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## **RUSSIAN CONSTITUTION – “FORMAL” AND “REAL”**

The 1993 Constitution arrived in Russia like *deus ex machina*. Drafted and adopted in a way to work around the then acting Constitution, it was approved in a referendum the declared results of which leave serious doubts. The referendum was conducted during a brief period of suppression of one of the opposing political forces and concluded a violent conflict between the president and parliament.<sup>1</sup> Unlike other countries of the “second postwar democratic wave”, Russia acquired a “victor’s constitution” instead of a document approved through consensus. Therefore it’s not in the least surprising that the 1993 Constitution was and still remains a pivotal subject of political and academic debates, not only in Russia but in the West as well.

The judgment pronounced by American scholars P. Reddaway and D. Glinski is conclusive – this is a “partisan constitution”: «it still remains a major stumbling block to national reconciliation and democratic development».<sup>2</sup> Being critical towards both the order of adoption and the content of this Constitution, as a participant in the events I, nevertheless, believe that, considering the 1993 situation, what resulted was far from being the worst possible scenario. It may even very well be the best. As years passed it became all the more clear that the adoption of the Constitution diverted the danger of a civil war, prevented a possible Yugoslavia scenario.

Furthermore, it created a set of rules, willingly or unwillingly followed by all main actors and secured positive changes taking place in Russia since 1985. The Constitution established the separation of powers, political and ideological pluralism, democracy, private property including that of land, prohibited inciting social hostility, established the priority of civil rights and interests over those of the state. The last issue is the most important. All Soviet constitutions put the state in the center of constitutional order, whereas the main framework in new Russia is anthropocentric. First and Second chapters of the 1993 Constitution – “The Fundamentals of the Constitutional System” and “Rights and Liberties of Man and Citizen” are on the level of modern democratic standards, inferior in some cases while superior in others.

Critics of Russian Constitution respond that its many beautiful principles remain entirely declarative. American researcher T. Remington remarks that “three...weaknesses in the capacity of the law and legal institutions to restrain the arbitrary exercise of power by the state...The extra legal powers of the successor bodies of the KGB; the prevalence of sub-legal administrative rules and regulations issued by executive bodies; and the inclination of the president to wield his decree power in order to circumvent constitutional limits on executive powers”.<sup>3</sup> Other commentators define eleven illiberal

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<sup>1</sup> I.Shablinsky gave an extensive historical analysis in his doctorate thesis. See I.G.Shablinsky. Limits to Power. The Struggle for Russian Constitutional Reform (1989-1995). Moscow, 1997.

<sup>2</sup> P.Raddaway, D.Glinski. The Tragedy of Russia’s Reforms. Market Bolshevism against Democracy. Wash.,2001,p.633.

<sup>3</sup> T.F.Remington. Politics in Russia. N.Y.,1999, p.222.

features of Russian democracy: «Governmental decision making is often closed to the public...Representative institutions in Russia, especially legislatures, exert much less influence over government policies and budgets than executive and administrative bodies do...The Russian courts remain backward and cannot offer individuals reliable protection against the arbitrary acts of governments... Corruption is widespread within governmental agencies...» etc.<sup>4</sup> There's certainly no disagreement on this. Nevertheless, there is a question waiting for an answer – to what degree the causes of these contortions follow from the Constitution itself, are related with its defects and to what degree these causes are beyond it?

Contradictions between “formal” and “real” Constitution weren't born today and were reported not only in Russia. The problem of “book law” and “street law” have long been a subject of scrutiny on the part of lawyers. Comparing Russia with other Eastern European countries regarding constitutional law, well known political specialist G.R. Urban purposefully quotes Aristotle: “Constitutions are worthless unless they are grounded in the customs and conventions of the people”.<sup>5</sup> No constitution exists solely by itself but in a complex context of the nation's mentality, customs, traditions, political and general culture, and value systems.

Is the government system which is a part of Russian Constitution and which makes many of its proclaimed civil rights fictitious (which was the case with all Soviet constitutions) vicious? Or should the roots of all problems and hardships of our democratic transition be sought primarily in long-established interrelations of social forces, in age-old Russian tradition to live by unwritten rules rather than the law? The question is far from being purely academic.

In the first case, the Constitution needs a total overhaul. In the second case – we have to face a much more difficult challenge and it can be answered only partially by correcting the Constitution or the fundamentals of the constitutional system in general.

To understand how the Constitution works (or fails to work) in real life we can separate four basic divisions of organization and functioning of power in modern Russia. These are:

- separation of powers and their jurisdictions at the federal level,
- federalism,
- local self-government and
- court reform.

“The Constitution established a super-presidential political system in Russia” – this central idea is reproduced as an axiom by some critics of the Constitution. The declaration of “anti-popular constitution of presidential absolutism”, of “parliament without power” are reiterated in Communist party documents.<sup>6</sup> This evaluation is shared by a number of western scholars. “Yeltsin's and Putin's presidential powers have exceeded those of American and French presidencies combined, and approximate the powers of Tsar Nicolas II under the 1905 quasi-constitutional system”, maintain P. Reddaway and D. Glinski.<sup>7</sup> A more weighted assessment is provided by T. Remington:

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<sup>4</sup> T.J.Colton, M.McFaul. Are Russians undemocratic? – Working papers of Carnegie Endowment, № 20, June 2001, p.3-4.

<sup>5</sup> G.R.Urban. End of Empire. The Demise of the Soviet Union. Wash., 1993, p.127.

<sup>6</sup> CPRF in Documents (1992-1999), Moscow 1999. p.61, 102, 174, etc.

<sup>7</sup> P.Reddaway, D.Glinski. Op.cit., p. 633.

“Using a typology proposed by political scientists Matthew Shugart and John Garey, we can call the Russian system “presidential-parliamentary”.”<sup>8</sup>

In this case, however, just as in all others, we need to separate “formal” and “real” Constitutions. The layout of governance as set by law, in my opinion, deserves to be called not “super-presidential” but “not enough parliamentary”, which is not the same thing. The excesses of presidential rule under Yeltsin and Putin are defined not only by excessive powers imposed on the President by the Constitution but by the fact that offers no working limitations of presidential power and the power of officials appointed by the President. It provides insufficient protection against measures taken to bypass the Constitution and other laws, restrictions that in all democratic nations depend on the parliament, and the courts.

The powers vested in the president by the Constitution show certain excess from the point of view of balanced separation of powers. Apparently, the President shouldn't be the only “guarantor of the Constitution of the Russian Federation” (Art. 80 Par.2). This general definition is dangerous because may receive and it has received vast interpretations. Based on this article, the Constitutional Court failed to find anything unconstitutional in 1994 Presidential Decree that started a wide scale war in Chechnya without declaration of state of emergency and without parliamentary sanctions. The world democratic experience shows that only the entire system of checks and balances including non-governmental institutions can serve as the guarantor of the constitutional system. Accordingly, the President should not have exclusive powers to “define the basic domestic and foreign policy guidelines of the state”, “endorse the military doctrine” (Art. 80 par.3, Art. 83 Par 3), etc.

More substantial is to know which tools the Constitution gives to the President to implement the abovementioned and other functions. The excesses – compared to other presidential and half-presidential democracies – are not too many. In the US the Administration is an extension of President. In Russia the Constitution – talking about the formal governmental construction without everyday practice that goes beyond it – assigns an independent role for the Government as an institution that has a proper circle of powers.

A rightful criticism is exercised of disproportionate role in our system of governance of numerous advisors, consultants, personal presidential representatives and institutions created by his will: Presidential Administration, Security Council, Defense Council (once created to serve some obscure staffing purposes and then forgotten), etc. However, this disproportion is not due to the Constitution in any degree. And United States also provide a number of samples of active political role of some individuals who were acting only supported by personalized presidential choice: presidential aid Henry Kissinger, who became a more important person than the Secretary of State before he himself became one. Should we go back even more, we can remember H. Hopkins who did a lot to help Franklin Roosevelt to overcome the stubborn congressional isolationism before the World War 2.<sup>9</sup>

As a rule, the presidents or prime ministers of those states where the parliament is entitled to send the government in resignation may dissolve the parliament. This procedure, as a rule, is not restricted by additional measures and in Britain the prime minister may call for new parliamentary elections not based on non-confidence vote but

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<sup>8</sup> T.F.Remington. Op.cit., p.46

<sup>9</sup> R.E.Sherwood. Roosevelt and Hopkins. An Intimate History. N.Y., 1950, pt.II

on calculations that elections may favor his party. In Russia, dissolution of the State Duma is limited by a timeframe and a number of conditions. Should the President want to exercise pressure by threatening to dissolve the parliament, Duma under certain conditions may use impeachment procedure as a tool (Art. 93).

Presidential participation in law-making process and legislative veto are not entirely Russian inventions. In the short constitutional history of Russia the presidential veto has often blocked rational initiatives by the Parliament but it also blocked certain populist bounties and dangerous initiatives of Duma majority, primarily in foreign policy.<sup>10</sup>

The real problem here is presidential veto cannot be overruled if it is supported by more than one third of lower or upper houses of Parliament.

The real disproportion, as it has been said, leads to more powers of the president and less for the parliament. The Parliament is crippled, first of all because the Constitution fails to define its status as a control institution. It does have certain control functions: through voting on the candidacy of the prime minister, by approving the budget and verifying the spending through the Auditing Chamber. But the Duma has no power to call on governmental officials to show up at respective parliamentary commissions and provide the documents required. Being a member of parliamentary commission investigating Chechen war I witnessed how a number of high-ranking state officials simply ignored a Duma invitation. What is typical of many amendments to the Constitution introduced in Duma that only one of them received sufficient support – the one changing this state of things. The amendment went through the first hearing and later was frozen.

Another evident flaw of constitutional system is the formation of Upper Chamber of Parliament – Federation Council. In 1993 its members were elected by the population. But the night before getting published the draft constitution was amended by presidential hand (see publications)<sup>11</sup>: the Federation Council is formed by one representative of legislative and one of executive organs of state power from each Subject of Federation.

The amendment has acutely limited the judicial basis for building a powerful a Senate – the chamber that only in 1993 was elected by citizens of the regions of Russian Federation. The legislators, repressed by this norm and claims of regional elite, which has quickly realized what a powerful tool was presented, attempted to find a right decision but in vain. Finally in 2000-2001 was born a real monster: a chamber of the highest representative body of state power that is not elected by anyone. Members of the Federation Council that are not supported by the voters mandate, became a pliable object of manipulation from the side of both federal and regional powers. The last reorganization of the Federal Council has brought a natural question: if the authority of the Chamber is leveled down, shouldn't it be deprived of some of the Constitutional

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<sup>10</sup> The Third State Duma as well cannot refrain from foreign politics demonstrations, however provocative or incompetent they may be. As early as 2002 it rushed to inform the President of its opinion on the activities of Hague Court in connection with Milocevic trial and demanded reprisals towards the Vatican after it elevated the level of representing its confession in Russia.

<sup>11</sup> Article 95 was amended this way. The amendment was introduced into article 95.- See Constitutional Convention. Records. Materials. Documents. Moscow, 1995, volume 20; "Draft of the Constitution of the Russian Federation", page 42.

functions?<sup>12</sup> Or abolish this institution altogether and leave instead of it State Council – the assembly of republican presidents and governors.

The problem of the real role of the Parliament is not so much the problem of correcting Constitution, as of formation of civil society able to oppose the regime of “governed democracy”, establishment of real, not imitation political party system. We need to give control functions back to Parliament. But there are no guarantees that the Parliament as it is now will be able to take advantage of this. The Federation Council that is formed now by the bureaucrats from the dependent people should be replaced by the Senate that is elected the citizens. At the same time there is a chance that elected Senate as well as State Duma, created by known election technologies in 1999, will be easily manipulated by the Kremlin. Election law should be improved; violations and frauds should be stopped. But how can we manage “administrative resource” that does not so much falsify election results, as influence voters’ behavior. Unfortunately, analysis of “formal” Constitution and other laws do not answer these uneasy questions.

Russian federalism is also a very controversial issue. One and the same Article 5 of the Constitution declares that all Subjects of RF are equal in rights and sets up the rule that only Republics can obtain their own Constitution. Constitutions enacted in a number of republics, deepened asymmetric structure of the Federation. “The constitutional basis of post-Soviet Russia evolved as a series of compromises reached amid continuous political crisis, and as a result contains two underlying weaknesses. First, the country’s asymmetrical structure is unstable because it perpetuates the distortions of Soviet system. Second, the division of powers between the center and the regions is vaguely defined. These deficiencies underlie much of the maneuvering and bargaining that bedevils the economic and political relations between the center and regions”– states English diplomat M. Nicholson.<sup>13</sup> Moreover, agreements on distribution of powers, that were signed in early 1990’s between Federation and some its Subjects are kind of fancy feature of Russian constitutional structure. In the period of decay these agreements played a stabilizing role, but according to these agreements some Subjects of Federation accepted authority that was not granted to them by the Constitution. In the result the asymmetric Federation with the elements of Confederation started to build up. There were attempts to change constitutional federation into contractual.

A very large body of relations is regulated by federal laws and other legal acts on the one side, and local laws on the other. Even superficial comparison of federal and local laws done by the office of Prosecutor General in 2000-2001 disclosed thousands of contradictions and differences, first of all between the Federal Constitution and those of republics.

As President Putin said, by 2000 about 20% of local legal acts were contradicting the federal Constitution and federal laws.<sup>14</sup> In Bashkortostan, Komi, Kabardino-Balkaria, Tyva and Yakutia local constitutions set supremacy of republican constitutions over the federal. In Adygei, Buriatia, Ingushetia and Kalmykia constitutions allow the republican powers to introduce a state of emergency. Bashkortostan and Komi set special privileges for representatives of title ethnicity. Tatarstan went much further than others on the way of sovereignty (except Chechnya). In 1992 Tatarstan adopted its own Constitution (before the Federal Constitution). Its authors believed that after USSR fell

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<sup>12</sup> This idea was expressed by Evgeniy Primakov (“Izvestia”, 9.06.2000), Sergey Samoilov, high-ranking official in the Presidential Administration (“Nezavisimaya gazeta”, 2.08.2000)

<sup>13</sup> M.Nicholson. Towards a Russia of Regions. – Adelphi Paper 330. Oxford, N.Y., 1999, p.21.

<sup>14</sup> “Obsh’aya Gazeta”, 24.02-1.03.2000

apart Russian Federation would follow, and they defined their republic as a subject not of Russian Federation law but of international law, and positioned Tatarstan as a sovereign state associated with Russia on inter-state basis. In addition to that they tried to separate Tatarstan based not on territory but on ethnicity. Such approach is dangerous and lacks prospective, considering that in Russia there are almost no mono-ethnic territories, and “the rights of nations” are put on the same level as human rights by certain politicians. The contradictions between the two constitutions were somewhat reduced but not eliminated by signing a 1994 Agreement on delegating authority and separating jurisdictions. The real place that belongs to Tatarstan in the Russian governance started to be defined by informal relations between Yeltsin and Shaimiev. With Putin arrival the issue of conformity of local and federal Constitution again became important and work started on preparing a new basic law of Tatarstan<sup>15</sup>. It is hard to say what will come as a result of it.

Contradictions of laws create bizarre legal collisions like the conflict around the third term of presidency for Yakutia president in 2001. In the argument the federal authorities were referring to the Yakutia Constitution that does not provide for third term, while the local political clan was pointing to the federal law that allows third term, giving way to regional elites. Several months the entire republic was kept under pressure before finally an arrangement was reached behind scenes: former president gave up and received a seat in Upper House as compensation.

In 2000-2002 regional laws started to be put in conformity with federal legislation. By February 2002 nine out of 42 existing agreements with subjects of Russian Federation have been cancelled, with ten more prepared for cancellation. This is a positive process: agreements of the whole organism with its parts were forced measure and foreign body in the constitutional system. Federal laws were amended to restrict “immunity” of governors (but not presidents of republics). Federal authorities not being able to use legislative measures to discipline regional bosses who have obtained many ties in their regions and in the center, in 2000 intervened with a sort of bypass building executive power structures side-by-side or short-cutting non-operational legislative procedures. This way seven macro-regions were created and seven presidential governor generals were appointed. Eminent politicians started to comment that it was time to get rid of election to local governors and appoint them instead. Should this happen, one of the fundamental principles of the Constitution will be broken – elected power (Art. 3). Another principle will be broken, equality of Subjects (Art. 5), since some subjects will be represented by appointed governors and others – by elected presidents.

Things are worse with local self-government, whose development at best is in embryonic state. The idea of legislators as set in the Constitution: local self-government is autonomous within its jurisdiction; local self-government is not part of the system of government organs – was flawless. Local self-government in democratic countries is one of the most important institutions of civil society. In this respect we are behind even pre-revolutionary Russia where local self-government was gaining momentum. Operation of local self-government is limited from three sides: by lack of material and financial basis (liabilities exceeding resources), pressure from state bodies trying to get everywhere (until recently local self-government was inexistent even in Moscow) and low prestige of local self-government itself. In the eyes of population local self-government is just another bureaucratic branch. Low turnout figures in local elections that leads to invalidation of elections is typical. In 2000-2001 the law on local self-

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<sup>15</sup> “Izvestia”, 12.08.2000; “Obsh’aya Gazeta”, 31,01-6.02.2002

government was amended to a certain degree. Governors are now entitled to shelve heads of municipalities. Following the same path is dangerous: the vertical power that is so attractive to many politicians may undermine the constitutional principle of autonomy of local self-government.

In 1991 then Supreme Soviet voted on concept of court reform developed by democratic lawyers. Some ideas found their reflection in the 1993 Constitution but one-legged measures to implement some elements could not substitute the judicial reform in general.

One of the biggest accomplishments of Russian constitutionalists was introduction of Constitutional Court – intended to be an independent court instance whose decisions are bounding and cannot be appealed. In Constitutional Court history there are decisions that protect principles of law, priority of the Constitution against laws that breach its positions. On the other hand, the Constitutional Court disappoints partially by limitations imposed by the Constitution itself – it cannot intervene on its own initiative and has to wait on request or complaint of persons who believe their rights were breached (Art. 125). This was the legislators' response to the Constitutional Court intervention in politics in 1993. Other limitations are due to the physical ability of 19 Justices and organization of its work: in average it takes 6-8 months to wait in line for your turn. What is more important is the fact that even Constitutional Court decisions are sometimes guided by the “real” as opposed to the “formal” Constitution. Moreover, there is no implementation mechanism to enforce decisions: both legislative and especially executive power are experienced to bypass Constitutional Court decisions or to ignore them.

Even more complaints could be associated the activities of general and arbitrage courts. With many formal and informal links courts are subordinate to executive power and very often obey orders received directly from the executive. Courts became the main tool in unlawful suppression of independent media in 2001-2002, courts are used to stage spy processes against scholars and journalists. The Pacific Fleet Military Court based its decision against all expectations, common sense and law on some secret Ministry of Defense instructions that were declared as not binding by Supreme Court and sentenced military journalist Grigory Pasko. The master plan of secret services that are behind this and some analogous decisions is to get back to the times when fear was limiting the opportunity of Russian citizens to socialize with foreigners. Protecting military lobby interests, Nizhny Novgorod Court ruled that local authorities breached the law when they allowed young people alternative military service as it states in the Constitution. Torture during investigation is widely spread, information on “exchange of that experience” is channeled through shadow canals. Investigators have developed ways to hide traces of torture which makes control very difficult.

The judicial legislation of 2000-2002 is also restricted and contradictive. Some of its rules actually weaken one of the bases of the legal state – independence of judges. Establishing judicial institutions imposed by the Constitution such as the jury, arresting according to the sanction proposed by court is delayed. As a result there are two jurisdictions existing in the country at the same time: neoinquisitional system approved by the great majority of the general jurisdiction courts and the pleading system which functions only in courts with the Jury's participation. This progressive judicial system being an exception is fading in the alien atmosphere. However, the correctness of the legislation shouldn't be overestimated. The main figure of the law-making process is the judge. Nowadays the majority of the judges are those who received their education in

the Soviet period and that system was alien to legal thinking; some of them are former prosecutors and militia staff members, secretaries of courts with a great experience of falsifying the legal documents. They remember the time when the decisions were made after the call from party officials and even now their work, career and welfare largely considerably depend on the benevolence of the high-ranking officials. The courts need more staff as presently timely and impartial considering of the matter is hardly possible. The role of the court decisions should also be given more weight.

So, in the Constitution itself and in the legislation in general there are some weak points that should be eliminated. The question is when and how this problem can be solved the best way. Both the supporters and the opponents of changing the Constitution can be understood by the society. According to the opinion poll conducted by a very reputable sociological center (VCIOM) in December 2001 the first position was supported by the 35,8% of the respondents and the second point was accepted by 43,4%<sup>16</sup> of the poll participants. Nowadays, however, changing of the constitution concerns only limited, elite groups, not the whole society. Moreover, the vast majority of citizens have got just a slight idea of the Constitution.

The position of the YABLOKO faction, which had been expressed in public for several times, was that the constitution of 1993 needed little corrections. They should no ways change the “external” chapters (the 1st, 2<sup>nd</sup> and 9<sup>th</sup>) concerning the bases of the constitutional regime, rights and liberties, the ways of changing the Constitution, but a few corrections are to be made in the order of the polity. In 1996-98 several amendments were prepared, they dealt with the clarification of the rights of the President, enlarging the Parliament’s rights (giving it the checking powers), the identification of the position of the government in its relationship with the president and Parliament, the removal of the mentioned President’s amendment concerning forming of the Federation Council which is a bar to the elected council (although, in my opinion, this amendment can be made without changing the Constitution), the detailed description of the President’s impeachment process etc.<sup>17</sup>

We believed that in the late 90-s there was a “window of opportunities” through which the changes in the few articles of the Constitution could be introduced with the help of arrangements and agreements of certain political groups. Law and order could be intensified but the main achievements of the anti-bolshevist revolution of the late 80-s and early 90-s won’t be weakened. The possibility of introducing a few amendments was not so certain, but acting in a politically correct way and conducting a judicially proper examination of the matters could realize it. During the Primakov’s term as Prime Minister there were certain opportunities of changing to the government of parliamentary majority not *de-jure*, but *de-facto*. However the idea of introducing this order into the Constitution is doubtful.

Nowadays the situation has changed. Considering the balance of powers of the Houses of Parliament all the attempts to establish any constitutional amendment are to fall flat if they are not introduced by the President. Another important thing is that as in Russian politics with the election of the new president the system of checks and balances turned out to be weakened, the danger of establishing “governed democracy» and limiting civil rights became more real. The constitution can be worsened as well as improved.

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<sup>16</sup> According to an all-Russian national poll, made by selecting 1600 people 21-24.12.2001. The results were published in the Internet at [www.vciom.ru](http://www.vciom.ru).

<sup>17</sup> Author’s archive.

It's easy to imagine that under certain circumstances the constitutional reform might contain a lot of undesirable points. Let's introduce those of them that can be understood by the words and actions of the Russian politicians. Restricting civil rights and weakening the civil rights guarantees for the sake of increasing the prerogatives of quasi-civil structures which were formed from above or for maintaining order and strengthening the state. The transfer of the blocking package to the president of Byelorussia within the Union state of Russia and Byelorussia. The weakening of the principle of church isolation from the state. All this became normal long ago. In the beginning of 2002 in the Yedinstvo (Unity) faction an evidently anti-constitutional bill was developed according to which the state was to give several charters to so-called "traditional confessions" and first of all to Orthodoxy. The introduction of ideological unification for the sake of the "national idea" (which Yeltsin tried to commend to his services' care). The weakening of the constitutional self-defense mechanism which was inserted into the 9-th chapter and which introduced a rather complicated process of its changing. In the end of 2001 another attempt was taken: the newly elected chairman of the Federation Council suggested that the president's single term should be extended from 4 to 7 years. Although the President refused the initiative, it was widely supported by high-ranking politicians and some of the governors in spite of common sense and previous experience. The realization of this idea would lead to the dangerous deformation of the state structure and set the regime of the personal reign in the future. In this situation Russian democrats (YABLOKO in particular) see the Constitution as a bar to the spread of authoritarianism.

The Constitution contains two ways of its changing. The first is the convocation of the Constitutional Convention that has the right to make corrections in the main chapters of the Constitution or work out the project of the new Constitution and either approve it or call a referendum. The second is introducing a few amendments, that don't contradict with the bases of the constitutional regime, human and civil rights and liberties and the order of changing of the Main law. Such amendments can be established only by the qualified majority of the Federal Assembly and then maintained in two-thirds of the subjects of the Russian Federation.

The first way was long subject to doubts. Although many impatient politicians are eager to change the Constitution, the final result of this procedure can be far contrary to their expectations. The bases of the constitutional regime and civil rights stated by the Constitution are not so bad as to become the subject of the political games. The balance of political powers in the Constitutional Convention, which could be formed in the present political and social situation, can perform very surprising actions. That's why freezing the adoption of the law on Constitutional Convention is seen as a proper decision. This is the first measure to protect the Constitution, as none of the projects concerning this law and introduced in Duma was satisfactory. Even for a long time into future the only reasonable way of changing the Constitution will be adding some amendments to it as it was practiced by the American constitutionalists.

But even without interfering with Constitution there are possible ways of changing the state structure. Any vital question such as reforming the Federation Council, budget federalism, increasing the role of government and abolishing the departmental courts can be solved by adopting new federal laws and federal constitutional laws. There are still several opportunities of considering the lawfulness of certain laws in the Constitutional as well as in the Supreme Court but the role of these institutions in the present-day situation shouldn't be overestimated.

The time for constitutional variations has passed but the time to establish an everlasting document hasn't come yet. It means, that the principle "don't do any harm" is to be the leading one: better to leave the present state of things (which is not by far perfect) but achieve the observance of the functioning legislation than to open "Pandora's box", as the consequences of this action are unpredictable.