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**RESPONSIBILITY FOR DEFECTIVE LAWMAKING:
THE EXPERIENCE OF THE REPUBLIC OF BELARUS***PAVEL SALAUYOU*

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The article deals with the issue of responsibility for defective lawmaking in the Republic of Belarus. It concludes that it is necessary to build an integral institution of legal responsibility for defective lawmaking in the social and legal aspects.

One of the basic provisions for the construction of any legal institution in the legislation is the completeness of legal regulation and lawmaking as the activity for the preparation, and adoption of formal sources of law is not an exception.

The Constitutional Court of the Republic of Belarus often uses the category "completeness of legal regulation" in its acts. The Court determines that "the completeness of legal regulation" is an inalienable element of the rule of law (art. 7 of the Constitution of the Republic of Belarus [1]) and the principle of legal certainty. The content of the category "completeness of legal regulation" by the Constitutional Court of the Republic of Belarus is disclosed by the formulas "timely creation of mechanisms for the implementation of relevant provisions of laws" [2], "not allowing gaps in legal regulation" [3] and others.

In the legal science, the category of the completeness of legal regulation is also associated with the rule - "every rule of law has a complete design (hypothesis, disposition and sanction), or contains references to other legal acts" [4, p.347].

Lawmaking, because of its importance in the regulation of political, economic, social and other relations, is subject to extensive legal regulation. The core of legal regulation is the Constitution because of the importance of regulated relations. In the Republic of Belarus, the Constitution defines a system of lawmaking bodies, which is built on the principle of separation of powers and the mechanism of counterbalances. The Constitution establishes the basic normative powers of the President, Parliament, Government, The Supreme Court, The Constitutional Court and local government bodies. The Constitution determines the essential aspects of the implementation of normative powers (the procedure for adoption, forms of acts, legal force and other).

The provisions of the Constitution on lawmaking are developing in other legal acts, which, as a rule, detail the legal status of subjects of lawmaking. For example, the Act on the National Assembly of the Republic of Belarus [5] regulates the organization and activities of the Parliament of the Republic of Belarus, the main subject of lawmaking.

In the theory of lawmaking, the point of view about the need for a special legislative act on lawmaking in the state. This Act should regulate in detail the technology of creating legal acts [6. p.154]. In the Republic of Belarus, the Act on Legal Acts was passed 2000 [7]. This Act is a special legislative act, which contains the legislative code of compulsory rules of lawmaking activity. This Act defines the concept and types of normative legal acts of the Republic of Belarus, establishes a general procedure for their preparation, processing, acceptance (publication), publication, action, interpretation and systematization. However, all the specified normative acts don't contain sanctions for their violation of the rules of lawmaking.

Let's pay attention to a problem of responsibility of lawmaking subjects for defective normative acts.

Criminal and administrative law doesn't establish liability for violations of rules of lawmaking. However, within the framework of the existing offenses, significant violations of the principles of lawmaking (for example, constitutionality or efficiency) can be qualified as abuse of power or official authority (art. 424 of the Criminal Code of the Republic of Belarus [8] or inaction of an official (art. 425 of the Criminal Code.) Inadequate consideration of applications of citizens and legal entities on the issues of improving legislation may constitute the offense specified in art. 9.13 of the Code of the Republic of Belarus on administrative violations [9] (violation of the legislation on citizens' appeals). Disciplinary liability is also possible.

The Civil Code of the Republic of Belarus contains a direct norm that establishes civil liability for harm caused to a citizen or a legal entity as a result of issuing an act of a state body or local government that does not

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comply with the law (art. 938) [10]. The above norm is found in the Act of the Supreme Council of the Republic of Belarus of June 16, 1993 No. 2415-XII, which approves the Regulation on the procedure for compensation of damage inflicted on economic entities by illegal actions of state bodies and their officials [11].

In the legal science, it is customary to refer to the institution of constitutional responsibility for unfavorable consequences for defective lawmaking activities. Studies of constitutional responsibility in the sphere of rulemaking can be found in the works of G. Vasilevich, S. Bosch, S. Avakyan, J. Ovsepyan and others [12, p.65; 13, p.19]. They propagandize the thesis about responsibility for defective lawmaking, which should be implemented in constitutional law

Constitutional responsibility is a special type of legal responsibility implemented in the system of state bodies and, as a rule, has a clearly expressed political character.

Constitutional responsibility, like any other type of responsibility, is applied only in the presence of an offense. Z. Ovsepyan writes that constitutional offenses are "offenses committed by state bodies (officials) of public authority (primarily, the supreme state power) in connection with their legislative and other lawmaking activities (in rare cases, law enforcement); (normative act) that violates the principle of supremacy, supreme legal force and direct (direct) action of the Constitution and its norms, or associated with the adoption of law enforcement acts that have resulted in large-scale negative (harmful) social consequences, widespread violations of constitutional human rights "[14, p.26]. There are two types of rule-making defects: social and legal, which can equally be the basis of constitutional responsibility in the field of lawmaking.

As is known, the normative act is characterized in two aspects: social and special-legal. The first characteristic covers such properties of the normative act as the satisfaction of the interests of society and the state in the act, the timeliness of the adoption of the act, the choice of the correct methods of legal regulation, etc. The second is the clarity of the completeness of the logicity of the act, the choice of the correct form of the act, adherence to the procedure for preparing and adopting the act, and so on. Social and special-legal defects can be grounds for involving lawmaking bodies in constitutional responsibility.

Sanctions of constitutional responsibility in the sphere of lawmaking can be represented by the following list: early termination of powers; cancellation (suspension) of normative acts; compulsion to perform constitutional duties (adoption of a normative act), etc.

It should be noted that the cancellation (suspension) of normative acts in the constitutional doctrine is considered either as a sanction or as a measure of protection. The first point of view is justified by the fact that "with the cancellation of the act ... adverse consequences consist in diminishing authority, prestige, respect for the guilty body or official", the second one - "the sanction" to the law is hardly applicable ... in this case it is necessary to speak about interim measures" [15, p.5].

Some examples of the implementation of constitutional responsibility for defective lawmaking can be found in the Constitution of the Republic of Belarus: The President of the Republic of Belarus has the right to abolish acts of the Government (art. 25, art. 84); The Council of the Republic decides to dissolve the local Council of Deputies in the event of a systematic or gross violation of the requirements of the law and in other cases provided for by law (such violations can be committed while carrying out normative activities) (art. 98), etc.

Subjects of constitutional responsibility, which may be sanctioned for defective lawmaking, should include state authorities, local government bodies, officials of these bodies. Subjects attracting to constitutional responsibility are the body of constitutional justice, higher state bodies.

In general, the current legislation of the Republic of Belarus does not contain a holistic institution of constitutional responsibility for improper lawmaking. The completeness of the legal regulation of lawmaking should also be achieved through the establishment of responsibility for defective law-making in the social and legal aspects. Responsibility for defective lawmaking must be built on the basic provisions of constitutional responsibility.

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