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The contents and structure of evaluation of the regulating influence

In this article the contents and structure of evaluation of the regulating influence in the comparative aspect of legal regulation of federal and regional levels is considered.

The content of evaluation of the regulating influence characterizes it as one of the instruments of management of regulatory type, it is shown in its purpose and results of application, is determined itself by its internal structure. The content of evaluation of the regulating influence is represented as the sequence of actions for achievement of the goal of evaluation of the regulating influence united in the general logical scheme, possible to differentiation on the evaluation procedure stages. The attention is focused on the marked-out identification signs of the content of assessment of the regulating influence - its subject domain, functions, tasks, principles of the procedure of carrying out. Comparison of the stages of the procedure of evaluating the regulating influence between the levels of public management concretizes a certain variability within the general logical scheme.

Keywords: *evaluation of the regulating influence, content of evaluation of the regulating influence, structure of evaluation of the regulating influence, evaluation procedure of the regulating influence, subject domain of assessment of the regulating influence, extent of the regulating influence, general logical scheme of assessment of the regulating influence.*

Содержание и структура оценки регулирующего воздействия

В статье рассматривается содержание и структура оценки регулирующего воздействия в сравнительном аспекте правовой регламентации федерального и регионального уровней.

Содержание оценки регулирующего воздействия характеризует ее как один из инструментов управления регуляторного типа, проявляется в ее назначении и результатах применения, само определяется ее внутренней структурой. Содержание оценки регулирующего воздействия представляется последовательностью действий по достижению цели оценки регулирующего воздействия, объединенных в общую логическую схему, возможную к дифференциации на этапы процедуры оценки. Внимание фокусируется на выделяемых идентификационных признаках содержания оценки регулирующего воздействия – ее предметной области, функциях, задачах, принципах процедуры проведения. Сопоставление этапов процедуры

проведения оценки регулирующего воздействия между уровнями публичного управления конкретизирует определенную вариативность в рамках общей логической схемы.

Ключевые слова: *оценка регулирующего воздействия, содержание оценки регулирующего воздействия, структура оценки регулирующего воздействия, процедура оценки регулирующего воздействия, предметная область оценки регулирующего воздействия, степень регулирующего воздействия, общая логическая схема оценки регулирующего воздействия.*

The content of evaluation of the regulating influence characterizes, first of all, its essence which is shown in the properties and signs immanently inherent in evaluation of the regulating influence and distinguishing it from the other instruments, ways, procedures, technologies.

The content of evaluation of the regulating influence is shown in its purpose and results of application.

The content of evaluation of the regulating influence is defined by fullness of its internal structure consisting of set of the elements (stages) having independent functional purpose, but united by the uniform appointment.

At the correlation of content of evaluation of the regulating influence it is possible to conclude with the content of any activity that the content of evaluation of the regulating influence is the sequence of actions for achievement of the goal of evaluation of the regulating influence in which the result of each previous action is used as a subject or means when performing the following. This understanding of the content of evaluation of the regulating influence is demonstrable the analysis of staging of the procedure of evaluation the regulating influence, their sequence, terms, participants.

Characterizing the content of evaluation of the regulating influence, it is necessary to allocate the generalized content (the general logical scheme) of evaluation of the regulating influence allowing identify it in comparison with the other phenomena and concretize the general logical scheme in relation to each component, element, evaluation stage or their certain set.

Evaluation, fundamental for identification of the content of the regulating influence is the subject field of evaluation of the regulating influence acts.

The resolution of the Government of the Russian Federation from 12/17/2012 No. 1318 "About the order of carrying out by the federal executive authorities of evaluation of the regulating influence of drafts of regulations and drafts of decisions of the Euro-Asian economic commission and also about introduction of the amendments to some acts of the Government of the Russian Federation" (further – the Resolution of the Government of the Russian Federation No. 1318) directly doesn't determine the subject field of evaluation of the regulating influence, and contains referential norms to the relevant regulations. At the federal level the subject field of evaluation of the regulating influence is fixed by the item 60(1) of the Regulations of the Government of the Russian Federation (it is approved by the Resolution of the Government of the Russian Federation from 6/1/2004 N 260; further also the Regulations of the Government of the

Russian Federation), and the item 3 (1) of the Rules of preparation of regulations of the federal executive authorities and their state registration (are approved by the Resolution of the Government of the Russian Federation from 8/13/1997 N 1009; further also the Resolution of the Government of the Russian Federation No. 1009).

According to the item 60(1) of the Regulations of the Government of the Russian Federation and the item 3(1) of the Resolution of the Government of the Russian Federation No 1009 drafts of the acts which are governing certain relations and a subject to evaluation of the regulating influence are determined. First of all, these are the drafts of acts in the sphere of business and the other economic activity. These are the drafts of acts which govern the relations, in particular, in the sphere of the state control (supervision), taxation, implementation of activity by the legal entities, etc.

Directly by the Resolution of the Government of the Russian Federation No. 1318 determined the subject domain which isn't falling under evaluation of the regulating influence. So, evaluation of the regulating influence isn't carried out concerning the drafts of acts containing the data which are the state secret; establishing requirements in the field of use of atomic energy; the priority projects (programs) prepared within the realization, etc. (item 2 of the Resolution of the Government of the Russian Federation No 1318).

At the regional level on the example of the Khabarovsk territory the subject domain of evaluation of the regulating influence is directly fixed by the item 1.3 of the Resolution of the government of the Khabarovsk territory from 6/16/2014 No 183 "About introduction of evaluation procedure of the regulating influence" (further – the Resolution of the government of the Khabarovsk territory No. 183) – by the general rule, evaluation of the regulating influence the standard legal projects of the territory, amendments to drafts of the laws of the region raising the questions of implementation of the business and investment activities are the subject.

By analogy with the federal level in the Khabarovsk territory the subject domain which isn't falling under evaluation of the regulating influence is determined (item 1.4 of the Resolution of the government of the Khabarovsk territory No 183).

The content of evaluation of the regulating influence, proceeding from the characteristic of its fullness, includes tasks and the principles of carrying out evaluation procedure of the regulating influence, functions of evaluation of the regulating influence.

So, according to the item 1.7 of the Resolution of the government of the Khabarovsk territory No. 183 the main objectives of evaluation the regulating influence are improvement of the quality of regulations of the territory, to their projects; improvement of the rule-making activity in the region; reduction of extent of the state regulation of a field of activity of the subjects of business and investment activities.

To the principles on which evaluation procedure of the regulating influence is based treat: transparency; publicity; balance; efficiency; profitability; obligation

of carrying out assessment procedure of the regulating influence; sufficiency of terms of carrying out evaluation procedures of the regulating influence; publicity of the sources of information and calculations.

Content of the principles of any activity and, respectively, the principles of evaluation procedure of the regulating influence gives understanding of the content of activity – evaluation of the regulating influence which procedure is built on the basis of these principles.

The principle of transparency of evaluation procedure of the regulating influence is understood as ensuring participation of interested persons in public consultations as at a stage of placement of the notice of preparation of the draft of the regulatory legal act, and public discussion of the draft of the regulatory legal act and the summary report.

The principle of balance is understood as ensuring balance of the interests of all interested persons when evaluating the regulating influence. Actually, the balance of interests acts as the ultimate goal providing the effective regulating influence.

The principle of efficiency is understood as ensuring the optimum choice of option of the state regulation regarding the benefits and expenses of the subjects of business and investment activities and the state in general. Realization of the principle of efficiency demands realization of the monetization of benefits and expenses which it is still impossible to call as took place.

Existence or lack of the blocking function (expectation function) of evaluation of the regulating influence is important for the procedure of evaluating the regulating influence.

The comparative analysis of the institutes of evaluation of the regulating influence at the federal and regional level showed different variants – application/non-use of the blocking function.

At the federal level the evaluation of the regulating influence which - de jure is still informing, but not blocking. The confirmation to that is the provision of the item 8 of the Resolution of the Government of the Russian Federation No 1318 about an order of the disagreements arising in the course of evaluating the regulating influence of the drafts of regulations. Disagreements are solved in the order provided by the Regulations of the Government of the Russian Federation and the Resolution of the Government of the Russian Federation No 1009 (the Rules of preparation of regulations). At preservation of disagreements when entering the draft of the regulatory legal act into the Government of the Russian Federation the position of federal executive authority on unaccounted remarks (item 60 (2.1) of the Regulations of the Government of the Russian Federation) is reflected.

In the Khabarovsk territory, on the contrary, the blocking function is peculiar to evaluation of the regulating influence. This circumstance is confirmed by a number of provisions of the Resolution of the government of the Khabarovsk territory No 183 disagreements, arising when evaluating the regulating influence of the drafts of regulations of the territory, are resolved in the order provided by the Resolution of the government of the Khabarovsk territory from 7/20/2013 No 201

"About the commission of the Government of the Khabarovsk territory on the lawmaking activity". In turn, the lack of positive expert opinion of the authorized body is the basis for refusal to the regulator in coordination of the draft of the regulatory legal act of the territory.

The institute of extent of the regulating influence of the provisions which are contained in the drafts of regulations acts as the component characterizing the content of evaluation of the regulating influence.

Three extents of the regulating influence are distinguished – high, average, low. At a high extent of the regulating influence the draft of regulatory legal act contains the provisions establishing the earlier not provided duties, the bans and restrictions for the natural and legal entities and also the provisions leading to emergence of the earlier not provided expenses of specified persons in the sphere of business and the other economic activity. At an average degree of regulating provisions changing the earlier provided duties, the bans and restrictions for the natural and legal entities are taken into account. At the low extent of the regulating influence the draft of the regulatory legal act doesn't contain the provisions considered at the high and average extent of the regulating influence, however is a subject to evaluation of the regulating influence.

Extent of the regulating influence (high, average, low) influences the terms and order of evaluating the regulating influence.

The rule called "one – one" (one in one) belongs to the innovations of content of evaluation of the regulating influence. If the draft of the regulatory legal act has the high extent of regulating influence, regulations on cancellation of the proportional requirements in the same field of the regulating influence have to be provided in it.

This rule is stated in the item 8(1) of the Resolution of the Government of the Russian Federation No 1318 with the indication of the basis of implementation of this rule – techniques of evaluation of the standard expenses of the subjects of business and the other economic activity arising in connection with the execution of requirements of the regulating influence.

The structure of evaluation the regulating influence as internal structure of the content of evaluation of the regulating influence, it is multidimensional that corresponds to fullness of the content of evaluation of the regulating influence.

From the point of view of staging of the procedure of evaluating the structure of evaluation of the regulating influence or the structure of content of evaluation of the regulating influence consists of several stages.

At the federal level three stages of the procedure of evaluating the regulating influence (item 7 of the Resolution of the Government of the Russian Federation No 1318) are provided: 1) placement of the notice of preparation of the draft of the regulatory legal act; 2) development of the draft of regulatory legal act, draft of amendments, drawing up the summary report on evaluating the regulating influence concerning the draft of regulatory legal act and their public discussion; 3) preparation of the conclusion of the Ministry of Economic Development of the Russian Federation about evaluation of the regulating influence.

In the Khabarovsk territory five stages of the procedure of evaluating the regulating influence are provided (item 1.10 of the Resolution of the government of the Khabarovsk territory No. 183): 1) placement of the notice of preparation of the draft of the regulatory legal act of the territory; 2) development of the draft of the regulatory legal act of the territory, drawing up the summary report; 3) public discussion of the draft of the regulatory legal act of the territory and summary report; 4) updating of the draft of the regulatory legal act of the territory and the summary report according to the results of public consultations; 5) preparation of the expert opinion by the authorized body.

As the distinctive characteristic of the procedure of evaluating the regulating influence in the Khabarovsk territory fixing of the simplified order of evaluating the regulating influence performs with definition of types of drafts of regulations and an exception of separate stages of the procedure of evaluating the regulating influence.

Drafts of regulations of edge about the approval of administrative regulations in the region are carried to number of drafts of regulations with the simplified order of evaluating the regulating influence; drafts of regulations of edge, amendments to drafts of laws of the region drafted only for reduction of separate provisions of regulations of edge in compliance with federal regulations, etc.

By the specified types of drafts of regulations two stages of the procedure of evaluating the regulating influence are provided (item 1.10 of the Resolution of the government of the Khabarovsk territory No 183): development of the draft of the regulatory legal act of the territory, drawing up the summary report and preparation of the expert opinion by the authorized body.

The general logical scheme of evaluation of the regulating influence characterizing the content and structure of evaluation of the regulating influence includes a number of consecutive stages of the procedure of evaluating the regulating influence: formulation and description of a problem; definition is more whole than the regulation; the development of possible options of achievement of the goals; the analysis of the developed alternatives; carrying out the public consultations; preparation of the conclusion about evaluation of the regulating influence and justification of the recommended variant; realization of the chosen alternative and the subsequent monitoring. Each of the presented stages is followed by the appropriate questions and actions necessary to the statement and execution.

The content and structure of evaluation of the regulating influence correspond to a certain stage of evaluation procedure of the regulating influence, are interdependent, have a tend to acceleration of development in a measure of stabilization of regulatory load on the subjects of economic activity.

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