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## ISSUES OF DEVELOPMENT OF REGULATORY IMPACT ASSESSMENT IN THE REPUBLIC OF UZBEKISTAN

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**Sultanova Sabohat Alisherovna**

Senior Lecturer Of Tashkent State University Of Law, Phd In Law, Uzbekistan

### ABSTRACT

The article analyzes the main sources of the regulatory framework of the Republic of Uzbekistan, which established the introduction of a holistic assessment of the regulatory impact in rule-making. Regulatory impact assessment of regulations is seen as one of the main components of the "smart regulation" model recommended today by the Organization for Economic Development and Cooperation to improve regulation. Also, the article discusses the measures provided for in the Concept for improving rule-making activities to introduce "smart regulation" mechanisms in the country. Moreover, the author puts forward an assumption for the further development of the institutional framework for assessing the regulatory impact of normative legal acts through the creation of a specialized Council authorized to control rulemaking.

### KEYWORDS

Rulemaking, legal act, regulatory impact assessment, "smart regulation" model, Rulemaking Optimization Council, coordination of regulatory impact assessment activities.

### INTRODUCTION

Currently, in our country, as well as in many countries of the world, "normative inflation" is observed, which includes two interrelated areas: first, there is an intensification of legislation, which is expressed in the adoption of a large number of regulatory legal acts; secondly, there is a trend of constant novelization of legislation, that is, changes and additions are regularly made to existing legal acts.

This is due to the fact that no matter what events take place in the world, society expects quick response measures from the state. The reaction of the state is often expressed by the adoption of legal acts binding on all in various spheres of public life.

However, when you have to quickly "write" legal acts, this leads to the creation of legal documents that

impose unnecessary obligations and restrictions on citizens and entrepreneurs, on the one hand, and the creation of inefficient legislation with duplicating, conflicting rules, on the other hand, and an increase in costs. for the enforcement of these legal provisions by a third party.

In this regard, the problem of finding new ways, tools to help identify alternative regulation options, calculate the benefits and costs of the introduced regulation, and, in general, understand the extent to which government intervention is necessary is very relevant. In Western countries for these purposes in the 1980-1990s. a system for assessing the regulatory impact of regulatory legal acts was launched, which was the core of the subsequent model (concept) of “smart regulation”. At first, the understanding that there should not be too many legal acts (“Less regulation”) increased, after which debates began and attempts were made to make regulation qualitative and effective. Thus, the idea of “better regulation” appeared, which was subsequently reflected in the concept of “smart regulation”

The purpose of this article is to analyze the main sources of the regulatory and legal framework of the country that has established the implementation of a holistic regulatory impact assessment, firstly, and to find ways to further development the institutional framework for assessing the regulatory impact of regulatory legal acts, secondly.

Emphasizing the importance of regulatory impact assessment in “smart regulation”, it should be noted that regulatory impact assessment (RIA) is a regulated procedure, during which a problem in society that requires regulation is identified, possible regulation options are prepared and analyzed, a draft regulatory and legal an act reflecting the preferred variant of

regulation, or a proposal on the inexpediency of changing the existing regulation. The Organization for Economic Co-operation and Development defines RIA as “a mechanism for systematically identifying and assessing the benefits and costs of proposed regulations” [1]. Scott Jacobs, global evaluator, defines RIA as a tool, a method: “1) systematically and consistently examining individual potential consequences arising from government actions and 2) conveying information to decision makers. This is a flexible tool. Its goals, methodology and role in the administrative processes of different countries and even areas of regulation differ” [2].

Approved by Decree of the President of the Republic of Uzbekistan dated August 8, 2018 No. UP-5505, the Concept for improving rule-making activities established very important measures aimed at improving rule-making activities and introducing “smart regulation” mechanisms in the Republic of Uzbekistan [3].

This Concept marked the beginning of a new stage of rule-making activity. After all, for many years, the formed practice does not meet the realities of our time. For example, during 2008-2017, more than 8 thousand regulatory legal acts were adopted in the Republic of Uzbekistan, half of which were subsequently canceled. Moreover, during 2017-2018, more than 900 legal acts were partially or completely canceled [4].

Today, specific measures are being taken to implement this Concept. For example, the development, approval, adoption, legal expertise and state registration of draft departmental legal acts are carried out through the Unified Electronic System [5].

Undoubtedly, the most important element of the “smart regulation” model is the regulatory impact assessment (RIA) of regulatory legal acts. RIA is a socio-economic study aimed at identifying the feasibility of introducing certain regulatory measures, legal acts. For example, in the USA, Canada, Great Britain, Australia, Austria, Germany, France and other countries of the Organization for Economic Cooperation and Development (OECD), the need to prepare a report on the assessment of the regulatory impact of a draft government decision submitted to the parliament or government is required by law.

Considering that RIA is a labor-intensive procedure, it is important to determine the scope of RIA coverage. The establishment of certain "filters" for the selection of legal acts that fall under the assessment of regulatory impact in each individual country is different. The Law of the Republic of Uzbekistan “On Regulatory Legal Acts” No. ZRU-682 dated April 20, 2021 [6] for the first time established the obligation to conduct RIA in relation to regulatory legal acts affecting entrepreneurial activity, rights, freedoms and legitimate interests of citizens, as well as environment.

Decree of the Cabinet of Ministers of the Republic of Uzbekistan "On measures to further systematize the legislative framework" No. 396 dated July 21, 2022. the regulatory guillotine method was applied [7]. Earlier, a slightly different inventory of legislation was carried out by the Decree of the President of the Republic of Uzbekistan “On measures to improve the business environment in the country through the introduction of a system for reviewing legislative acts that have lost their relevance” No. UP-6075 dated September 27, 2020, through which about 500 legal and regulatory acts [8].

In 2020, in particular, with the adoption of the Decree of the President of the Republic of Uzbekistan dated September 27, 2020 No. UP-6075 “On measures to improve the business environment in the country through the introduction of a system for reviewing legislative acts that have lost their relevance”, the organizational and legal issues of implementing and conducting a holistic assessment of the regulatory impact in our country, since the Ministry of Justice of the Republic of Uzbekistan was determined by the body authorized to coordinate the activities of the RIA legislation.

Кроме того, данным документом установлено, что в Республике Узбекистан будет проводится оценка регуляторного воздействия проектов нормативно-правовых актов (со стороны органов-разработчиков), а также оценка регуляторного воздействия действующих нормативно-правовых актов [8].

The adoption in 2021 of the order of the Minister of Justice on the approval of the Methodology and forms of the report on the regulatory impact assessment of draft regulatory legal acts and adopted regulatory legal acts completed the organizational and legal process of introducing a holistic regulatory impact assessment in the Republic of Uzbekistan [9]. This methodology defined such RIA methods as ex-ante (evaluation of a draft legal act) and ex-post (retrospective evaluation), and also established in detail the procedure for conducting RIA.

Thus, today the Ministry of Justice is the competent state body authorized to conduct RIA of regulatory legal acts.

Undoubtedly, the introduction of a full-fledged regulatory impact assessment in our country is an

important step towards improving the rule-making process and regulatory policy in general. Turning to the researchers, it should be noted that Didikin A.B. sees the reasons for the popularity of the RIA institute in a special legal mechanism for discussing draft regulatory legal acts affecting the interests of business and investors before they come into force [10].

At the same time, it should also be noted that given that this institution is new for us, there are certain difficulties in conducting RIA of draft regulatory legal acts. For example, it is noted that out of 4,131 draft regulatory legal acts received by the Ministry of Justice of the Republic of Uzbekistan for legal expertise in the period from March 15, 2021 to October 1, 2022, 324 (7.8%) projects fell under the coverage area RIA. However, only 193 (60%) draft regulations were assessed for regulatory impact [11].

Noting the special role of RIA in the rule-making process, I would like to outline some strokes for the future development of this institution. Today, there is an opinion in scientific circles that a transition is needed from the “ministerial” organizational model of RIA to the model of creating councils for optimizing regulation (hereinafter referred to as Councils) under the central authorities. It is assumed that the functioning of departments (departments, departments) of RIA in the ministries is not enough to carry out a consistent regulatory reform. These Councils are intended to coordinate their efforts both at the level of methodological developments and in promoting the institutions of “smart regulation” [12].

In practical terms, it can be noted that in recent years, OECD members have created new types of bodies whose competence includes the development of regulatory policy. Initially, as a rule, working groups or departments were created under various ministries.

For example, in the UK, in the early 2000s, an Executive Committee for Better Regulation was established at the Ministry of the Economy, and in Germany, a Better Regulation Group at the Home Office. The development of the institution of regulatory impact assessment, as well as the emergence of the concept of “quality regulation”, and then “smart regulation” gave impetus to the expansion of the powers of rule-making control bodies. Moreover, central bodies for the control of rule-making, accountable to the parliament, government or the president of the country, began to be created. Thus, in Mexico in 2000, in addition to the Federal Commission for the Improvement of Regulation (Comisión Federal de Mejora Regulatoria), the Council for the Improvement of Regulation (Consejo para la Mejora Regulatoria Federal) was established. This trend can also be observed in many other countries (in the UK, Sweden, the Netherlands and Germany, the Czech Republic, etc.) [12].

Thus, it can be noted that in most foreign countries the main body for the control of rule-making has been created, which in fact has the necessary powers and coordinates the work of various groups or departments under the ministries.

The World Bank study noted that “in particular, 53 of the countries examined have a specialized government body whose function is to conduct, analyze and comment on the impact assessments carried out by various bodies. Some of these specialized oversight organizations are responsible for determining which regulatory reforms require an impact assessment. However, the most general function of such organizations is to provide advice to the assessors. They also frequently review and monitor the regulatory impact of individual ministries and inform

the cabinet or parliament/legislature of compliance with regulatory impact assessment requirements.

Such specialized bodies, such as the Swedish Council for Better Regulation (Regelrådet) or the US Office of Information and Regulation, provide expertise in conducting qualitative assessments of the potential impact of proposed regulations, and ensure that ministries comply with impact assessment guidelines. In Canada, for example, each department and agency is responsible for implementing their RIAs. However, the Treasury Board Secretariat (TBS) reviews and controls RIAs developed by other departments and bodies. TBS reviews and comments on draft RIAs until they are ready for consideration and approval by the Treasury Board for advance publication in the Canada Review Part 1. [13].

If we consider in detail the functioning of such a body on the example of the National Council for the Control of Norms (Nationaler Normenkontrollrat) in Germany, we can note that it was created under the office of the Federal Chancellor in accordance with a specially adopted federal law in August 2006. The main purpose of this body is to assist the government in reducing administrative barriers and improving regulation. To support the activities of the Council, there is a secretariat, consisting of 10-12 officials.

In accordance with federal law, members of the Council may be former federal and state officials or judges, business representatives, representatives of the academic community who enjoy a high reputation in academic, political, and business circles. The Norms Control Council directly evaluates: 1) drafts of new federal laws; 2) draft amendments and additions to existing legislation; 3) draft legal acts of the European Union, instructions, directives and decisions of the EU;

4) existing federal laws, legal prescriptions and administrative regulations based on them [14].

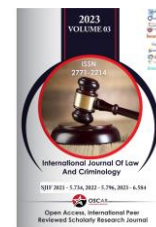
Of course, before this stage, we need to firmly master the basics of the RIA procedure and consolidate them in practice for a certain time (perhaps it will take 5-10 years). In order to achieve such a result, it is necessary to train specialists on a regular basis in conducting regulatory impact assessment, it is necessary to establish a process of public consultations. And only in this case, the introduced institution of regulatory impact assessment will help improve the quality of rule-making activities. As noted in OECD documents, when used systematically as a whole-of-government approach, regulatory impact assessment is a critical tool for improving the quality of government regulation. In addition, documenting and publishing evidence and evaluation for intervention development provides an opportunity to increase accountability and transparency in policy and decision-making processes. RIA provides decision makers with information on whether and how to regulate [15].

After that, it seems possible to create in the Republic of Uzbekistan a special Council for the optimization (control) of rule-making, which will further contribute to the adoption of "vital" legal acts.

We believe that the decision to improve the rule-making process by applying the "smart regulation" model in the country, taking into account the best foreign experience, is justified, as this will to help reduce the administrative burden and authorities and citizens.

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