politics and the practical plane of public life. Unfair competition, hidden and open plagiarism, in a word, "the pathology of science" against this background, unfortunately, takes on relief outlines. Therefore, the mechanism of self-regulation of science as a social institution should be as effective as possible, and the scientific community should be irreconcilable to intentional falsifications and distortions of facts, as well as contribute to the public refutation of unreliable information revealed in the course of additional research and presented to the public by conscientiously mistaken researchers. In this case, broad scientific and other kinds of discussions are permissible, as they say - in a dispute, truth is born (for more details see: [10]).

However, in order for a historical fact to be established by science for certain, a number of prerequisites and actions are necessary: to carry out a complex research process of a representative source base containing primary (not processed, rethought) information about the past; the conscientiousness of the researcher should not be in doubt (the main criterion is high professionalism); objectivity, proof, verifiability and reproducibility of the fact must be obvious (hypotheses and assumptions do not have such properties); public recognition of the established fact by the professional community (primarily historians), popularization of scientific knowledge about the fact. And when a historical fact receives universal recognition and becomes for society that constant value (constant) of the historical heritage, we would also include events that are

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legally designated by the concept of "feat of the people" (Article 67.1, Part 3), which means historical value, the loss of which will be an irreversible loss (possibly the destruction of a part or a whole), then it can be defined by the concept of historical truth and is subject to legalization, subsequently acquiring the status of a legal norm - a norm-principle, a norm-definition, a norm-declaration, a norm-prescription, a logical norms of law, etc. The legal concept of historical truth should be perceived not as the opposite of historical untruth (falsehood), that is, not in the sense of "this is good, but this is bad" and "who benefits" - emotionality goes beyond the framework of law, but as the opposite unscientific, hypothetically assumed, yet unproven historical fact.

The state, as a subject of a special kind of social relations - relations to the past, can act, on the one hand, as an organizer that creates conditions for the scientific community for a representative scientific search and subsequent popularization of the scientific result, on the other hand, it can legally fix the identified and scientifically grounded constants of state and social development allowing you to observe its continuity and unity. Article 67.1 of the Constitution of the Russian Federation, in our opinion, is the case when the state made an attempt to respond appropriately to the established historical facts. And the introduction of non-legal concepts into legal practice is also a historical phenomenon, quite justified as a reaction to the changing world of man and his attitude to humanistic values. It takes time for new concepts to be adapted and consolidated with legal matter, to acquire legal meaning. Let's hope that legal and historical sciences will respond to this demand of the time, using interdisciplinary methodology, and substantiate the correctness of the legislative decision. As the German historian Reinhard Koselleck noted at one time, "… the emergence of a multitude of new words and new meanings of words: is evidence of a new understanding of the world, and they set the entire language in motion" [11, p.27].

Let us turn to the experience of historical and legal science and reveal the content of the basic concepts and categories that reveal the essence of the previously designated processes. The definition of a historical fact was developed by historical science, which has its main scientific purpose - to identify the facts of the past and describe them. Here it is necessary to clarify - it is to describe, state, and not interpret the facts, since the first scientific method allows, on the basis of a representative source base, to present the sequence of events in a certain space, at a certain time and with certain participants, the second method introduces a subjective, evaluative component, which means it takes the researcher out of the framework of the fact, therefore, the interpretation cannot be subject to legalization.

So, "a historical fact is such reliable knowledge about the events and processes of the social past, where sensory and rational knowledge are synthesized, and the general is necessarily clothed in a single and special form, knowledge that is strictly fixed in relation to certain historical phenomena and is relatively complete in to yourself "[12, p. 192]. The historical fact should be considered as a special abstraction that fixes certain features of the empirical object [12, p. 192]. A fact is specific knowledge that has characteristic features: attribution to the social past, rationality, reliability and isolation. Fact and description are closely related. A fact, acting in the form of a description, always has reliability, since it is a single description, while the description is not always reliable due to the fact that sometimes the researcher breaks away from the chronological coordinates and is gradually transformed into an interpretation [12, p. 192].

Science proposes a species-specific classification of historical facts that is complex in structure. They are divided into two large groups - epistemological, which reveal the type of reflected situations, events or processes, and methodological (in a narrow sense), which delimit facts into types according to the method of their construction [12, p. 192]. Without going into the details of the classification, we will single out only those types of historical facts that, in our opinion,

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fall into the field of view of scientific and practical jurisprudence. Firstly, these are existential facts, the purpose of which is to answer the question - whether there was a particular event, situation, process, a separate historical person, etc. Secondly, qualification facts, which, in contrast to the former, indicate that exactly existed and what properties this or that historical phenomenon possessed. Thirdly, quantitative or quantitative facts, fixing those events, situations and processes that are quantitatively expressed. Fourth, temporal and locographic, indicating the time (chronological framework) and place (territory) of the events in their chronological sequence, as well as the duration of the processes. And the last group of facts is activated, allowing to establish the activator (motive, source) of the activity of historical characters, social groups, institutionalized organizations, correlating them with the time and space of the events taking place (facts of the fourth group). Thus, we have outlined the range of historical facts that can receive legislative confirmation and legal assessment. In this regard, let us pay attention to the fundamental categories of the history of state and social development and related concepts introduced by the legislator in Article 67.1. These include: continuity in development, state unity, the memory of ancestors, historical truth, the feat of the people.

Continuity as an integral characteristic of the state of state and law, as an objective property of developing objects, has acquired general recognition in science. It becomes a special subject of research in Russian legal science in the middle of the 19th century, when the historical approach to the understanding of law is determined as the main one. Formed in the middle - second half of the 19th century, the experience of historical reflection, in our opinion, by modern legal science and practice can be perceived as a classical model of cognition of law and the state in their successive ties. Let us turn to the origins of scientific knowledge of continuity in Russian historical and legal science.

Konstantin Alekseevich Nevolin, a graduate of the school of professors M.M. Speransky and a student of F.K. von Savenyi, proceeding from the message of the subjective-objective unity of historical development, for the first time in the domestic legal science singled out and characterized an important property of this unity - its purposefulness, which determines the continuity in development. On a subjective level, it is an order "in the spirit of an author who composes a story", which consists in the sequential presentation of "incidents, cases" with a certain pragmatic purpose. At the objective level, two "orders" are distinguished - the lower, "when we move directly within the circle of the historical, without raising our gaze beyond it," and the higher, when the goal of cognition is associated with identifying cause-and-effect relationships, determining the patterns and features of the development of law. Thinking in this vein, the scientist, without introducing the concept of continuity, actually reveals its content. It designates the characteristic signs of continuity, namely: its historical essence, objective nature, consistency and unity in the development of social life, the transmission of experience to subsequent generations not in full, but only in the part that is actualized in time, the transmission of this experience can be carried out as in a horizontal time perspective from generation to generation, and from one nation to another, that is, in space within one period [13, p.119-120].

Extrapolating his view of the general development of “people's life” into the sphere of law, K. A. Nevolin points out another important aspect that reveals not only the essence of law as a socio-cultural phenomenon, but also determines the main perspective of the cognitive process of continuity in domestic law and the state. He puts law on a par with religion, science, art and other phenomena of social life, which are inextricably closely linked, in interaction with each other and mutual influence on each other, represent integrity, that is, in their entirety, they have a systemic character (more see: [14]).

From the above, it logically follows the conclusion that continuity is a multifaceted and multidimensional fact. It manifests itself at the institutional, socio-cultural, political and legal,

material levels, etc. At each level, its own set of facts is formed, confirming the presence of essential, invariable signs of state and law, indicating the indisputability of the fact of continuity in state and social development. We would attribute three to these system-forming facts: the people (a socio-cultural community of people, formed historically), a delimited territory (a kind of geopolitical space) in which this people lives and public power (the will of this people, mediated in the activity of an internally structured hierarchical state mechanism and self-government).

The specified triad of historical facts determines the essence of state unity. Eliminate one of the factors, and the state as a social organization will not become, its unity, integrity will be lost, its identity will be destroyed. Changing outwardly, in form, the state, being in development, does not change in essence, its social purpose and purposefulness is determined by the accumulating concept of sovereignty (Articles 3, 4 of the Constitution of the Russian Federation), independence not in itself, but independence as a historical fact in its temporal, spatial and subjective-objective unity. In this regard, it is difficult to agree with those who believe that the Old Russian state, the Moscow and imperial states of Russia, the USSR and the modern Russian Federation are different states, and the concepts of continuity and state unity are ephemeral [15, p. 7]. It is possible to join only that part of the reasoning where it is a question of form. Periods in the development of the state, indeed, have differences (the criteria for the implementation of periodization is a separate topic). They are found in the form of government, and in the form of a state structure, and in the form of a political regime, but they point to the peculiarities of the evolutionary-revolutionary development of statehood (signs of an already established state), while they do not destroy the dialectical unity of the main signs. Therefore, in essence, it is one state entity, where, following the definition, not all political and legal experience is successive, but only that part of it that preserves state and social identity, nourishes historical memory. The concept of "thousand-year history" introduced into the constitutional text indicates this essence, and as an established historical fact does not require proof. And assessments and interpretations, emotionally and rationally filled, stand outside the framework of law and fact, this is already the field of activity not of the legislator, but of science and civil society.

The perception by man and society of a thousand-year history is a priori selective and correlates with the concept of memory, that is, a certain contour of historical knowledge about the past. Modern historical science defines this state by the concept of historical memory (in varieties and at different levels of manifestation - individual, communicative, cultural, etc.), which has both a personal and a collective form of being. In article 67.1, this state is denoted by the concept of "memory of ancestors".

An appeal to the past is an objective need of society and a necessary condition for its progressive development, which depends on the degree of interaction of the components of the triad "history - memory - politics" [16, p.9]. The past as it is in modern life cannot be reproduced literally, it can be objectified only in historical facts and constructions offered by historical science. However, the framework of scientific knowledge does not contain the emotional context that is significant for understanding the past, coupled with the figurative reproduction of individual time periods or individual events. A reasonable combination of scientific and non-scientific perception of the past allows politics, basically aimed at a positive projection of historical experience into the future, to be adequate to the demands of the time. Therefore, the history of state and law can simultaneously be an object of legal science, and historical memory, and legal policy. But only a balanced interaction of all three practices can lead to the desired effect. Without a doubt, this is an idealistic model, which, as it seems, has found legal confirmation in Article 67.1 of the Constitution of the Russian Federation, the realities are much more complicated and demanding for the harmonization of social relations. In our case, the schematism of the proposed trend becomes attractive, which allows

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us to see some patterns and features of the interaction of scientific knowledge with other forms of human reproduction of the past, where science plays the role of a “frame of historical memory, significantly participating in the formation of the“ social framework of memory ”[17, p. 431], as well as in conjunction with it contributes to the systematic scientifically grounded reproduction of historical knowledge, allows not to destroy, but to strengthen the national identity of the individual, society, state (for more details see: [18]).

4. Legal grounds for the implementation of Article 67.1 of the Constitution of the Russian Federation.

Considering all of the above, let us single out the main legal forms of "experiencing history" (for more details see: [19]). First of all, it is the Constitution of the Russian Federation itself, the main source of constitutional law, the subject of regulation of which is political relations [3, p. 23]. “Constitutional law in relation to society performs functions typical of law in general: it reflects the existence of some political relations, recognizes undesirable, does not allow others, to a certain extent can predict and model the emergence of relevant social relations, becoming their basis” [3, p. 25]. The Constitution incorporates general provisions of a political and legal nature, ensuring the unity of the legal space and legal regulation of the life of society. Therefore, unlike other sectoral legislation, the Constitution contains priority norms-principles, norms-declarations, norms-definitions, etc., which are generally perceived as program guidelines for the modern and future development of the Russian state and society. The entire set of constitutional norms allows, in general and in its individual parts, to determine the perspective of sectoral lawmaking, internally hierarchical, first of all, in terms of the legal force of the rule of law, as well as within the scope of the law in time, in space and in a circle of persons. The principle of consistency and consistency of all types of legal norms with constitutional ones - determines the basis of legal impact and legal regulation. The Constitution itself establishes the mechanism of guarantees for the implementation of this principle (the institution of the President, the institution of constitutional justice, the institution of law enforcement agencies, etc.).

The designated general theoretical constructions allow us to identify the place of Article 67.1 in the constitutional and legislative field of the implementation of the right. The article, as it seems to us, includes several varieties of legal norms: norms-principles (basic ideas, beliefs underlying the action), norms-declarations (recognized historical facts), norms-prescriptions (indications of a specific action within the framework of the protection and protection of declared principles and provisions, ensuring guarantees for the implementation of the right). We would attribute the following linguistic expressions of Article 67.1 to the norms-principles: to preserve the memory of ancestors who passed on to us ideals and faith in God, as well as continuity in the development of the Russian state (part 2.); to honor the memory of the defenders of the Fatherland, to defend the historical truth (part 3); “Children are the most important priority of the state policy of Russia” (part 4). To the norms-declarations: is the legal successor (successor) of the USSR (part 1); united by a thousand-year history, recognizes the historically established state unity (part 2); feat of the people in the defense of the Fatherland (part 3). Norm-prescription of direct action: belittling the value of the people's heroic deed in defending the Fatherland is not allowed (part 3). Norm-prescription of indirect action: the state ensures the protection of historical truth (part 3), the state creates conditions conducive to the all-round spiritual, moral, intellectual and physical development of children, fostering patriotism, citizenship and respect for elders (part 4), the state, ensuring the priority of family upbringing, takes on the responsibilities of parents in relation to children left without care (part 4).

Thus, the article is of a fundamentally declarative nature, therefore, it cannot be outside the context of the system of formally defined constitutional principles and declarations. Therefore, the implementation of Article 67.1 is

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possible only in systemic interaction with at least 38 articles (our calculations - M.K.) of this Constitution of the Russian Federation. It is this set that ensures the implementation of the subjective right to possess objectively verified knowledge about the past of the state and society and the right to guarantees in obtaining such knowledge, at the same time sets the boundaries of possible and proper behavior for the subject, securing his obligations and prohibitions on illegal actions, and also determines conditions for the onset of constitutional (in general, legal) responsibility and the mechanism for the application of law.

Constitutional norms of law, having a general regulatory nature, imply in the future detailed regulation through sectoral legislation (primarily civil, administrative, criminal and procedural), as well as detailing in program and legal sources (state concepts, strategies, programs, etc.) or in law enforcement (either to provide conditions for the implementation of the right, or to restore the lost right, or receive compensation for the lost right). Detailed analytics of the specified list of legal forms is beyond the scope of the article, it is an independent research topic. We will single out only two areas, in our opinion, requiring scientifically grounded legal and technical actions: memorial lawmaking and law enforcement.

The so-called memorial laws and legal acts that determine the directions of the official policy of memory (memorial policy) have a special place in the system of legislation both in terms of content and social purpose [20, p. 341-342]. In different states, this policy has its own specifics. The ancestor in the development of this political and legal trend is considered to be France, which for the first time adopted not only laws that legally enshrine certain historical facts and a system of prohibitions on anti-racist, anti-Semitic and xenophobic actions, but also a law enforcement practice with the involvement of historians as experts or witnesses in the consideration of cases concerning the historical past [21, p. 287-296].

The Russian Federation did not remain aloof from world practice and has its own experience in implementing the memorial policy, which is reflected in both positive and negative trends. On the one hand, the past of the state and society becomes common property, and historical knowledge is popularized in various forms - museums, specialized archives, libraries, clubs, societies are created and legally regulated, collections of documents in paper and digitized media are published, access to earlier closed repositories of state archives, investigates "living history", etc. On the other hand, "mass knowledge of the past" provokes a large number of "conflicts of interpretations of the past" [20, p. 340] and active forms of consent or disagreement, acceptance or rejection by a part of the population of “separate stories” and historical destinies, which, as noted by the French journalist S. Chalandon, “turn stories into history” [21, p. 288]. That's really, really, a dubious idea. Without plunging into the designated topic (this is a separate conversation), we will define the significance of historical interpretation and historical expertise as specific legal and technical practices in memorial lawmaking and law enforcement. Let us turn to the experience of domestic legal science.

The problem of interpreting the law in Russian science was highlighted in relief in the process of systematization of Russian law by the middle of the 19th century. A. G. Stanislavsky once argued that "... legislation is life ... Having before our eyes the legislation of a certain people, in its historical development, we can make very close to the truth, sometimes even completely correct conclusions about the gradual development of this people" [22 , with. nine]. The experience of systematization prompted Russian legal scholars to make theoretical generalizations. By the beginning of the twentieth century, a complete understanding of the interpretation of law had developed to the domestic legal science. In this regard, the authoritative opinion of Professor G.F.Shershenevich deserves attention, who, in our opinion, has placed the accents and clearly defined the content of the concepts. Revealing the essence of the interpretation of law, the scientist highlights the methods of

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interpretation that are considered recognized in modern science. Important in the context of our article are his reasoning within the framework of two questions - how should the laws be interpreted - in the sense that they had at the time of their publication, or in the sense that they receive at the time of application? " The scientist rightly notes that the second question logically follows from the first. The desire to make a concession to time is an argument in favor of changing legislation, and not in favor of perverting the meaning of the law [23, p.740-741].

In this regard, he draws attention to the historical experience of drawing up a law and attaches great importance to historical interpretation, the essence of which he sees in comparing and clarifying the content of this law with others, previously adopted. At the same time, he draws attention to its frequent identification with the historical point of view, which is focused not on the inner content of the law, but on the external circumstances that prompted the legislator to issue the law. Therefore, he considers it unacceptable to use sources that are outside the law to understand the law, for example, explanatory notes, minutes of meetings of commissions for drafting a law, etc. At the same time, he sees them as a means for understanding the intentions of the legislator in the process of comprehending the need to change or issue a law [23, p.740-741]. This approach, according to the scientist, allows the interpreter of the law to avoid the danger of substituting the interpretation of law with the analogy of law, and connects historical interpretation with historical expertise, which takes the legislator and law enforcement officer outside the framework of the law, makes it possible to determine the motivation for making an appropriate decision - the issuance of a legislative or law enforcement act.

We would define historical expertise as a means of verifying a historical fact (as mentioned earlier), that is, checking historical information for compliance with objective reality. The need for the involvement of expert historians arises in different circumstances. For the legislator, it is important at the moment of determining the need for legal confirmation of a proven fact of a historical event, a memorable date, assigning the status of memorable places to toponymic objects, establishing monuments to historical figures, determining the historical value of a historical and cultural object, etc. the legality or unlawfulness of the behavior of a subject who has violated the norms of law, obliging or prohibiting acts that infringe on the historical heritage or historical memory, causing material and moral damage to a person, a group of persons or society as a whole. For example, the introduction of Article 354.1 "Rehabilitation of Fascism" into the Criminal Code of the Russian Federation contributed to the expansion of the experience of conducting historical examinations.

The legal and technical feature of historical expertise is that it must correspond to legal tasks, contain not only an opinion on the fact, but also a scientific justification, confirmed by a representative set of primary sources. It should not contain interpretation and assessment, only a description of events that allows you to “understand, not judge” the past. Historical expertise is not an individual, but a collective conclusion, as a rule, carried out by a group of professional archivists, historians, lawyers and other specialists deeply immersed in the topic being verified. Only such expertise will inspire confidence, otherwise it will be an individualized opinion of a scientist or a group of people keen on history.

The state has sufficient organizational and legal resources to receive substantiated expert opinions from the scientific community, as well as to make their content widely public. The public's access to this kind of systematized scientific knowledge would possibly contribute to minimizing the polemical tension regarding the history of our state and society, distant and close to the present. This kind of information would become some obstacle to the spread of myths and rumors, for example, about the excessive "menacingness" and low significance of state reforms to Ivan IV at the time of the erection of a monument to him, or the perception of the Soviet past only as the Gulag system, where every Soviet

person or victim, or an executioner, at best, a dissident, and the harsh 1990s were just criminal, when almost every person is either a bandit or a bum. In a word, both a lawyer and a historian have a reason to unite their efforts in the implementation of Article 67.1 of the Constitution of the Russian Federation, which has incorporated in a laconic form, but capacious in content, all the variety of historical and legal phenomena that require their study and understanding.

5. Conclusions

The implementation of Article 67.1 of the Constitution of the Russian Federation is due to a combination of theoretical, factual and legal grounds. The synthesis of scientific knowledge and historical memory, the object of which is the past of a person, society and the state, lies at the basis of legal practice and contains the potential for the effective implementation of the subjective right to possess objectively verified knowledge about the past and create guarantees in obtaining such knowledge.

Implementation is one of the forms of action of law, the vector of movement of which is determined by the mechanism of legal impact and the mechanism of legal regulation, which have limits of action and provide a set of targeted legal means in ordering public relations that have a legal nature. The systemic and volitional nature of these relations determines the ways of the impact of law, among which are various options for partnerships between the state and the institutions of civil society. The mediating area of such a partnership is legal science and practice.

Scientific historical and legal experience should be defined as a necessary condition in achieving the goal of forming a personality and a citizen, resistant to ignorance and misunderstanding of their national identity [24]. The task of science is to substantiate and verify a historical fact as objective, proven, verifiable and reproducible historical knowledge. The task of jurisprudence, within acceptable limits, is to clothe historical facts in various legal forms that ensure the effective implementation of the subjects of law.

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