NATIONAL SOFT LAW IN THE INFORMATION SOCIETY

LEI SOFT NACIONAL NA SOCIEDADE DA INFORMAÇÃO

Ivan Usenkov*
PhD applicant
Volgograd State University
Universitetskiy av.,
Volgograd, Russia
i.usenkov@volsu.ru,

Marina Davydova
Grand PhD in Jurisprudence and Professor
Volgograd State University
Volgograd, Russia
davidovaml@volsu.ru

Alexandr Konstantinov
PhD applicant
Volgograd State University
Volgograd, Russia
yua-191_343984@volsu.ru

Resumo. O artigo dedica-se ao estudo dos atos de soft law nacionais e à identificação das suas vantagens e desvantagens no contexto da determinação da possibilidade de resolver com a sua ajuda os problemas de regulação jurídica gerados, entre outras coisas, pela informatização e globalização do direito, por exemplo, o problema da instabilidade da legislação. São aplicados métodos como lógica formal, análise sistêmica e estrutural, experimentos mentais, previsões jurídicas e modelagem usando modelos ideais. Os seguintes documentos oficiais são considerados atos de soft law nacional porque são comumente usados em regulamentos jurídicos nacionais: explicações oficiais, documentos de planejamento e recomendações. Tais documentos foram investigados pelo seu impacto na estabilidade do sistema jurídico russo. As leis não vinculativas nacionais demonstraram o seu potencial significativo nesta área, porque, em primeiro lugar, possuem maior estabilidade do que as leis tradicionais e, em segundo lugar, são capazes de evitar alterações legislativas adicionais.

Palavras-chave: soft law nacional, regulação jurídica, globalização do direito, legislação.

Abstract. The article is devoted to the study of acts of national soft law and to identify their advantages and disadvantages in the context of determining the possibility of solving with its help, the problems of legal regulation, generated, inter alia, by the informatization and globalization of law, for example, the problem of instability of legislation. Methods such as formal logic, systemic and structural analysis, thought experiments, legal forecasting, and modeling using ideal models are applied. The following official documents are considered to constitute acts of national soft law because they are commonly used in domestic legal regulations: official explanations, planning documents, and recommendations. Such documents have been investigated for their impact on the stability of the Russian legal system. National soft laws have shown their significant potential in this area, because they, first of all, possess greater stability than traditional laws, and secondly, they are able to avoid additional legislative changes.

Keywords: national soft law, legal regulation, globalization of law, legislation.

INTRODUCTION

The information society not only creates solutions to many of humanity's problems, but also conditions the emergence of new challenges (Davydova, 2020; Pashina, 2021). For example, the issues of excessiveness and ineffectiveness of legal regulation have one of their reasons for the digitalization of law. Classic answer options: optimization of decisions made by the state, increasing the level of the legislator's legal technique and others, are no longer sufficient in the modern paradigm. An alternative vision is offered by the concept of "smart regulation", which presupposes the achievement of the maximum legal effect in the least resource-intensive way (Drahos & Krygier, 2017). National soft law can also be included in the number of means of "smart regulation": as we will see below, formally non-binding documents have force and authority sometimes greater than acts of traditional law, they are accepted and disappear into oblivion in the most rational order, at the same time they fill in the gaps in traditional law and structure it. In the context of the information society, soft law norms are close to playing a decisive role in it: legal science has not yet determined the place of norms and rules that are created in the modern world by non-state actors (for example, transnational corporations) or by the community itself, but, of course, they are among the rules of soft law and are generated by globalization.

Today the terms "soft law" are extremely popular in scientific discourse. At the same time, the range of points of view regarding the phenomenon they designate is extremely diverse. The main works, in which

the national soft law is considered or mentioned, were published under the authorship of Demichev (2021), Saenko et al. (2020), Vagizova, (2021), Kilinç and Tarman (2022), Tarman and Kilinç (2022); Otts et al. (2021); Jamali Kivi et al. (2021).

The basic question in examining the security of an issue is "what security is under threat, from what area and how." On the same basis, in the strategic policy making of security, the question is raised that "how is the security of an issue ensured, by what device and with what means." The studies and reviews that have been done about national security have all analyzed national security based on the above-mentioned question and provided ways. The issue of national security is national interests that are exposed to external threats in a military and tangible manner, and it is necessary for the national government to increase military power in order to ward off these threats in such a way that the attacker hesitates in his attack and regrets if he attacks.

In contrast to this perception, there are other schools and attitudes that analyze and interpret the source and subject of the threat as well as the ways of coping in a different way. In this article, assuming that power increases the security factor (ability to maintain and develop vital values), the author tries to answer this conceptual question, what is soft power and security? What is the difference and similarity between soft security and soft power? And finally, what are the components and components of security and soft power? To find answers to the above questions, we first explore the meaning and conceptual roots of soft power and security and then extract the conventional components of soft power and security. It should be noted that the research method in this article is an interpretive method that tries to give a verifiable and clear understanding of the concept of power and soft security by focusing on the phenomenological contexts of new concepts.

MATERIALS AND METHODS

A formal logic analysis, a systemic and structural analysis, a thought experiment, legal forecasting and legal norm interpretation, and modeling with ideal models were used in this study. Considerable attention is paid to the methods of analysis and synthesis, which make it possible to deeply investigate particular cases of the application of acts of soft law and, based on the results of this operation, move from particular conclusions to general ones, characterizing the types of documents of soft law in general. The theoretical basis of the research is based on the concept and features of law, applied, as far as possible, to phenomena that are not legal in the orthodox sense.

At the beginning of the 21st century, there are countries with soft power that;

1. The culture and beliefs governing them should be close to the common and dominant norms in the world (liberalism, pluralism and individual autonomy).
2. It has many and effective communication tools, and in this way, they are decisive in changing and shaping global discourse and frameworks.
3. Due to domestic and international policies and procedures, they have credibility and reputation.

It can be said that soft power is not simply the ability to do work or the ability to achieve desired results, but it is the ability to shape or change the preferences and priorities of others so that they think or behave according to what we want. It is the actors who get desired results without using coercion because their policies and values are attractive to others. A soft power actor persuades others to follow him and his values or to demand norms and institutions that produce the actor's desired behavior. According to (Nye, 2023), soft power lies in the thought, ability and culture that flows in the form of institutions and norms, and this flow helps to strengthen the power of a particular actor, so that others try to behave and think according to the wishes of that actor.

According to (Gill & Huang, 2023), if an actor succeeds in making his power appear legitimate in the eyes of others and establishes institutions that others coordinate their interests based on the rules of those institutions, there is no longer a need for that dominant actor to act in a traditional way and to fulfill his wishes. He sought the use of military force or violent economic threats, because other actors want things or developments that the dominant actor wants, and in fact, the interests of others are formed or changed in the direction that the dominant actor wants. Whether others follow the model of the dominant actor and form their preferences based on it depends first of all on sources such as culture, ideology and active institutions in the dominant country. If the dominant power can make its power appear legitimate in the eyes of the countries, it will face little resistance in exercising its will and future plans. If the dominant actor's culture and ideology are attractive, others will move and even think in the desired direction of the dominant power with indescribable enthusiasm and speed. In such an environment, international norms are actually the continuation of the usual routine within the borders of the dominant country, and if the internal norms

and rules of a country become international norms and there are institutions and funds to expand these norms, the demands of the dominant power will be universal and inclusive without paying a significant fee.

RESULTS

Official clarification

Formally, such clarifications are mandatory only for certain state bodies. Moreover, even such an obligation does not always clearly follow from legislative norms. Thus, Part 3 of Article 14 of Federal Law No. 247-FL of July 31, 2020 "On Mandatory Requirements in the Russian Federation" directly establishes the obligation of the executive authorities to be guided by the official explanations of the body that adopted the regulatory act containing the mandatory requirements. On the other hand, the imperative nature of the acts of the informational and explanatory nature of the Federal Tax Service for its territorial tax authorities is not enshrined in the law, but was formulated by the Constitutional Court of the Russian Federation in its Resolution No. 6-P of March 31, 2015, based on the principle of departmental subordination.

This position seems to be completely justified, since despite the fact that these explanations do not create legal norms in their traditional understanding, they form the legitimate expectations of subjects regarding the assessment of their behavior as legitimate, and, therefore, such behavior forms. The current law enforcement practice contains similar conclusions: for example, the Supreme Court of the Russian Federation, in its Review of Judicial Practice No. 1 (2020), pointed out the possibility of declaring illegal a decision of a tax authority taken contrary to the explanations of the Federal Tax Service. Thus, the person to whom the legal norm is addressed, guided by official explanations, guarantees an appropriate assessment of his behavior as lawful. Meanwhile, legally, he is not deprived of the opportunity to interpret and implement legislative norms in a different way and rely on the fact that his position will be supported by the court: this, in fact, is the "soft" nature of the prisoners in the official explanations of the orders.

For example, some of the most important explanations of state bodies for business entities are set out in the acts of the Federal Tax Service related to taking into account the due diligence of the taxpayer when choosing a counterparty for the purpose of assessing the validity of the tax benefit. The need for such accounting, formulated in the practice of higher courts, has been developed and concretized into clear rules for assessing the circumstances characterizing the choice of a counterparty, at the current stage of their formation set out in the letter of the Federal Tax Service of Russia No. BV-4-7 / 3060 @"On the practice of applying article 54.1 of the Tax Code of the Russian Federation." The influence of these clarifications cannot be overestimated: the majority of bona fide business entities adapt counterparty verification procedures for them, the tax authorities direct their attention during inspections to those aspects that are identified in them as key, the courts use them when considering cases.

The courts, indeed, very willingly refer to the provisions of the letter of the Federal Tax Service of Russia No. BV-4-7 / 3060 @, in most cases following the positions set out in it. At the same time, with some degree of conventionality, the investigated judicial acts can be divided into three groups:

Court orders that apply clarifications as customary. So, in the Resolution of the Arbitration Court of the North-Western District of 15.04.2021 No. F07-3191 / 2021 in case No. A56-36758 / 2020, the court "applies the thesis to the factual circumstances of the case" set out in the letter. In the Decree of the Arbitration Court of the Volga District of 03/23/2021 No. F06-2013 / 2021 in case No. A72-19437 / 2019, the panel of judges calls the provisions of the letter recommendations, and then analyzes the compliance of the behavior of the tax authority and the taxpayer with them as if they were the norms of "hard" law.

Court orders that designate the clarifications of the tax authority as a legal position. Examples here are the Resolution of the Fifteenth Arbitration Court of Appeal dated June 26, 2021 No. 15AP-9120/2021 in case No. A53-43614 / 2020, Resolution of the Sixteenth Arbitration Court of Appeal dated June 30, 2021 No. 16AP-2197/2021 in case No. A63-12075 / 2020. In these cases, the courts agreed with the legal position of the Federal Tax Service of Russia.

Court orders rejecting references to the letter from the Federal Tax Service as "not showing signs of a regulatory legal act and not binding on the court" in the absence of other argumentation. For example, the Resolution of the Eighteenth Arbitration Court of Appeal dated 03.25.2021 No. 18AP-1563/2021, 18AP-1709/2021 in case No. A07-21389 / 2020; Resolution of the Eighteenth Arbitration Court of Appeal dated 13.08.2021 No. 18AP-8207/2021 in case No. A76-4401 / 2021.

We believe that in the first case, the judicial authorities unjustifiably elevate the "soft" act to the level of normative. The Arbitration Court of the North-West District, however, sees this discrepancy, in connection with which, instead of the legal term "rule of law", it uses the euphemism "thesis" in relation to

a rule, which, of course, is not a rule. However, such use of words does not solve the problem of the incorrectness of the direct application of explanations as legal norms.

The opinion of the courts of the third group, which essentially deny the existence of any legal force for soft law acts, in our opinion, is even more erroneous. According to the above positions of the Constitutional Court of Russia and the Supreme Court of Russia, the explanations of the higher authorities, linking the lower bodies with their framework and proposing a version of legal behavior encouraged by the state, cannot be rejected by the court without justifying the incorrectness of the explanation itself. That is, in the case when the explanation is relevant, the court, in our opinion, must assess it and the compliance of the behavior of the tax authority and the taxpayer with it. If the court considers the explanation to be incorrect, it is necessary to justify its inapplicability, and also take into account the good faith of the actions of the business entity that followed it, when determining the legal consequences of the behavior of such an entity. The court, not being bound by the explanations of the state authorities, is empowered to formulate its own legal positions, however, a subject who conscientiously followed the official explanations and expected an assessment of his behavior by the state as lawful, in this regard deserves a mitigation of his responsibility. Moreover, if the court essentially agrees with the explanation of the Federal Tax Service of Russia, it must apply it if the taxpayer followed the explanation, but the tax authority did not, which follows from the above positions of the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation. The foregoing testifies to the incorrectness of the rejection of official explanations only ipso facto of their "non-rigid" legal nature.

The second position (clarification is the legal position of a state body, with which the court can agree, but at the same time is free to overcome it by formulating its own legal position), in this light, it seems more correct if it is not exaggerated to a mechanical and meaningless agreement with the explanations of state authorities.

Such a role of official explanations is widely recognized today by foreign scientists, who accurately and fairly supplement it with the idea that sometimes state bodies do not limit themselves to interpreting legislation, but also supplement it (Gribnau, 2007). In particular, in the example provided above, it is obvious that the official clarification contains new “soft” rules, and not just the interpretation of Article 54.1 of the Tax Code of the Russian Federation.

Similarly, the Order of the Federal Tax Service of Russia of 30.05.2007 No. MM-3-06 / 333 @ "On Approval of the Concept of the Planning System for Field Tax Inspections " creates norms of behavior that are not reflected in tax legislation. Appealing, at first glance, to the tax authorities, he formulates the rules for taxpayers: by adjusting their behavior to the indicators specified in the order, they can avoid a tax audit, and otherwise, bring it on. Since on-site inspections of tax authorities at the moment most likely involve the imposition of sanctions based on their results (and sometimes, in a certain sense, are themselves a sanction), organizations will strive to comply with this order.

Thus, the official explanations addressed to the state bodies give rise to two types of consequences for the subjects of legal regulation:

The presence of a model of behavior that is guaranteed to be recognized by the executive authorities as complying with the law.

The actual prohibition of often other models of behavior, despite their legal admissibility, through judicial interpretation, in most cases, including those described above, repeating official explanations or referring to them.

It is also worth noting that official explanations of state bodies have an important stabilizing effect on legislation: they form the behavior of people that is correct from the point of view of the executive power, without requiring the adoption of a legislative or other normative legal act. So, in 2020, according to the RLS ConsultantPlus, the following government departments adopted the following acts:

- Bank of Russia - 697 normative legal acts and 126 recommendatory acts.
- FTS of Russia - 810 regulatory legal acts and 778 recommendatory acts.
- The Ministry of Finance of Russia - 823 normative legal acts and 6 110 recommendatory acts.

The presented statistics demonstrate that official explanations play a different role in the activities of state bodies: sometimes they complement the rule-making activities, and sometimes they are a key tool. In any case, being adopted in the form of normative legal acts, the majority of these acts would not withstand judicial control as proposing only the legal position of a state department. At the same time, they propose to the subjects of regulation the decisions of practical situations that are binding on the authorities

themselves, which allow avoiding additional legislative changes. The above indicates that the correct use of the recommendations of state bodies as acts of soft law makes it possible to develop legislative stability.

Acts of a recommendatory nature

Acts of recommendation should not contain legal norms. This is not only a rule of a legal and technical nature, but also a prescription of clause 8 of the Order of the Ministry of Justice of Russia dated April 23, 2020 No. 105. If, when issuing an act of a recommendatory nature, this provision is violated and actually regulatory prescriptions are included in it, it may not be recognized acting. However, sometimes acts of recommendation give rise to non-legal consequences that are more ambitious and important for society as a whole than many legal norms can entail.

A clear demonstration of the degree of effectiveness of non-legal soft law in the form of advisory acts is the transfer of employees of enterprises to telecommuting in the Russian Federation in order to prevent the spread of a new coronavirus infection in 2020. At the beginning of the pandemic, the Ministry of Labor and Social Protection of the Russian Federation issued a number of recommendations, including on the organization of the use of work at home (remote, remote, home-based). The act containing these provisions was not binding. However, reasonable fears of citizens and organizations in relation to the then new infection and a significant at that time limit of trust in the actions of public authorities to prevent its spread, and the combination of recommendations with the issuance of acts of "hard" law on the declaration of non-working days allowed soft law to fully demonstrate its effectiveness. So, by the end of June 2020, the number of Russians who switched to remote work amounted to 6 million people.

However, later, when the public mood towards the new restrictions became negative, and the accompanying acts of "hard" law were absent, the effectiveness of soft law sharply decreased. Thus, the recommendation of the Moscow city authorities to transfer employees to teleworking in September 2020 turned out to be insufficiently effective, and therefore a legally binding act on the same subject was subsequently adopted.

The foregoing leads us to the conclusion that domestic Russian soft law does not fundamentally differ from foreign, being effective when the subjects to whom it is addressed are convinced of the need to apply it due to the validity of the norm or the authority of its creator, and when the soft norm functions in close connection with the "hard". The advantage of such soft law acts in the context of legislative stability is that in the case of successful functioning of the "soft" norm, the adoption of a legislative act is not required, the recommendatory act does not violate the integrity of the legislative system either at the time of adoption or at the moments of subsequent changes.

So, during 2020, various federal state bodies adopted 77 acts containing methodological recommendations related to the spread of the new coronavirus infection (COVID-19). These are thousands of norms that it was premature or impossible to adopt in a "rigid" form: in the first case, they would have been changed or canceled based on the results of approbation, in the second - based on the results of being challenged in court. Thus, these recommendatory acts had an extremely significant stabilizing effect on the legislation of the Russian Federation.

Another area in which soft law rules are gaining significant development is corporate governance. The legislation on business companies, as it should, contains the most important, fundamental norms, without unduly intruding into the scope of the discretion of society when determining the order of internal management. However, the Bank of Russia has formulated recommendations aimed at increasing the transparency of corporate governance and protecting the rights of shareholders. The most important documents among the aforementioned are the Letter of the Bank of Russia dated April 10, 2014 No. 06-52 / 2463 "On the Corporate Governance Code" and the Letter of the Bank of Russia dated September 15, 2016 No. IN-015-52 / 66 "On the provisions on the board of directors and on the committees of the board of directors of a public joint stock company". Compliance with the recommendations given in them is not formally obligatory, binding such soft law rules is not required by their very nature: they act as additional, rather than minimum, requirements. Their adoption in the form of "hard" law:

- would give rise to excessive legal regulation in this area;
- would destabilize the legislation on business companies in connection with the adoption of a large number of norms and the subsequent search for a balance between really necessary and excessive requirements.

Therefore, it seems that proposals to transfer a number of requirements of the aforementioned soft law documents into national legislation deserve a purely negative assessment. One should agree with those researchers who argue about the need to regulate most of corporate relations "from within", bypassing the excessive paternalism of the state (Ritter, 2020; Jamalpour & Verma, 2022).

The foregoing means that the spheres of public relations that do not imply traditional legal regulation can quite successfully fall under the soft law, which systematizes and objectifies the accumulated experience of participants in such relations. This approach guarantees the minimum of legal interference, the stability of the relevant part of the legislation, which: saved from introducing a large number of excessive demands and the subsequent search for a balance; contains a minimum number of norms, not excessively specified.

Moreover, soft law itself does not require constant change. Being advisory, the act of soft law requires updating not at the moment when its norms become at least somewhat outdated and inappropriate for regulating the absolute majority of attributable social relations, but when most of the subjects cannot or see no reason to use them (Volkova et al., 2020; Oguilve et al., 2021). That is, as soon as a "hard" norm becomes harmful to any part of the subjects, it should be excluded or changed, while in "soft" terms it is capable of acting as long as it is optimal for any significant part of the subjects. Since the subjects themselves determine to what extent to fulfill the "soft" requirements, they independently ignore or modify obsolete norms when using an act of soft law,

Thus, the aforementioned Corporate Governance Code contains 356 points, however, over the 7 years that have passed since its adoption, it has not been changed even once, while the Federal Law of December 26, 1995 No. 208-FL "On Joint Stock Companies" was amended 27 times.

Planning documents

When listing acts of national soft law, its researchers usually name one specific type of planning documents among them - the Annual Messages of the President of the Russian Federation to the Federal Assembly of the Russian Federation (Pogosyan, 2021). Meanwhile, such messages are one of the key, but far from the only planning documents, most of which are systematized in the Federal Law "On Strategic Planning in the Russian Federation" dated June 28, 2014 No. 172-FL. At the same time, despite the creation of a very detailed normative regulation (in addition to the specified law, by-laws were adopted in its execution, which regulate in detail the rules for the development, optimization and monitoring of the implementation of program documents), the legal status of planning documents is very uncertain.

So, strategic planning documents are approved, most often, by non-normative legal acts: decrees of the President of the Russian Federation that are not of a regulatory nature, orders of the Government of the Russian Federation, and sometimes they are only approved at a meeting of a competent body (for example, the Government of the Russian Federation). This is also true for planning documents that were not issued in accordance with the Federal Law "On Strategic Planning in the Russian Federation" dated June 28, 2014 No. 172-FL: for example, various kinds of government development concepts are also approved by non-normative legal acts (Order of the Government of the Russian Federation of November 17, no. 2008 № 1662-r "On the Concept of long-term socio-economic development of the Russian Federation for the period up to 2020", Order of the Government of the Russian Federation of 30.07.

Practically the only exception to this rule is the state programs of the Russian Federation, which are specific and not abstract in nature, adopted in the form of normative acts (for example, Resolution of the Government of the Russian Federation of May 16, 2016 No. 425-8 "On approval of the state program of the Russian Federation" Development defense-industrial complex "), and suggesting the allocation of significant funds to solve the problems formulated in them, which, in our opinion, determines the giving of such acts the properties of generally binding normativity. This conclusion is indirectly confirmed by the fact that plans close to programs in terms of the degree of concretization do not have a normative status: in particular, plans for the activities of federal executive bodies are approved by the heads of the relevant bodies, and action plans are usually drawn up in the form of non-normative legal acts. Thus, most planning documents do not uniformly have a regulatory status, while program documents have specific features that objectively require their adoption in the form of regulatory legal acts, and therefore the conclusions set out below will be applicable mainly to all planning acts, with the exception of programs.

In addition, in Article 4 of the Federal Law "On Strategic Planning in the Russian Federation" dated June 28, 2014 No. 172-FL, the allegation (approval) of strategic planning documents is attributed to the powers of state bodies in the field of strategic planning. Article 3 of the same law formulates the definition of a "strategic planning document" as "documented information". That is, in essence, a strategic planning document is a kind of documented information on goal setting, forecasting, planning and development

programming, approved by the relevant body. On this, the question of the normative nature of planning documents and the possibility of generating legal consequences by them, it would seem, can be exhausted.

Meanwhile, the Federal Law "On Strategic Planning in the Russian Federation" dated June 28, 2014 No. 172-FL provides for monitoring and control over the implementation of strategic planning documents, civil, administrative and disciplinary liability for their failure, i.e. very unequivocally leads to the idea of the obligatory nature of such acts. However, this conclusion is leveled by the absence of any legislative framework or concretization through the interpretation of the given norms on liability, as well as the relevant judicial practice testifying to their application, which indicates the actual absence of disciplinary, civil and administrative responsibility of employees of the relevant bodies for failure to comply or improper execution of planning documents (Ritter, 2020).

However, in our opinion, planning documents fall under the definition of soft law acts given above. First, they are quite capable of creating indirect legal consequences. For example, they occupy a significant place in litigation on the seizure of land plots for state or municipal needs. As indicated in the Review of Judicial Practice of the Supreme Court of the Russian Federation No. 1 (2016) (approved by the Presidium of the Supreme Court of the Russian Federation on April 13, 2016), to make a decision on the seizure of a land plot for state (municipal) needs, it is not enough to conclude an agreement on the development of a built-up area, it is necessary also substantiate the public utility of the pursued goal and the impossibility of achieving it in any other way. To justify the public utility of the purpose of the exemption,

So, in the Decree of 03/09/2021 No. F09-9162 / 20 on case No. A60-26869 / 2020 the Arbitration Court of the Ural District on the basis of several such acts (Forecast of long-term socio-economic development of the Russian Federation for the period up to 2030, Forecasts of socio-economic development of the Russian Federation for 2014, 2015, 2016, 2017, Energy Strategy of Russia for the period up to 2030) came to the conclusion about the legality of the seizure of the land plot, since it was made in accordance with the strategic goals and objectives of the development of the economy of the Russian Federation and the state energy policy in subsoil use area. In another case, the Arbitration Court of the West Siberian District, in its Resolution of 03/02/2020 No. F04-8055 / 2020 in case No. A45-13810 / 2019, referred to the Decree of the President of the Russian Federation of December 31.

Secondly, planning documents contain the potential for significant non-legal impact on public relations. Without being legally binding, they are able to structure and streamline the development of legislation, make it predictable and proactive to change. At the same time, the system of program documents existing in Russia can be criticized for its:

Detachment from real reforms. For example, A. Sandugei rightly notes that the "Concept of public safety in the Russian Federation" (approved by the President of the Russian Federation on November 14, 2013 N Pr-2685) was nothing more than an indirect guideline for the changes in the legislation (Sandugei, 2019).

"Dead" or, on the contrary, insufficiently exhaustive character of some planning acts. For example, approved by the decision of the Council under the President of the Russian Federation for the codification and improvement of civil legislation of September 25, 2020 N 202 / op-1/2020 "The concept of development of the provisions of part two of the Civil Code of the Russian Federation on the insurance contract" for the past year since its adoption has not been implemented in none of its aspects. The plan of measures to improve the legal regulation of land relations (approved by the Order of the Government of the Russian Federation of November 8, 2018 No. 2413-r) is partially implemented, but with its help it was not possible to reduce the number of changes introduced to the Land Code of the Russian Federation, nor to streamline them,

- Lack of continuity, consistency and monitoring of the implementation process in planning documents (Bespalova et al., 2021).
- Lack of specific compositions of responsibility for violation of the provisions of planning documents (Tarman & Kilinc, 2022).

Thus, planning documents have indirect legal consequences and can have significant non-legal consequences, even without having legal force, and therefore they can be recognized as acts of soft law. The result of the most correct and consistent use of planning documents will be the stabilization of legislation insofar as they make it possible to structure changes, make them consistent and not chaotic, cover different branches of legislation with planning, than reduce the number of conflicts, as well as rules requiring changes due to their imperfection or the haste of acceptance. It seems to be an optimal situation in which most of the legal norms are adopted on the basis of conceptual planning documents,

Other documents, which are usually named among the soft law acts, either do not really apply to them, or do not have a significant impact on the stability of legislation.

For example, the acts of the highest courts (Resolutions of the Plenum of the Supreme Court of the Russian Federation, Resolutions of the Constitutional Court of the Russian Federation) in the existing system of law enforcement, if they do not have the character of normative acts, are so close to them and are so obligatory that they cannot be included in soft law. On the other hand, the recommendations of scientific advisory councils at arbitration courts are essentially soft law: secured only by the authority of the authors, they influence both the resolution of the relevant legal incidents by the courts and the behavior of the subjects of regulation. Since the composition of such scientific advisory councils includes chairmen and deputy chairmen of arbitration courts, often of several instances, their most authoritative judges (as well as representatives of the executive branch, legal science and the legal profession), with a high degree of probability, these clarifications will be applied by all courts in the relevant territory and, at a minimum, taken into account by the rest of the courts of the Russian Federation. However, in our opinion, today such recommendations relate to very private issues and cover too little scope of legal relations to be able to talk about their significant impact on the stability of the country's legislation.

DISCUSSION

At the moment, it is possible to declare the existence of the following acts of national soft law in Russia: official explanations, acts of a recommendatory nature, planning documents.

Official explanations as soft law acts represent the legal positions of state bodies that are binding on other, subordinate or non-specialized state bodies, which sometimes do not limit themselves to the interpretation of legislation, but also supplement it. In this case, the court may agree with the official explanation, but at the same time it is free to overcome it by formulating its own legal position.

Official clarification plays a different role in government activities, sometimes complementing rule-making activities, and sometimes serving as a key tool. In any case, being adopted in the form of normative legal acts, the majority of these acts would not withstand judicial control as proposing only the legal position of a state department. At the same time, they articulate to the subjects of regulation the decisions of practical situations that are binding on the authorities themselves, which make it possible to avoid additional legislative changes. The above indicates that the correct use of the recommendations of state bodies as acts of soft law makes it possible to develop legislative stability.

Acts of recommendation cannot be of a normative-legal nature, but sometimes they give rise to non-legal consequences that are larger and more important for society as a whole than many legal norms can entail.

On the example of recommendatory acts, it is obvious that soft law is effective when the subjects to whom it is addressed are convinced of the need to apply it due to the validity of the norm or the authority of its creator, and when the "soft" norm functions in close connection with the "hard" ones.

The advantage of soft law recommendatory acts in the context of legislative stability is that in the case of successful functioning of the "soft" norm, the adoption of a legislative act is not required, the recommendatory act does not violate the integrity of the legislative system either at the time of adoption or at the moments of subsequent changes. Also, the stability of the legislation is positively influenced by the fact that in the form of recommendations, prescriptions are adopted that are premature or impossible to adopt in a "rigid" form: in the first case, they will be changed or canceled based on the results of approbation, in the second - based on the results of challenging in court.

The spheres of public relations that do not imply traditional legal regulation may quite well be subject to soft law, which systematizes and objectifies the accumulated experience of participants in such relations. Such an approach guarantees the minimum of legal interference, the stability of the relevant part of the legislation, which is spared from the introduction of a large number of excessive requirements and the subsequent search for a balance; contains a minimum number of norms, not excessively specified.

The soft law itself does not require constant changes. Being advisory, the act of soft law requires updating not at the moment when its norms become at least somewhat outdated and inappropriate for regulating the absolute majority of attributable social relations, but when most of the subjects cannot or see no reason to use them. That is, as soon as a "hard" norm becomes harmful to any part of the subjects, it should be excluded or changed, while in "soft" terms it is capable of acting as long as it is optimal for any significant part of the subjects. Since the subjects themselves determine to what extent to fulfill the "soft" requirements, they independently ignore or modify outdated norms when using the soft law act, and therefore, even in the absence of actualization, it can be partially used without harming regulated relations.

Most planning documents are not legally binding, but they are soft law acts, as they have indirect legal consequences and can have significant non-legal consequences. They are decisive in the consideration of some court cases, and are also able to structure and streamline the development of legislation, make it predictable and give proactive changes. At the same time, planning documents in Russia are often divorced from real reforms, have a "dead" or insufficiently comprehensive nature, they lack continuity, consistency and monitoring of the implementation process, there are no specific compositions of responsibility for violation of the provisions of planning documents.

CONCLUSION

The result of the most correct and consistent use of planning documents will be the stabilization of legislation insofar as they make it possible to structure changes, make them consistent and not chaotic, cover different branches of legislation with planning, than reduce the number of conflicts, as well as rules requiring changes due to their imperfection or the haste of acceptance. It seems to be an optimal situation in which most of the legal norms are adopted on the basis of conceptual planning documents, and the rest of the changes are related to the immediate urgent needs of society and the state, but take into account the content and general direction of planning acts.

In general, by generating indirect legal or significant non-legal consequences, soft law acts acquire a significant place in the domestic legal system, occupying a niche of a regulator in those areas where the application of traditional law is difficult or impossible, acting as its predecessor or minimizing legislative interference, thereby exerting a significant stabilizing effect on Russian law legislation.

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REFERENCES

Bespalova N.A., Sibirtsev A.V., & Yakovleva T.S. (2021). Social System Management in the Context of Interaction Between Society and the Educational Process in a Technical University. *Sovremennye issledovania socialnyh problem [Modern Studies of Social Issues], 13*(1),14-30, doi: https://doi.org/10.12731/2077-1770-2021-13-1-14-30

Davydova, M.L. (2020). Formation and Normalization of Legal Terminology in the Field of Digital Technologies. Science Journal of Volgograd State University. *Linguistics, 19* (4), 52-63 (2020). (in Russian).

Demichev, I. (2021). Virtuality and networking: about the socio-cultural communities of the information age (answer to mg bresler's monograph 'the ontology of network existence'). *Modern Studies of Social Issues, 13*(2), 14-37.https://doi.org/10.12731/2077-1770-2021-13-2-14-37

Drahos, P., & Krygier, M. (2017). Regulation, institutions and networks. *Regulatory theory: Foundations and applications,* 1-22.

Gill, B., & Huang, Y. (2023). Sources and limits of Chinese 'soft power'. In Survival (pp. 17-35). Routledge.

Gribnau, H. (2007). Soft law and taxation: The case of the Netherlands. Legisprudence, 1(3), 291-326.

Jamali Kivi, P., Namaziandost, E., Fakhri Alamdari, E., Ryafikovna Saenko, N., Inga-Arias, M., Fuster-Guillén, D., ... & Nasirin, C. (2021). The comparative effects of teacher versus peer-scaffolding on EFL learners' incidental vocabulary learning and reading comprehension: A socio-cultural perspective. Journal of psycholinguistic research, 50, 1031-1047.. doi:10.1007/s10936-021-09800-4

Jamalpour, H., & Verma, A. (2022). Introduction to Psychoanalysis: A New Perspective on Linguistics and Psychoanalysis, Vol. 1, Rose Publication PTY LTD, Melbourne, Australia.

Kilinç, E., & Tarman, B. (2022). Citizenship types, social media use and speaking a foreign language as predictors of global competence. Citizenship Teaching and Learning, 17(1), 49-62. doi:10.1386/ctl_00081_1

Nye, J. S. (2023). American soft power in the age of Trump. In Soft Power and Great-Power Competition: Shifting Sands in the Balance of Power Between the United States and China (pp. 71-73). Singapore: Springer Nature Singapore.

Oguilve, V., Wen, W., Bowen, E., Abourehab, Y., Bermudez, A., Gaxiola, E., & Castek, J. (2021). Community Making: An Expansive View of Curriculum. Journal of Curriculum Studies Research, 3(1), 69-100. https://doi.org/10.46303/jcsr.2021.8

Otts, E. V., Panova, E. P., Lobanova, Y. V., Bocharnikova, N. V., Panfilova, V. M., & Panfilov, A. N. (2021). Modification of the role of a teacher under the conditions of distance learning. *International Journal of Emerging Technologies in Learning, 16*(21), 219-225. doi:10.3991/ijet.v16i21.25675

Pashina, L. (2021). The Main Research Topics of the Social Aspects of Ageing in a Foreign Science. *Modern Studies of Social Issues, 13*(2), 38-54. https://doi.org/10.12731/2077-1770-2021-13-2-38-54

Pogosyan, V. (2021). Updating social theory: Redefinition of modernization. *Wisdom. 9*(3), 182–193. DOI: https://doi.org/10.24234/wisdom.v19i3.486

Ritter, M. (2020). Civility and Shared Fate: Social Studies Teaching as Teaching for Belonging. *Journal of Curriculum Studies Research, 2*(1), 1-15. https://doi.org/10.46303/jcsr.02.01.1

Saenko, N., Voronkova, O., Zatsarinnaya, E., & Mikhailova, M. (2020). Philosophical and cultural foundations of the concept of "nihitogenesis". *Journal of Social Studies Education Research, 11*(1), 88-103.

Sandugei, A.N. (2019). Administrative law and process 8, 45-48 (2019). (in Russian).

Tarman, B., & Kilinc, E. (2022). Predicting high school students' global civic engagement: A multiple regression analysis. Journal of Social Studies Research, doi:10.1016/j.jssr.2022.02.001

Vagizova, V. (2021). Political Cartoon as a Genre of Polycode Text Within The Propaganda Discourse. *Modern Studies of Social Issues, 13*(2), 71-91. https://doi.org/10.12731/2077-1770-2021-13-2-71-91

Volkova, P., Luginina, A., Saenko, N., & Samusenkov, V. (2020). Virtual reality: Pro et contra. *Journal of Social Studies Education Research, 11*(4), 190-203.