



MODERN UNDERSTANDING OF REGULATORY IMPACT ASSESSMENT AS A MEANS OF IMPROVING LEGISLATION

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Abstract

The article analyzes the assessment of regulatory impact as a tool for improving the quality and effectiveness of legislative regulation. The main approaches to understanding the assessment of legislation in foreign legal doctrine and practice, as well as institutional and procedural forms of its application, are considered. Special attention is paid to the experience of European states and OECD member countries, as well as to the implementation of regulatory impact assessment in the Republic of Uzbekistan. The necessity of forming a national ODS model is substantiated, taking into account the peculiarities of the legal system and the priorities of law-making policy.

Keywords: assessment of regulatory impact; quality of legislation; legislative regulation; law-making activities; foreign experience; legal monitoring; institutional assessment mechanisms; socio-economic consequences.

Introduction

In the context of the dynamic development of public relations, the development of effective approaches to improving the effectiveness and quality of legislative regulation is of particular importance. Modern state-legal development is focused on the search for such mechanisms that make it possible to ensure the consistency of legal norms with real socio-economic processes. The appeal to scientific research and the analysis of strategic and program documents give grounds to identify a number of key areas of updating legislation, which are consistently being implemented in the Republic of Uzbekistan and have a



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pronounced practical orientation. These include the formation of scientifically sound regulatory decisions, preliminary conceptual elaboration of draft regulatory legal acts, improvement of legal and technical means of consolidating legal regulations, forecasting the development of legislation and possible consequences of its application, planning law-making activities taking into account the objectives of legal regulation, systematic legal monitoring, as well as borrowing and adapting positive foreign experience.

In foreign legal doctrine and practice, the assessment of legislation as an independent area of legal analysis is becoming more widespread. In the scientific approaches of foreign authors, this phenomenon is considered primarily as an activity to identify and measure the actual impact of regulatory legal acts on public relations. In other words, we are talking about establishing the relationship between law-making decisions and changes in social reality through special analytical and methodological procedures.

In this understanding, the assessment of legislation performs the function of clarifying and deepening the legislator's knowledge of the results of legal regulation. Its purpose is not only to identify the formal characteristics of legal norms, but also to assess their real impact, which makes it possible to bring legal regulations closer to the objective conditions of social development and the needs of law enforcement practice.

Since the second half of the 20th century, assessment mechanisms have been firmly embedded in the legislative activities of many States. Within the framework of their application, both special procedures and institutional forms of assessment organization are used. For example, in the United States of America, there are widespread requirements for the regular preparation of analytical reports, as well as the inclusion in regulatory legal acts of special provisions providing for a preliminary and subsequent assessment of their impact.

A significant contribution to the development and institutionalization of regulatory impact assessment has been made by the member States of the Organization for Economic Cooperation and Development, where this tool has been used on an ongoing basis since the mid—1980s and is considered one of the key elements of a system for improving the quality of legislation and the



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validity of legal decisions.

Even in the absence of a direct mention of the evaluation of laws in the text of the Basic Law of the Federal Republic of Germany, the relevant mechanisms are actually deeply integrated into the legislative process. A significant number of regulatory legal acts contain prescriptions obliging the federal Government to submit reports on the progress and results of the implementation of laws. The procedural regulations of the Parliament, in turn, provide for both a preliminary and subsequent assessment of legal regulation. Parliamentary committees carry out a detailed analysis of the expected consequences of draft laws at the stage of their consideration, while the tools of a retrospective assessment include discussions in plenary sessions and the use of parliamentary inquiries. As a result, practically no element of legislative regulation in Germany remains outside the field of subsequent evaluative analysis.

European States as a whole are characterized by the institutionalization of the assessment of legislation through the creation of specialized bodies and units with appropriate powers. Such structures can function within individual ministries, parliamentary services, or be created as independent and autonomous bodies, including control and judicial institutions. Depending on the model, they either independently assess the impact of regulatory legal acts, or involve independent external experts in this activity.

In the legal systems of European countries, the assessment of legislation is considered as the most important factor in improving the quality and effectiveness of legal regulation. It is implemented in various organizational and methodological forms and is often based on the interdisciplinary interaction of specialists in economics, sociology, psychology and law, which allows for a comprehensive analysis of the consequences of regulatory decisions.

There is no uniform approach to defining the concept of regulatory impact assessment in the scientific literature, which is due to the diversity of its goals, methods and fields of application. Thus, in one of the guiding documents on regulatory impact assessment, adopted in Dublin in 2004, this institute is defined as a comprehensive process of identifying regulatory problems and objectives, choosing alternative ways to achieve them in order to avoid excessive and unjustified regulation, based on the use of scientific and verifiable methods of



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analysis, processing all available information, accounting different positions formed during the consultations, as well as a comparison of the costs and benefits of the proposed alternatives. In a more generalized form, regulatory impact assessment can be characterized as a systematic mechanism for identifying key problems of legal regulation, formulating its goals and evaluating possible options for achieving them in order to make informed management decisions.

Procedures similar in nature to regulatory impact assessment are gradually being introduced in the Central Asian States, although under different names. Thus, in the Kyrgyz Republic, the term "analysis of the regulatory impact of regulatory legal acts" is used, and in the Republic of Kazakhstan — "assessment of the socio-economic consequences of laws". At the same time, it should be emphasized that there is no unified assessment model, which is why each state builds an appropriate procedure taking into account its own institutional, socio-cultural and legal characteristics.

In the context of the intensification of integration processes, a comprehensive study of the practice of applying state regulation assessment procedures in neighboring countries is becoming particularly relevant, which makes it possible to identify both general patterns and nationally specific elements of these mechanisms.

In the Republic of Uzbekistan, the institute for regulatory impact assessment is currently at the stage of further formation and development. In this regard, the formation of an effective ODS implementation mechanism involves referring to the experience of States where this procedure has been operating for a long time and has demonstrated its effectiveness. At the same time, the borrowing of foreign models should take into account the specifics of the national legal system, the dynamics of socio-economic and political development, as well as the priorities of state law-making policy.

It seems that in order to transform the assessment of regulatory impact into a sustainable and effective procedure capable of solving practical problems of improving legislation, it is necessary to form its own, adapted RIA model. In this context, the development of scientific research aimed at forming a theoretical basis for regulatory impact assessment, as well as the training and



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advanced training of subjects involved in its implementation, and the formation of their practical skills in using appropriate tools, is of particular importance. Thus, the regulatory impact assessment for the Republic of Uzbekistan is a relatively new institution that requires further scientific understanding, analysis of foreign experience and the step-by-step formation of a methodological, legal and economic framework necessary for its effective and sustainable functioning.

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