The Special Powers of Russia's Parliament

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Much work remains to be done to develop Russia's legislative branch of government. The parliament to this day has only limited powers and does not have the capacity to create agencies or effectively oversee the executive branch and its activities. However, it does have certain special powers and rights bestowed by the constitution and federal laws that permit it to participate in the national political scene in important ways. This article is a review of the main special powers of the Russian legislature and a history of how they have been used.

Each house of the Federal Assembly, Russia's parliament, has the status of a constitutional body, which allows the houses to administer their authority independently from one another. However, using this approach in designating the functions and responsibilities of the two houses would split a single government body, which the Federal Assembly must be, into two parts, which would diminish its influence on various spheres of the nation's life. Article 100 of the constitution of the Russian Federation stipulates that the houses can assemble jointly only to listen to addresses by the president of the Russian Federation, by the Constitutional Court, and by leaders of foreign nations. Furthermore, no decisions can be enacted at these events. Hence, the joint assemblies of legislators are of a purely formal protocol nature.

Article 102 of the constitution assigns to the Federation Council the following nine powers: (*a*) setting the election of the president and his removal from the post, (*b*) appointing justices of the Constitutional Court, the Supreme Court, and the Higher Arbitration Court, (*c*) appointing and removing the procurator general of the Russian Federation, (*d*) appointing and removing the deputy chairman of the Accounting Chamber and one half of its auditors, (*e*) electing among themselves the chairman of the Federation Council and his deputies, (*f*) appointing chairmen and members of the committees and commissions of the Federation Council, (*g*) approving the redrawing of the borders between the subjects of the Russian Federation, (*h*) approving the president's orders declaring martial law or a state of emergency, and (*i*) making decisions on possible use of the armed forces beyond the borders of the Russian Federation. For example, the Federation Council exercised the last power by consenting to the use of Russian Federation armed

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forces ground troops in Georgia (on six occasions) and in Bosnia and Herzegovina for peacekeeping operations. Those consents, like virtually all the Federation Council's decisions, were issued in the form of a decree.

Article 103 of the constitution stipulates the responsibilities of the State Duma. The majority of them, like those of the Federation Council, deal with official appointments.

The Power over Official Appointments

Chairman of the Government. Most important is the Duma's approval of the president's appointment of the chairman of the government (prime minister). According to Article 145 of the Rules of the Duma, the president or his authorized representative in the Duma can officially introduce the candidate for the position of the chairman of the government, who then presents to the Duma his action plan for major areas concerning the future government and takes up to thirty minutes to answer questions from the deputies. After the question and answer session, representatives from factions and caucuses speak in favor of or against the nominated candidate.

The decision of the Duma can be made either by secret ballot or by electronic vote, and the appointment of the prime minister is approved if a majority of the deputies voted in favor of it. If the Duma dismisses a candidate for chairman of the government, the president has the right to submit a second candidate, then a third candidate within one week of the dismissal of the second. Deliberations and rules for the approval of the third candidate are the same as those used for the approval of the first two candidates, a process based on Articles 83 and 111 of the constitution. After three dismissals of the submitted candidates for the chairman of the government by the Duma, the president may appoint the chairman of the government, disband the Duma, and set new elections.

In the past five years, the State Duma has had to deal with this issue several times, most dramatically in 1998, when it considered the appointments of Sergei Kirienko and then of Viktor Chernomyrdin as chairman of the government. In both instances, the Duma was on the verge of being disbanded by the president. In my view, that is an excessively high price for exercising the constitutional right to turn down the person that the president wishes to see as chairman of the government. Furthermore, the legislators had reasons to stand against appointing the nominees. In addition, the threat of imminent disbanding can provoke a political crisis, and overcoming it would incur large financial expense, putting a heavy burden on a society that is economically unstable. Therefore, the process of disbanding the Duma must become more complex and tied in with early presidential elections;[1] otherwise, the Duma is eventually doomed to give in to the president.

As expected, Kirienko did not last long as chairman of the government. While he was in office, the economic crisis worsened. The banking system collapsed, and the government declared a freeze on payments of foreign and domestic debt.[2] On 23 August 1998, the president issued an order declaring the resignation of Kirienko and appointing Chernomyrdin as acting prime minister, which was not in compliance with the provisions of the federal constitutional law "On the Gov-

ernment of the Russian Federation." That day a new phase in the struggle for the post of prime minister began. The president twice submitted the nomination of Chernomyrdin for the position, and the Duma twice rejected him.[3] Once again the danger of being disbanded was hanging over the Duma. However, that time around the president backed off; he submitted the nomination of Yevgeny Primakov, which was supported by the majority of Duma caucuses.

Human Rights Ombudsman. According to Article 103 of the constitution and the federal constitutional law "On the Ombudsman on Human Rights in the Russian Federation," the ombudsman on human rights is appointed and relieved from his duties by a majority of Duma deputies in secret ballot voting. The candidates for the human rights ombudsman can be nominated and submitted to the Duma by the president, the Federation Council, Duma deputies, and caucuses a month before the expiration of the term of the current ombudsman or in the event of early termination of his authority. Like candidates for prime minister and most other positions, each nominee for human rights ombudsman must present a brief action plan to the Duma. The deputies present on the floor have the right to ask a candidate questions and voice their support or opposition. The names of those nominees who received at least a two-thirds majority vote of the deputies are put on a ballot for secret voting. If more than one candidate is nominated and none receives the required number of votes, the same or new candidates can be proposed for new consideration. Additional deliberations take place during the next session of the house, after the candidates are presented in the order stipulated by the rules.

After announcing the results of the voting, if one candidate received the required number of votes, the presiding member at the Duma session announces when he will administer the oath of office to the human rights ombudsman appointee. The text of the oath, which is provided in Article 9 of the federal constitutional law "On Ombudsman on Human Rights in the Russian Federation," is read out loud by the ombudsman while he stands and places his hand on the constitution. The ombudsman's taking the oath is authenticated by his putting his signature and the date under the text of the oath, which is kept in the Duma. The first person to take the oath was Oleg Mironov, former deputy of the Duma from the Communist Party of the Russian Federation, who was elected the first human rights ombudsman in the Russian Federation.

In the event of early removal of the ombudsman, the new human rights ombudsman must be appointed by the Duma within two months. The issue of lifting immunity of the human rights ombudsman is decided at a session of the Duma.

Chairman of the Accounting Chamber and Auditors. Another power of the Duma, affirmed in Article 103 of the constitution and in federal law, is the appointment and removal of the chairman of the Accounting Chamber and one-half of its auditors. The Duma Committee on Budget, Taxes, Banks, and Finances presents the candidates for those posts, who must meet the requirements of Articles 5 and 6 of the federal law "On the Accounting Chamber of the Russian Federation." The

appointing is conducted at the session of the Duma closest to the end of the term for the current chairman of the Accounting Chamber and its auditors. Again, candidates for chairman present a brief action plan and answer questions, then deputies may express their opinion of the nominee. The preferential right to speak on the issue is reserved for the representatives of member caucuses and house committees. The chairman of the Accounting Chamber is approved if he receives a majority vote. If a candidate is rejected by the house, the Duma Committee on Budget, Taxes, Banks, and Finances has the right to propose the same or a new candidate for consideration in another deliberation that would take place the next day. Accounting Chamber auditors are approved by a majority vote of all the Duma deputies, after a brief introduction of the candidates.

Early removal from duties of the chairman of the Accounting Chamber and its auditors appointed by the Duma is decided at a Duma session based on a report by the Duma Committee on Budget, Taxes, Banks, and Finances. A decision is passed if at least two-thirds of all Duma deputies vote in favor of it, except in the cases stipulated in Article 29 of the federal law "On the Accounting Chamber of the Russian Federation," when only a simple majority is required. The same federal law stipulates that consent for the detention, arrest, or criminal indictment of the chairman of the Accounting Chamber or its auditors is decided at a house session, based on the report of the procurator general.

The Federation Council, in turn, appoints and removes the deputy chairman of the Accounting Chamber and the other half of the auditors. The candidates are presented to the Federation Council by its Committee on Budget, Tax Policy, Financial, Currency, and Customs Regulations and Banking. Federation Council members discuss each candidate and vote by secret ballot; the appointment passes by a simple majority vote of approval. Based on a report from the procurator general, the deputy chairman of the Accounting Chamber and its auditors appointed by the Federation Council can have their immunity removed by a majority vote of members of this house.

The Central Bank. The power of the Duma to appoint and remove the chairman of the Central Bank is also of great significance. Duma deputies exercised that power in September 1998, when changes took place in the leadership of the Bank of Russia and the deputies approved a new board of directors of the Central Bank. The procedure of decision making on these issues is described in detail in Article 21 of the Rules of the Duma. According to Article 83, paragraph G of the constitution, the president of Russia submits a candidate for chairman of the Central Bank no later than three months before the end of the term of the current chairman. In the event of the chairman's early removal from office, the president submits a candidate for the post to the Duma within two weeks of the removal. The candidate for chairman of the Central Bank, like all candidates for major governmental appointments, presents a brief action plan and answers questions, after which the deputies on the floor express their opinions of the nomination and speak for or against it. The chairman is approved by a majority vote of all deputies, according to a predetermined method of voting. If the Duma rejects the candi-

date, the president submits another nomination within two weeks, although he cannot submit the same candidate's name more than twice.

In accordance with Article 83 of the constitution, the president must raise the issue of removal from office of the chairman of the Central Bank, but the decision is made by a majority vote of all Duma deputies. Members of the board of directors of the Central Bank are similarly appointed and removed by a majority vote of the Duma, based on a report by the chairman of the Central Bank approved by the president.

Duma deputies nominate two Duma representatives to the National Banking Council of the Central Bank. The remaining six members of the National Banking Council of the Central Bank—excluding the chairman of the Central Bank, the ministers of finance and economy, and representatives of the Federal Assembly, the president, and the government—are appointed by the Duma, based on a report by the chairman of the Central Bank, through a majority vote.

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Central Election Commission. Among other legislative powers over official appointments is the right for both the Duma and the Federation Council to appoint five members each to the Central Election Commission (TsIK) of the Russian Federation. That power is affirmed by the federal law "On the Main Guarantees of Voting Rights and the Right to Participate in a Referendum for the Citizens of the Russian Federation."[9]

The Duma selects members of the TsIK from candidates nominated by individual deputies and political associations of deputies in the Duma. Nominees are considered at a Duma session, during which deputies have the right to express their opinions about the proposed candidates and ask them questions. The preferential right to speak is reserved for representatives of member associations and committees of the Duma. The voting is done individually for each candidate. If there are more than five candidates nominated by member associations, a rating vote is conducted to determine the top five candidates. The five candidates who receive the most votes above the minimum requirement are appointed to the Central Election Commission. Removal from office of a Duma-appointed member of the TsIK before the end of his term is similarly decided by a majority vote of all deputies.

The Federation Council has a different procedure for appointing TsIK members. The Federation Council Committee on the Affairs of the Federation, Federation Agreement, and Regional Policy compiles a list of candidates, and the chairman of the committee informs the house of its candidate evaluation. The candidates recommended for appointment to the TsIK must be approved by a secret ballot majority vote of all members of the Federation Council. The Fed-

eration Council can remove its appointees to the TsIK from office by a simple majority vote.

The Diplomatic Corps. The Duma and the Federation Council exercise a certain influence over appointments in the diplomatic corps of the Russian Federation. According to part 1, paragraph M of Article 83 of the constitution, after consulting with the appropriate committees or commissions of both houses of the Federal Assembly, the president appoints and removes diplomatic representatives of the Russian Federation in foreign countries and international organizations. In the Duma those issues are considered mainly by the Committee on International Affairs and the Committee on the Affairs of the Commonwealth of Independent States and Relations with Compatriots. The committees, including officials from appropriate ministries, make their final decision about diplomatic appointment or removal in the presence of the candidate. After deliberations, the committee issues its decision and an explanation and forwards them to the president. In three years in the second Duma, the Committee on International Affairs reviewed twenty-eight removals and thirty-four appointments of diplomatic representatives of Russia.

Similar consultations on appointments and removals of diplomatic representatives of Russia take place in the Federation Council, where they are reviewed by the Committee on International Affairs and the Committee on the Affairs of the Commonwealth of Independent States. The appropriate committee makes decisions on each candidate nominated by the Ministry of Foreign Affairs and refers the results to the president within three days after the session.

The Courts. The Federation Council has the right to appoint justices of the Constitutional Court; the chairman, deputy chairmen, and justices of the Supreme Court; members of the Presidium; the chairman, deputy chairmen, and justices of the Higher Arbitration Court; and the justices of the Economic Court of the Commonwealth of Independent States. The Federation Council deliberates those appointments no later than fourteen days after the nominations are submitted by the president. At that session of the house, the chairman of the Federation Council Committee on Constitutional Law and Judicial and Legal Affairs informs the members of the results of the committee's evaluation of the nominees. Appointments are approved by a majority vote of all members of the house.

Justices of the Constitutional Court are sworn in by the chairman of the Federation Council during an official ceremony, with the full house in session and with the seal and the flag of the Russian Federation displayed in the auditorium. While the justices of the Constitutional Court are taking the oath of office, everyone in the audience must stand; the justices then sign the document, which is kept at the Federation Council. The chairman of the Federation Council congratulates the justices of the Constitutional Court on assuming office and hands them their robes—the symbol of judicial power.

Procurator General. The Federation Council has the constitutional authority to appoint and remove the procurator general and his deputies. The Federation

Council reviews a nomination for procurator general within thirty days of receiving it from the president or his representative, and after the Committee on Constitutional Law and Judicial and Legal Affairs has completed the candidate's evaluation. The decision on the appointment of the procurator general is made by secret ballot, and approval must be by a majority vote of all house members. The same number of votes is required for the procurator general's removal from office. The nominees for the deputies of the procurator general are submitted by the procurator general and reviewed by the Federation Council.

Vote of Nonconfidence in the Government

According to Articles 103 and 117 of the constitution, the Duma has the authority to express its nonconfidence in the government, according to procedures described in detail in the Rules of the Duma. Article 149 stipulates that a group of at least one-fifth of all deputies, or ninety people, can submit a justified proposal on the expression of nonconfidence in the government. The proposal is submitted in written form to the Council of the Duma, along with a draft of the decree and a list of the Duma deputies who initiated the proposal. In the course of deliberations on the issue, however, the initiators can revoke their signatures, and if the number of initiating deputies falls below the one-fifth mark, the issue is taken off the agenda without further vote.

The Duma adopts the decree of nonconfidence in the government by the majority vote of all deputies, by means of either open or secret voting, as determined by the Duma. If the president opposes the Duma's nonconfidence decree and the Duma issues a second nonconfidence decree within three months, the consequences are stipulated in Article 117, part 3, of the constitution: The president shall either dismiss the government or disband the Duma. As of 1 January 1999, the Duma had never used this power. However, the Duma has recommended that the president relieve certain ministers from duties, and in its decree of 16 July 1998 it evaluated the quality of official appointments to the government as unsatisfactory. In addition, that decree emphasized that implementing the government's program of economic stabilization would be impossible for the current government. The president was advised to find ways to strengthen the influence of the Duma in selecting government officials.

Suggestions to expand the Russian parliament's authority over official appointments are well justified. It would make sense if the Duma had the right to approve presidential appointments of not only the prime minister but also his deputies, key ministers of finance, defense, internal affairs, and foreign affairs, and the heads of foreign intelligence and federal security services.[4] The proposal of giving the Duma the right to express its nonconfidence in any individual member of the government also has some merit. That could function if a nonconfidence vote, passed by two-thirds of all deputies, resulted in a government official's mandatory removal from office by the president.[5]

In the meantime, according to Article 117, part 4, of the constitution, the prime minister has the right to move the Duma to a vote on confidence in the government. In doing so, he must issue a justified report that has to be immediately cir-

culated among the deputies, and the Duma must address the issue without delay. The vote on confidence in the government is decided by a majority of all deputies, and the results of the vote are issued as a decree. If that vote does not pass, suggesting that deputies are not pleased with the government, the deputies then vote on the issue of nonconfidence. If both votes fail, the issue is taken off the floor.

The Federation Council does not have the right to express nonconfidence in the government. However, that house continuously invites the prime minister and his deputies to testify during hearings on critical issues. The Federation Council has the constitutional power to set the presidential elections, which they do either at the end of the term of the current president or on early termination of executive duties. All decisions on setting presidential elections are made by a majority vote of all members of the Federation Council.

Impeachment of the President

The constitution authorizes the Duma to put forward charges against the president to remove him from office, according to Article 103, part 1, and describes how to do so in Article 93. The starting point of this procedure is the initiation, when at least one-third of the Duma comes forward with allegations that the president committed an act of treason or another high crime. Then, as stipulated by Article 22 of the Rules of the Duma, the proposal is referred to a special oversight commission formed by the house to ensure compliance with the procedural rules and factual evidence requirements for the prosecution. The chairman of the commission is elected by a majority vote of all Duma deputies, and the thirteen members are nominated by member caucuses and elected by a majority of the Duma deputies in a single slate vote. The composition of the commission is based on the proportional representation of member caucuses. The vice chairman of the commission is elected by its members.

That special commission verifies the validity of the accusations against the president, the quorum requirements for initiating charges, and the vote count, and according to the rules, it also conducts the oversight of other procedures before the Duma's decision on impeachment. At its sessions, the special commission reviews relevant documents, hears testimony from people who can provide information about the facts on which the charges are based, and receives testimony from the representative of the president. The final report of the special commission verifying the factual basis for the impeachment charges and compliance with impeachment procedure is adopted by a majority vote of the commission's members.

Duma deputies, specially invited experts, and other people discuss the proposal on the impeachment of the president and the final report of the special commission at their next session, which can be held, if they wish, behind closed doors. The deputy authorized by the initiating members makes a presentation on the proposal, and a representative of the special commission also makes a report. The preferential right to speak is reserved for the representatives of factions and member associations. The authorized representatives of the president and the government have the right to speak without delay. After the end of the deliberations, rep-

resentatives of factions and member associations can speak on the issue of the vote for up to five minutes each.

On completion of the deliberations, the Duma deputies vote with a secret paper ballot; with a two-thirds majority in favor they adopt a decree on the impeachment of the president. Within five days, the Duma decree is referred to the Federation Council, the Constitutional Court, and the Supreme Court for review. If the proposal of impeachment does not receive a two-thirds majority vote of the deputies, the Duma will issue a decree rejecting the charges. That decree is final and must be officially published. Signed by the chairman of the Duma, it is forwarded to the Federation Council and to the president.

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Duma deputies have already had practical experience using this procedure. Between April and May 1998, 207 Duma deputies, mostly from the Communist Party of the Russian Federation, initiated the issue of the removal of the president from office. Remarkably, the drafting of the articles of impeachment was commissioned by the Presidium of the Central Committee of the Communist Party of the Russian Federation, and they were approved by the Fifth Extraordinary Congress of the Communist Party of the Russian Federation,[6] which authorized the Communist members of the Duma to introduce the proposal and requested support for the deputies' initiative from the Communist members of the Federation Council.

The articles of impeachment against President Yeltsin alleged that during his term as president, Yeltsin committed a variety of high crimes. First, in December 1991, the president committed an act of treason by preparing and signing the Belovezhky Forest Agreement, which brought about the final destruction of the Soviet Union, incurred enormous material losses to Russia, its territorial integrity, and its defense potential, and caused multiple human casualties. Second, in September and October 1993, by organizing a coup d'état and actively participating in it, the president committed crimes stipulated by Articles 64, 70, and a number of other articles of the Criminal Code of the Russian Soviet Federated Socialist Republic (RSFSR).

Third, in December 1994, Yeltsin, as commander-in-chief of the Russian Federation Armed Forces, gave the order to start military operations in the Chechen Republic, committing a crime as defined by part 2 of Article 171 of the Criminal Code of the RSFSR (parts 2 and 3 of Article 286 of the Criminal Code). Fourth, during his term in office, President Yeltsin caused serious damage to the defense capabilities and security of the Russian Federation by fully complying with the geopolitical interests of the United States; his policies are regarded as "providing assistance to foreign countries at the cost of the external security of

the Russian Federation." Such actions are punishable under Article 275 of the Criminal Code.

Fifth, the policies pursued by Yeltsin and his circle led to the social and economic crisis due to the destruction of major branches of the national economy, the intensifying stratification of society, the weakening of national security, and a drastic fall in living standards. These factors establish reasonable cause to believe that President Yeltsin committed crimes stipulated by Article 357 of the Criminal Code, which establishes liability for "actions aimed at complete or partial annihilation of an ethnic . . . group by . . . creating the living conditions prone to the physical annihilation of members of this group" (genocide).[7]

On 15 February 1999, the special commission completed its verification of the charges against the president. I must note that, apparently in an attempt to remove the president from office by sidestepping the impeachment procedure, the Duma, on 21 August 1998, adopted Decree 2896-PGD, which reads:

> We consider that the country is dragged into the deepest crisis, while the president of the Russian Federation, as the head of the country and the guarantor of the Constitution of the Russian Federation, is not taking any measures to protect the constitutional rights of the citizens and to facilitate an effective interaction between the national government bodies in taking the country out of the social and economic crisis. It created a real threat to the national security, territorial integrity and independence of the Russian Federation. In compliance with Article 92 (part 2) of the Constitution of the Russian Federation, the Duma of the Federal Assembly of the Russian Federation made a decision to recommend the president of the Russian Federation B. N. Yeltsin to terminate his presidential duties before the end of the term.[8]

That recommendation was not widely covered by the mass media. Yeltsin had no reaction to it.

According to paragraph E of part 1 of Article 102 of the constitution, the decision on the removal of the president from office is reserved for the Federation Council, which addresses the issue after it receives the Duma decree on impeachment and the Supreme Court review of the criminality of the president's actions. Immediately the chairman of the Federation Council convenes the house to decide on requesting that the Constitutional Court report on the Duma's compliance with the established impeachment procedure. No later than seventy-two hours after receiving the report, the Federation Council must begin its session. Among those invited to the session dealing with removal of the president from office are the president, the chairmen of the Duma, judges of the Constitutional Court and the Supreme Court, and the members of the special commission of the Duma. The consideration of the issue starts with a report by the chairman of the Duma on the articles of impeachment against the president. Then follow speeches by judges and the report by the Federation Council Committee on Constitutional Law and Judicial and Legal Affairs. The president or his representatives may speak if they wish.

The removal of the president from office must be approved by at least two-thirds of all members of the Federation Council, who vote secretly with paper ballots. If the decree does not get the necessary number of votes, the proceedings

against the president stop and the Federation Council issues a decree to that effect, which is immediately announced to the mass media. According to part 3 of Article 93 of the constitution, the decision to remove the president from office must be made by the Federation Council no later than three months after the impeachment of the president by the Duma.

Oversight Powers of the Federal Assembly

The constitution does not directly grant the Federal Assembly any rights to oversee other government bodies or enforce federal and constitutional laws. However, oversight must be one of the main areas of its work. Therefore, at the first opportunity, the provisions of the constitution that govern the work of the Federal Assembly should be amended to include their overseeing the activities of other government bodies and ensuring their compliance with federal laws. At the same time, the Duma has certain capabilities of overseeing the spending of federal funds by government bodies and other organizations and companies. The Duma conducts this oversight indirectly by giving appropriate assignments to the Accounting Chamber.

The Duma also issues decrees on the results of inspections by the Accounting Chamber, such as its 18 March 1998 decree "On the Results of the Russian Federation Accounting Chamber's Inspection of the Management of the Russian Joint Company 'United Energy System of Russia.'" The Accounting Chamber investigated the misuse of official authority by Boris Brevnov, the managing director of United Energy System of Russia (YeES), and the activities of the government representatives and members of the company's board of directors. The Duma pointed out unsatisfactory work by the government representatives at YeES, which resulted in major financial losses for the country, and recommended actions aimed at strengthening the company with managers who have the necessary professional skills and experience. In addition, the Duma pointed out that the Federal Energy Commission failed to use its authority to establish a reasonable amount of financing for the central office of YeES. The board of directors of YeES was urged to follow the government decree of 21 March 1994, "On Terms of Compensation for Managers of Government Companies under Work Agreements (Contracts)," as a guideline for determining the compensation of the managing director and other officials. That decree also contained a request to the president to pay special attention to the professional management of the power sector—one of the most important branches of the country's economy. Finally, the Duma ruled to forward the inspection documents of the Accounting Chamber to the procurator general's office for the decision on issuing charges against the officials of YeES responsible for causing financial losses for the country.[10] However, that decree did not yield any positive results. There was not a single response. Unfortunately, many other critical Duma decrees shared its destiny, which only testifies to the importance of providing oversight authority to the parliament.

The Duma keeps an eye on the Central Bank of Russia. Each year, by 15 May, the bank submits its annual report, approved by its board of directors, which the Duma refers to the president and itself reviews by June 1. Also, by 1 October, the

Central Bank submits to the Duma a draft of its main objectives for the government's united monetary and credit policy for the upcoming year, and it submits the final version no later than 1 December. The Duma reviews the main objectives for the upcoming year during its fall session. During Duma deliberations of the Central Bank's annual report or its main objectives, the chairman of the Central Bank and a representative from the Duma Committee on the Budget, Taxes, Banks, and Finances make presentations. The Duma deputies on the floor have the right to question the chairman of the Central Bank and the other presenter(s) and express their opinions. The Duma issues a decree on the results of its review.

To audit the Central Bank of Russia, the Duma must declare that intention before the end of the fiscal year and identify a licensed auditing firm. The Duma Committee on the Budget, Taxes, Banks, and Finances submits to the Duma its recommendation for the auditing firm to audit the Bank of Russia.

The work of the Accounting Chamber is also overseen. On 10 July 1998 the Federation Council reviewed the report of the Accounting Chamber's work for 1997 and recognized that it worked efficiently on four assignments from the Federation Council and the Duma. The uncovering by the Accounting Chamber of violations of Russian laws resulted in the refunding of four trillion rubles to the federal budget. Overall for the year, the chamber completed more than three hundred expert evaluations and analytical assignments. At the same time, the Federation Council pointed out the shortcomings of the Accounting Chamber in dealing with planning and undue delays in its inspections and on certain assignments. In particular, the Federation Council negatively viewed the Accounting Chamber's delaying of control audits to verify the legality of the use of the federal budgetary funds for financing the Russian Federation presidential campaign. In its decree, the Federation Council noted that the government did not properly respond to the Accounting Chamber inspection documents that were submitted to it and declared that the enforcement of federal laws is of higher priority than the enforcement of decrees by the president or the government.

If the existing structure of the Russian parliament is to be preserved, it is necessary to further develop its oversight functions. The Federation Council and the Duma ought to be given the right to form commissions to conduct parliamentary investigations. They must have the enforceable power to subpoena persons and documents, and their decisions must be binding.[11]

Declaration of Amnesty

The single fully independent authority reserved for the Duma according to Article 103 is the power to declare amnesty. The Duma adopts decrees on the declaration of amnesty and on its enforcement procedure in accordance with the procedure for the passage of legislative bills, by a majority vote of all Duma deputies. The decrees are signed by the chairman of the Duma and officially published within three days after their adoption. The Duma used this authority for the first time on 23 February 1994, two months after the first Duma was convened. On that day, it essentially declared both political and economic amnesty. For the purposes of national reconciliation and the achievement of civil peace and accord,

the Duma ruled to stop the proceedings on all cases both under investigation and in court trials against people who were indicted for their involvement in

- the events of 19–21 August 1991, dealing with the formation of the National Committee on the State of Emergency and its activities;
- the clashes between the demonstrators and law enforcement officers in Moscow on 1 May 1993;
- the events of 21 September–4 October 1993, in Moscow, dealing with the president's decree of 21 September 1993, "On Gradual Constitutional Reform in the Russian Federation," and the resistance against its implementation, regardless of specific violations of the Criminal Code of the RSFSR contained in their actions.

Immediately, persons convicted for those actions had their convictions rescinded. In addition, based on the Duma decree of 23 February 1994, convictions were removed for persons convicted of various violations of the Criminal Code, including theft of government and public property in large amounts, if the crimes were committed before the dissolution of the USSR in December 1991—but it did not include theft by larceny, robbery, looting, and fraud.[12] Also, according to the related decree No. 63-1GD, the following persons were released from prison or had their convictions overturned: prisoners who had served in the military in active combat zones, who had participated in combat defending the homeland, who were involved in handling the results of the Chernobyl Nuclear Plant disaster, who were over sixty years old, or who were disabled; and all women.

Convictions were also rescinded for persons convicted of crimes involving negligence and sentenced to up to five years in prison who had served at least one-third of their sentences; juvenile male offenders sentenced to up to three years in prison who had served no prior terms at juvenile correctional facilities; persons who had received parole and convicts whose imprisonment was delayed, as well as persons whose sentences did not bear prison terms; and persons convicted of premeditated crimes for up to three years in prison who had served at least one-third of their sentence. For certain categories of crimes committed before the enactment of the decree, cases under investigation and those that had not been tried in court were dismissed; for other categories of crimes there was a reduction of the remaining prison terms.[13] The first Duma declared amnesty a few more times. Among the pardoned were persons who committed unlawful acts related to armed conflicts in the northern Caucasus.[14]

Inquiries for the Constitutional Court

An important way for the houses of the Federal Assembly to enforce the constitution and federal laws is by exercising their right to send inquiries to the Constitutional Court—an activity in the realm of legislative oversight. According to Article 213 of the Rules of the Duma, based on the corresponding article of the federal constitutional law "On the Constitutional Court of the Russian Federation," the Duma can refer the following to the Constitutional Court:

- inquiries on the constitutionality of federal laws and regulatory acts made by the president, the Federation Council, the Duma, and the government
- the constitutions, charters, laws, and regulatory acts issued by the subjects of the Russian Federation that fall at least partly under the jurisdiction of Russia's federal government
- agreements between the Russian Federation and its subjects, among the subjects of Russia, and between the Russian Federation and international bodies, before they come into force
- requests on adjudication of disputes over jurisdiction in which the Duma is a party

The Duma can also request an interpretation of the constitution in the event of uncertainty in understanding some of its provisions.

A member caucus or a committee of the Duma may propose the filing of an inquiry or a request with the Constitutional Court, after which the Duma deputies deliberate the proposal. Agreement by no fewer than one-fifth of all Duma deputies is required to refer an inquiry to the Constitutional Court. Referrals to the Constitutional Court are issued in compliance with the federal constitutional law "On the Constitutional Court of the Russian Federation" in the form of an inquiry or request and adopted by Duma decrees. The Federation Council has the same right to refer inquiries to the Constitutional Court, as stipulated by chapter 26 of the Rules of the Federation Council.

Rulings of the Constitutional Court on inquiries from the Duma or Federation Council are announced to the deputies of that body at the session following the return of the ruling.

The Federal Assembly's Involvement in International Law

The Federal Assembly exercises certain influence over the international relations of the Russian Federation, mainly through its power to ratify, terminate, or temporarily suspend international agreements of the Russian Federation and because its consent to international commitments is adopted as federal law.[15]

According to Article 106 of the constitution, federal laws either ratifying or denouncing international agreements undergo mandatory deliberations in the Federation Council. During its fall 1998 session, the Duma adopted twenty-two ratification laws, including those approving the historically significant Friendship, Cooperation, and Partnership Agreement between the Russian Federation and the Ukraine and the Military Cooperation Agreement between the Russian Federation and the Republic of Belarus.[16] At the last meeting of that Duma session, the chairman of the Duma, Gennady Seleznev, said, "These relations meet the fundamental interests of our peoples and have the utmost important strategic significance for our countries."

According to Article 189 of the Rules of the Duma, a federal bill of ratification, termination, or suspension of an international agreement of the Russian Federation may be introduced to the Duma only by the president or the government, along with a notarized copy of the official text of the agreement; a report on the

feasibility of the bill; a report on the compliance of the international agreement with the laws of the Russian Federation; and an analysis of potential economic or other impact.

The Duma council designates a supervisory committee responsible for preparing the agreement for ratification, termination, or suspension, although the Duma Committee on International Affairs and/or the Duma Committee on the Affairs of the Commonwealth of Independent States and Relations with Compatriots are involved as well, depending on jurisdiction. Those committees can request additional information from appropriate government agencies and involve independent experts in the evaluation of that information and the text of the international agreement. The legal department of the Duma's staff may also evaluate the international agreement's compliance with the constitution and other international commitments of the Russian Federation.

"It appears that the Federal Assembly's structure and its organizational principle of 'checks and balances' between the houses are unreasonable."

By decision of the Duma, the supervisory committee conducts parliamentary hearings on the international agreement, during which the president and the government's authorized representatives and other selected persons may speak. Based on the results of those deliberations, the supervisory committee adopts by majority vote an evaluation report containing recommendations on the ratification or nonratification of the international agreement, which is given to all Duma deputies. The committee may also suggest supplemental statements and/or stipulations to the action on the international agreement. Other committees are required to provide their evaluation reports on the relevant issues falling under their jurisdiction.

The Duma Council puts the international agreement at the top of the Duma's agenda. During the session of the Duma dealing with it, the authorized representatives of the president and the government and others make presentations, as do the chairmen of involved Duma committees. The Duma deliberates the issue and decides on the bill of ratification, termination, or suspension of the international agreement following the same procedure that is stipulated for other bills. In the event that the Duma supplements the bill with statements and/or stipulations that were not previously agreed on by the president or the government, the bill is adopted after the first reading.

The Duma adopts the bill by a majority vote of all deputies and then forwards it to the Federation Council, which then deliberates and votes on it. An international agreement fails to become ratified, terminated, or suspended when the bill does not receive the necessary votes to pass and no decision is made to reintroduce the bill for second consideration. If the Duma decides to postpone its deliberations, it must explain that decision in a decree.

The adoption of a law ratifying an international agreement can be supplemented by a relevant statement, as was the federal law "On the Ratification of the Friendship, Cooperation, and Partnership Agreement between the Russian Federation and the Ukraine." In it, the Duma praised the development of a partnership between the two nations and pointed out that the demarcation of the official border between Russia and Ukraine must not destroy the spiritual and historic unity of the people of those countries. It also dealt with the necessity of laws protecting the rights and cultural needs of the segment of the Ukrainian population whose native language is Russian. The statement raised other critical issues about the relations between the two nations, in particular their adherence to the agreements on the Black Sea Fleet.

According to Article 125 of the constitution, if an inquiry is referred to the Constitutional Court dealing with the constitutionality of the international agreement due to be ratified, the Duma does not deliberate the bill on ratification until the Constitutional Court makes its decision. The Federation Council acts in a similar manner.

Both houses of the Federal Assembly have the right to establish and cultivate international relations with parliaments of other countries and make treaties that foster interparliamentary cooperation. The Federation Council may deliberate and issue decrees on advisory legislative acts of the Interparliamentary Assembly of the members of the Commonwealth of Independent States that have been approved by the Duma.

The Duma can deliberate foreign policy issues on its own initiative, at the request of the president, or in the context of reports and memoranda of the government and the house committees. The Duma adopts addresses and declarations expressing its position on Russian foreign policy issues and on international affairs as a whole. Drafts of the addresses and declarations of the Duma can be introduced by any party possessing the right of legislative initiative. The Duma, in coordination with the Federation Council, forms bicameral delegations for foreign visits and approves participation in interparliamentary commissions and work groups with parliaments of other countries. They also approve Russian Federation parliamentary delegations to the Interparliamentary Assembly of the Council on Security and Cooperation in Europe and other interparliamentary organizations involving delegations from the Russian Federal Assembly and member countries of the Commonwealth of Independent States. After conferring with the Federation Council, the Duma approves a uniform procedure for protocol, financial, and logistical support to foreign parliamentary delegations visiting the Russian Federation and to Duma Deputies who travel abroad as members of interparliamentary commissions or official delegations from the Duma or Federation Council.

Conclusions and Suggestions

Both houses of the Federal Assembly maintain a large scope of power unrelated to lawmaking. The operation of the judicial system, Russian government, procurator offices, and the diplomatic corps depends on them to a large extent. At the

same time, it appears to me that the fragmentation of the Federal Assembly's jurisdiction by assigning different special powers to its houses is flawed. Decision-making power belongs to the Federal Assembly as a whole, which makes the legitimacy of unicameral decisions questionable.

The constitution made the work of the houses incompatible. That each house of the Federal Assembly has the right to independently decide certain significant national issues while the Federal Assembly cannot speak on its own behalf diminishes the role of the parliament as the body of governmental control over the political, economic, and social processes in Russia and makes it an ineffective and insignificant branch of government. Furthermore, the powers of the houses of the Federal Assembly are not complete; for instance, at the present time there is no parliamentary oversight of the enforcement of constitutional and federal laws. It is a significant omission that neither the Duma nor the Federation Council has the power to interpret federal laws.

It appears that the Federal Assembly's structure and its organizational principle of "checks and balances" between the houses are unreasonable. Essentially, the Duma is under a double check—both the Federation Council and the president have the right to turn down the laws that it passes. At the same time, the Federation Council has restrictions on its legislative rights when it deliberates adopted laws. It can only approve them or turn them down, and that precludes an adequate representation of the interests of the subjects of the Russian Federation in federal legislative acts. Sporadic and brief sessions of the Federation Council, which happen one or two days a month, do not allow for a meaningful consideration of the issues brought before it.

To increase the role of the Russian parliament and create the conditions for a gradual transition to a parliamentary republic that will enable genuine popular representation, the current Federal Assembly must have not only legislative powers but also the authority to create agencies and oversee the executive branch. The work of the Russian parliament needs to be based on rationalism and economic efficiency. Therefore, it is desirable to have a unicameral parliament composed of three hundred deputies elected through free and direct elections by secret ballot. Each member should run in a single-seat electoral district. It is reasonable for political parties and professional and citizens' groups to initiate the nomination process.

Naturally, the delegation of the supreme governmental powers in the Russian Federation to the parliament should be preceded by a large-scale campaign to change and amend the existing constitution. It is necessary that prior to these major steps a nationwide referendum is held on the government system in the Russian Federation. It would feature the question, "What type of republic would you like to live in—a presidential or a parliamentary one?" For the Russian citizens to make the most competent decision, the referendum should be preceded by broad educational efforts involving mass media and other means.

Requesting the people's verdict on the most critical issues, including the structure of the government, is the principal requirement for the creation of a democratic state. The implementation of the new government system can be preceded

by pilot programs in several regions that are subjects of Russia and enhanced by science-based concepts and drafts of federal legislative acts.

In my opinion, the operation of the parliament should be regulated not only by the constitution but also by a special federal law that would help implement popular representation in the parliament, eliminate adversity between the legislative and executive branches of power, and help harmonize efforts by political or civil entities. During the transition, it would be possible to effectively conduct legislative work and efficiently enforce federal laws among federal agencies, governments of Russian subjects, and local governments. The formation and operation of the new parliament will allow significant savings of resources currently spent on maintaining the work of the Federal Assembly and the president. At the same time, I believe that the quality of work of the parliament will improve. Such transformations will secure the unity of the government by guaranteeing purposeful work to reform the economy for the benefit of laborers, to strengthen national security, and to protect the constitutional rights and freedoms of Russian citizens.

NOTES

1. O. O. Mironov, "The Russian Constitution Has to Be Perfected," *Representative Power* 10 (1997): 36.

2. *Kommersant*, 25 September 1998.

3. In the ruling by the Constitutional Court of the Russian Federation of 11 December 1998 on the interpretation of the provision of part 4 of Article 11 of the constitution of the Russian Federation, it is recognized that the president of the RF has the right to submit the same candidate for the post of the chairman of the RF government twice or three times, or nominate a new candidate each time. At the same time, justices N. V. Vitruk and V. O. Lugin dissented. *Rossiyskaya Gazeta*, 29 December 1998.

4. Mironov, "The Russian Constitution Has to Be Perfected," 35–36.

5. Ibid.

6. *Pravda Moskvy*, 26 May 1998.

7. Ibid.

8. *Collection of Laws of the Russian Federation* 35(1998): 4379.

9. *Collection of Laws of the Russian Federation* 38 (1998): 4339.

10. *Collection of Laws of the Russian Federation* 13 (1998): 1487.

11. Mironov, "The Russian Constitution Has to be Perfected," 35–36.

12. *Vedomosti of the Federal Assembly of the Russian Federation* 2 (1994): 137.

13. Ibid., 135.

14. *Collection of Laws of the Russian Federation* 34 (1994): 3576; 8 (1996): 722; 11 (1997): 1290.

15. Duma, Session Transcript, Bulletin No. 227, 25 December 1998, 58.

16. In 1998, the Duma considered sixty-five federal bills in first reading dealing with the ratification of international agreements; the president of the Russian Federation signed fifty-three such bills into law.