



Институт законодательства и сравнительного правоведения
при Правительстве Российской Федерации

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**Тематический
комментарий
к Закону Российской Федерации**

**О ПОПРАВКЕ К КОНСТИТУЦИИ
РОССИЙСКОЙ ФЕДЕРАЦИИ**

от 14 марта 2020 г. № 1-ФКЗ

**«О СОВЕРШЕНСТВОВАНИИ
РЕГУЛИРОВАНИЯ ОТДЕЛЬНЫХ ВОПРОСОВ
ОРГАНИЗАЦИИ И ФУНКЦИОНИРОВАНИЯ
ПУБЛИЧНОЙ ВЛАСТИ»**

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Москва
НОРМА
2021

The Institute of Legislation and Comparative Law
under the Government of the Russian Federation

T.Y. Khabrieva, A.A. Klishas

**Thematic
commentary
to the Law of the Russian Federation**

**AMENDING
THE CONSTITUTION
OF THE RUSSIAN FEDERATION**

of March 14, 2020 No. 1-FKZ

**«ON IMPROVING THE REGULATION
OF CERTAIN ASPECTS OF THE ORGANIZATION
AND FUNCTIONING
OF PUBLIC AUTHORITIES»**

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Thematic commentary to the Law of the Russian Federation Amending the Constitution of the Russian Federation of March 14, 2020 No. 1-FKZ «On improving the regulation of certain aspects of the organization and functioning of public authority» / T.Y. Khabrieva, A.A. Klishas. — Moscow : Norma : INFRA-M, 2021. — 216 p.

ISBN 978-5-00156-167-5 (Norma, print)

ISBN 978-5-16-109454-9 (INFRA-M, online)

The Law of the Russian Federation Amending the Constitution of the Russian Federation of March 14, 2020 No. 1-FKZ «On improving the regulation of certain aspects of the organization and functioning of public authority» has a special status in the legislative system. This Law serves as a form that fixes amendments to the Russian Constitution, as a basis for making changes to it, and as a legal confirmation that the text of basic law is legitimate. Unlike other similar laws of 2008 and 2014, it reflects the most extensive constitutional changes in Russia since the adoption of the Constitution of the Russian Federation on December 12, 1993. It contains not only constitutional novelties, but also establishes previously unknown in Russian constitutional practice institutions and procedures that ensure that the new constitutional norms enters into force. Its provisions are a guideline for further updating Russian legislation and the legal system as a whole.

The commentary aims to make the goals and content of constitutional modernization, the specific historical meaning of amendments to the Russian Constitution, their conditionality to national interests and trends in global constitutional development as accessible and understandable as possible for the widest audience.

The commentary to the Law of the Russian Federation Amending the Constitution of the Russian Federation is thematic; it is constructed in accordance with the main target units of its norms. This structure, according to the authors, makes it possible to reveal the will of the constitutional legislator in a more convenient format for the reader, as well as the provisions of the Law of the Russian Federation Amending the Constitution of the Russian Federation that are not subject to inclusion in the text of the Constitution and have direct effect.

The publication is prepared by the co-chairs of the Working Group on the preparation of proposals for amendments to the Constitution of the Russian Federation, who are directly involved in the design of this Law and its discussions with the scientific community, representatives of civil society institutions, foreign experts and the Chambers of the Russian Parliament and legislative (representative) bodies of the constituent entities.

The audience is a wide range of readers – representatives of state and local authorities, legal scholars and practitioners, as well as anyone interested in issues of constitutional building in Russia and abroad.

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LIST OF ABBREVIATIONS

The Law on the Amendment — the Law of the Russian Federation Amending the Constitution of the Russian Federation of March 14, 2020 No. 1-FKZ “On Improving the Regulation of Certain Aspects of the Organization and Functioning of Public Authority” (Legislation Bulletin of the Russian Federation. 2020. No. 11. Art. 1416);

The Decision of the Constitutional Court of the Russian Federation of March 16, 2020. — The Decision of the Constitutional Court of the Russian Federation of March 16, 2020 No. 1-Z “On the compliance of the provisions of the Law of the Russian Federation Amending the Constitution of the Russian Federation “On Improving the Regulation of Certain Aspects of the Organization and Functioning of Public Authority” that have not come into force with the provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation, as well as on the compliance of the procedure for entry into force of Article 1 of that Law due to the request of the President of the Russian Federation” (Legislation Bulletin of the Russian Federation. 2020. No. 12. Art. 1855);

Judgment of the Constitutional Court of the Russian Federation of July 14, 2015 No. 21-P — Judgment of the Constitutional Court of the Russian Federation of July 14, 2015. No. 21-P “In the case of verification of constitutionality of provisions of Article 1 of the Federal Law “On Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto”, points 1 and 2 of Article 32 of the Federal Law “On International Treaties of the Russian Federation”, paragraphs 1 and 4 of Article 11, point 4 of paragraph 4 of Article 392 of the Civil Procedure Code of the Russian Federation, paragraphs 1 and 4 of Article 13, point 4 of paragraph 3 of Article 311 of the Arbitration Procedure Code of the Russian Federation, paragraphs 1 and 4 of Article 15, point 4 of paragraph 1 of Article 350 of the Code of Administrative Judicial Procedure of the Russian Federation and point 2 of paragraph 4 of Article 413 of the Criminal Procedure Code of the Russian Federation due to a request from a group of members of the State Duma” (Legislation Bulletin of the Russian Federation. 2015. No. 30. Art. 4658);

The Venice Commission of the Council of Europe — European Commission for Democracy through Law;

ECHR — European Court of Human Rights.

INTRODUCTION

On January 15, 2020 the President of Russia in his Annual Address to the Federal Assembly¹ initiated amendments to the Constitution of the Russian Federation. On the same day a working group on drafting proposals for amendments to the Constitution was formed². The working group (75 people) comprised representatives from a wide range of social and professional groups: doctors, teachers, athletes, scientific, cultural and art workers, businessmen, heads of trade unions and other public organisations, members of the State Duma, politicians and, of course, legal experts.

On January 20, the President submitted to the State Duma a draft Law Amending the Constitution of the Russian Federation “On improving the regulation of certain aspects of the organization and functioning of public authority”. The process of constitutional modernisation was initiated by the head of state, but almost immediately the preparation of the amendments to the Constitution turned into a collective constitutional effort by the citizens. The working group became one of the main expression channels for the people's constitutional (law-making) initiative.

The constitutional amendments were drafted with the broadest and most direct participation of the population (a working group compiled more than 1,000 proposals), and ultimately their fate was decided by the citizens in the nationwide vote. It was preceded by the approval of the Law on the Amendment by the State Duma³ and the Federation Council of the Federal Assembly⁴ of the Russian

¹ Presidential Address to the Federal Assembly of the Russian Federation of January 15, 2020// Rossiyskaya Gazeta. 2020. No. 7.

² An order of the President of the Russian Federation No. 5-rp “On the Working Group to Draft Proposals for Amendments to the Constitution of the Russian Federation” of January 15, 2020. URL: <http://www.pravo.gov.ru>

³ A resolution No. 7867-7 GD of the State Duma of March 11, 2020 // URL: https://sozd.duma.gov.ru/bill/885214-7#bh_histras

⁴ A resolution No. 75-SF of the Federation Council of March 11, 2020 //URL: https://sozd.duma.gov.ru/bill/885214-7#bh_histras

Federation (March 11, 2020) as well as by the legislative bodies of the constituent entities of the Russian Federation (March 12, 13, 2020). The Constitutional Court of the Russian Federation in its Decision of March 16, 2020 confirmed the compliance of the Law on the Amendment with the provisions of Chapters 1, 2 and 9 of the Constitution of the Russian Federation.

The nationwide vote on the approval of the constitutional amendments, which under the Law became a compulsory condition for the entry into force of the amendments, was originally scheduled for 22 April 2020. But due to the difficult epidemiological situation caused by the coronavirus pandemic, it was postponed and held on the 1st of July this year.

The voter turnout was 67.97%. The amendments were supported by 77.92% of Russian who took part in the nationwide vote¹. On July 3, 2020 the President of Russia signed the Decree No. 445 “On the Official Publication of the Constitution of the Russian Federation, as Amended”, according to which the amendments to the Constitution of the Russian Federation, under Article 1 of the Law on the Amendment, came into effect on July 4, 2020.

The law being commented on was not exactly the ordinary law. It had a special role and place in the legislative system along with the other few laws on amendments to the Constitution of the Russian Federation². The Constitutional Court of the Russian Federation

¹ The high level of approval of the amendments by Russian citizens was recorded by the results of sociological surveys throughout the preparations for the nationwide vote and was confirmed by its results. This indicates a high degree of social solidarity among Russian citizens and the presence of a sustainable public demand for the realisation of a comprehensive social policy of the state (for more on the importance of social policy and the agenda in the state building, refer to: Klishas A.A. Together We Will Win // Rossiyskaya Gazeta. 2020 No. 8141; Ibid. Legal code of the state: theoretical and practical issues. M., 2019).

² See: The Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation No. 6-FKZ of December 30, 2008 “On the change in the term of office of the President of the Russian Federation and the State Duma”; the Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation No. 7-FKZ of December 30, 2008 “On the control powers of the State Duma in respect of the Government of the

identified this particularity in the process of interpreting the Constitution of Russia¹. The Court pointed out that the provisions of Article 136 of the Constitution of the Russian Federation regulating the adoption and entry into force of amendments to chapters (from 3 to 8) could only be implemented in the form of a special legal act on a constitutional amendment. This act differed from both federal law and federal constitutional law. The legislator followed this legal position of the Constitutional Court while adopting Federal Law of March 4, 1998 No. 33-FZ “On the Procedure for Adoption and Entry into Force of Amendments to the Constitution of the Russian Federation”.

This kind of laws served as an instrument of special regulation under Chapter 9 of the Constitution of the Russian Federation². The Law being commented on was adopted not to ensure the implementation of constitutional norms, but to modify them to the extent permitted by the Constitution. The Law legally established amendments to the Constitution and, therefore, performed a special role in Russia’s legal system.

Unlike other similar laws the Law on the Amendment 2020 is unique as, it:

- contains not one but many amendments to the Constitution, despite the title of the Law³;
- consolidates the amendments and the provisions that ensure their entry into force;

Russian Federation”; The Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation of February 5, 2014 No. 2-FKZ “On the Supreme Court of the Russian Federation and the Prosecutor’s Office of the Russian Federation”; The Law of the Russian Federation on the Amendment to the Constitution of the Russian Federation of July 21, 2014 No. 11-FKZ “On the Federation Council of the Federal Assembly of the Russian Federation”.

¹ Judgment of the Constitutional Court of the Russian Federation of October 31, 1995 No. 12-P “On the case of the interpretation of Article 136 of the Constitution of the Russian Federation”.

² Ibid.

³ Federal Law No. 33-FZ of March 4, 1998 “On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation”.

– establishes a more complicated procedure for entry into force of its provisions compared to the one established in Article 136 of the Constitution, previously unknown in Russian constitutional practice.

The Law on the Amendment sets forth the most extensive constitutional reform in Russia since the adoption of the Constitution of the Russian Federation on December 12, 1993, namely:

– expands the list of constitutional values and ensures greater reflection of the historical origins, spiritual traditions and its own ideals of the Russian society;

– specifies the dimension of the social state;

– fixes the modern outlines of the form of the Russian state;

– reflects the improvement of the state mechanism and the exercise of public authority;

– it changes the correlation between the priorities of openness of the Russian legal system and its protection from external interference, introduces into the Constitution and constitutional legislation a new (but time-tested by the Constitutional Court of the Russian Federation) formula of proportionality between universal and national legal values, principles and standards.

The amendments did not affect the content of Chapters 1, 2 and 9 of the Constitution: the foundations of the constitutional system, human and civil rights and freedoms, and the procedure for amending the Constitution.

It is necessary to interpret the amendments to the Constitution of the Russian Federation in the context of global constitutional development and its trends, to explain the specific historical meaning of the amendments to the Constitution of Russia. This is important for a correct understanding of the essence, objectives and specifics of the constitutional modernisation carried out with the adoption of this Law and, consequently, for the clarification of its content.

At the beginning of the third millennium, many countries around the world have undergone major constitutional reforms, which purpose and dynamics substantially differ from similar developments in the past. Most modern constitutions have undergone a revision. This has affected both the “old” (Great Britain, France) and relatively “young” constitutions. A considerable number of

constitutional reforms have taken place in the former Soviet Union countries in the last decade. Constitutional amendments have been implemented in Armenia, Azerbaijan, Kazakhstan, Kyrgyzstan, Tajikistan, Turkmenistan, Uzbekistan, Georgia and Ukraine. Similar processes are observed in most countries of the Eurasian legal group, including Turkey. These states are still searching for appropriate forms of government and state structure to meet their internal political, social, economic and other processes. The majority of constitutional changes are connected with partial intra-institutional semantic revision of their texts that does not affect the nature of constitutional legal institutions.

The main amendments to the constitutions adopted in the 1990s in the former Soviet republics, generally concern four groups of provisions: the relationship between the legislative and executive powers (in respect of the priorities of the head of state); human and civil rights and freedoms; judicial power (often this includes regulation of the constitutional control body); prosecution system. The most common constitutional change of the last decade has become the redistribution of powers and competences of the highest state authorities, which resulted in a number of significant modifications of the form (system) of organisation of state power. In general, the constitutional changes in these countries vary in depth and scope — from a narrowly focused modernisation, partial reform to a complete revision of the constitution.

On the one hand, this illustrates the prevalence of the constitutional reform practice. On the other hand, it also demonstrates that the constitution is a developing legal substance capable of renewal. It has to reflect the legal development, to change under the “pressure” of the objective circumstances and on the demand of the society, to adapt to the new conditions and to be updated. Excessive preservation of the Constitution can lead to serious social tensions and disrupt the evolution of the statehood. So it was in the European socialist countries, many states in Asia, Africa and Latin America.

However, this is just one aspect of the constitutional processes observed in different countries of the world. Another trend in the global constitutional development is the reinforcement of the cul-

tural and historical specificity of constitutions, the consolidation of national and constitutional identity¹ in them, original concepts of proportionality of universal and national values. While some new constitutions of the 1990s era were written in a very similar language, corresponding to the perceptions of the final victory of liberal ideology, the constitutional reforms of the 21st century demonstrate an exceptional burst of authenticity.

Many near and far abroad countries amend their constitutions in order to change the scale or priority of their values (e.g. Hungary, Slovakia, Spain, Armenia, Kyrgyzstan, Kazakhstan, Azerbaijan, Egypt, Tunisia, Bahrain, etc.). Some constitutions become environment-oriented. They consider nature and its resources as a unique national treasure. Others enshrine such timeless values as family and social justice. Modern constitutional reforms affect more than just national law and legal system. In the world, a “value-based” legal consciousness is being widely approved. The hierarchical correlation between the universal and the national constituent in law is being replaced by “equality” and even national priority. Specifically in this vein states are now creating new strategies of their own, especially constitutional, development.

These benchmarks in legal evolution are also adopted in Russia. As a result, amendments concerning the culture emerge. They aim

¹ The term “constitutional identity” appears in Russian constitutional law a few years ago. It is mentioned (along with the terms “constitutional values” and “constitutionally protected values”) in the Judgment of the Constitutional Court of July 14, 2015 No. 21-P. This term is historically linked to the heightened competition between national, supranational and transnational legal orders and is commonly used by judicial bodies in other countries (mainly France, Germany and Italy) in the view of legal protection of their national constitutional values in the context of integration. The “national identities of the member states” which “shall be respected” are mentioned in Article 4 of the Treaty on European Union (as amended by the Treaty of Lisbon 2007). The phenomenon of national constitutional identity and advanced constitutional culture for a particular society is important due to the fact that, once a society “matures”, it develops a stable and coherent system of fundamental legal principles based on the values accepted by that society. Such solid basis enables the further comprehensive development and self-adjustment, the logical and moral improvement of the national legal system, and especially its foundation — the constitution.

to protect the unique heritage of Russian multinational people, preserve ethno-cultural and linguistic diversity, the memory of ancestors, faith in God, historical truth, the memory of defenders of the Motherland, traditional Russian family values, etc. Among these there are amendments on the continuity of national development, protection of the sovereignty and territorial integrity of the Russian Federation and other constitutional novelties. In addition, great importance is attached to the Constitution's supremacy over the decisions of intergovernmental bodies, which are adopted within the provisions of international treaties of the Russian Federation in their interpretation that contravenes the Constitution of Russia.

It is obvious that in the new constitutional course Russia develops its own national constitutional model that corresponds to the native mentality and the new requirements for the national security. This constitutional model reflects Russia's state-civil identity, socio-cultural codes and political-legal ideals better than before. Such a value-based or even social value-based model considers the accumulated historical experience, evolutionary-tested practices and priorities, which are realised not only by the authorities but also by the general public¹.

It should be taken into account that the legal background for the constitutional changes in Russia in 2020 is mainly established, in particular by the Constitutional Court of the Russian Federation, legislation and strategic planning documents.

For instance, the category of “public authority” introduced in the Constitution of the Russian Federation is used by the Constitutional Court since 1995². The Constitutional Court also justifies the

¹ See: T. Khabrieva. Constitutional Reform in Russia: Searching for National Identity // Herald of the Russian Academy of Sciences. 2020. Vol. 90. No. 5. P. 403–414.

² See: Judgment of The Constitutional Court of The Russian Federation of July 31, 1995 No. 10-P in the case concerning the review of constitutionality of the Presidential Decree of the Russian Federation of 30 November 1994 No. 2137 “On Measures for Restoration of Constitutional Legality and Legal Order on the Territory of the Chechen Republic”, the Presidential Decree of the Russian Federation of 9 December 1994 No. 2166 “On Measures of Suppression of Activity of Illegal Armed Units on the Territory of the Chechen Re-

unity of state authority and local self-government and the unlawfulness of their opposition¹ (despite the popular idea among scientists at that time that local self-governments should have greater autonomy). The Decision of the Constitutional Court is specifically enshrined in the Law on the Amendment (Article 131 of the Constitution of the Russian Federation).

Finally, the legal Decision of the Constitutional Court of the Russian Federation should also be mentioned. It states that a judgment of the European Court of Human Rights cannot be considered as binding in case it interprets particular provisions of the European Convention of Human Rights in contravention with normal rules of construction of treaties and the meaning of these provisions disperse with imperative norms of general international law². Now this legal Decision is incorporated into Article 79 of the Russian Constitution.

The Law on the Amendment constitutionalizes certain provisions of federal laws, for instance in relation to the minimum wage and the subsistence level. These are the provisions of Federal Law of December 28, 2017 No. 421-FZ “On Amendments to Separate Laws of the Russian Federation Related to Raising the Minimum Wage to the Subsistence Level of the Employable Population” and Federal Law of December 27, 2019 No. 463-FZ “On Amendments to Article 1 of the Federal Law “On the Minimum Wage”. The provisions of these federal laws initially established a correlation, and

public and in the Zone of Osetia-Ingush Conflict”, the Resolution of the Government of the Russian Federation of 9 December 1994 No. 1360 “On Ensuring State Security and Territorial Integrity of the Russian Federation, Legality, Rights and Freedoms of Citizens, Disarmament of the Illegal Armed Units on the Territory of the Chechen Republic and Regions of the North Caucasus Adjacent to It”, the Presidential Decree of the Russian Federation of 2 November 1993 No. 1833 “On Basic Provisions of the Military Doctrine of the Russian Federation”.

¹ See: Judgment of The Constitutional Court of The Russian Federation of January 24, 1997 No. 1-P in the case concerning the review of the constitutionality of the Law of the Udmurtiya Republic of 17 April 1996 “On the System of Bodies of State Power in the Udmurtiya Republic”.

² See: Judgment of The Constitutional Court of The Russian Federation of July 14, 2015 No. 21-P.

then the complete identity of the minimum wage and the subsistence level of the employable population for the Russian Federation as a whole. The Russian Federation is the first member of the Commonwealth of Independent States (CIS), where continuing learning institution is enshrined both in sectoral laws (p. 8, part 1, Article 3 of the Federal Law of December 29, 2012 No. 273-FZ “On Education in the Russian Federation”), and in the Constitution (point “e” of Article 71).

Moving statutory provisions to the constitutional level and their “ascension” to the Constitution are a new phenomenon for the Russian constitutional practice. In the doctrine it is already named as the constitutional legitimisation of legislative provisions¹. It serves as one of the tools for implementing constitutional amendments and shows its effectiveness in modernising the Constitution.

Many of the constitutionally enshrined values were previously stipulated in state strategic planning documents. For example, according to point 11 of The National Policy Strategy of the Russian Federation through to 2025: “the modern Russian state unites a common cultural (civilizational) code based on the preservation and development of Russian culture and language, the historical and cultural heritage of all the peoples of Russia, which is characterised by a special pursuance of truth and justice, respect for the original traditions of peoples inhabiting Russia and the ability to integrate their best achievements into a common Russian culture”².

Therefore, the amendments to the Constitution do not lead to the demolition of the legal system. On the contrary, they are a natural continuation of Russia’s legal evolution, reflecting the continuity

¹ Report on the subject “Modernisation of Legislation in the Context of Constitutional Reforms” of T. Khabrieva, Director of the Institute of Legislation and Comparative Law under the Government of the Russian Federation, at the opening of the XV International Workshop for Young Legal Scholars “Constitution and Modernisation of Legislation” (Moscow, IZAK, May 27, 2020). URL: https://izak.ru/img_content/privetstvennoe-slovo-talii-yarullo-vny-habrievoj-2.pdf

² Approved by Decree of the President of the Russian Federation No. 1666 of December 19, 2012.

of its constitutional development and providing a direction for the sustainable growth of the state and society.

The thematic commentary to the Law on the Amendment, offered to the reader, contains explanations that often are in attendance with constitutional modernisation and are of both theoretical and applied significance. The Law on the Amendment is in particular focus of attention because, firstly, it is a source of historical and teleological interpretation of the Constitution; secondly, it is important for determining the temporal characteristics of constitutional amendments; thirdly, it contains provisions of direct effect, which have no time limit (Articles 2–3). The institution of national elections introduced by this law may be further applied, as well as other elements of the procedure established by it for the legitimisation of constitutional amendments, in particular the involvement of the Constitutional Court of the Russian Federation in this process. In addition, it serves as a foundation for amending the Constitution¹, a legal confirmation that its modernised text is legitimate and amendments are legal.

In other words, the Law on the Amendment of 2020 not only performs as a source of law in the short period of time when the Constitution is being amended, but also has the legal potential in future.

Commentaries are usually prepared sometime after a law enters into force to provide clarification to issues of law enforcement practice and to serve as “guidelines” for the legal subjects in the process when provisions are implemented. The present Commentary is an exception to this rule. As experience shows, the constitutional amendments have already had an impact on administration of state and local government bodies. It sets priorities and takes certain decisions during the economic crisis and the 2020 pandemic. This is

¹ Under Article 14 of the Federal Law No. 33-FZ of March 4, 1998 “On the procedure for the adoption and entry into force of amendments to the Constitution of the Russian Federation” the adopted amendment to the Constitution of the Russian Federation shall be introduced as the President of the Russian Federation in the text of the Constitution of the Russian Federation. Thereafter, the Head of State shall officially publish the Constitution of the Russian Federation as amended, stating the date of entry into force of the amendments.

significant, in particular for the reason that the amendments not only modify the text of the Constitution, but also serve as an imperative as well as a benchmark for the further modernisation of Russian legislation¹.

The Commentary on the Law on the Amendment has an original structure. It is not article-by-article. In contrary, it is structured in accordance with the main topical units of the provisions of the Law on the Amendment. In the view of the authors, this structure allows the reader to reveal intelligibly the content of the constitutional novelties, as well as provisions of the Law that are not to be included in the text of the Constitution and have direct effect.

The authors of the commentary would like to express their gratitude to Professor L.V. Andrichenko, Doctor of Law, Honoured Lawyer of the Russian Federation, for his assistance in preparing the materials for this commentary.

¹ As an example, the unemployment benefit was increased from the 1st March 2020. The highest rate was established at the level of the minimum wage and the subsistence level of the working population nationwide and was set at 12,130 rubles. Meanwhile, guarantees for the unemployed people have been extended by providing the right to reapply to employment offices for assistance in searching for a suitable job and by increasing the unemployment benefit for citizens with children (in April–June 2020), in proportion to the number of children of the unemployed person — per each child to one of the parents, adoptive parents, as well as the legal guardian (trustee).

§ 1. FEDERAL TERRITORIES

In Article 67 paragraph 1 shall read as follows:

“1. The territory of the Russian Federation shall include the territories of its constituent entities, internal waters and territorial sea, and the airspace above them. Federal territories may be created within the territory of the Russian Federation in accordance with federal law. The organisation of public authority within federal territories shall be established by the said federal law.”.

The Constitution of the Russian Federation of 1993 (Article 67 paragraph 1) includes within the territory of the Russian Federation the territories of its constituent entities, internal waters, the territorial sea and the airspace over them. The amendment to this Article is aimed at altering the composition of the territory of the Russian Federation by introducing federal territories, generally regarded as intrastate territorial entities which are not federal constituent entities and which fall under the direct administration of the federal authorities. The special status of federal territories would make it possible to ensure more effective governance while maintaining a balance between protecting civil rights and preserving the interests of the State.



The Constitutional Court of the Russian Federation has stated that the provision on the possibility to frame federal territories in its literal sense does not provide an opportunity to form federal territories with a status equal to that of the constituent entities of the Russian Federation. It also cannot be regarded as contravening to Article 5 (paragraph 1) of the Constitution of the Russian Federation, which comprehensively defines the composition of Russia as a federal state (which, however, is not similar to the definition of the composition of its territory — paragraph 1 of Article 67 of the Constitution of the Russian Federation). It hence does not contravene other provisions of Chapters 1 and 2 of the Constitution, which are to be strictly observed by the federal legislator in realising the said options (The

Scientific edition

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**Thematic commentary
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**AMENDING THE CONSTITUTION
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of March 14, 2020 No. 1-FKZ

**“ON IMPROVING THE REGULATION
OF CERTAIN ASPECTS OF THE ORGANIZATION
AND FUNCTIONING OF PUBLIC AUTHORITY”**

Подписано в печать 01.03.2021.
Формат 60×90/16. Бумага офсетная. Гарнитура Newton.
Печать цифровая. Усл. печ. л. 13,5. Уч.-изд. л. 12,3.
Тираж 500 экз. Заказ № .

ООО «Юридическое издательство Норма»
109316, Москва, Волгоградский проспект, 2
Тел./факс: (495) 621-62-95. E-mail: norma@norma-verlag.com
Internet: www.norma-verlag.com

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127282, Москва, ул. Полярная, д. 31в, стр. 1
Тел.: (495) 280-15-96, 280-33-86. Факс: (495) 280-36-29
E-mail: books@infra-m.ru. Internet: www.infra-m.ru

ISBN 978-5-00156-167-5



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The Institute of Legislation and Comparative Law
under the Government of the Russian Federation

ФЗ № 436-ФЗ	Издание не подлежит маркировке в соответствии с п. 1 ч. 2 ст. 1
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