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**THE DRAFT FEDERAL LAW ON SCIENCE –  
A NEW FORMAT OF LEGAL REGULATION OF SCIENTIFIC  
AND INNOVATION ACTIVITIES**

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**Introduction:** *the article provides a retrospective analysis of the legislation of the Russian Federation on science and presents a descriptive forecast of the changes that will arise from the adoption of the federal law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation”. In the article, the main attention is paid to the formal legal description of the current legislation and the federal law currently under development, as well as to the questions being of great importance for the Russian legislation on science, namely: the legal status of a scientist, the system of scientific organizations and scientific infrastructure, the classification of types (fields) of scientific activities, science and innovation in terms of legal regulation etc. **Purpose:** based on the analysis of the current legislation and modern scientific doctrine, to justify the need to develop a draft of a new framework act in the sphere of science; to describe the system and structural changes in legislation that will follow its adoption. **Methods:** the research is based on the combination of the formal legal analysis applied to texts of legal acts and methods of system analysis, forecasting and modeling, as well as the comparative law method. **Results:** the article gives a description of the system of Russian legal acts on science. It also justifies the structure of the draft federal law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” and content of its basic institutes. **Conclusion:** efficiency of*

*the state policy in the scientific-technical sphere is characterized by the presence of the relevant legislation. This legislation should be consistent, receptive to aims, tasks and methods of the state strategic planning, should be in harmony with norms of other branches of legislation, and correspond to demands of Russian economy and international trends. The draft federal law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” meets these criteria, while the federal law currently in force “On Science and State Scientific-Technical Policy” was revealed to have some drawbacks.*

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Keywords: legislation on science; draft legal act; concept; innovations;  
scientist; scientific activities; fundamental research

### Information in Russian

## **ПРОЕКТ ФЕДЕРАЛЬНОГО ЗАКОНА О НАУКЕ – НОВЫЙ ФОРМАТ ПРАВОВОГО РЕГУЛИРОВАНИЯ НАУЧНОЙ И ИННОВАЦИОННОЙ ДЕЯТЕЛЬНОСТИ**

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**Введение:** статья посвящена ретроспективному анализу законодательства Российской Федерации о науке и прогнозному описанию тех изменений в нем, которые станут следствием принятия федерального закона «О научной, научно-технической и инновационной деятельности в Российской Федерации». Основное внимание в статье уделяется формально-юридической характеристике действующего законодательства и разрабатываемого федерального закона, таким ключевым для законодательства Российской Федерации о науке вопросам, как: правовой статус ученого, система научных организаций и инфраструктура науки, классификация видов (направлений) научной деятельности, наука и инновации сквозь призму правового регулирования и др. **Цель:** на основе анализа норм действующего законодательства о науке и научной доктрины обосновать потребность в разработке проекта нового системообразующего акта в сфере науки,

описать системные и структурные изменения в законодательстве о науке вследствие его принятия. **Методы анализа:** базовым для исследования стало сочетание методов формально-юридического анализа текста нормативных правовых актов и методов системного анализа, прогнозирования и моделирования, а также сравнительно-правового метода. **Результаты:** дана характеристика системы нормативных правовых актов Российской Федерации в сфере науки; показаны перспективы ее совершенствования; научно обоснованы структура проекта Федерального закона «О научной, научно-технической и инновационной деятельности в Российской Федерации» и содержание основных его институтов. **Вывод:** критерием эффективности проводимой государством политики в научно-технической сфере является наличие соответствующего законодательства, отличающегося признаками системности, непротиворечивости, гармоничности с нормами иных отраслей законодательства, восприимчивости к целям, задачам и методам государственного стратегического планирования, согласованности с потребностями российской экономики и общемировыми трендами. Данным характеристикам соответствует проект Федерального закона «О научной, научно-технической и инновационной деятельности в Российской Федерации», необходимость подготовки которого обусловлена выявленными недостатками действующего Федерального закона «О науке и государственной научно-технической политике».

Ключевые слова: законодательство о науке; законопроект; концепция; инновации; ученый; научная деятельность; фундаментальные исследования

### Introduction

Today, the draft federal law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” is being developed and widely discussed. Many scientists, lawyers and public officials have expressed the need to modernize the basic legal act of the Russian Federation on science [2, 15, 18].

The developers of this legal act are guided in their work not only by the present legislative corpus in this sphere but also by the Concept of the draft law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation”<sup>1</sup>, and the Strategy of scientific-technological development of the Russian Federation, approved by the Order of the President of the Russian Federation on 1<sup>st</sup> of December, 2016 №642<sup>2</sup>.

The Concept of the draft law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” shall be treated as one of the stages of process of preparation of a new federal law on science, because nowadays this kind of legal

documents is almost outdated. But the negligence of such a stage of legislation process as the development of a federal law concept (especially when we talk about acts which are intended to set grounds of regulation of a large group of social relationships) can result in a legal act of improper quality. It is the concept that reveals and gives public access to the main parameters of the future act, attempts to formulate novelties, shows specific aspects and originality of the future law, demonstrates dynamics of rights and obligations of subjects of legal relationships. It is not a secret that when we analyze a considerable part of developed draft laws, we cannot reveal any new rights, obligations, subjects of regulation of original provisions.

The Concept of the draft law “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” establishes main ideas, basic principles, institutes and novelties of the act, which shall replace the actual Federal Law № 127-FZ “On Science and State Scientific-Technical Policy”<sup>3</sup> of August 23, 2005, a new approach to the conceptual construct on science legislation is designated. It was outlined at the stage of the Concept development, that the main issues that should be solved by the developers of the draft law will be the

<sup>1</sup> The Concept of the draft law “On scientific, scientific-technical and innovation activities in the Russian Federation” Available at: <http://минобрнауки.рф/документы/7894> (accessed 01.09.2017)

<sup>2</sup> Collection of legislation of the Russian Federation. 2016. No. 49. P. 6887.

<sup>3</sup> Collection of legislation of the Russian Federation. 1996. No. 35. P. 4137.

following: the search for the appropriate balance between a constitutional right to scientific creativity and various types of scientific-technical, innovation, scientific-expert activities, the establishment of legal status of a scientist as a main subject of relationships in the sphere of science, all aspects of interaction of a scientist with research teams, scientific and other organizations and with the state.

The approaches and principles of further regulation of relations in the sphere of science and innovation, which are established by the Constitution, generally consort with the instruments of realization of scientific-technical policy of the European Union, that are outlined by the scientists [13, pp. 221–222]: scientific programs and strategies, stimulation of cooperation between subjects of science, spread and implementation of results of scientific activities, the development of research potential (preparation and mobility of human resource).

#### **Landmarks of New Legal Regulation of Relationships in the Sphere of Science and Innovation**

The Federal Law “On Science and State Scientific-Technical Policy” comes from the age of legal acts, which established legal grounds for sectorial regulation for the first time in the context of the new Constitution of the Russian Federation of 1993. The specific feature of this and other acts of social sphere was an expansion of the subject and a fair enrichment of related methods of regulation as the mentioned acts left the sphere of administrative law and transformed into a complex branch of legislation, which featured a wide usage of private law methods among traditional public legal methods of regulation.

In the first years of existence of the law “On Science and State Scientific-Technical Policy”, its basic institute included a complex of norms, which regulate relationships in connection with state management of scientific-technical activities. Similar tendencies, related to the form of legal regulation and its contents, were spotted in other post-Soviet countries.

Thus, in the middle of the 1990s basic legislative acts in the sphere of science were adopted in the Republic of Belarus (The Law of the Republic of Belarus № 2105-XII “On Grounds of State Scientific-Technical Policy” of January 19, 1993, the

Law of the Republic of Belarus № 708-XIII “On Scientific Activities” of October 21, 1996, the Law of the Republic of Belarus №159-Z “On the National Academy of Science of Belarus”) of May 5, 1998, in the Kyrgyz Republic – the Law of the Kyrgyz Republic No. 1485-XII “On Science and Grounds of State Scientific-Technical Policy” of April 15, 1994, in Turkmenistan – the Law “On State Scientific-Technical Policy” of February 19, 1992 and etc. As it is noted in special research, the laws of the CIS countries on science of that time were based on the recognition of the important role of the state in the management of scientific and scientific-technical activities [3, p. 117].

Though the adoption of the Federal Law “On Science and State Scientific-Technical Policy” had an overall positive meaning, we should agree with the conclusion that its initial regulatory potential was low and went even lower [9, p. 188]. The document can be characterized by the following features: lack of a single goal of formation of this legislative corpus [19, p. 18]; disruptive renewal thereof; supremacy of branch legislative norms over the norms of legislation on science, accompanied by a sufficient lack of the latter; declarative nature of norms; lack of consistency; lack of a well-organized system of connection with legal acts of basic branches of the Russian legislation (especially the ones which regulate budget, tax and civil relationships).

The declarative nature of the actual Federal Law manifests itself not only in its declarative norms, but also in the process of making “new” rules of conduct, when the legislator brings them in correlation with the new regulation sphere without changing their content. Thereat, new rights and obligations of subjects do not appear, but the well-known rights and obligations receive new “clothing”, while the essence remains the same. The analysis of rights and obligations of a science worker confirms that no special rights, previously unknown for the Russian legislation and unique for people, doing science were established in the article 4 of the Federal Law “On Science and State Scientific-Technical Policy” [9, pp. 188–189].

The fragmentation, inconsistency and incoherence of the regulation as a result of making isolated changes are typical of most institutes of legislation on science, including the rights and obligations of scientists [4, p. 119]; innovations [17, pp. 55–56;

11, p. 247]; legal status of other research organizations, in particular, academies of science [12, pp. 122–123]; the regulation of fundamental and applied studies [10, pp. 10–11].

In spite of rather dynamic activities on making amendments to the Federal Law “On Science and State Scientific-Technical Policy”, the attempt to make an efficient combination of civil and administrative legal methods, failed [1, p. 64]. Eventually the Federal Law “On Science and State Scientific-Technical Policy” has not led to the appearance of a hierarchical system of acts, where unilevel social relationships would be regulated by acts of one level, while the law itself would set grounds for the further regulation on a legislative or sublegal level with the same degree of concretization.

The mentioned irregularity manifests itself particularly in the fact that the relationships, connected with the assignment of academic degrees and titles, preparation of thesis research and confirmation of documents on academic degrees are regulated in detail, while the assessment of efficiency of research organizations, the legal status of expert organizations, the assessment of qualification and labor efficiency of science workers and personnel position of science workers remained beyond the scope of the Federal Law “On Science and State Scientific-Technical Policy”.

The absence of a uniform comprehension of all elements of the system of legal entities, which take part in the production of knowledge, its spread, implementation and commercialization in the Federal Law “On Science and State Scientific-Technical Policy” has led to the situation when all adopted laws and sublegal acts in the inspected sphere do not correlate with each other, various types of legal entities have few differences in rights and obligations, have crossing aims and tasks. The monitoring of their activities is exercised in isolation and eventually there is no answer to the question – do we really need so many different organizations in the sphere of science and is it necessary to continue the list of them (today there are many state scientific centers, national research centers, research universities, special territorial formations – science towns, clusters, technoparks<sup>1</sup> and etc.).

<sup>1</sup> The Federal law from 07.04.1999 No. 70-FZ “On the status of knowledge city of the Russian Federation”, the regulation of the Government of the Russian Federation from 10.03.2006 No. 328-r “On the state program “The creation of technoparks

It is obvious that this situation, when the Federal Law “On Science and State Scientific-Technical Policy” failed to become a systemic center, cannot be solved in the future by single-point measures and local correction. We need a new legal toolkit, which will allow for ensuring cardinal changes in the development of science, technologies and innovations in the spirit of goals and tasks, which are set in basic documents of strategic planning of the Russian Federation and at the international level.

Thus, UNESCO Science Report “Towards 2030”<sup>2</sup> notes that in spite of worldwide growth of number of people, engaged in scientific research (by 21 % from 2007), the number of scientists in Russia has diminished and thus the percentage of Russian scientists in the overall number of scientists has fallen from 7,3 % to 5,7 %. There is also an alarming trend of reduction of funding for fundamental science, of financial flows redirection in favor of applied research, of satisfaction of industrial needs: the expenses on fundamental studies fell from 26 % to 17 % of gross diversion in 2008–2013.

According to the Scientific and Technological Development Strategy of the Russian Federation, approved by the Executive Order of the President of the Russian Federation № 642 of December 1, 2016<sup>3</sup>, present “negative factors and tendencies create risks of Russia’s deceleration from countries being world technological leaders and risks of devaluation of inner investments into scientific and technological spheres. These factors also reduce the independence and competitiveness of Russia in the world and threat national security of the state”. That is why one of the most important issues, which must be solved at the first level of implementation of the Strategy in 2017–2019 is the creation of legislative mechanisms that prepare the Russian Federation for greater challenges and ensure a harmonized scientific, scientific-technical, innovation, industrial, economic and social policy.

The existing Federal Law “On Science and State Scientific-Technical policy” establishes

in the sphere of hi-tech”, the Federal law from 29.06.2015 No. 160-FZ “On the international medical cluster and amendments to separate legal acts of the Russian Federation”.

<sup>2</sup> UNESCO Science Report: towards 2030 – Executive Summary Available at <http://unesdoc.unesco.org/images/0023/002354/235407r.pdf>. (accessed 01.10.2017).

<sup>3</sup> Collection of legislation of the Russian Federation. 2016. No. 49. P. 6887.

a model of relationships, based on the idea of science being a separate branch of economy, which requires state management just like any other industrial branch – chemical industry, nuclear energy and etc. However, at present times the application of the principle of regulation, based on the sectorial specific character of the affected objects in relation to science cannot be treated as effective due to some reasons.

In particular, the usage of such a narrow approach will not allow one to:

1) create a system of regulation, which will treat tasks of scientific development and implementation of innovations as top-priority and norms of other branches of legislation will follow them. In this context we should recall that before 2004 both the Federal Law “On Science and State Scientific-Technical Policy” and the Law of the Russian Federation No. 3266-1 “On Education” of July 10, 1992 contained provisions on a compulsory share from the public budget allocated for the needs of education and science, but due to financial norms these provisions were neglected or their action was frozen after the adoption of related laws on the federal budget;

2) create a single coordination center on all stages of “knowledge turnover”: from its generation to the implementation in civil circulation;

3) create a stimulation system for the scientific community, which shall insure its interest in development and implementation of scientific results;

4) use the research potential of the scientific community for the purposes of state management (expert activities), to spread the application of scientific results into the exchange of information;

5) create a platform for the development of next generations of Russian citizens by supporting the fundamental science, which forms the initial level of knowledge “life cycle”.

The legislator, after accepting the need to develop a new law, which shall define a new role of science in the Russian economy and create all necessary human resource and infrastructure conditions of scientific and innovation activities and after defining not only scientific and scientific-technical activities, but also innovations as a subject of regulation, faced a problem of determining the volume of legal norms related to the regulation of innovations.

It must be noted that according to the information about public hearings of the draft law “On Scientific, Scientific-Technical and Innovation activities in the Russian Federation”<sup>1</sup>, one of the most principle questions is still the question about the need to regulate innovations in the new law on science, and if yes, then within what scope, or shall the sphere of innovations be a subject of a special regulation and shall it be excluded from the law on science? The discussion also goes over the questions about which aspects of scientific and innovation activities must be regulated directly by the law, and which ones must be transmitted to the sublegal level.

The analysis of the draft law shows that it was prepared with due account for the modern research in this sphere, which confirms a strong connection between science and innovations [28]. This correlation demands (in spite of variety of innovation and related activities) the establishment of regulation grounds of related relationships exactly in the federal law. At the same time many relationships in the sphere of innovation will be brought to the level of the law, as at the moment they have no normative form or are regulated at a sublegal level.

The draft law offers to define common criteria for qualification of products as innovative. Therefore, it shall solve the question, which is vital for making state support – which products are innovative and which ones are not. The draft also defines the basic form of realization of innovation activities – the innovation project.

Despite the fact that scientific community is anxious about questions connected with the expansion of the sphere of research, especially robot technologies and biotechnologies [20], the draft law has no related provisions – this role is given to sectorial legislation, which sets features of regulation of genetic engineering, prohibition of human cloning and etc.

The Federal Law under development “On Scientific, Scientific-Technical and Innovation Activities in the Russian Federation” after its enactment will not de-jure become a codified law, about the possibility and desirability of which V. V. Lapaeva wrote in the early 2000s [8, pp. 4–5], however the

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<sup>1</sup> Available at: <http://regulation.gov.ru/projects#npa=69845> (accessed 10.10.2017)

features of this form of legal systematization are distinctive even today:

- 1) the expansion of subject of regulation;
- 2) the absorption of the active federal law;
- 3) the inclusion of norms and institutes, which were earlier regulated by other legal and sublegal acts;
- 4) the formulation of new norms and institutes, etc.

This is not only about the usage of an expansive model (the present law has 18 articles, while the new one shall have more than 70) – it is very important to reach equability, equally detailed regulation in establishing norms, addressed to all relationships, that are important for the science and the sphere of innovations.

In the process of preparation of such acts it is necessary to keep in mind that the self-dependent establishment of norms (no matter how important and excellent they may look for the creator of the draft) will not lead to the desired result and will not serve as a guarantee of efficient action of norms in the future, if the draft norms and institutes do not correlate with norms of neighboring branches of legislation. The draft does not affect questions, related to the regulation of copyright, but in general the development of the legal act took into account arguments on the negative influence of harsh copyright protection system on the development of science and innovations [25, pp. 123–125], as well as the information on Russian and foreign practice, connected with patent court justice and with protection of copyright [29].

**Novelties of the Draft Federal Law  
“On Scientific, Scientific-Technical  
and Innovation Activities  
in the Russian Federation”**

A doubtless advantage of the draft federal law is the attempt to provide correlation between the right on scientific creativity and the rights of people who do research. Unlike other human and citizen rights including the labor right or the right to participate in cultural life, the right to do science has not been separately and independently provided at the level of constitution.

Thus, the freedom of science is provided in Germany (p. 3 art. 5 of the Basic Law of Germany [7, p. 428]), the science and its theoretical development are free in Austria (art. 17 of the Basic Law of the State “On general rights of citizens of king-

doms and lands, represented in the imperial council” of December 21, 1867 [7, p. 95]), in Greece the science and research are free, while the state must develop and spread them (p. 1 art. 16 of the Constitution of Greece of 1975 [7, p. 250]), the freedom of science and teaching is guaranteed in Japan (art. 23 of the Constitution of Japan of 1947 [6, p. 1025], in Spain the right to technical and scientific creativity and production is recognized and protected (art. 20 of the Constitution of Spain of 1978 [7, p. 375]). However, Portugal is an exception. The Constitution of Portugal has a special article devoted to the freedom of creativity, (art. 42) according to which the freedom of creativity is regarded as an independent “super right”, which includes the right to make inventions, the right to make and spread scientific, literary or artistic works and the right to the legal protection of copyright, while separately, p. 4 of art. 73 (“Education, culture, science”) obliges the state to stimulate and support scientific works and inventions as well as the technological innovations [7, p. 532]. On the whole (taking into account Article 81 of the Constitution, which places the provision of a policy favorable for science and technologies among primary state obligations and the declaration of increase of technological and industrial innovations as the goal of the industrial policy (art. 103)), it is Portugal that has the most well-detailed regulation of relationships in the sphere of science at the constitutional level.

The modern world, full of scientific achievements, cannot live without practical application of legally guaranteed freedoms [26], however, the analysis of constitutional norms, made above, showed that the right to scientific creativity has not been yet included in the sphere of constitutional legislation interests.

The lack of constitutional regulation of relationships in the sphere of scientific creativity and minor presence of scientific creativity in the Federal Law “On Science and State Scientific-Technical Policy” (it is mentioned only twice as a principle) have led to the factual absence of concretization of constitutional norms related to scientific creativity in the legislation on science. Instead of the “creator of science” we have a science worker, which can only be a natural person, having legal connections with an organization. But how can we deal with the situation, when an unemployed man attends library

ies and open information sources and then proves a theorem, develops a hypothesis or invents a new technology? Treating scientific creativity as a type of creativity in general we can assume that the right to create assumes the selection of type of creativity as well as of forms of creativity (professional or amateur) [16, p. 57].

The model CIS Law “On the Status of a Scientist and Science Worker” (adopted at the 31st plenary meeting of the Interparliamentary Assembly of the CIS Member Nations on November 25, 2008)<sup>1</sup> distinguishes a scientist and a science worker. This distinction presumes that science workers are subjects of such instruments of labor law as qualification, attestation, labor contract, employment instruction and etc. At the same time the model law sets some formal criteria for the distinction of scientists and science workers: 1) academic degrees and titles, 2) science as a professional activity, 3) the recognition of research results by the scientific community. But is that really enough for the classification of all natural persons, which realize their right to do science and engage in scientific creativity in different forms and scopes?

The aim, set in the Concept – is to “form a legal field, which shall allow maximal realization of the human right to do scientific and technical creative research and the provision of an effective state support of such people”. This has finally led to the allotment of a scientist as a special subject of relationships in the sphere of science and innovation, with the following features. First of all, a scientist is a natural person. It can be not only a Russian citizen, because the International Covenant on Economic, Social and Cultural rights of 1966 uses in art. 15 the definition “everyone”, thus it merges citizens of separate states, foreigners and stateless people. Second, the scientist must perform specific activities, which can according to the draft Federal Law be treated as science, scientific-technical activity or scientific-expert activity. Third, formalized requirements to the process of such activities are not necessary (it is not legally important, how often these activities are performed – on a regular

basis or occasionally, at daytime or at night, etc.). Such formality is typical for employment, service and other legal relationships. Fourth, the scientist may be free from labor, service or civil relationships with other subjects of scientific, scientific-technical and innovation activities. Fifth, the only formal and cardinal distinctive feature between a person, “doing scientific creativity” and a scientist is the recognition of a scientific core in this creativity. It can be a publication in a peer-reviewed scientific journal, a reception of a patent, an assignment of an academic degree or a title.

This approach presumes, that in the two last cases the scientist will gain a documentary confirmation of the status, in other cases – a natural person gains only a right to be called a scientist (without any formal documents), but still he is entrusted with a complex of legal abilities, for example he gains the right to use scientific and innovation objects of infrastructure.

The quality of work of a scientist, a research organization and the combat against plagiarism in research is a common trouble of many countries [5, p. 235], the draft law offers a rather comprehensive system of measures, that should solve it. One of those measures is the idea to give a status of the scientist only for those subjects of scientific activities, which have acknowledged scientific results.

If we consider legal and social consequences of appearance of a new subject in the sphere of science – a scientist, then we can assume that there is a need for the special sublegal regulation of the relationships connected with the realization of the status of a scientist, not being a science worker or a teacher (for example, in connection with the usage of library and other funds of research organizations). Thus, the social effect of such regulation can be rather impressive. In conditions of insufficient funding of science, the recognition of a young researcher as a scientist, supported by the provision of a related document by scientific associations can play a major role in the status improvement of science.

One of the modern trends – “the open science”, according to researchers [27], presumes that the

<sup>1</sup> Official site of Interparliamentary Assembly of CIS: <http://iacis.ru/> (accessed 01.10.2017).



scientific researches must be made upon infinite access to scientific results, acquired with the financial support of states or state funds [23, p. 832].

That is why the novelty of the draft law and its distinctive feature is the detailed address to issues of promotion of scientific knowledge and enlightenment activities. The draft law offers to perform such activities on a regular basis by the means of educational, scientific and other events, held by scientific and educational organizations. The programs of popularization and promotion of science, scientific knowledge, achievements of science and technology may include events concerning the creation and maintenance of scientific-popular sites, the creation of electronic versions of scientific-popular printed publications and TV shows, the issue special literature, the creation of TV, cinematic and other scientific-popular products, the contests on best product of scientific-popular literature, the creation of infrastructure for scientific and scientific-technical creativity, etc.

Other important novelties of the draft law are:

1) The expansion of the conceptual construct and its adjustment to international standards.

Today, there is an obvious need to legally establish such definitions as expertise in the field of scientific, scientific-technical and innovation activities, science team, scientometric and quality assessment of scientific activities and many other definitions in the sphere of innovations (for example marketplace of intellectual property, technological platform, technological park, etc.).

2) The creation of a special chapter, which shall include norms and institutes that establish features of strategic planning and forecast in the sphere of scientific, scientific-technical and innovation activities.

The study of foreign legal experience and norms of international law shows that both earlier [21] and in the age of post-industrial information society the state remains not only a major regulator, but also a key player in the goods and services market [22], so it is not random, that the draft law pays special attention to forecast and planning of scientific, scientific-technical and innovation activities.

The forecast and planning are the key instruments of realization of state policy in the mentioned sphere. The Federal Law “On Strategic Planning in the Russian Federation” has a general nature and cannot objectively consider the features of scientific and innovation spheres. The draft law shall establish the features of development of basic documents of forecast and planning of scientific and innovation activities. Thereat it is obvious for everyone that the effectiveness of the scientific activities and the whole economy depends on the question – how well will the priorities be placed in the process of forecast of scientific activities for short, middle and long-term perspectives.

3) The legal regulation of scientific-expert activities.

The scientific expertise is a very important instrument of all scientific, scientific-technical and innovation activities. The effectiveness of the scientific activities and the whole economy depends on the question – who made the expertise of an application, project result or of a special decision and according to what rules.

However, this institute is not covered by the actual law, and that is why the draft law shall fill this gap by establishing basic legally significant parameters of the expertise, based on making research and/or usage of scientific knowledge for the preparation and making decisions in various spheres of economic and other activities (including the science and innovations themselves).

4) The systematization of the legal status of subjects of scientific, scientific-technical and innovation activities.

The draft law intends to regulate separately the legal status (i.e. to define features, rights, obligations and liability) of scientists and to establish legal grounds for the scientific qualification (the assignment of academic degrees and titles), while the positive experience of active legislation should be saved and some norms should be transferred from sublegal level to the level of the law.

One of the novelties of the law will be the regulation of status of research teams – associations of scientists that are not legal persons, therefore this will simplify the grant project support of scientists.

The draft law shall also clarify basic features of a research organization. These features will include not only the performance of scientific, scientific-technical, scientific-expert activities as the main activity, but certainly – the transfer of results of such activities and/or the right to use them, including the publication of the obtained results. The draft law also plans to establish the features of organizations that perform innovation activities (in particular such a feature as the usage of intellectual activity results by the organization, their practical application for the creation of innovative products, goods and services).

The lack of strict normative features of scientific and innovation organizations in the active legislation creates obstacles for the management of state support of such subjects. Very often due to the complicated qualification of research and innovation organizations, a decision on denial of support is taken, as there is a high level of risk that the support will be provided for non-research and non-innovation organizations.

One more novelty of the draft law will include the special regulation of the legal status of research organizations that have a leading position in a specific sphere of science and technology and wield a material technical base with human resource. The draft law provides a possibility of assigning these subjects a special status (national research center, state research (scientific-technological) center, sectorial and regional scientific-technological center) with expansion of related rights and preferences. Nowadays the regulation of research organizations with a special status is fragmented and contradictory which will not allow for making distinction between statuses (what status must be assigned and when) and assessing effects from the assignment of related statuses.

5) The special regulation of legal regime of objects and organizations in the infrastructure system of scientific, scientific-technical and innovation activities.

As the creation of infrastructure of scientific and scientific-technical activities is provided in Russia mostly by the means of the state budget, it is necessary to ensure its maximal efficient usage for the sake of society and state.

Due to the mentioned reasons, the draft law shall establish the principle of provision of equal access for all interested people to the infrastructure

of scientific, scientific-technical and innovation activities, which was created by the means of state budget or with related support. The draft law will establish the requirement to ensure publicity and transparency of information on the usage of related objects of scientific infrastructure by different subjects.

The draft law intends to regulate in detail the legal regime of research equipment, being in collective exploitation, and to solve the long-standing issue of systematization and regulation of legal status (i.e. the order of creation and features of legal regime) of such infrastructure subjects of support of innovation activities as the technological platform, the business-incubator, the center for commercialization of scientific and scientific-technical results (the marketplace for intellectual property), the center for transfer of technologies, including centers of sectorial orientation (nanotechnologies and etc.).

Taking into account the fact that in the modern society the information has a special significance, and it is often the basic capital in the sphere of science and innovations, the draft law shall solve the main issues of access to the scientific information, i.e. the information on results of scientific, scientific-technical and innovation activities, made on the means of budget funds, as well as issues of informational interaction between science, business and society.

At the same time, the draft law will not neglect the tendencies common for Russia and international society connected with the increasing number of information bases, registers and systems. The participation in such systems often becomes a major factor for the realization of personal rights and entails the appearance of new kinds of legal disputes [24, pp. 31, 58], and threats [14, p. 232.]

6) The regulation of territorial development of scientific, scientific-technical and innovation activities.

The draft law shall consolidate provisions on territorial location of subjects, which perform scientific, scientific-technical and innovation activities, that are split today in many federal laws or are not legally regulated at all (for example, knowledge cities and innovation territorial clusters).

7) The harmonization of regulation of issues on the assessment and monitoring of activities performed by research organizations.

One of the novelties of the draft law will include norms on the assessment of productivity of activities of research and other organizations in order to stimulate scientific, scientific-technical and innovation activities. It is assumed, that the common assessment of scientific, scientific-technical and innovation activities of research and other organizations will include:

a) a scientometric assessment of productivity, provided by the founder of the research organization according to a typical methodology, set by the Ministry of Education and Science;

b) a quality assessment of results of scientific, scientific-technical and innovation activities, which shall be made by representatives of the research community.

The right to set criteria for the scientometric assessment of productivity of activities will be granted to the Ministry of Education and Science of the Russian Federation.

The procedure of assessment shall become an important instrument of securing equal opportunities for research organizations in gaining statuses, being entrusted with special functions, receiving rights to form dissertation councils and etc. Moreover, the draft law introduces a procedure of state monitoring of scientific, scientific-technical and innovation activities, in the frames of which it will be possible to collect and analyze information on scientific, scientific-technical and innovation projects; information on economic and social effects gained from the use of research results; on realized projects; on the status and the usage of infrastructure, human resource of organizations that perform scientific, scientific-technical and innovation activities.

The monitoring, unlike the assessment will not cause the assignment or the forfeiture of statuses, budget funds, etc., but will instead be a ground for the planning and forecast in the sphere of science and innovations.

8) The modernization of norms on financial support of scientific, scientific-technical and innovation activities.

An important novelty of the draft law is the examination of questions of funding science and innovations through the lens of priorities of scientific-technological development, maximal transparency and competition of project based financing.

Two main principles are being consistently realized through all norms of the draft law:

1) The principle of concentration of intellectual, financial, organizational and infrastructural

resources on ensuring public demand in the scientific and scientific-technical spheres, with a rational combination with the stimulation of scientific and scientific-technical activities in frames of projects, the subject matters of which are defined by the subjects of scientific and scientific-technical activities;

2) The principle of provision of competition at all levels in the process of distribution of budget funds of the Russian budget system, aimed at the support of scientific, scientific-technical and innovation activities, including the operators of public demand, as well as the distribution of means, that are being granted by the state funds of support of scientific, scientific-technical and innovation activities, the usage of public mechanisms of granting access to state financed infrastructural, financial and nonfinancial resources of most productive research teams and other subjects of scientific, scientific-technical and innovation activities, independently of their organizational form and form of property.

The revelation of these principles in the draft law is made initially through the norms on public demand in the scientific and scientific-technical spheres, which, by the means of the mechanism for project financing, removes artificial demarcation in the budget planning between fundamental and applied research and the implementation of which is oriented towards the realization of priorities of scientific-technical development of the Russian Federation. The basic unit of financing in the public demand is a scientific, scientific-technical or an innovation project. At the same time, the definition of a full-cycle project is brought in, which includes the whole complex of scientific research and innovation activities, aimed at the creation of innovative products and at the formation of a market outlet of such products (including goods and services). The analytic support of realization of priorities of scientific-technological development (including the formation of complex scientific-technical programs and full-cycle projects, the revelation of the most perspective initiative scientific, scientific-technical or innovation projects) is provided by the Councils on priorities of scientific-technological development.

At the same time, the state gains no ownership rights on the results that were created in frames of the public demand: the results start circulating and are assessed in frames of the social and economic development.

Secondly, the mentioned principles are revealed in the process of regulation of grant financing as one of the most common forms of financing of initiative research. They are also revealed in the norms on provision of special statuses for research organizations, on financing of scientific, scientific-technical and innovation activities by state funds and other subjects of infrastructure (the draft law sets requirements on competitive procedures of selection of organizations and projects).

The draft law shall also clarify the status of state funds of support of scientific, scientific-technical and innovation activities and shall regulate features of public-private partnership in the scientific-technical sphere. It also shall establish legal grounds for the assessment of efficiency of usage of budget funds to finance scientific, scientific-technical and innovation activities – this question is being actively discussed for the last five years, no adequate legal progress has been made so far.

### Conclusion

The UNESCO Science Report “Towards 2030” underlines that trying to increase the competitive ability of the national economy, many countries often forget that without fundamental science there will be no science, the results of which can be applied.

Fundamental studies generate new knowledge, which finds practical usage in commercial activities or other spheres. Today there is no single relationship model for the financing of fundamental and applied science (some states finance directly fundamental science and increase the amount of financial investments, while other states decrease federal financing and give credit to venture capital). However, the goal of the state is to use all possible instruments of legal influence on social relationships (federal laws of long action, strategies and doctrines with limited time frames, operative reaction at the level of sublegal acts, etc.) and to ensure such condition of science, that will allow for retaining position in the world market, where the key factor in the long-term development is the status of fundamental projects.

It is obvious, that a lot will depend on the fact, how well the ideas set in the Concept will be realized in specific norms of the future act. Therefore, in order to make the law really create necessary conditions for the innovative scientific-technological development, which shall consider the interests of scientists, the state, the business

and the society, all interested people shall actively engage in the development of the act.

Thereat it is necessary to focus attention on the following questions of the draft law:

- to minimize directive management of scientific, scientific-technical and innovation activities, to create conditions and opportunities for self-development and self-regulation of research organizations and science workers, to optimize rights and obligations of bodies of state power in the field of support of scientific, scientific-technical and innovation activities, including financial support, especially in relation to support of fundamental science;

- to establish a balanced system of incentives and mechanisms of state support of specific scientists and research teams, that shall make conditions for scientific creativity and for the achievement of effective results, desired by the business community and the state, on the basis of national priorities, defined by the state with participation of scientific community;

- to create necessary organizational-economic, social and legal conditions for the proper realization of the human right to do scientific and technical creativity, to ensure effective state support of such creative people, including the creation of necessary social-domestic, material, employment and residential guarantees;

- to form a material-technical base for expensive scientific studies and to give access to it for everyone interested, on equal grounds;

- to grant access to the information on vacancies of research specialists, objects of research infrastructure, planned scientific-technical works and results of research by the means of creation of state information systems.

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