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## **Legal space monitoring: theoretical and legal aspects**

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### **Abstrac**

The article is concerned with the analytical understanding of the problems related to the sphere of organization and monitoring of the legal space of the Russian Federation with the aim to identify and outline the theoretical and organizational aspects of legal space monitoring. The theoretical characteristics of monitoring are given. The features of legal monitoring of social relations are considered and its definition is derived. Bill monitoring is analyzed. The features of law monitoring are explored. The elements of law enforcement monitoring are characterized. The theoretical problems of legal space monitoring are considered. The methods used in legal space monitoring are analyzed. The legal experience of the subjects participating in legal space monitoring is studied. The scientific novelty is in the scientific definition of the concept of "monitoring", and the identification of monitoring elements as a system. The features of legal monitoring of social relations are considered. Legal space monitoring is studied; the need to include legal monitoring of social relations, bill monitoring, monitoring the law and law enforcement monitoring in the legal space monitoring is justified. The methods used in legal space monitoring and the legal status of the individual subjects of legal space monitoring are covered.

**Keywords:** monitoring, legal space, lawmaking, methodology of law, legal monitoring of social relations, draft law monitoring, law monitoring, law enforcement monitoring, the subjects of legal space monitoring.

**JEL Classification:** K10, K19.

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## Monitoreo del espacio legal: aspectos teóricos y legales.

### Resumen

El artículo trata de la comprensión analítica de los problemas relacionados con el ámbito de la organización y el monitoreo del espacio legal de la Federación de Rusia con el objetivo de identificar y describir los aspectos teóricos y organizativos del monitoreo del espacio legal. Se dan las características teóricas del monitoreo. Se consideran las características del monitoreo legal de las relaciones sociales y se deriva su definición. Se analiza el monitoreo de facturas. Se exploran las características del monitoreo de la ley. Los elementos de la vigilancia del cumplimiento de la ley se caracterizan. Se consideran los problemas teóricos del monitoreo del espacio legal. Se analizan los métodos utilizados en el monitoreo del espacio legal. Se estudia la experiencia legal de los sujetos que participan en el monitoreo del espacio legal. La novedad científica está en la definición científica del concepto de "monitoreo", y la identificación de elementos de monitoreo como un sistema. Se consideran las características del monitoreo legal de las relaciones sociales. Se estudia el monitoreo del espacio legal; La necesidad de incluir el monitoreo legal de las relaciones sociales, el monitoreo de facturas, el monitoreo de la ley y el monitoreo de la aplicación de la ley en el espacio legal está justificado. Se cubren los métodos utilizados en el monitoreo del espacio legal y el estado legal de los sujetos individuales del monitoreo del espacio legal.

Palabras clave: monitoreo, espacio legal, legislación, metodología de la ley, monitoreo legal de las relaciones sociales, monitoreo de proyectos de ley, monitoreo de la ley, monitoreo de la aplicación de la ley, los temas de monitoreo del espacio legal.

Clasificación JEL: K10, K19.

### 1. Introduction

Currently, legal space monitoring is of key importance due to the need to achieve the unity of the legal space of the Russian Federation.

The number of adopted laws is increasing, but at the same time, there is an increase in the number of normative legal acts not coordinated with each other and not coordinated with the norms of international law. The legislative

technique, applied in some laws, is imperfect.

The most important tasks of the government bodies of the Russian Federation are to ensure the quality of legislation and law enforcement, as well as to assess the effectiveness of regulatory and legal acts.

To solve these problems, modern legal science develops legal space monitoring, which is a system of theoretical and empirical research methods aimed at obtaining the information necessary to ensure its optimal state. At the same time, legal space monitoring includes legal monitoring of social relations, bill monitoring, law monitoring and law enforcement monitoring.

Many theoretical provisions of monitoring remain controversial; for example, there is no single approach to understanding the essence of legal space monitoring. The methods of this activity are subject to discussion, and there is no common point of view on the objects of legal space monitoring. The organizational issues of monitoring are not defined clearly.

The bodies of all branches and all levels of government take part in legal space monitoring to a greater or lesser extent. Local government bodies, civil society institutions, scientific centers, and media are involved actively in this work. Due to the fact that the monitoring methodology is in a state of development, as well as due to the lack of its legal regulation, it is difficult to coordinate this activity on a national scale and the creation of a specialized monitoring body is slowing down. The legal status and nature of the activity of this body, as well as the procedure for its interaction with other monitoring subjects, are not defined. The practice of law enforcement requires the creation of a training system for monitoring specialists.

The consideration of these problems and ways of their resolution will contribute to making the legislation of the Russian Federation consistent with public needs, improving the quality of regulatory legal acts and law enforcement.

Mastering the monitoring methodology by the developers of the legislative acts will contribute to the harmonization of the legal space of Russia.

## 2. Methods

Monitoring involves the use of different methods. Monitoring itself can be applied to various objects, and it is quite logical that if the range of monitoring objects is not limited, then the range of methods used in monitoring is not limited either. At the same time, it seems possible to depict structurally the key theoretical and methodological features of monitoring.

The collection of factual material should be designated as the first element of monitoring, the purpose of which is to obtain certain information about the monitoring object necessary for the implementation of its further elements.

Specific methods of research are determined depending on the monitoring objects and fields of research. This point of view is supported by the fact that the collection of factual material assumes the receipt of primary information about the object of monitoring research, while the following elements of monitoring are research and monitoring that allow for the assessment, forecasting, development of the methods and techniques for bringing the object of research into an optimality state. The next element of monitoring, as a general scientific concept, is assessment. It is required to give an estimate including forecasts, i.e. the data obtained as a result of forecasting. This is absolutely justified, since forecasting, like the whole study, is carried on in the predefined fields necessary for management; accordingly, the expected state of the object should be assessed using the predeveloped and controllable indicators. Without assessment, forecasts in a form convenient for further monitoring activities will not be available, being just raw information, the value of which for making effective management decisions, obviously, will be much less than after assessment. Assessment is carried out for certain indicators and fields. It is required to use clear quantitative and qualitative assessment criteria that characterize comprehensively the monitoring object. Another element of monitoring is control. For the purposes of control in monitoring, the following should be understood clearly: 1) what state should be the optimality state of the object; 2) which factors shall indicate the optimality state of the object. The answers to these questions will allow conducting the control as a comparison of the values of the indicators obtained as a result of the assessment with the indicators, characterizing the optimality state of the monitoring object. The last fifth element of monitoring is the development of methods and techniques for bringing the monitoring object into the optimality state.

All elements of monitoring as a system are interrelated and affect each other. Thus, the material obtained during the collection of factual material is the basis for the procedure for assessment and forecasting, while the material obtained as a result of forecasting is also the starting point in the assessment procedure and affects the directions of data collection. In turn, the assessment indicators set the directions for data collection and forecasting. The indicators, characterizing the optimality state of the object, affect the system of factors and indicators used in the assessment. In the process of monitoring, the data obtained as a result of assessment is used. The monitoring results, in turn, determine the fields for development of the techniques and methods for bringing the object to the optimality state, and the information obtained as a result of data collection, estimation and forecasting is used in the course of direct data development. At the same time, the development of methods and techniques determines the direction of the procedure for the factual material collection.

The elements of monitoring should be interrelated, specify each other, and form

certain integrity, while they are organized into a specific structure that determines their interaction and interdependence. As a result of monitoring, it is possible to obtain a clear and complete picture of the state of the object of management activity, as well as grounded recommendations containing the methods of influence on it. Each individual element of the system cannot provide such information, that is, the system has a quality not inherent in any of its elements. It is not improbable that some elements will be changed in the course of development, and, possibly, new and previously missing elements will appear. After that, monitoring as a system is organically included in the management system and, at the same time, it includes subsystems (information collection, assessment, forecasting, etc.). Monitoring as a system is connected with the external environment and experiences its influence at the "input" – it is influenced by the choice of the object and its state, the indicators of the object assessment and its optimality state. Also, monitoring responds with the responses at its "outputs" – obtaining of certain information about the object and methods of influencing it. The system has some autonomy – in case of object interchange or change of the indicators, characterizing them, and also in case of replacement of one monitoring subject by others, the system will function. Thus, it can be concluded that monitoring has such a characteristic feature as systematicity.

Monitoring should be initiated in the following situations: 1) the state of the monitoring object is not optimal; 2) the state of the monitoring object has optimality indicators, but the object is developing and in connection with this, there are risks of worsening of the object's state. Accordingly, monitoring should be carried out all the time, until the state of the object does not meet the requirements to it and while there are risks of worsening of the object's state.

The need for inclusion of social relations, draft laws, laws, law enforcement in the number of legal space monitoring objects can be observed. Legal space monitoring can be represented: 1) as a system of such elements as collection of factual material, assessment, monitoring, forecasting, development of methods and techniques for ensuring the optimality state of the legal space; 2) as a system of legal monitoring of social relations, draft law monitoring, law monitoring, law enforcement monitoring.

The methods and techniques that should be used in legal space monitoring include: 1) macro analysis and a macro assessment of the state of legislation; 2) analysis, including for the detection of collisions, as well as comparative and statistical types of analysis; 3) assessment, expert opinion; 4) accounting and tracking; 5) questioning; 6) creation of hot lines; 7) holding round tables; 8) holding conferences with the involvement of the public; 9) study of documents; 10) sociological surveys; 11) interviewing; 12) conducting an experiment; 13) humanitarian and

legal expertise.

The correlation of such concepts as legal space monitoring, legal and humanitarian-legal expertise, as well as the humanitarian and legal strategy, can be described as follows (from the greater to the smaller, one enters another): humanitarian and legal strategy – monitoring – legal expertise – humanitarian-legal expertise.

### 3. Results

Monitoring as a theoretical concept can be defined as follows: it is a system of theoretical and empirical methods of cognition, formed as a result of the fusion of different methodological concepts, the application of which is possible in the study of various objects, regardless of subject content, at all stages of obtaining new knowledge. It is worth noting that the concept of "management" is broader than the concept of "monitoring". Ideally, the monitoring objects, their fields of research, indicators for assessment of their state, as well as the values of their optimality state, are determined at the initial stage of management, and monitoring itself is an integral part of management activities. Monitoring of the legal space is a system of theoretical and empirical methods of research of the legal space aimed at obtaining the information required to ensure its optimality state. The purpose of legal space monitoring is to obtain the information required to ensure the optimality state of the legal space.

#### 3.1. Features of legal monitoring of social relations

It can be asserted that currently it is required to conduct a legal study of social relations requiring legal regulation, alteration or abolishment of the excessive legal regulation. This assertion is supported by the provisions in foreign literature, including the legal framework, interpreting the legal basis as the system of legal acts regulating certain types of social relations (Bruce, 1996; Halderman, 1962; Mootz, 1988; Reed, 2012; Potter et al., 2005; Samuels, 1973); respectively, the more effectively the monitoring of these relations is carried out, the more qualitative can become the legal basis of the state.

The following provisions can be derived:

Legal monitoring of social relations is a system of theoretical and empirical methods of cognition of social relations requiring legal regulation, alteration or abolishment of the legal regulation. The purpose of legal monitoring of social relations is to obtain the information as a result of the collection of factual material, assessment, forecasting, control, and also in the form of recommendations for ensuring the optimality state of social relations. The object is social relations requiring legal regulation, alteration or abolishment of the legal regul

ation. The subject is the needs and interests, the implementation of which requires legal regulation, alteration or abolishment of the legal regulation. Also, the legal monitoring of social relations can be represented as a system consisting of the following elements: collection of factual material, assessment, forecasting, monitoring and development of methods and techniques for ensuring the optimality state of social relations.

I. Collection of factual material. In the course of implementation of this element, it is proposed:

- to identify, to study and to take into account the social relations, the diverse interests of social and national entities, the social groups of their characteristics, customs and traditions, and to define common interest based on research of the interests of different groups, strata, other social communities.
- to determine in what interrelations are the social relations among themselves, whether they come into conflict with each other;
- to identify the subject of interests and needs, that is, to answer the question to whom they belong;
- to identify the interests shared by the relevant groups;
- to determine the hierarchy of interests of each social group;
- to identify the totality of interests that each social group can relinquish;
- to answer the question what social and legally significant interests cannot be satisfied by citizens, other participants in legal relations because of the imperfection of the existing federal laws or laws of the subjects of the Russian Federation;
- to determine what specific shortcomings of regulatory and legal enforcement impede the satisfaction of legal interests.

II. The assessment, in turn, assumes: a) the answer to the question whether there really are any social needs, interests, relations, and whether it is really necessary to carry out certain actions with legal regulation for their implementation; b) the establishment of common or group interests; c) the answer to the question of how important are the interests, unsatisfied because of the imperfection of the existing legislation, for citizens and other participants in legal relations.

The assessment of certain interests should be based on the principles laid down in the constitutive law.

III. Forecasting involves the identification of possible changes in the needs of society for the regulatory and legal regulation of relations.

IV. In the course of control, it is necessary: a) to compare the requirements with the current legislation and to define whether there really is a need for legal regulation, for its alteration or abolishment; b) whether the requirements



correspond to the principles laid down in the Constitutive Law.

V. In the development of methods and techniques for ensuring the optimality state of social relations, it is proposed to include: a) the development of the options for reconciliation of the interests of various social groups, reaching a compromise among them; b) the recommendations regarding the need for legal regulation, alteration or abolishment of legal regulation; c) the recommendations containing the information about the exact method of regulation of certain social relations, the formation of an ideal model of behavior. The study of social relations should be carried out during the entire period from the preparation of draft laws to the assessment of the performance of the rules of law. In the process of legal monitoring of social relations, social relations are subject to legal relations as well as nonlegal actual relations. The monitoring of the legal field involves the study of certain social relations, rather than "all spheres of life of society and the state". One cannot agree with the thesis that the purpose of legal field monitoring is the registration of the conformity of the process results with the original plan in the aspect of the study of the draft law and the law, since it is a question of study of the draft law and the law, rather than social relations, which goes beyond legal field monitoring. Moreover, in this case, only one element of monitoring – control – is considered here; the other elements are not mentioned, which also indicates the controversy of the provision in question.

In the course of legal field monitoring, the materials for legislation monitoring and law enforcement practices monitoring should be used. All these concepts are interrelated, but not all the results obtained from the last two types of monitoring are necessary for the study of social relations; therefore, the legislation and law enforcement practice monitoring is somewhat premature.

The need to study the legal practices in the process of legal monitoring of social relations should also be noted.

It is advisable to use the concept of "legal monitoring of social relations" instead of the concept of "legal field monitoring" in the modern legal science.

### 3.2. On draft law monitoring

Draft law monitoring is presented as a system consisting of the following elements: collection of factual material, assessment, forecasting, monitoring and development of methods and ways of bringing the draft law into an optimality state; the elements of this system are disclosed.

The study of the legislative proposal as a form of exercising the right to legislative initiative should include most of the monitoring elements, but its monitoring is complicated by the absence of clear criteria for the legislative proposal.

Some elements of draft law monitoring are contained in the process of passing the draft law in three stages; they are: assessment (including linguistic) and the development of recommendations for bringing the draft law into an optimality state (amendments to the draft law) and control (comparison of the draft law with the Constitution of the Russian Federation, federal constitutional laws, federal laws), etc. At the same time, a full-scale, detailed regulation of draft law monitoring activities is currently lacking, although its introduction could positively affect the quality of the draft laws and, accordingly, the laws.

Draft law monitoring should be as follows:

In the course of implementation of the first element of monitoring (collection of factual material), the following should be implemented:

- the identification of the subject of the right of legislative initiative;
- the identification of the initiator of the draft law;
- the identification of drafters;
- the study of the subject of legislative regulation contained in the draft law (it is appropriate to use the results of legal monitoring of social relations);
- the study of the concept of the proposed draft law;
- the identification of the federal legislation acts, that are subject to recognition as invalid, suspended, modified or adopted in connection with the adoption of this law;
- the study of the draft law in the financial and economic aspect (in case of introduction of a draft law, the implementation of which will require material costs);
- the determination of the terms and procedure for the entry into force of the law of the Russian Federation on the amendment to the Constitution of the Russian Federation, the federal constitutional law, the federal law or some of their provisions;
- the linguistic study of the text of the draft law.

Forecasting assumes:

- the identification of possible options for alteration of the state of social relations;
- the forecasting of the state of stability of the future law (the possibility of alteration, amendment, cancellation);
- the forecasting of material costs required for implementation;
- the forecasting of the effectiveness of the future law.

The authors agree with Kravchenko, who says: "It is important to be engaged in forecasting of the application of the future law, including possible problems" (Kravchenko, 2003).

In the course of assessment:

1. the extent to which the draft law is in conformity with the Constitution of the Russian Federation, the constitutional laws, the federal laws, major sectoral legislative acts is determined;
2. the characteristic of the subject of legislative initiative is given;
3. the initiator of the draft law and its developers are determined (it will contribute to a true understanding of whose interests are expressed by the draft law and how competent its developers are);
4. the subject of legislative regulation contained in the draft law (in this case, in common with the collection of factual material, the use of the results of legal monitoring of social relations is reasonable) is determined;
5. the main provisions (concepts) of the draft law are evaluated;
6. the need to recognize as invalid, to suspend, to amend or to adopt the federal legislation acts, to determine their aggregate in connection with the promulgation of this draft law is determined;
7. the material costs required to implement the draft law are assessed (in case of necessity);
8. the efficiency of the established effective date of the future law is determined, the procedure for its entry into force is defined;
9. the estimated form of the normative act is evaluated;
10. the draft law is assessed.

The implementation of control implies: a) the comparison of the drafting of the draft law with the rules established for this; b) the comparison of the necessary state of social relations with the predicted ones; c) the comparison of the predicted effectiveness and stability of the law with the required ones; d) the comparison of the projected material costs with the optimal allowable; e) the comparison of the predicted results of the future law with the necessary ones; f) the comparison of the draft law with the Constitution, etc. It seems permissible to stop at this point the description of the components of the control, since they all represent a comparison of the information obtained during the implementation of all these actions at the previous stages with the optimal indicators of the state of these elements (Zhuzhgov, 2014).

The process is finalized by the development of proposals to bring the draft law into an optimality state.

### 3.3. Characteristics of the law enforcement elements

Effective law enforcement is a relevant problem, the solution of which requires the application of long-term and purposeful measures on the part of society and the state, and in particular, the improvement of the control from the part of the state, political parties and other components of the political organization of

society, training of the economists and lawyers, improvement of the legal and political culture of the population, as well as the methods of selection and placement of law enforcement personnel (Syrikh, 2004).

The elements of law enforcement monitoring can be characterized as follows: The process of implementation of the first element of law enforcement monitoring (collection of factual material) can be presented as follows:

1. It should be determined by which subject the decision on a particular case was made and formalized, to investigate its powers and decision-making procedure, as well as the established form of legal acts adopted as a result of the law enforcement activity (decree, order, decision, resolution, etc.).
2. It is necessary: to determine the circumstances of the case; to study the case materials; to study the applied law; to define whose interests are displayed in the solution; to define the specific conditions for the application of a regulatory act, the specifics of the situation at the time of the decision; to define the options for the implementation of the legal requirements under existing (existed) circumstances; to define the material costs.

In the course of assessment, it is proposed to give: a) the description of the subject who took and issued the decision on a particular case and its powers; b) the assessment of the decision-making procedure and the form of the legal acts; c) the assessment of compliance with the principles of legality, social justice, appropriateness and validity in law enforcement; d) the assessment of material costs.

The forecast is characterized by: a) the establishment of possible options for the development of social relations, regulated by the act of the rules of law application; b) the establishment of the probability of achievement of legal and social goals; c) the determination of the time frame for achievement of the results.

The control involves the comparison of these data with the indicators optimal for them.

In the course of development of methods and techniques for bringing the object of law enforcement monitoring into the optimality state, it is necessary to give the recommendations on the organizational, procedural and material issues of the enforcement of the aforementioned (for example, to indicate the size of the required material content, to note the need for amendment, alteration or abolishment one or another act of law, the recommendations for making a decision to achieve the necessary legal and social objectives (if necessary), etc.

### 3.4. Features of law monitoring

In general, in the course of implementation of such an element of law monitoring as "collection of factual material", it is necessary: a) to study the rule contained in the law; b) to examine the law as a document; c) to investigate the material security of the law; d) to examine the passing procedure for the draft law, which preceded the adoption of the law; e) to analyze the implementation (use), enforcement, compilation and application of the law;

In the course of assessment, it is necessary to understand: 1) whether the law is in demand; 2) whose interests are expressed by the law; 3) who initiated the draft law; 4) whether the conflicts arise among various relationships in connection with the operation of the law; 5) what changes occurred in the draft law during the passage of it in the readings; 6) how is the law implemented (used), executed, enforced and applied, to what extent are the goals set for the law have been achieved; 7) what are the material costs necessary to implement the law.

At the forecasting stage, the assumptions should be made about what is the probability of the alteration (and in which part) or abolishment of the law.

In the course of control, the following shall fall into the zone of attention: a) the purpose of the law; b) the rule of conduct contained in the law; c) the execution of the law; d) the effect of the law; e) material costs required for the implementation of the law.

Speaking about control in relation to the results of the law, it is important to distinguish the situation when problems in the application of the law lie in the law itself and the situation when the problems exist in the field of direct enforcement. Thus, at the verification stage, the ideal picture of the application of the law should be compared with the reality of the situation, but it should be kept in mind that the law is subjected to monitoring, rather than its enforcement, and therefore the main emphasis should be on the quality of the law. The comparison of the expected results with the results of law application is just one of the criteria by which the control is conducted and it should be kept in mind that the reasons, underlying its lack of proper application, can lie solely in the field of this application.

At the last stage of monitoring, it is required to develop the techniques and methods of bringing the law to an optimality state in these fields.

### 3.5. Characteristics of the subjects of legal space monitoring

The subjects of legal space monitoring can be classified by the following reasons: 1) depending on the status of the body, the organization, conducting the monitoring: a) government authorities involved in legal space monitoring; b) other bodies and institutions involved in monitoring; 2) depending on the 1

level of its activities: a) federal; b) regional.

At present, to the state authorities involved in legal space monitoring at the federal level can be attributed:

1. The President of the Russian Federation, the Administration of the President;
2. The Federal Assembly of the Russian Federation: A) The Federation Council, the Council of Legislators, the Commission of the Council of Legislators for monitoring legislation and law enforcement practice, various committees and commissions of the Federation Council, in particular, the Federation Council Committee on Defense and Security, the Council of the Federation Committee on CIS Affairs, the Council of the Federation Committee on cooperation with the Accounts Chamber of the Russian Federation, the Commission of the Federation Council on the methodology for implementing the constitutional powers of the Federation Council, as well as other committees and commissions of the Federation Council; B) the State Duma of the Federal Assembly of the Russian Federation, the Legal Department of the Office of the State Duma of the Federal Assembly of the Russian Federation, various committees of the State Duma of the Federal Assembly of the Russian Federation;
3. The Government of the Russian Federation, the Government Office, various ministries and departments of Russia, among them the Ministry of Justice of the Russian Federation, the Ministry of Internal Affairs of the Russian Federation, the Ministry of Natural Resources of Russia, the Federal Service for Financial Monitoring;
4. The Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation;
5. The Accounts Chamber of the Russian Federation;
6. Federal Commissioner for Human Rights;
7. The Prosecutor General's Office of the Russian Federation;
8. Central Election Commission of the Russian Federation.

Among the state authorities, conducting the monitoring at the regional level, the following can be singled out: 1. Legislative (representative) bodies of the subjects of the Federation, the Moscow Regional Duma and the State Duma of the Stavropol Territory are particularly active in this direction; 2. The Federal courts with the exception of the Constitutional Court of the Russian Federation, the Supreme Court of the Russian Federation. The Constitutional (statutory) courts of the subjects of the Russian Federation, the Magistrates courts; 3. The Commissioner for Human Rights; 4. The Prosecutor's offices of the subjects of the Russian Federation; 5. The municipality of domicile.

Other bodies and institutions involved in monitoring include: 1) scientific

institutions (the Institute of State and Law of the Russian Academy of Sciences, the Institute of Legislation and Comparative Jurisprudence under the Government of the Russian Federation, the Institute of the Ministry of the Interior Affairs of the Russian Federation, the Research Institute of the General Prosecutor's Office of the Russian Federation) and expert structures (currently, it is required to unite the expert community in the branches of law, to introduce the qualification "expert in legal space monitoring"; 2) public institutions, for example, the Chamber of Commerce and Industry; 3) commercial institutions, including institutions specializing in the issue of reference and legal systems (Consultant-Plus, Garant, ARM-Jurist, etc.).

Denoting the Russian Academy of Sciences among the other bodies and institutions involved in legal space monitoring, some conventionality of this instruction can be noted, since the RAS is a federal body of state power with a special status, but at the same time this classification makes it possible to show the specifics of each subject of legal space monitoring. The provision that by its very nature the Russian Academy of Sciences and the branch academies of sciences are state institutions of a special kind rather than state authorities makes it possible to present the classification of the subjects of legal space monitoring this particular way.

It appears that other bodies and institutions carrying out legal space monitoring can act both at the federal level and at the level of the constituent entities of the Federation. The volume of the article makes it impossible to study the specifics of the organization of the activities of other bodies and institutions involved in monitoring at the regional level, and it can be assumed that this activity is required.

As for the citizens, their involvement in monitoring is due to their compulsory participation in many empirical studies – to find out the public needs, etc., but full-scale legal space monitoring cannot be carried out by citizens themselves, which does not mean their inability to monitor at the level of their needs. Moreover, it is necessary to provide as many opportunities as possible for citizens to carry out such monitoring, since this inevitably entails a decrease in legal nihilism and will contribute to solution of some of the problems in the aspect of legal culture development, which have been repeatedly observed by the scientists (Tereshchenko et al., 2017).

In this aspect, the experience of Holland is of interest, where there is a practice of conduct of the expertise by the independent, qualified body, analyzing the strengths and weaknesses of laws and, accordingly, the consequences of their adoption. This activity is carried out in relation to the implementation of European legislation, its "incorporation" into the Dutch legislation takes place. This expertise is very important for the members of the Dutch parliament, so that

institutions (the Institute of State and Law of the Russian Academy of Sciences, the Institute of Legislation and Comparative Jurisprudence under the Government of the Russian Federation, the Institute of the Ministry of the Interior Affairs of the Russian Federation, the Research Institute of the General Prosecutor's Office of the Russian Federation) and expert structures (currently, it is required to unite the expert community in the branches of law, to introduce the qualification "expert in legal space monitoring"; 2) public institutions, for example, the Chamber of Commerce and Industry; 3) commercial institutions, including institutions specializing in the issue of reference and legal systems (Consultant-Plus, Garant, ARM-Jurist, etc.).

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expertise is very important for the members of the Dutch parliament, so that when they receive European laws, they can assess them in a qualified manner (Scheltema de Nie, 2003).

#### 4. Discussion

Historically, monitoring was developed and applied for the first time in soil science, then – in ecology, now in many areas of human activity, including sociology and economics (Samozhenkov, 2002). By the mid-1950s the attempts were made to understand the monitoring system (Turkina, 2000). Officially, the term "monitoring" appeared in 1972 at the United Nations Stockholm Conference on the Environment (Shirshova, 1995).

The range of monitoring objects is unlimited. This conclusion is based on the positions available in the scientific literature. So there are provisions according to which monitoring is applicable to any substantive content and scientific specialty, monitoring is universal and it is inadmissible to assign monitoring technology to the methodological arsenal of any science; the "generic" assignment of this research technology is extremely broad, monitoring is a universal technology, applicable to the study of any objects of surrounding reality (Volodin, 2002); monitoring can be conducted in relation to any environment; economic, social, and political. In this case, economic, social and political monitoring is carried out (Zakharova, 1999). It can be concluded from the above provisions that monitoring can be applied to various objects.

A scientific discussion in the aspect of considering the correlation of such concepts as "monitoring" and "management" is of interest.

The analysis of the scientific literature made it possible to identify the following main positions on this issue: 1) the concept of "monitoring" is broader than the concept of "management" (Chazova, 2000); as a version of this position, one can single out the thesis that monitoring includes management by timely informing about the unfavorable development of the monitoring object (Scientific and Pedagogical Information, 1995); 2) the concept of "management" is broader than the concept of "monitoring" (Emelyanov, 2001).

In the reference literature, management is defined as an element, a function of organized systems of various natures, ensuring the preservation of their specific structure, maintaining the mode of operation, implementing the program, the objectives of the activity (Prokhorov, 1991).

In the authors' opinion, the concept of "management" is broader than the concept of "monitoring". Monitoring includes the study of the object, its assessment, control, forecasting and development of the methods to bring the

object to an optimality state. In the course of management, first of all, the set of indicators that the managed object (the optimality state) should correspond to, and the system of indicators necessary for its assessment and control are determined. Further management activities include the elements that are part of the monitoring system – the study of an object, its assessment, control, etc. As a result, management involves taking a decision on the implementation of an activity that embodies the most productive way of bringing the object to the required condition (optimality state) and the implementation of this activity. As can be seen, management contains the components that lie beyond the limits of monitoring (the definition of the assessment and monitoring criteria, selection of the necessary actions, deciding on their implementation and, directly, the implementation), while monitoring, in turn, implements a number of well-defined management functions, as evidenced by Abramovskikh (1999) and the authors agree with this statement (the functions of assessment, analysis, etc.). Also, one cannot agree that monitoring involves management of the environment by informing people about the possibility of unfavorable situations. In fact, it is about the forecasts of the development of the events, which is the result of the implementation of only one element of monitoring, and these forecasts can only act as information that is subject to assessment and control and serves as an incentive, facilitates the development of the ways out of critical situations. Thus, this position is not entirely correct, although it also has the right to exist.

For further consideration of the issue of the correlation between monitoring and management, it is important to specify the difference between the monitoring subject and managerial decision-making. Obviously, in the first case, the subject is the one who monitors, in the second – the one who makes the managerial decision. It should be noted here that: in the event that both these subjects coincide, the methods and techniques of bringing the object to the optimality state developed at the last stage of monitoring are automatically implemented through the adoption of a decision on their implementation and, accordingly, their implementation; if the subject of managerial decision-making and the subject of monitoring do not coincide, then the implementation of these methods and techniques will not be so unambiguous, since the opinions regarding the ways of bringing the object to an optimality state in these entities may not coincide or overlap in part. And although the world experience shows that the indispensable condition for the high efficiency of the information and analytical units is the direct participation of their employees in the activities that they serve, and the greatest result is achieved if the leading analysts enjoy the confidence of managers and are considered by them as full

participants in the decision-making process, and only in this way can the actual integration of analytical work in the management process be achieved (Meliukhin, 1994), at the same time, not always a similar situation takes place and it may well be decided to refine or radically rework the techniques and methods proposed by the monitoring subject. If one assumes that the results obtained as a result of the last stage of monitoring will be subject to strict implementation, the concept of "monitoring" will practically replace the concept of "management", which in this case will have only one distinctive feature – the definition of the parameters of assessment and control, naturally, it is difficult to agree with such a circumstance. Hence the subject of managerial decisions may not coincide with the subject of monitoring.

Thus, the concept of "management" is broader than the concept of "monitoring" and, therefore, the inclusion of management in monitoring is not correct. Ideally, the objects of monitoring, the fields of their research, the indicators that allow assessing their condition, as well as the values of their optimality state, are determined at the initial stage of management, and monitoring itself is an integral part of management activities.

When considering the legal space objects of monitoring, the position of Barutenko is of interest, according to which the legal space is a universal legal category: it makes it possible to analyze issues of proportionality of normative legal acts, contractual mechanisms in federal relations, to investigate the general and special, limits and scope of legal acts, issues of the state and legal reality, which is of significant methodological importance in the development and adoption of the legal acts by the legislators at the stage of lawmaking, as well as in the course of execution of the legal acts by the subjects of law at the stage of law enforcement. The single legal space of Russia is defined as a category characterizing the unity of legal prescriptions of the legal system of the Russian Federation, their mutual consistency and coherence (Barutenko, 2003). From the above provisions, it can be concluded that in the course of legal space monitoring, the laws, the legal norms, as well as the law enforcement must be studied. In turn, Gantseva defines the legal space as a form of "social space in which stability in the society, law and order and legality are established by means of norms of law" (Gantseva, 2001). This makes it necessary to study social relations, laws and norms of law in the process of legal space monitoring. The authors should also agree with the definition contained in the Dictionary of the Basic Concepts Defining the Concept of Legal Space and Law Enforcement Practice Monitoring, in the part where the legal space is defined as the sphere of formation and operation of the system of normative acts. This provision makes it possible to study the draft laws during the monitoring process, which will ensure the better understanding of the meaning and quality of the laws, and this, in turn, will contribute to the creation of a complet

e picture of the legal space, as well as the development of methods and techniques for bringing it to an optimality state.

The analysis of the scientific literature made it possible to identify different points of view regarding the purpose of legal space monitoring. Namely, the attainment of decent quality of the adopted laws is indicated as the purpose of monitoring. The purpose of monitoring is understood as "the adoption of legislative decisions in modern Russia, based on objective criteria for the effectiveness of rulemaking" (Draft Concept for Legal Space and Law Enforcement Monitoring, 2004). In the opinion of the authors, these provisions are controversial, since in these cases monitoring includes not only the development of qualitative laws, but also their adoption, which causes the controversy of these positions, since the adoption of the law lies beyond the limits of monitoring. In addition, there is a provision according to which the purpose of monitoring is to identify the compliance of the state and dynamics of the legislation and the practice of its application, the planned outcome of legal regulation, as well as the expectations of the participants in the legislative process, officials of executive, judicial and other bodies of all levels of government, civil society institutions, and citizens (Burbulis, 2003). Here, as a matter of fact, control is indicated as the purpose, which in the authors' opinion is not correct.

Also, in the above-mentioned Draft, such purpose of monitoring as the accumulation and systematization of the information on the status of regulatory and legal regulation of all spheres of social relations in the Russian Federation is indicated. Moreover, the following interpretation of the monitoring objective can be found in the scientific literature: the obtaining of the sufficient knowledge about the state of the legal space (Dictionary of the Basic Concepts Defining the Concept of Legal Space and Law Enforcement Practice Monitoring, 2004). In the authors' opinion, the last definition of the goal is the most complete, but somewhat abstract. In this connection, based on the above material, the authors would like to give the following definition:

The purpose of legal space monitoring is to obtain the information required to ensure the optimality state of the legal space. In the authors' opinion, the managerial decisions in the field of legal space should be directed towards this precisely.

The existing provisions, concerning the monitoring tasks, contained in the scientific literature are of interest:

The monitoring tasks should be realized and provided in a certain way. In the scientific literature, the tasks of the legal space and law enforcement practice monitoring are classified according to the subject of the use of the monitoring results:

1. The work for the subject of rulemaking.

The monitoring tasks are to provide the subject of rulemaking with the objecti

ve information about existing theoretical models of social relations regulation; about actually valid, tested models of social relation regulation; about the world (European) tendencies in the development of the legislation regulating the public attitude; on the shortcomings of the existing national legislation regulating social relations in the present historical period; on the political consequences of alteration of the existing regulation of social relations.

2. The work for civil society institutions.

Creation of the conditions to increase the transparency of the decisions taken by all levels of government, and the degree of participation of civil society institutions in the formation and implementation of these decisions.

The following can be attributed to the main tasks of legal space monitoring in this case: a) the determination of the degree (depth) of legal regulation of the constitutionally assigned subjects of reference, the identification of the gaps in the legal regulation of social relations, the formation of promising areas of lawmaking; b) the identification of contradictions, duplication and parallelism in the legal regulation of social relations, the systematization of legislation; c) the determination of the effectiveness of the legislative norms, the study of objective and subjective conditions that hinder and facilitate the effective application of the legislative norms; development of proposals for strengthening the impact of positive and neutralizing the impact of negative factors; d) the identification of contradictions between federal and regional legislation, the development of proposals for their alignment with the Constitution of the Russian Federation and among themselves; e) the generalization of the best practices of regional legislation, extending it to other constituent entities of the Russian Federation and using it in federal lawmaking; f) the generalization of foreign experience in the development of legislation, the development of proposals for its use in Russian lawmaking (Proposals for the Draft Concept, 2004).

In this aspect, the implementation of the principles of the legal basis for specific regulatory prescriptions defining the relationships among different actors acquires special significance, which ensures the consistency and stability (Smirnov, & Strus, 2015).

The legal space monitoring institution obligatorily provides for: the broad disseminating information about the activities of the state legislative body to the public; the use of the principle of feedback (Aksakov, 2003).

Concerning the above tasks, the authors would like to say the following. The information on existing theoretical and practical models for regulation of social relations, on global trends in the development of the legislation regulating this public relation, can be used in the implementation of four types of monitoring described herein (the monitoring of social relations, draft law, law

enforcement, law), especially in the legal monitoring of social relations in the implementation of the development of the recommendations on bringing the social relations to an optimality state. The information about the political consequences of alteration of the existing social relations regulation can be the result of forecasting, carried out in the course of legal monitoring of social relations. The information on the shortcomings of the legislation regulating the public attitude can be obtained by preliminary monitoring of certain laws. The determination of the degree of legal regulation, identification of gaps in legal regulation, formation of promising areas of lawmaking activity, the identification of contradictions between federal and regional legislation, and the implementation of the remaining above tasks is possible in the course of monitoring of social relations, draft laws, law enforcement and law. The scientific analysis conducted proves the need to include the monitoring of social relations, draft law, law enforcement and law in the legal space monitoring. At the same time, in the authors' opinion, this information mostly can be obtained in the course of conduct of the four types of monitoring mentioned above.

Thus, the elements of legal space monitoring can be defined as the collection of factual material, forecasting, assessment, control, carried out in the aspect of the study of the equality before the law and the court; the equality of the subjects of the Federation; the interrelation of the Constitution of the Russian Federation with the Constitutions and Charters of the subjects of the Federation, the federal laws and the laws adopted by the subjects of the Federation; the presence or absence of respect for the rights and freedoms of human and citizen, the recognition of the sovereign rights of nations and nationalities, the unity and territorial integrity of Russia; ensuring the same force of law throughout the territory of Russia; behavior of the subjects of legal relations; the priority of the Constitution and federal legislation. Also, monitoring includes the development of techniques and methods to bring the state of the legal space in line with these directions.

As a result, the authors would like to note that legal space monitoring is monitoring of a higher level than the component types of monitoring.

## 5. Conclusion

Revealing the features of legal space monitoring, the authors contribute to the development of methodological, procedural, organizational, high-quality improvement of the legal space, bringing it to an optimality state, which includes: the equality before the law and the court; the equality of all subjects of the Federation; the interrelation of the Constitution of the Russian Federation with Constitutions and Charters of the subjects of the Federation; the respect for the rights and freedoms of human and citizen; the recognition of the sovereign

rights of nations and nationalities; the unity and territorial integrity of Russia; the equal force of law throughout the territory of Russia; nonviolation by the subjects of legal relations of the laws of this state in the course of exercising of their rights (in violation of the legal provisions of the state, the subjects are outside the "legal space" – outside the legal law. As a result, the unity of the legal space of the entire state is destroyed: the state power becomes inefficient, the economic reforms, human and civil rights and freedoms are violated, the living conditions of people are deteriorating – the right ceases to be a regulator of social relations). Such feature as a priority of the Russian Constitution and federal legislation enshrined in the Constitutive law of Russia, which the subjects of the Federation should strictly adhere to in order to preserve the unity and integrity of the federal state, should be pointed out. The functioning within a single legal space of the Russian Federation is "an important signal not only for Russian society but also for the whole world, that there are priorities that are important for the regions and the federal center. One of them is the improvement of Russian statehood. Another feature is the state of coherence, correlativity and subordination of legal norms, conditioned by the federal Constitution, based on their legal importance (supremacy).

Monitoring contributes to the effective functioning of the mechanism for ensuring the unity of the legal space, which includes: a) the completion of the formation of the legislative framework for the most important constitutional and legal institutions of the Russian Federation and its subjects, including on the scope of possible rulemaking of state authorities of the subjects of the federation; b) the improvement of the quality of preparation of normative legal acts by the participants in the norm-setting process by increasing their legal qualifications and improving the rule-making technologies; c) the introduction in the legal practice of the elements of model legal regulation on the issues of joint jurisdiction of the Russian Federation and its subjects, as well as certain issues of local importance; d) the improvement of the system of state bodies participating in joint activities to ensure the unity of the legal space, their interaction and coordination.

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