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THEORY OF LAW-MAKING: METHODOLOGICAL AND CONCEPTUAL ASPECTS

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GENERAL DESCRIPTION OF THE WORK

Relevance of the research work. The study of law-making has always been one of the leading areas of theoretical research, proved by a considerable number of scientific papers that have appeared in the past two decades in Russian jurisprudence. Objectively, this is due to the fact that the modern period is marked by a significant increase in the amount of law-making work, wide range of law-making subjects, the use of its various methods and types (popular law-making, sanctioning of the customs, formation of the normative contracts, etc.) in order to reflect all legal material in the Russian law system.

In recent years, the pace of legislative activity of the Russian state has increased. According to the legislative statistics of the State Duma of the Russian Federation from May 1990 to May 1998, about 900 laws were adopted at the federal level (for example: about 300 laws were made from 1917 to 1990). And this process is gathering pace. From 1995 to 2017, approximately 6100 federal laws were passed. All this showed the need to analyze thoroughly law-making activity, to understand theoretically its conceptual and methodological aspects to define further main directions of law-making policy of the Russian Federation.

At present, Russia has developed a legal system consisting of traditional and new branches of law (business, commercial, informational, tax, etc.), i.e., those that are in demand and necessary to change public life, to provide real rights and freedoms for individuals and legal entities, to increase the efficiency of the created economic and political mechanisms of development of the state and civil society. However, the quality of the created regulatory material causes serious complaints from consumers (according to the sociological and legal research data), since many legislative acts have systemic drawbacks and even legal defects, they collide with current legislation, there is unevenness and gaps in legal regulation, etc.

In domestic jurisprudence is characterized with insufficient methodological development of both the legal policy strategy in the Russian state for the modernization of our society, and the strategy of strengthening the legal foundations

of public and state life. The conceptual approach is often replaced by an empirical one, which substantiated the topic of the present research work.

The objects of the research work are the social relations that develop in the law-making processes in Russia, as well as the system of theoretical ideas about law-making that have been formed in Russian jurisprudence and reflects these relations.

The subjects of the research work are the main laws governing the law-making activities, enshrined in Russian legislation, as well as the conceptual theory provisions of the law-making.

The purpose of the research work was to develop and substantiate the author's model of conceptual and methodological aspects of the developed theory of law-making for further use in jurisprudence and practice of law-making activities in the Russian Federation.

To achieve this purpose, it was necessary to solve the following **tasks**: to substantiate the scientific status of the law-making theory in Russian jurisprudence; to show the philosophical foundations of the law-making theory; to determine the methodological significance of the category “law-making”; to compare the category of “law-making” with such related legal categories as “legal regulation”, “law-formation”, “creation of regulatory acts”, showing the place of law-making in the system of law-formation and performing a critical analysis of the “integral” concept of law-formation; to determine the place of law-making in the legal system of society and its significance for the development of the concept of law-making policy of the Russian Federation in the light of system-activity ideas; to highlight its purpose for legal practice on the basis of the identified characteristics of the structure and functions of law-making as a legal activity.

The scientific elaboration degree of the theme of the research work. Scientific comprehension of the methodological and conceptual aspects of law-making has a long history, but the foundations of the present law-making theory were laid only in the second half of the XX-th century. It was during this period when there were developed the theoretical and methodological foundations of law-making in the

three most important research works on this issue (“The law-making theory. The idea of evolution in law” by G. Sintzheimer, “Law-making theory and legislative technique” A. Nashitz and “The law-making theory” P. Noll). In domestic jurisprudence, the active development of researches in this area began, which in many respects experienced the influence of one of these works (A. Nazitz). It was quite natural, since his work laid the foundations of the Marxist-Leninist comprehension of law-forming factors, the law-making process, and the principles of law-making, legal technology, etc.

There appeared very significant works by B. V. Dreyshev, D. A. Kerimov, D. A. Kovachev, A. V. Mitskevich, A. S. Pigolkin, V. V. Stepanyan, R. O. Khalfina and other authors which established a number of fundamental provisions; revealed the essence of the law-making activity of the socialist state and determined its goals; found out legal nature and tendencies of implementation; defined the structure and stages of the law-making process; highlighted debatable questions on the relationship between law-making and law-making; developed the theoretical foundations of systematization and codification of legislation; showed the importance of the legislative technique to further improve this type of legal activity.

The study of sources (forms of expression) of law (S. L. Zivsa, G. I. Muromtseva, Yu. A. Tikhomirova, A. F. Shebanova), study of legal activities and law-making as one of its types (V. N. Kartashova), study of a legal procedural form, the presence of which was recognized in law-making activity (V. M. Gorsheneva, P. E. Nedbaylo), study of correlation between socialist legal awareness and law-making (E. V. Nazarenko) can be referred to law-making. Young researchers choose both the law-making activity as a whole (Yu. V. Monakhova) and some of its varieties, such as delegated law-making (V. S. Troitsky), as the themes of their dissertations.

Such a direction of research work as the development of the theoretical and methodological foundations of regional legislation starts beat its way through (K. N. Agarkov, A. V. Gaida, A. V. Ermolaeva, S. A. Zhinkin, E. V. Kamenskaya, I. S. Kich, P. M. Kurdyuk, M. F. Malikov, P.M. Podkorytova, S. L. Sergevnin, A. A.

Smirnova, N. S. Sokolova, V. A. Trotskovskaya, I. V. Uporov, V. S. Fraltsev, L. V. Chetverikova, A. G. Shornikov, I. I. Shuvalov and other researchers). Along with an intensive study of all types of sources (forms of expression) of law (N. N. Voplenko, S. A. Drobyshevsky, M. N. Marchenko, D. V. Sas, D. E. Udalov and many other specialists), the systematization and codification of legislation (V.M. Baranov, D.A. Kerimov, I. B. Oreshkina, S.V. Polenina, T.K. Primak and other scientists), as well as questions of law-making from a procedural point of view (V M. Platonov) are also thoroughly studied.

Taking into account the present law-making practice, there have been analyzed the requirements of the legal technology of technology (N. A. Vlasenko, M. L. Davydova, M. V. Zaloilo, T. V. Kashanina, D. A. Kerimov), as well as local problems (O. V Solovyova, S. V. Ukhin) and the by-law (T. E. Kucherova) creation of regulatory acts, the effectiveness of Russian legislation (A. A. Zelepukin) and other problems. Recently, the study of lobbying in law-making has been of great importance (A. L. Kucherov, A. P. Lyubimov, A. V. Malko, N. I. Matuzov and other authors). At the same time, the law-making theory and some of its methodological and conceptual aspects need further reflection, the construction of a certain model, taking into account the accumulated experience and modern law-making activity.

Methodological basis of the research work. In the research work, the author applied general scientific (observation, comparison, analysis, synthesis, system approach, etc.) and special (methods of interpretation of legal norms, formally dogmatic, etc.) methods of cognition. Due to the latest scientific achievements, the author has widely used fundamental works on the philosophy of law, the general theory of state and law, constitutional law related to law-making activity in a certain manner. In particular, the dissertation applied a synergistic paradigm, which has great methodological value and according to which the order degree of social relations is connected with the achievement of an optimal balance between external regulation and self-regulation, with the correct ratio of the random facilitation, necessity and probability in the legal sphere.

The general laws of the open systems' organization, where law-making is represented as an open dynamic system, actively interacting with both the social and natural environment, are recognized as the methodological basis. Using comparison as a general scientific method, law-making is compared with processes that are homogeneous or organically interrelated in their socio-legal nature, namely legal regulation, law formation, creation of regulatory acts, etc.

The theoretical basis of the research work were the scientific paradigms, hypotheses, judgments and conclusions made by well-known Russian experts in the field of fundamental and dogmatic (branch) jurisprudence, philosophy and sociology of law (S. S. Alekseev, A. I. Bryzgalov, N. A. Vlasenko, D. A. Kerimov, I. P. Malinova, G. V. Maltsev, A. V. Mitskevich, L. O. Murashko, A. Nashits, A. S. Pigolkin, S. V. Polenina, A. A. Sokolov, Yu. A. Tikhomirov, T. Ya. Khabrieva), including the theoretical concepts contained in the works of Yu. G. Arzamasov, V. M. Baranov, I. L. Bachilo, D. B. Gorokhov, V. M. Gorshenev, O. Yu. Eremina, I. V. Zhuzhgov, S. V. Lipnya, I. F. Kazmina, V. N. Kartashova, S. A. Komarova, A. P. Mazurenko, A. V. Malko, S. N. Nazarov, Y. E. Nakonechny, E. A. Pevtsov, V. M. Platonov, A. V. Pogodin, N. A. Pridvorov, O. Yu. Rybakov, V. A. Tolstik, V. V. Trofimov, F. N. Fatkullin, A. A. Fedorchenko, I. A. Chechelnitsky, Yu. V. Chufarovsky, B. V. Shagiyev, R. V. Shagieva, I. I. Shuvalov, L. S. Yavich and other authors.

The regulatory basis of the research work was the Constitution of the Russian Federation, the constitutions of the subjects of the Russian Federation, the federal legislation and the legislation of the subjects of the Russian Federation, some acts of judicial authority of Russia.

The empirical basis of the research work was the statistics of the legislative activities of the Federal Assembly of the Russian Federation from 2010 to 2017, the legislative work programs of the State Duma of the Russian Federation and its committees, analytical documents including statistical data on the legislative process, judicial practice of the Constitutional Court of the RF, Supreme Court of the RF and

the European Court of Human Rights, data of sociological surveys, scientific and practical expert recommendations.

The scientific originality of the research work is within the development and substantiation of the author's model, in which the nature, content and social purpose of law-making are revealed in a new way, its place and role in the Russian legal system are described, its scientific comprehension is carried out. Within the framework of this model, there has been formulated the author's approach to such a comprehension of the category “law-making”, in which it reveals its methodological possibilities in the conceptual range formed by the concept “legal regulation”.

Only in this case the category of “law-making” is incorporated in the logical general theoretical apparatus, without violating its harmonious sequence. Thanks to the comparison of the concepts of law-making, legal regulation, law-formation, creation of regulatory acts carried out within its framework, it is possible to reproduce the law-making theory in the current sphere of general theoretical research as that, which contains values and basic ideas and reveals the nature of legal regulation in general. As one of the main directions of the legal system functioning, its substantive-functional basis, law-making integrates all the properties of legal activity, which makes it possible to develop a law-making theory based on these system characteristics.

In this context, law-making acts as an integral set of all formalized and legally significant actions of subjects authorized by state authority to make a legal decision on establishing (or authorizing), changing or canceling generally binding rules of conduct for participants of public relations within the sphere of legal regulation, so significant in the legal system functioning. Being in the current research area of the legal system, law-making, regarded as a legal activity, personifies a specific way of theoretical reflection of modern legal reality.

The main provisions for the defense:

1. Contrary to the critical approach to the idea of identifying separate (private or special) theories as the parts of legal science, the paper has concluded that there are

no scientifically sound obstacles to justify the law-making theory as a scientific phenomenon which is relatively independent, but methodologically dependent on the general theory of the state and the rights; and the current state of the phenomenon becomes the object of a general theoretical study in the conducted study, and the discovered laws cover only a specific area of law-making. Being an integral part of the fundamental general theory of state and law and interacting with its other elements (the theory of legal norms, the theory of legal relations, the theory of legal liability, etc.), the law-making theory is presented as a system of objectively true knowledge in the form of concepts, categories, principles and principles relating law-making, which is rather consistently (without logical contradictions) and reliably reflects the objective laws applicable in this area.

2. It has been substantiated that within the framework of the law-making theory, research work (as is customary in jurisprudence) is carried out at three levels: philosophy, sociology, and law dogmas. At the first level, law-making should be considered as an integral part of the social organism, included in the natural process of global development and at the same time as an object for special study. At the second level, law-making is analyzed as a concrete historical and constantly developing social process, determined by the corresponding historical type of society. Only at the third level the law-making can be studied from the point of view of the specific features of a given society, its historical development stage, and present realities. Such an approach allows discovering those conceptual principles which the modern law-making theory is based on.

3. Based on a comparison of existing philosophical and methodological law-making guidelines, it’s reasonable to choose a synergistic paradigm as an acceptable conceptual principle of the law-making theory, according to which the order degree of social relations is associated with the achievement of an optimal balance of external regulation and self-regulation, with the correct correlation of the chance, necessity and probability in the legal sphere. It has been substantiated that nowadays it is necessary to take into account dynamically developing realities of practice as the

legal rationalism, which served for a long time the methodological basis for scientific understanding of law-making, when law was explained from the law itself, and legal regulation was derived from the needs of the legal system itself, has been replaced.

4. It has been established that if the category “law-making” is located in the conceptual series formed by the category “legal regulation”, it can be included in the logical general theoretical structure, without violating its harmonious sequence, and it reveals the basic principles on which the modern law-making theory can be built. On this basis, it has been identified that law-making is organically “incorporated” in modern legal regulation, acting as a targeted enforcement social process on the law making as one of the necessary elements of social practice. It is carried out both as an initiative on creation of regulatory acts of the participants in social communication (the common-legal way), and consciously and systematically (the state-law-making way). This is the next conceptual beginning of the law-making theory, which is found at the level of social practice.

5. One of the most important methodological principles (and this should be taken into account by the law-making subject) is that law-making is necessary as an external regulator when the internal potential of the self-regulating system is exhausted or it is insufficient for stabilization and order. In this regard, the systematic approach acquires new importance; based on it we can conclude that legal regulation is an open mobile, integral and unified system, interacting with the natural and social environment. Thus, the laws referred to law-making practice give way to the laws of the organization of open systems of social practice.

6. It has been substantiated that one of the credible postulates for the law-making theory in sociology of law is the consideration of law-making as the last stage of law-formation, during which legal ideas about the necessity to regulate certain spheres of public life are transformed into official legal documents supported by the state. There has been methodologically and conceptually verified the idea that these documents embody not only the general rules of behavior, but also the individually-

defined norms (the so-called situational law) necessary for regulation in a complex social situation.

7. It has been identified that the most fruitful conceptual approach is the theoretical understanding of law-making as a social-legal activity, that is, carried out in a strict procedural-legal framework, taking into account the social conditions of the type of state management of the society, consisting of theoretical (intellectual) and practical (volitional) operations.

8. The certainty in jurisprudence regarding the content of the procedural form as an organic holistic entity formed by procedural proceedings, procedural stages and procedural regimes allows the author to distinguish 1) practical-applied, 2) ordinary, 3) extraordinary and 4) special constitutional law-making in the legislative process. The first is related to the activities of the Constitutional Court of the Russian Federation. The second can occur if the amendments to Ch. 3–8 of the Constitution of the Russian Federation are introduced. The third concerns the revision of Ch. 1, 2, 9 of the Constitution of the Russian Federation. The fourth refers to the introduction of the amendments in Part 1 of Art. 65 of the Constitution of the Russian Federation in case a new subject of the Federation is included/formed in the Russian Federation, as well as in case of changes in the constitutional and legal status of the subject of the Federation. If the name of a subject of the Russian Federation is changed, there is a simplified procedure, namely a special constitutional law-making process.

Theoretical and practical significance of the research work. The theoretical significance of the problems revealed in the study is in the obtained scientifically verified conclusions that develop the conceptual principles of the law-making theory.

The practical significance of the study is that, in the course of its conduct there have been identified the important methodological and conceptual aspects of the law-making theory, which are applicable in the educational process of law high schools. In addition, the conclusions are useful for the further scientific research in the field of law-making.

But the main thing is that the theoretical provisions of the research work are in great demand in the law-making activities of various government bodies. In

particular, the paper presents the author's concept project of law-making policy in the Russian Federation (see Appendix).

Approbation of the results of the research work. The dissertation was discussed and recommended for the defense by the department “Theory of Law and Natural Resources Law” of the Law Institute of the Russian University of Transport (MIIT).

The author of the dissertation completed an annual scientific internship at the “Institute of State and Law of the Russian Academy of Sciences” in the Theory of law and the state (specialty 12.00.01).

The main provisions of the research work are presented in scientific publications with a total volume of more than 14 p.sp. Most of the theoretical conclusions were reported at the annual scientific-practical conferences of the Law Institute of the Russian University of Transport (MIIT): The Interuniversity Scientific-Practical Conference “The Constitution of the Russian Federation: the problems of formation of law state” (the report “Law-making as a type of creation of regulatory acts and the final stage of the formation of legal norms”); The Interuniversity Scientific-Practical Conference “Problems of Modern Civil Law” (the report “The place and role of law-making in the legal system of the society”); The Scientific-Practical Conference “Problems of convergence of public and private law norms in the sphere of regulation of legal relations in transport” (the report “Law-making as the final stage of the formation of legal norms - law formation”).

The results of the research work were also presented at the methodological seminar of the department “Theory of Law and Natural Resources Law”. The provisions and conclusions of the research work have been applied by the author when giving lectures, conducting practical classes in the disciplines of “Law study”, “Constitutional law”, “Constitutional law and administrative law”. The materials of the dissertation, its theoretical principles are introduced into the educational process of the Law Institute of the Russian University of Transport (MIIT) and are recommended for use in teaching fundamental legal disciplines in the Russian

Academy of advocacy and notaries, which has been confirmed by the acts of implementation.

The structure of the research work. The work consists of an introduction, three chapters, including nine paragraphs, conclusion, bibliography and appendix.

MAIN CONTENT OF THE DISSERTATION

The introduction substantiates the relevance of the research work, defines the object and subject, purpose and tasks of the work, discloses the scientific elaboration degree of the theme, scientific originality, theoretical and practical significance of the work, describes the methodological, theoretical, normative and empirical basis of the research, formulates the main points that the author puts on protection, as well as information about the approbation and structure of the study.

The first chapter "Methodological problems of the law-making theory" consists of three sections.

In the first paragraph "Science status of the law-making theory in modern jurisprudence", there is carried out a detailed analysis of the ideas in law science about the theory of law-making and its place in the system of legal knowledge as a current direction of modern research. The author of the work substantiates the fruitfulness of the idea to form special theories of separate legal objects (theories of legal norms, theories of legal relations, the theory of law realization, etc.) as a natural process of accumulating and deepening knowledge about these separate objects, although related to the general object of legal science, namely the state and law, but worthy of a separate scientific comprehension. And if the obtained knowledge reaches the required theoretical level, then the increase in theoretical knowledge is obvious. Accordingly, the research work postulates the existence of a relatively independent scientific phenomenon in legal science, namely the law-making theory, and its current state becomes the object of general theoretical study as a system of objectively true knowledge of law-making, which most fully and consistently reflects the objective laws in this area in the form of concepts and categories, principles and definitions.

In the second paragraph, "The philosophy of law-making as the logical and methodological basis of the law-making theory", contrary to the opinion established in legal science, that the law-making theory originated and actively developed in the twentieth century, and since the 1970s its main problems were posed and examined in

a certain way, the author believes that in the pre-perestroika period it was not possible to create an integral philosophical and legal concept of law-making. The paper describes in detail the scientific papers that have appeared only in the last decades and really laid the philosophical beginnings of the law-making theory. The author shows that only a holistic theory of regulatory processes in nature and society can act as a necessary methodological prerequisite for the law-making theory. According to the academician G.V. Maltsev, the classical and synergistic paradigms will converge, taking their place in the new single picture of the world, the author substantiates the idea that it is the synergetic paradigm that is able to act as the proper methodological basis of the law-making theory in modern conditions.

In the third paragraph “Place of the category “law-making” in modern jurisprudence,” law-making is considered as one of the most complicated categories of the theory and philosophy of law. It is to her that some researchers attribute the promising methodological future as the only category that has the “creative” component necessary to overcome the crisis of theoretical sense of justice in legal science in the XXI-st century in the holistic integrative jurisprudence which explains the whole mechanism of law existence. Based on the carried out research, the author shows that without defining a proper conceptual series, this category will not be able to perform this methodological function. Moreover, the category under consideration as it is proposed by one of the supporters of this idea (A. I. Bryzgalov) does not so much integrate all other legal categories, but makes them redundant, since they become only fragments of a “broad”, multidimensional process of “creation of law”. Summing up the determination of the methodological status of the category “law-making”, the author of the research work states that only being located in the conceptual series formed by the category “legal regulation”, the chosen category is incorporated into the logical general theoretical apparatus, without violating its harmonious sequence. It is no accident that, in connection with the study of the philosophical principles of the theory of legal regulation, it was possible to discover those initial principles on which the modern law-making theory can be built.

The second chapter “Modern theoretical comprehension of law-making” contains three sections.

The first paragraph “Legal regulation and law-making” establishes an objectively necessary, natural relationship between legal regulation and law-making as interdependent social and legal processes that have a common component of organization and order, which explains why their concepts are often used in jurisprudence as synonymous or even identical. The high coincidence degree of these two processes is connected with the fact that in the course of legal regulation, the managerial impact is achieved by establishing new or confirming the existing scales of behavior, elevating them to a universal rank, their official publication and entry into force. All these actions to develop legal behavior models can form law-making, during which the main means of legal regulation, law, is created (both its content, i.e. the rule of law and its external form of expression, i.e. the text of a regulatory legal act). There is a coincidence of the final strategic objectives of the two interrelated socio-legal processes, namely law-making and the normative legal regulation of social relations. However, the process of law-making activity is directly aimed to develop the legal norms required to achieve the common final goal of law-making and legal regulation, e.g. maintaining peace and order in the orderly spheres of public life. If law-making is viewed in connection with the process of legal regulation, then in this case its role as an adopting process of a law or other official act of law-making is especially valuable. Law-making itself is a prerequisite for the law influence on public life and results in the official publication of the law text establishing the developed rules of law, which completes the law-making process. Accordingly, the author states that to obtain the final result of legal regulation (and law-making), namely to achieve orderliness of mediated relations, on the contrary, this is the initial moment: it is necessary the law entrance into force, the perception of its requirements by the relevant subject, and the committing of necessary actions which are sometimes possible only after individual under regulatory regulation. Further, the study has

determined the socio-historical limits of the correlation of legal regulation and law-making, taking into account that their coincidence is found only at a certain historical stage in the development of a state-organized society. Their interrelation becomes inevitable when the state realizes the expediency to create or authorize legal norms and the necessity to enforce their enforcement to order public life. Up to this moment, the usual legal method of legal regulation prevailed over the state law-making method. Initially, the standards, created by society in the form of customs throughout historical development formed the basis of the sociocultural system, formed in the new conditions for the state formation, but in modern conditions positive law and the state-legal way of their creation prevail. The process of legal ordering of public life proceeds not only through self-organization, but also with the help of management by the ruling social structures. In the initial stages of the human society existence, self-government principles and the usual legal method of legal regulation prevailed. But in modern society, the legal regulation of social relations is inevitably associated with a more civilized way of it, namely law-making as the targeted process of creation of legal norms by authorized state entities as special regulators officially used as objects in various legal sources of law (legislative acts, judicial precedents, regulatory treaties, treaties of normative content, etc.). As a result, law-making being an integral part of the mechanism of legal regulation, organically participates in the implementation of the power-regulatory impact on modern public life as a specially and consciously carried out activity on the construction of legal norms. If in the self-organization processes of early class society law-making proceeded spontaneously, now it is being implemented purposefully and according to the plan made by specialized law-making bodies, being a worthy substitute for the usual legal method of legal regulation that has lost its predominance in this area.

In the second paragraph “Law Formation and Law-Making” there has been analyzed the prevailing theory in the law-making theory that law-making is the final stage of the law formation, but there is no complete identity between them.

It should be noted that the initial moment of law formation is associated with the reflection of pressing problems of public life in the minds of representatives of civil society, which can only be resolved by legal means, e.g. through the official establishment of clear rules of conduct, the compliance with which is enforced by the state. In view of this, the origins of legal formation originate in the real life of the society itself and in the social need to order it precisely through legal influence. The reflection of these needs and their universal nature in the public consciousness, the emergence of a psychological attitude to regulate the problematic sphere of public life, the achievement of a public compromise in the collision of wills of various social forces, etc. are important components of law formation for society and the state, including law-making. However, this understanding of the law-making essence is further clarified by the author. Firstly, if we take into account the diversity of external forms of official expression of the rules of behavior created in the course of law-making, we must talk not only about building “into law”, into a regulatory legal act, but about any variant of official objectification of legal norms. Secondly, it is necessary to talk about the construction of the state will in the “law”. Indeed, the participants of law formation and even law-making in a legal state are not only state bodies and their officials. The law formation depends on the wills of various participants of this process, law-making itself is aimed to reveal the coordinated will of all social groups and elevate it to a universal rank. The social process of law formation in a broad context, is the interaction of many causes and conditions of diverse social nature which objectively and subjectively emerge in public and state life and influence the law emergence, which is currently associated with the goal-oriented activities of competent law-making bodies on the formalization of legal norms in one way or another. The third paragraph “Creation of regulatory acts and law-making” is devoted to the comparison of these concepts. The research work shows that creation of regulatory acts is the process of creating and consolidating social and legal foundations of regulation, rules of behavior in society and the state. Some of these rules are approved or sanctioned by state legislative acts, others are

recognized as not officially fixed, but effective standards that have an important place in domestic public life. Law-making is a type of process on creating social norms to order social relations associated with the formalization and elevation of such rules of conduct that are recognized as correct and fair by the society and the state and thereby become legally protected form of freedom. This allows exploring law-making in a wider social context. Contrary to the prevailing ideas about the identity of creation of regulatory acts and law-making, the author of the dissertation has concluded that law-making is a broader concept that includes not only state law-making activity, but also the process of the formation of all social norms in society. Various corporations, public associations, political parties, and religious organizations are involved in this process. In turn, law-making as a form of creation of regulatory acts is the final stage in the formation of legal norms, i.e. law formation, during which legal plans to order social relations are embodied in modern legal reality in the form of regulatory legal documents adopted by the state. Although the term “creation of regulatory acts” has a certain scientific significance, according to the author of the dissertation, the term “law-making” is still more in demand in jurisprudence as more accurate and heuristically more reliable. If we start from the literal meaning of the word “creation of regulatory acts”, then we should talk only about the creation of social norms, including legal ones. But as for the process of creating law as a holistic phenomenon, i.e. “law-making”, it is hardly accurate. In the course of law-making, not only the content of the law (rules of conduct), or its internal form (the legal norm with such structural elements as hypothesis, disposition and sanction), or external forms of expression (laws, judicial precedents, agreements, normative content, etc.), but also a completely single socio-legal phenomenon ‘law’ should be created (changed or updated).

The third chapter “Law-making in the legal system of Russian society: theoretical foundations and practice of improvement” includes three sections. In this chapter, law-making is studied from the standpoint of legal systematics.

The first paragraph “The place and role of law-making in the legal system of society” revealed that, on the one hand, law-making activity is not a direct element of the legal system, and therefore it was not detected in the conceptual series of the category “legal system”. On the other hand, the legal system functioning is ensured by specially created legal means, in the aggregate of which law-making activity is inevitably included, and also not directly, but through ensuring legal regulation. By its social and legal nature, law-making is a classic type of legal activity and has all the common characteristics. As one of the main directions of legal system functioning and its substantial functional basis, law-making integrates all the properties of legal activity, which allows conceptually building a law-making theory based on its system characteristics.

In the second paragraph “Law-making as a legal activity: concept, structure and functions” this activity is described as one consisting of all formalized and legally significant actions endowed with state-empowering entities to make a legal decision on establishing (or authorizing), changing or canceling generally-binding samples of the participants’ behavior entering into the sphere of legal regulation of social relations necessary for normal functioning of law system. Being in the actual field of scientific research of the legal system of society, considered as legal activity, law-making is a special way of scientific comprehension of legal reality. Being a legal activity, law-making is a rather complex material and procedural form, which also has an ambivalent legal nature: the substantive content, the main purpose of which is to take decisions on the establishment, change or abolition of legal norms by the competent authority and which belongs to the essential side of the legal regulation mechanism, and a procedural form, which serves only as a means of implementing its substantive content. The dual law-making nature is largely dependent on the fact that it, like any legal activity, is a creative, intellectual, theoretical, unthinkable activity without a special kind of knowledge. If it had not been for a procedural legal form, there would have been no way to determine the course of thought of the legislator, to understand which cognizant social laws were the basis for the adopted legislative

decision, how legal regulation means was chosen, and it would make it difficult to implement the decision in future. As a rule, the specified procedure is included in the concept of law-making. The dissertation shows that, by its nature, law-making activity is a form of state governance carried out in a strict procedural legal framework, consisting in theoretical (intellectual) and practical (volitional) efforts of the legislator on the basis of known objective laws and coordinating the interests of various levels of society, which are compulsory or recognized as such the rules of conduct established in society for legalization of significant public relations to achieve the most effective positive social results. The duality of the law-making nature gives an opportunity, in turn, to consider it as a highly organized and dynamic subsystem that has a certain level of organization of its components. Therefore, it has a complex structure and, as a rule, a developed procedural form, which is inherent in any kind of legal activity. In particular, the achieved certainty regarding the content of procedural form as an organically holistic entity formed by procedural proceedings, procedural stages and procedural regimes, which has been supported in law literature for more than a quarter of a century, is a proof of the conceptual nature of this legal structure.

In the third paragraph “Theory of law-making and improvement of law-making policy” the study of methodological and theoretical aspects of the law-making theory allowed the author to form a conceptual view of the modern development of Russian legislation and, accordingly, to offer his draft of the Concept of law-making policy in the Russian Federation. The point is to give our legislation a systemic look, and to give the very concept of law-making policy a more prognostic focus, when it acts as a guide for building legislation on a solid foundation. At the same time, it is necessary to focus on the organic combination of law-making and legal practice itself, i.e. on law enforcement with its inherent features in the mechanism of legal regulation. Accordingly, it is necessary to substantiate such a construction of the legislation system, when the basis includes doctrinal-conceptual acts (of the same level), organic laws are imposed on it (with subsequent adoption of codified laws) based on the

division criterion by subject and method of legal regulation of sectoral legislation. Finally, it is possible to recognize the tendency to expand the principles, institutions and norms of domestic and international legislation, taking into account national interests and, consequently, the use of comparative legal methods for analyzing legislation. These and other legislative proposals formulated in this paper allow us to draw conclusions about the maturing of a new stage in the development of Russian legislation, its substantial modernization, which is not only limited to the private novels introduced in the sectoral legislation, but, on the contrary, directs domestic law to systemic conceptual changes.

In the conclusion the author summarizes the research work results and presents the main findings.

The main provisions and conclusions of the research work are reflected in the following scientific publications of the author:

Articles published in the leading peer-reviewed scientific journals and publications listed in the List of the HAC of the Ministry of Education and Science of Russia

1. Matveeva M.A. Vneseniye popravok v Konstitutsiyu Rossiyskoy Federatsii: obshcheteoreticheskiye problemy mnogoobraziya konstitutsionno-zakonotvorcheskikh proizvodstv [Amendments to the Constitution of the Russian Federation: general theoretical problems of the diversity of constitutional law-making industries]/ M. A. Matveeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2013. — № 4 (31). — S. 79-81. (0.2 p.l.)
2. Matveeva M.A. Teoriya pravotvorchestva v otechestvennoy yurisprudentsii [The law-making theory in Russian jurisprudence]/ M. A. Matveeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2014. — № 1 (32). — S. 37-41. (0.3 p.l.)
3. Matveeva M.A. Monitoring pravotvorchestva: problema teoreticheskogo obosnovaniya [Law-making monitoring: the problem of theoretical justification]/ M. A. Matveeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2014. — № 2 (33). — S. 44-47. (0.25 p. l.)
4. Matveeva M.A. Normotvorchestvo i pravotvorchestvo: teoreticheskiye problemy sootnosheniya ponyatiy [Creation of regulatory acts and law-making: theoretical problems of the relation of concepts]/ M. A. Matveeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2014. — № 3 (34). — S. 42-47. (0.4 p. l.)
5. Matveeva M.A., Shagiyeva R.V. Retsenziya na monografiyu N. A. Pridvorova, V. V. Trofimova «Pravoobrazovaniye i pravoobrazuyushchiye faktory v prave» [Review of the monograph by N. A. Pridvorova, V. V. Trofimova “Law Formation and Law-Forming Factors in Law”]/ M. A. Matveeva, R. V. Shagiyeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2014. — № 3 (34). — S. 139-141. (0.2 p. l.) (v soavtorstve).

6. Matveeva M.A., Shagiyeva R.V. Pravovoye regulirovaniye i pravotvorchestvo v pravovoy sisteme obshchestva: teoretiko-metodologicheskiye osnovy sootnosheniya [Legal regulation and law-making in the legal system of society: theoretical and methodological foundations of correlation]/ M. A. Matveeva, R. V. Shagiyeva // Gos-vo i pravo. — 2014. — № 12. — S. 5-13. (0.6 p. l.) (v soavtorstve).
7. Matveeva M.A. Teoreticheskiye i metodologicheskiye problemy yuridicheskoy protsessual'noy formy pravotvorchestva [Theoretical and methodological problems of the legal procedural form of law-making]/ M. A. Matveeva // Pravo i gosudarstvo: teoriya i praktika. — 2015. — № 3 (123). — S. 30-34. (0.3 p. l.)
8. Matveeva M.A. Pravotvorchestvo kak yuridicheskaya deyatel'nost': problemy teoreticheskogo osmysleniya [Law-making as a legal activity: problems of theoretical comprehension] / M. A. Matveeva // Trudy Instituta gosudarstva i prava Rossiyskoy akademii nauk. — 2016. — № 5 (57). — S. 191-201. (0.7 p. l.)
9. Matveeva M.A. Kontseptsiya pravotvorcheskoy politiki: problemy teoreticheskogo obosnovaniya [The concept of law-making policy: problems of theoretical justification] / M. A. Matveeva // Obrazovaniye i pravo. — 2017. — № 3. — S. 24-32. (0.5 p. l.)
10. Matveeva M.A. K voprosu o kontseptual'no-metodologicheskikh osnovakh teorii pravotvorchestva [To the question of the conceptual and methodological foundations of the law-making theory]/ M. A. Matveeva // Uchenyye trudy Rossiyskoy akademii advokatury i notariata. — 2017. — № 4 (47). — S. 134-137. (0.25 p.l.)

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conceptual aspects]: monografiya / M. A. Matveeva. — M.: RUSAYN, 2017. — 144s. (9 p. l.)

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15. Matveeva M.A. Filosofiya pravotvorchestva (stanovleniye i razvitiye v Rossii) [Philosophy of law-making (formation and development in Russia)]/ M. A. Matveeva // Pravovoy status molodezhi Podmoskov'ya: prava, obyazannosti, otvetstvennost': sb. nauch. st. po materialam mezhvuz. nauch.-prakt. konf. «Rol' i mesto molodezhi v sotsial'no-ekonomicheskom i dukhovno-kul'turnom razvitii rossiyskogo obshchestva» (24 aprelya 2014 g.) / red.-sost. K. V. Agamirov, M. A. Gorbunov. — M.: Izd-vo RGSU, 2014. — S. 358-363. (0.4 p. l.)
16. Matveeva M.A. Mesto i rol' pravotvorchestva v pravovoy sisteme obshchestva [The place and role of law-making in the legal system of society]/ M. A. Matveeva // Problemy sovremennogo grazhdanskogo prava: 20 let so dnya prinyatiya chasti pervoy Grazhdanskogo kodeksa Rossiyskoy Federatsii: sb. nauch. st. po itogam provedeniya mezhvuz. nauch.-prakt. konf. / pod. red. N.

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