
КОНСТИТУЦИОННОЕ И МЕЖДУНАРОДНОЕ ПРАВО CONSTITUTIONAL AND INTERNATIONAL LAW

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The analysis and evaluation of the results of lawmaking

The authors study the problem of improvement of legal acts effectiveness by using the methods of assessment of the extent and nature of their impact on regulated social relations. Such methods as legal monitoring, drafting analysis reports, regulatory impact assessment are considered. Current legislation of Kazakhstan in this sphere is analyzed in the article, proposals for its improvement are formulated. The authors use state and social (public) monitoring are considered. The authors suggest to fix in the special Article following legal monitoring principles: legality, objectivity, comprehensiveness, planning, maximum informational objects and subjects as base of classification of the legal monitoring, content, sufficient financial support and publicity. Legal monitoring institute as a type of legal activity demands further theoretical elaboration. The public monitoring has not received adequate regulation in the legislation. It is necessary to develop a mechanism and methodology for conducting public monitoring, the procedure of interaction of public institutions with public authorities in conducting public monitoring. An important tool for legal monitoring is the regulatory impact analysis (RIA). The historical aspect of the regulatory impact assessment was explored by authors. For the theory and practice of legal regulation of the Republic of Kazakhstan, this institution is new and demands further studying and improvement. The article contains the comparative analysis of the application RIA in the lawmaking and the Law on licenses and notifications. The authors suggest to include the regulatory impact analysis in the Environmental Code, the Forest Code, the legislation on aviation, railway transportation.

Keywords: lawmaking, legal acts, legal monitoring, analysis report, regulatory impact assessment, legal monitoring principles, state monitoring, social (public) monitoring, legal monitoring methods, legal monitoring objects, legal monitoring stages.

Lawmaking is one of the most important aspects of state activity, the form of its activity, which has as its immediate goal — the formation of legal norms, their modification, cancellation or addition. In each state, lawmaking has its own peculiarities, but everywhere it is aimed at creating and improving a single, internally coherent and consistent system of legal norms that regulate various relations, developed in society. The amendments to the Concept of Legal Policy of the Republic of Kazakhstan, adopted in 2014 allow to form the next generation of national legislation, meeting modern realities and trends taking place in the global legal space, and ensuring the competitiveness of Kazakhstan's legal system [1]. The Concept of Legal Policy focuses on the creation of legal instruments, which give additional impetus to the development of civil society institutions and the rule-of-law state.

Lawmaking as any process of creative activity has certain results. The main results of lawmaking activity are legal acts. However, the life of a legal act after its adoption and putting into force does not end, it just starts. Next is the process of law enforcement, i.e. the application of a legal act to regulate those social relations that were originally under the goal of lawmaking activity of a particular public authority. This work allows not only to assess the quality of the legal act itself, the level of its regulatory impact, but also the impact of this legal act on the state and development of law and order in the country, its influence on the prospects of legal regulation in general. For example, the Law «On Legal Acts» dated April 6, 2016 No. 480-V [2] is aimed at implementing the normative decisions of the Constitutional Council on March 6, 2013 No. 1,

in which it was noted that the Constitution does not limit the subject-matter of legal regulation of a special law exclusively with the order of development, presentation, discussion, implementation and publication. To improve the quality of constitutional legislation, the following measures in the Message of the Constitutional Council 2016 are provided:

- the use of scientifically defined indicators for the formation and implementation of an effective system of comprehensive constitutional monitoring, which involves the analysis of current law and enforcement practice for the implementation of constitutional values;
- the updating the legislation by drawing up effective plans for legislative work, improving the quality of draft laws, analytical and predictive assessment of the consequences of their adoption, synchronizing the issuance of legislative acts and accompanying subordinate regulatory legal acts;
- the effective use of constitutional control, provided in the Article 78 of the Basic Law at the initiative of the courts to strengthen the protection of constitutional rights and freedoms of citizens [3].

To assess the effectiveness of a legal act, the degree and nature of its impact on regulated public relations, the international law enforcement practice has developed many methods. The analysis of the current legislation of the Republic of Kazakhstan, the study of special theoretical and legal literature showed that today the main methods for analyzing and evaluating the results of lawmaking are several basic methods. These include legal monitoring; compilation of analysis report; regulatory impact assessment. Let us consider in more detail the essence of each of these methods and the degree of their legal regulation in modern Kazakhstani legislation.

Legal monitoring is used to assess objectively the legal reality and to make proposals for the improvement of current legislation on the basis of formulated conclusions. In the scientific literature, the concept of legal monitoring system means the purposeful work on the analysis of the content of legislative and other normative legal acts, the collecting, processing and evaluating the information about practice of their application [4; 98]. I.I. Onyshchuk defines the legal monitoring as mechanism of constant evaluation, analysis, state's prediction, dynamics of legislation and its implementation practice for identification of their conformity with planned result of legal regulation [5; 148]. It should be noted, that the scientist considers one of the most important types of legal monitoring in his work. This is the monitoring carried out by the parliament. The scientist uses examples of monitoring practice of the parliaments of a number of European states (Czech Republic, Slovakia, Switzerland, Great Britain). Therefore, in a number of European countries (Czech Republic, Slovakia, Poland) there are Government Councils for the affairs of non-governmental, non-profit organizations. They are created to promote cooperation between ministries and civil society institutions. For example, they make recommendations for the government as a whole or for a particular ministry. The Council plays an important role in the development of strategies and making decisions of Investment Fund, participates in the distribution of privatization portfolios [6].

Theoretical development of legal monitoring as a type of legal activity allows classifying it, identifying objects and subjects. Thus, types of legal monitoring can be differentiated into state monitoring and public (social) monitoring. State monitoring is carried out by competent state authorities. Among them are authorized bodies or bodies-developers of the legal act. Public (social) monitoring is carried out by public associations, consultative and advisory bodies under state authorities. For example, in Kazakhstan, these may be public councils, the National Chamber of Entrepreneurs. The Article 51 of the Law on Legal Acts established that public monitoring of regulatory legal acts, affecting the interests of private business entities, is carried out by the National Chamber of Entrepreneurs of the Republic of Kazakhstan.

According to the level of the body, carrying out the legal monitoring and the scale of its distribution, it is possible to single out central, local, countrywide body or body at the level of an administrative-territorial unit or region.

In retrospective monitoring, valid and expired legal acts are compared. Predictive monitoring is conducted to identify social trends and the expediency of a new normative legal act adoption for a more detailed regulation of similar public relations.

The subjects of legal monitoring may be bodies of state power and local self-government, scientific legal institutions, centers for sociological research, legal entities that study the practice of applying legislation. However p.1 of the Rules for conducting of monitoring formulated fairly specific range of legal monitoring subjects, among them are state bodies, who adopted particular legal act or were its creators or the legal act is referred to their jurisdiction [7]. So, p.3. of Art.50 established that state bodies have the right to involve public and scientific organizations, citizens while conducting legal monitoring.

The objects of legal monitoring are public relations, which are included in the object of regulation of this legal act, law enforcement practice under this legal act. The subject of monitoring are laws and subordinate legal acts.

The p.20 of Art.1 of the Law on legal acts (hereinafter — the Law) defines legal monitoring as the system of constant monitoring, collection, analysis of information on the status of legislation of the Republic of Kazakhstan and practice of its application. Besides, chapter 5 of the Law is devoted to legal monitoring. Moreover, the article 50 of the Law fixes that monitoring is conducted to assess and predict the effectiveness of legislation by identifying contrary to the laws of the Republic of Kazakhstan, outdated, inefficient and corruptogenic legal norms, as well as development of proposals for its improvement. Thus, according to this article *legal monitoring objectives* are:

- assessment and forecasting of the effectiveness of legislation,
- development of proposals for improving legislation.

Legal monitoring methods are:

- exposure of legal norms that are contrary to the law;
- exposure of obsolete law;
- exposure of corruptogenic legal norms;
- exposure of inefficiently implemented legal norms.

The results of legal monitoring are also enshrined in the Law. Thus, p.2 of art.50 has established that State bodies monitor the regulatory legal acts adopted by them and (or) the developers of which they were, or related to their competence, and take timely measures to amend them or to recognize them as invalid.

The coordination was chosen as a way to guide the monitoring activity. The coordination of legal monitoring activity in state bodies is carried out by legal services. On a national scale, the coordination of state bodies' activity on legal monitoring is carried out by the Ministry of Justice of the Republic of Kazakhstan and territorial bodies of Justice of the regions, the cities of Astana and Almaty.

The legal monitoring is conducted neither spontaneously, nor from time to time or on special request. The rules fixed the principle of constant legal monitoring. In accordance with p.13, in order to ensure the conduct of legal monitoring, by the order of the head of the state body, no later than December 20 of this year, a schedule of legal monitoring for the coming calendar year, broken down by months and an indication of the list of regulatory legal acts for which legal monitoring will be conducted, is approved.

The p.14 of the Rules establishes the principle of monitoring schedule. The monitoring stages are:

- 1) collection, generalization and analysis of information on the object of legal monitoring;
- 2) preparation of analysis report or report on the absence of shortcomings in the norms of law;
- 3) development of normative legal acts drafts, in case of revealing the shortcomings of the norms of law.

An important methodological value is given in paragraph 15 of the Rules. It establishes the sources and methods by which the state body conducting monitoring assesses the quality of the legal act. These include:

- 1) information contained in the annual messages of the President of the Republic of Kazakhstan, annual messages of the Constitutional Council of the Republic of Kazakhstan to the Parliament of the Republic of Kazakhstan on the state of constitutional legality in the country, regulatory decisions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan, and other acts in the field of the state planning system;

- 2) reviews of the practice of normative legal acts applying prepared by state bodies;

- 3) results of the analysis of normative legal acts carried out by the state institution «The Institute of Legislation of the Republic of Kazakhstan»;

- 4) results of analysis and summaries of citizens' and legal entities' appeals to state bodies and consideration of acts of prosecutors' supervision, court decisions submitted to the state body, concerning the practice of applying normative legal acts;

- 5) materials of scientific and practical conferences, seminars, meetings held on the problems of the current legislation, as well as submitted by non-governmental organizations;

- 6) conclusions (recommendations) of public monitoring on application of the norms of legislation conducted by public councils, as well as non-profit organizations, citizens on behalf of public councils;

- 7) results of public monitoring of normative legal acts of the National Chamber of Entrepreneurs of the Republic of Kazakhstan;

- 8) information contained in the mass media and on Internet resources in publicly accessible telecommunications networks, including scientific publications;
- 9) results of sociological research on enforcement of normative legal acts;
- 10) statistics of law enforcement practice;
- 11) analytical materials on the improvement of legislation;
- 12) proposals and comments of the National Chamber of Entrepreneurs of Kazakhstan, associations of subjects of private entrepreneurs on improvement the existing legislation of the Republic of Kazakhstan, affecting the interests of private entrepreneurs.

In a result of the conducted research, the structural units of the state body provide analytical services with analysis reports (in case of identifying of shortcomings) and a report on the lack of deficiencies in the norms of law. The results of legal monitoring can be the inclusion of necessary draft laws in the Plan of legislative works, the introduction of a draft law into the Majilis of the Parliament of the Republic of Kazakhstan or introduction of amendments to other draft laws. If the object of monitoring was a government resolution, a draft of a new resolution, if necessary, is submitted to the Office of the Prime Minister. If the subject of monitoring were legal acts of central government bodies (rules, instructions, regulations, standards, technical regulations) a normative legal act is submitted for registration to the justice bodies.

The analysis of the monitoring conduct rules shows that the effects of monitoring are not clearly defined in relation to central government bodies acts. So, from the meaning of the current content of the article we are talking about drafts of by-laws (it is stated that as a result of monitoring the normative legal act is submitted for registration to the justice bodies). It turns out that current by-laws are extra in the scope of legal monitoring. We believe that there is a need to share the contents of the p.4 of p.18 of the Rules as follows: «for acts of central state bodies, local public administration - the introduction of a normative legal act for state registration to the justice bodies of the Republic of Kazakhstan, or, in case of monitoring of the current by-law, if the shortcomings are identified there, the introduction of a new version of the legal act for approval or introduction of amendments of the central government body for approval».

While conducting legal monitoring, an important tool is the preparation of analysis reports. In the sense of rules of legal monitoring conduct, an analysis report is a document that is drawn up in the case of revealing in the normative legal acts of the Republic of Kazakhstan that are contradictory to the legislation, obsolete, corruptogenic, and inefficiently implemented norms of law. For example, pp. 1 and 5 of art.8 of the Law of the Republic of Kazakhstan «On Fighting against Corruption» provides the conduct an internal analysis of corruption risks in their law-making and law enforcement activity in the central and local government bodies. The Order of the Minister for State Service of the Republic of Kazakhstan dated December 29, 2015 No.18 approved the Standard Rules for Conducting an Internal Analysis of Corruption Risks. Drafting of analysis reports today became a common practice [8; 74]. For example, Almaty Regional Department of Architecture and Urban Planning prepared analysis report on the results of the analysis of the internal corruption risks [9]. Employees of the Institute of Legislation prepared analysis reports to the laws on the order of public authorities [10].

In the system of constant monitoring, collection, analysis of information on the state of the legislation of the Republic of Kazakhstan and practice of its implementation, a certain place is given to public monitoring. However, the art. 51 of the Law on Legal Acts provides that public monitoring is conducted only in relation to legal acts affecting the interests of private business entities. A.G. Kuzbaeva notes that the National Chamber of Entrepreneurs is public monitoring monopoly [11; 80]. We are not accidentally used the word expression «certain place», because we believe that public monitoring is not sufficiently regulated in legislation. The mechanism and methodology for conducting of public monitoring, the procedure of interaction of public institutions with public authorities in conducting public monitoring are not developed.

The conducted analysis shows that legal monitoring principles, which are in the law are indirectly fixed, i.e. there is no specific article or point. Therefore, we suggest to fix the following legal monitoring principles: legality, objectivity, comprehensiveness, planning, maximum informational content, sufficient financial support and publicity.

An important tool for legal monitoring is the regulatory impact analysis (hereinafter — RIA). For the theory and practice of legal regulation of the Republic of Kazakhstan, this institution is quite new and not enough studied. Nevertheless, it he has already received a certain consolidation in the legislation. In 2008, a large-scale reform of the licensing or authorization system started in Kazakhstan. The President in his message to the folk of Kazakhstan set a target to reduce the number of operating licenses and permits up to 30%, then another third. This idea received a great encouragement and support from the business community and

gradually started to get ahead. Including the direct participation of the USAID project in which I was working at that time (the project was named the Business Environment Improvement, that is, the project for improving the business environment), it covers three countries of Central Asia and, inter alia, was aimed on the reform of the licensing system in Kazakhstan. A working group was established, whose task was to eliminate unnecessary permits and licenses. But in practice it turned out that canceling a license or permit, the Government proposes to introduce others. As a result, the number of authorization documents is not shrinking, but growing. The introduction of a new permit is always justified by security provision of the consumer, population. And then turned to the regulatory impact analysis system.

One of the first legal acts, where the regulatory impact analysis was assigned, is the Law on licenses and notifications. The p.23 of art.1 of the Law defined the regulatory impact analysis of licensing or notification procedure as an analytical procedure of the benefits and costs comparison of introduced a permit or notification procedure that allows evaluating the achievement of the objectives of government regulation.

There is the necessity to explore the historical aspect of the regulatory impact assessment. The first experience with regulatory impact assessment has been applied in the UK in 1985 as part of the regulatory reform. Then it mainly referred to the assessment of costs to ensure compliance with new regulations, and was not the kind of regulatory impact assessment, to which we are accustomed today. At that time, the bulk of the responsibility for quality control in the UK was on the Department of Trade and Industry [12]. Thus, we see that this institute appeared in countries with a developed legal system. In spite of that state authorities were forced to admit that large number of regulatory legal acts not just simplified the system of legal regulation, but made it possibly simple its effective implementation, as the authorities themselves could not understand the relation between these documents. The founding father of this technique is Scott Jacobs, but it is not some strictly mechanism established [13]. This system can be varied and flexible. It includes different types of assessments: logical, legal, for example, for compliance with the existing legal system, economic, when the consequences for business or society in general are calculated. Different countries have invented many different methods. This system is used in all OECD countries. This organization, after all, has developed 10 principles for the regulation of assessment quality, which is now in one way or another is guided by all countries.

During the RIA conduct not just consequences are projected, but also the calculation of costs and benefits from the introduction of legal regulation method takes place, not just for certain social groups, whose interests are affected by the regulation, but also for society as a whole. Public consultation of different social groups is required. Of course, today the main sphere of activity of the RIA is in the area of entrepreneurship. But it makes sense to extend its application to all areas of public administration. Ideally, the RIA technique should be applied not only to the acts and draft acts, but also to the analysis of any problems. The adoption of any regulatory act should be considered only as one of the ways to solve the problem.

Today, in accordance with art.18 of the Law on licenses and notifications governing the public authorities may introduce licensing or notification procedure only after conduct of a preliminary regulatory impact analysis procedure in accordance with the Entrepreneurial Code of the Republic of Kazakhstan. In accordance with art.83 of the Entrepreneurial Code the object of RIA's conduct is to increase the efficiency and effectiveness of public policies regarding the use of specific regulatory tools through the evaluation of alternative regulatory approaches to achieve certain goals or solve clearly-defined problems.

The RIA's subjects are the regulatory government bodies (they exercise analysis in respect to projects of documents developed by them), the authorized body on entrepreneurship (the Ministry of National Economy), the National Chamber of Entrepreneurs and other interested persons.

The RIA can be preliminary and subsequent, i.e. carried out before and after the introduction of the regulatory tool. As a result of conducted RIA the regulatory tool can be canceled or otherwise revised. The regulatory instrument can be canceled in case of failure of state regulation purposes of entrepreneurial activity, stated with its introduction. The RIA is a prerequisite for the introduction of the new regulatory tool.

The subsequent RIA is carried out by governing public authorities in relation to the existing regulatory instruments in order to revise existing documents. For example, in p.18 of the Regulations on the Ministry of National Economy it's authority is provided for: the conduct of analysis of the application of the Republic of Kazakhstan legislation on natural monopolies and regulated markets, to develop on this basis guidelines; development and approval of rules of conduct and the use of regulatory impact analysis of regulatory tools [14]. Besides, the Rules of conduct and use of RIA are adopted in the Republic of Kazakhstan [15]. The point 7 of the Regulations provides five stages of RIA's conduct. At the first stage, the RIA's results introduced new regulatory instruments or toughening the regulation an analytical form is filled. At the second

stage, the public debates on RIA's results are conducted. At the third stage, the conclusion of the Ministry of National Economy is drawn up. At the fourth stage, in the case of disagreement with conclusions of RIA made by regulatory government agency, alternative RIA can be conducted by the National Chamber of Entrepreneurs. At the fifth stage, the RIA's results are considered by the Interdepartmental Commission on the regulation of business activity issues, which is an advisory body under the Government. After considering the analytical form, compiled with the results of RIA and other documents, the Ministry of National Economy prepares conclusion. According to the results of RIA, depending on the effectiveness of a regulatory tool application, certain types of regulatory instruments can be transferred from one type to another, or canceled.

Conducted analysis of normative acts in the area of the RIA shows that Kazakhstan has prepared a quality legal basis of this instrument of lawmaking. But for the effective operation of this mechanism it is necessary to prepare competent and conscientious workers. Otherwise RIA can turn into a mere formality that still occurs in practice. Moreover, that variations of techniques and stages of RIA's conduct are quite diverse. For example, the public body is preparing an analytical note to the draft law, which can contain: «the draft law does not bear negative consequences for business» or «the draft law does not create burden on the budget». However, there is no any argument, no calculations. From this perspective, the World Bank, for example, conducted a series of informational seminars and trainings on RIA methodology for non-governmental organizations, especially those which represent the interests of vulnerable groups. Despite the fact that the State intended to protect the interests of the socially vulnerable groups of the population, but the legal instruments are often made without considering the opinion and participation of these social groups. For example, in the result of the pilot project on teaching of RIA's methods the amendments to the concept of youth policy were introduced, according to which the introduction of methods and forms of participation of youth organizations at some stages of RIA for legal acts affecting the interests of the social group is stipulated.

The fact is that the draft laws, which affect the interests of the state or entrepreneurs, the state and the business community will find the money to finance the carrying out of RIA. Moreover, it requires a lot of money, because the work is very costly, both in terms of finance and time and material maintenance, payment services of experts.

The RIA procedure is really complicated and costly. Firstly, qualified specialists are attracted, their work has to be paid. The conduct of analysis requires time period from several weeks to several months. The next step - conducting public examination, public evaluation, which may take the form of surveys and discussions. Thus, feedback is provided to the population, i.e. those beneficiaries whose interests are affected by legal acts.

We need a very good statistics in order to evaluate the effects of regulation efficiently and comprehensively. For example, when issuing permits related to fire safety, it is believed that the object is visited by many people, initially it carries more risks in relation to the fire, than smaller objects. But the statistics in this regard does not always exist. Another example is related to the ban on import of cars with the right wheel. However, there is no official statistics on the accident rate of right wheel cars. Leaving aside the question on the correctness of such a decision, that it was not based on statistics, is a fact.

The RIA needs qualitative organizational support. For example, in the Russian Federation a special department of RIA at the Federal Ministry is engaged in. In Kazakhstan, the RIA system is still applied only to the regulatory acts which affect the interests of entrepreneurs and related to the licensing system. The National Chamber of Entrepreneurs takes an active part in formation of the approaches for the RIA's conduct. The National Chamber of Entrepreneurs may conduct an alternative RIA and then submit for consideration to the Interdepartmental Commission on regulation of business issues. But this mechanism has very good prospects and it should be used in the future when assessing the legal acts in all areas of legal regulation. We believe that, firstly, it is necessary to consider its implementation in the health care system. In this regard, it is required to make appropriate amendments to the Code on people's health protection. The next step should be the Environmental Code, the Forest Code, the legislation on aviation, railway transportation.

The analysis of the Rules of monitoring conduct shows that in respect of the central state bodies acts, the consequences of monitoring are not sufficiently clear prescribed. So, from the sense of the current content of the article we are talking about the projects of regulations (it is fixed that in the result of monitoring conduct the regulatory legal act is submitted for registration in the judiciary). It turns out that existing regulations are falling out the scope of the legal monitoring.

We believe that there is a need to embody the contents of the p.4 of the art.18 of the Rules as follows: «for acts of central state bodies, local state bodies — the introduction of a normative legal act for state registration to the judicial authorities of the Republic of Kazakhstan, or, in the case of monitoring the current by-

law, if the identified deficiencies, making the approval of the central state body for the new version of a legal act or making any amendments and additions».

The conducted analysis shows that legal monitoring principles are indirectly fixed in the legislation, i.e. there is no specific article or paragraph. Therefore, we suggest to fix the following legal monitoring principles: legality, objectivity, comprehensiveness, planning, most informative, sufficient financial support and publicity.

The public monitoring has not received adequate regulation in the legislation. It is necessary to develop a mechanism and methodology for conducting public monitoring, the procedure of interaction of public institutions with public authorities in conducting public monitoring.

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Құқық шығармашылық нәтижелерін талдау және бағалау

Мақалада құқықтық актілерді жетілдірудің тиімділігін арттыру мәселесі дәрежесін бағалау және реттелген қоғамдық қатынастарға әсер ету сипаты әдістерін қолдану зерттелген. Құқықтық мониторинг, аналитикалық куәліктерді құрау, реттеуші әсер етуді талдау (РӘТ) сияқты әдістер қарастырылған. Авторлар бұл шектегі Қазақстанның қолданыстағы заңнамасын жан-жақты талдап, оны жетілдіру бойынша ұсыныстар берген. Құқықтық мониторингті жіктеудің негізі ретінде объектілер мен субъектілер қолданылған. Мемлекеттік және қоғамдық мониторинг қарастырылған. Арнайы түрде заңдылық, объективтілік, кешенділік, жоспарлылық, максималды түрде ақпараттандыру, жеткілікті қаржылық қамсыздандыру, жариялылық секілді құқықтық мониторингтің қағидаларын бекітуді ұсынды. Құқықтық мониторинг институты құқықтық қызметтің бір түрі ретінде одан әрі теоретикалық дамытуды қажет етеді. Қоғамдық мониторинг заңнамада толығымен реттелмеген. Қоғамдық мониторингті жүргізудің тетігі мен әдістемесін жасап, қоғамдық мониторинг жасауда қоғамдық институттар мен мемлекеттік органдардың қатынасының тәртібін реттеу қажет. Құқықтық мониторингтің басты элементі реттеуші әсер ету талдауы болып табылады. Авторлармен РӘТ тарихи аспектісі зерттелген. Қазақстан Республикасындағы құқықтық реттеудің теориясы мен тәжірибесі үшін бұл институт жаңа және ол одан әрі дамытылып, зерттелуі қажет. Мақалада құқықшығармашылық пен лицензиялы-рұқсат беруші жүйедегі РӘТ қолданудың салыстырмалы талдауы қамтылған. Авторлар реттеуші әсер ету талдауын Экологиялық кодекске, Орман кодексіне, авиациялық және теміржол көлік заңнамаларына қосуды ұсынды.

Кілт сөздер: құқық шығармашылық, құқықтық актілер, құқықтық мониторинг, аналитикалық куәлік, реттеуші әсерді талдау, құқықтық мониторинг қағидалары, қоғамдық мониторинг, мемлекеттік мониторинг, құқықтық мониторингтің объектілері, құқықтық мониторингтің кезендері.

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Анализ и оценка результатов правотворчества

В статье исследована проблема повышения эффективности правовых актов через использование методов оценки степени и характера их воздействия на регулируемые общественные отношения. Рассмотрены такие методы, как правовой мониторинг, составление аналитических справок, анализ регуляторного воздействия (АРВ). Авторами проанализировано действующее законодательство Казахстана в этой сфере, сформулированы предложения по его совершенствованию. В качестве оснований классификации правового мониторинга авторы используют объекты и субъекты. Рассмотрены государственный и общественный мониторинг. Предложено закрепить в специальной статье такие принципы правового мониторинга, как законность, объективность, комплексность, плановость, максимальная информативность, достаточное финансовое обеспечение, гласность. Институт правового мониторинга, как вид правовой деятельности, требует дальнейшей теоретической разработки. Общественный мониторинг не получил достаточного регулирования в законодательстве. Необходимо разработать механизм и методику проведения общественного мониторинга, порядок взаимодействия общественных институтов с государственными органами при проведении общественного мониторинга. Важным элементом правового мониторинга является анализ регуляторного воздействия. Авторами исследован исторический аспект АРВ. Для теории и практики правового регулирования в Республике Казахстан этот институт является новым и нуждается в дальнейшем изучении и совершенствовании. Статья содержит сравнительный анализ применения АРВ в правотворчестве и лицензионно-разрешительной системе. Авторы предлагают включить анализ регуляторного воздействия в Экологический кодекс, Лесной кодекс, в законодательство об авиации, о железнодорожном транспорте.

Ключевые слова: правотворчество, правовые акты, правовой мониторинг, аналитическая справка, анализ регуляторного воздействия, принципы правового мониторинга, общественный мониторинг, государственный мониторинг, методы правового мониторинга, объекты правового мониторинга, этапы правового мониторинга.

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