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BENEFITS FROM COOPERATION WITHOUT BORDERS WITH PROGRAM "OPEN SCIENCE PARTNERSHIP"

**EXTENSION OF OPPORTUNITIES OF FACULTATIVE FEDERAL REFERENDUM
FOR INTERNATIONAL TREATIES: SWISS EXPERIENCE FOR RUSSIA'S
MEMBERSHIP OF WTO.**

The article analyses Swiss experience for extension of opportunities of facultative referendum for international treaties.

Constitutional Switzerland circles considered that country's 2003 reform simplified the system of statutory facultative referendum. Regulations about international legal treaties which require right of multilateral modification, were replaced by "regulations about international legal treaties which contain important conditions fixing legal regulation or application of which requires acceptance of federal laws". Definitely, the given wording embraces more extensive coverage of international legal contracts. The given situation is reflected (2014) today in article 141, item d, (3) of the Federal Switzerland's Constitution. We will consider in more detail the effect from the introduced by the reform 2003 changes: adaptation and application of international contracts in national Switzerland's law. As one of the main features of the reform of 2003 can be considered introduction in article 141a of Federal Constitution of the original combination of international and national aspects of constitutional-legal regulation simultaneously with multilevel legal adjustment at constitutional or federal legislative level. In actual practice, it means that the same referendum and international obligations approved by the Parliament and modification related both to the Constitution, and to federal laws, needed for adaptation of international legal contracts[1] can be considered simultaneously, in accordance with article 141a, item 1, 2. Given this article of Swiss Constitution of 1999, prerequisites and opportunity to hold a referendum, depend on the necessity, modifications either of constitutional rank, or federal legislative level. As well as joint integration of the package of proposals for inclusion into referendum call for for legislative adaptation of international commitments at the national level.[2]

The purpose of such overlapping of subjects of voting of different standard level when in the procedure of execution of a referendum consists of seeking not to conduct two referenda in sequence i.e., one regarding international treaties, and the second one regarding internal legislation regulation of the same international legal treaty. It is due to the existence of the risk that results of voting will be opposite. As early as 1997, the Federal Council in its report called attention of both

chambers of the Parliament to that such contradiction is possible in two cases.[1] On the one hand, when the electorate can be called to express its opinion regarding international obligations of Switzerland in two following one another referenda. First, with regard to approval or disapproval through the institute of the referendum about practical international commitments maintained by the Parliament. Then, with regard to federal laws pertaining to these commitments regulating their execution at the national level. On the other hand, plenty of international legal contracts are not put to national referendum, and the citizens possess the right to doubt the correctness of national legislation, regarding execution of international treaties, requiring the referendum of legislative rank (according to article 141, item 1 (a, b, c) Cst.)

In such a manner, the Federal Council recommended to both Federal chambers to approve the opportunity of simultaneous voting on two types of normative acts: international and the national ones, taking into account their complementary.[1]

The following important argument of success of the reform can be considered as facilitated integration of international legal contracts into the fabric of national federal law. The Reform of 2003 took into consideration not only the ever growing importance of international law, but also the necessity to strengthen legitimacy of foreign policy of Switzerland through its approval by people.[1] Studying Swiss experience is important for Russia first of all through interference and cohesion of various legal systems, approved supremacy of universal principles of modern civilization while the common legal values and standards take shape.[9] Moreover, participation of citizens in discussions and acceptance of significant political and legal decisions can be considered as an important element of steady development of the country. Particularly urgent it is for the states to master the methods of democratic rule.[8] V. D. Zorkin the Chairman of Constitutional Court of Russia, rightly considers, the task is to provide a normal integration of the country into international community on the basis of law and not to allow at the same time “to wash away” Russia’s state sovereignty and Russian national interests by alien interests and legal chaos,[9] - this is the main strategic line of Russia which can and should be implemented. Exactly in this aspect experience in the execution of federal constitutional reform of 2003 in Switzerland directed at perfecting the constitutional-legal regulation of expansion of opportunities of facultative referendum regarding application of international treaties in national law, presents for Russia practical interest.[3] At the same time, confirming at constitutional level the institutes of direct democracy, in particular, referendum, is not a sufficient warranty of their effective utilization, as lawmaker.[8] Based on the imperative of Russian Constitution, legal safety in an international aspect should be expressed in protection of such interconnected values, as national interests of the country and its sovereignty.[4] As a vivid example we will note that joining by Russia of World Trade Organization,[6] despite its historical and economic importance for that country, was not endorsed by the referendum of federal rank which post factum, gave rise to questions of Russia’s legitimacy in this international organization.[5] Meanwhile, introduction of Russia in WTO was for it a strategic predetermined progressive legal step ensuring introduction to Russian legislation of stable, predictable rules of play and unified mode in application of mechanisms of regulation of foreign economic and national economic

activity.[7] Interaction of these legal rules should strengthen automatically investment attractiveness for foreign investors, through more predictable economic and legal climate in Russia. As practice showed, the article 15, items 4 of Russian Federation Constitution turned out insufficient for the problem of free adjustment of events of such scale. Experience of constitutional-legal regulation of issues in Swiss legislation deserves Russian jurists' enhanced attention.

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