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Igor Bartsits

## CONSTITUTIONAL SPACE

*Doctrine, Legal Reality  
and 3D Illusion*

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**RANEP**

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# Constitutional Space

*Doctrine, Legal Reality  
and 3D Illusion*

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This paper studies the notion and content of constitutional space, its integral parts and components, key features and principles in order to help identify the spatial limits of state power and provide efficient legal support to integration processes. To articulate the multifaceted concept of constitutional space, the author has analyzed the approaches of a number of Russian and international researchers which allowed him to trace how this concept developed from the flat territory-bound format to a value-centric three-dimensional presentation or so-called 3D format.

The purpose of this paper is to define the concept of constitutional space, its content and role in the context of state building aimed at ensuring territorial integrity, unity of the Russian system of law and more efficient use of the mechanisms provided by federal agreements based on the analysis of scientific information sources and constitutional norms.

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# Summary

**Introduction:** This paper studies the notion and content of constitutional space, its integral parts and components, key features and principles in order to help identify the spatial limits of state power and provide efficient legal support to integration processes. To articulate the multifaceted concept of constitutional space, the author has analyzed the approaches of a number of Russian and international researchers which allowed him to trace how this concept developed from the flat territory-bound format to a value-centric three-dimensional presentation or so-called 3D format.

**Purpose:** The purpose of this paper is to define the concept of constitutional space, its content and role in the context of state building aimed at ensuring territorial integrity, unity of the Russian system of law and more efficient use of the mechanisms provided by federal agreements based on the analysis of scientific information sources and constitutional norms.

**Methods:** Relying in this empirical study on the methods of comparative law, the author classifies and interprets historical data and applies a systemic approach to draw conclusions in regard to the significance and role of constitutional law space as a universal legal category allowing to explore common and unique features of legal systems developing in both individual countries and integrating unions, as well as to identify the boundaries limiting the jurisdiction and the scope of legal acts.

**Results:** Having conducted a detailed analysis of the features of constitutional law space which are well known to the scientific community (i. e. sovereignty of state within its entire territory; continuity, homogeneity and integrity; limited territorial jurisdiction; systemic structure; internal and external unity; and succession) the author substantiates the rationale for pursuing a systemic approach (especially, in the context of integrating unions) and treating the category of constitutional space as a backbone factor for a single multiple-tier system comprising: state institutions formed by national states; supranational bodies performing different functions (from parliaments to executive bodies); national justice systems with integrating unions' courts; and institutes of civil society.

**Conclusions:** In a constitutional context, the term “*space*” goes far beyond the geographic jurisdiction of legal norms, therefore, it is very important to embrace its meaning for supranational and integrating unions. The task for creation of economic and political integrating unions on the territory of the former USSR explains the need to codify the value-oriented narrative of all stakeholders following the example of the European “*acquis communautaire*”, and the degree of alignment with this example will in many ways determine the success of the concept of *common space from Lisbon to Vladivostok*.

**Key words:** Constitutional space, spatial regulation, continuity, “*acquis communautaire*”, European constitutional integration.

By the Grace of God, We, NN, Emperor and Autocrat of All the Russians, Moscow, Kiev, Vladimir, Novgorod; Tsar of Kazan, Tsar of Astrakhan, Tsar of Poland, Tsar of Siberia, Tsar of Chersonese Taurian, Tsar of Georgia; Lord of Pskov and Grand Prince of Smolensk, Lithuania, Volhynia, Podolia, Finland; Prince of Estland, Livland, Courland, Semigalia, Samogitia, Belostok, Karelia, Tver, Yugorsky Land, Perm, Vyatka, Bolgar and others; Lord and Grand Prince of Nizhny Novgorod, Chernigov, Ryazan, Polotsk, Rostov, Yaroslavl, Belozersk, Udorsky Land, Obdorsk, Kondia, Vitebsk, Mstislav, and all of the northern countries; Master and Lord of Iberia, Kartli and Kabardia Lands and Armenian provinces; hereditary Sovereign and ruler of the Circassian and Mountainous Princes and of others; Lord of Turkestan; Heir of Norway; Duke of Schleswig-Holstein, Stormarn, Dithmarschen, and Oldenburg, and others, and others, and others.

*Full title of the last Russian Emperor*

Russia has been looking for its road to the rule of law together with other nations, primarily European, doing this in the same field, sharing the same space. Positivistic in general this road is paved with all the achievements of the Russian legal science, all its challenges and misconceptions <...> The overall tone of Russia's legal culture has been European. Russia was made part of the Romano-Germanic legal family due to objective causes, by force of its own economic, social and cultural problems, but it kept aloof with an eye for other legal models too<sup>1</sup>.

*G. V. Maltsev*

<sup>1</sup> Maltsev G. V. Understanding of Law. Approaches and Problems. M.: Prometheus, 1999. P. 17.





# Introduction: Two Views of “Constitutional Space”

In 2000, MSU Press, the publishing house of Moscow State University, with the sponsorship of the Russian Foundation for Legal Reforms published my monograph entitled “The Legal Framework of Russia. Issues of Constitutional Theory and Practice”<sup>1</sup>, in which I argued that the development of a legally substantiated concept for the creation and dynamics of Russia’s constitutional law space was intended to facilitate efficient and sustainable development of the Russian state. At the same time, I admitted that Russia’s national jurisprudence failed to offer society clear-cut answers to the most important questions of state building, namely: a) How should the constitutional law space of Russia be organized? b) What components does it consist of, and how do these components interrelate? c) What mechanisms of Russian law ensure continuity and homogeneity of constitutional law space?

Without addressing these questions, it was difficult to come up with a solution to the country’s economic problems, stabilize its political situation, overcome ethnic antagonisms and finally enable full-fledged prospective development of the Russian statehood. I was referring to the most important tasks of Russia in its contemporary history, including:

<sup>1</sup> *Bartsits I.N. The Legal Framework of Russia: Issues of Constitutional Theory and Practice. M.: MSU Press, 2000.*