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## LEGAL MONITORING OF THE IMPLEMENTATION OF LEGISLATIVE ACTS: COMPARATIVE LEGAL ANALYSIS

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### ABSTRACT

This article provides a comparative analysis of the legislative acts of foreign countries on legal monitoring of the implementation of legislative acts. Based on the results of the analysis, similar aspects of legal monitoring in foreign countries are highlighted.

### KEYWORDS

Public relations, legal monitoring, constitutional law, code, act of legislation, state body, official, subject of the right of legislative initiative, judicial authorities, etc.

### INTRODUCTION

The main goal of legal monitoring is to effectively regulate social relations with the help of legislation and ensure their stability.

Legal monitoring is also widely used in the practice of foreign countries. Analyzing the experience of foreign countries regarding legal monitoring and identifying their specific aspects, first, makes it possible to use their positive achievements in this field effectively.

In addition, by studying the specific aspects of legal monitoring existing in foreign countries, it is possible to further improve existing national legislation and law enforcement practices.

It should be noted that the term "regulatory impact assessment" is widely used instead of the term "legal monitoring" by some scientists in the law enforcement practice and legislation of many countries, and it is

noted that this institute, like legal monitoring, is aimed at determining the effectiveness of legal regulation of social relations [ 1].

A legitimate question arises as to what is the difference between the institution of legal monitoring and regulatory impact assessment.

Kazakh legal scholars S.Aysin and Z.Kaziev, while analyzing the experience of legislation and law enforcement, noted that two institutions - legal monitoring and regulatory impact assessment - are in effect in this country at the same time, that experts thoroughly studied the world experience before the introduction of these institutions. they emphasize that the institute also has a positive effect on the quality of regulatory legal documents in the country.

Today in foreign countries, not only legal monitoring, but also many institutions are used to determine the effectiveness of legal regulation of social relations.

The analysis of the law enforcement practice and legislation of foreign countries in this regard revealed that such institutions are similar to each other in terms of content, but also have some unique features that distinguish each of them from the other.

Below we will consider the specific aspects used in determining the effectiveness of legal regulation of social relations in a foreign country through legal monitoring.

In this case, it is appropriate to first consider the experience of foreign countries regarding legal monitoring within the framework of general aspects of legal monitoring in them and specific features that differ from each other.

As a result of the analysis of the legislation of foreign countries, the following general aspects of legal monitoring were determined:

I. The procedure for conducting legal monitoring in foreign countries is approved by a specific legislative document.

In particular, the procedure for conducting legal monitoring in Belarus is stipulated in the decision "On the procedure for conducting legal monitoring" approved by the decision of the Council of Ministers No. 65 dated January 30, 2019. With this decision, the instruction on the procedure of legal regulation was approved, and the detailed procedure for conducting legal monitoring was determined in it [2].

Issues related to legal monitoring in Kazakhstan are regulated by Government Decision No. 486 of August 29, 2016 "On approval of the rules for legal monitoring". With this decision, the "Rules for conducting legal monitoring" were approved, and the procedure for conducting legal monitoring was determined in detail[3].

Issues related to legal monitoring in Russia are expressed in the regulation "On monitoring of law enforcement in the Russian Federation" approved by the Decree of the President of Russia dated May 20, 2011 "On monitoring of law enforcement in the Russian Federation" No. 657 [4].

As we have seen above, in the countries where legal monitoring is used, the issues related to the procedure for conducting it are regulated by a legislative document, which on the one hand provides for clearly defining the process of conducting it to the entities conducting monitoring, and on the other hand, it also defines the rules that must be implemented in the process of monitoring.

II. The range of objects of legal monitoring in foreign countries is similar to each other. As an object of legal monitoring, the system of normative legal documents valid in a particular country appears.

In particular, in the Belarusian Guidelines on the Procedure for Legal Monitoring, the object of legal monitoring is a normative legal document adopted (published) and entered into legal force (its separate provisions), excluding technical regulations and normative legal documents in standardization, technical normalization and standardization. It is determined that decisions (orders) on approving normative legal documents in the field of law, making changes to them, interpreting such documents, suspending their validity, canceling them, or declaring them invalid are considered.

Under the rules of legal monitoring of Kazakhstan, the following are established as objects of legal monitoring:

- new constitutional laws, codes, systematic laws, laws;
- other legal documents.

Here, constitutional laws, codes, systematized laws, laws, newly adopted laws, as well as newly adopted constitutional laws, codes, systematized laws, laws on additions and amendments to legislative documents for up to five years from the moment of their adoption. Is determined to be calculated.

At the same time, it is noted that the following are understood to be other regulatory legal documents that require legal monitoring:

- 1) except for constitutional laws, codes, systematized laws, laws, new constitutional laws, codes, systematized laws;

- 2) normative-legal decrees of the President of the Republic of Kazakhstan;

- 3) normative-legal decisions of the Government of Kazakhstan;

- 4) normative-legal orders of the Central Election Commission of Kazakhstan, the National Bank of Kazakhstan, ministers of Kazakhstan and other heads of central state bodies, normative-legal orders of heads of departments under the central state bodies of Kazakhstan;

- 5) normative-legal decisions of councils, normative-legal decisions of authorities and normative-legal decisions of inspection commissions.

In Russia, the following regulatory legal documents are provided as objects of legal monitoring:

- a) according to legislation and other regulatory legal documents - to fulfill the decisions of the Constitutional Court of Russia;

- b) according to the legal documents of the President of Russia, the Government, executive power bodies, other state bodies, subjects of the Russian Federation and local state power bodies - in cases provided for by law;

- c) on the regulatory legal documents of the Government of Russia, executive power bodies, other state bodies, state power bodies of subjects of the Russian Federation and local legal documents - in the cases stipulated by the documents of the President of Russia;

- g) according to the normative legal documents of Russia - following the annual appeals of the President of Russia to the Federal Assembly of Russia, other program documents, assignments of the President of

Russia and the Government, the main directions of the socio-economic development programs of the relevant period and state development of the Government of Russia;

d) under Russian normative legal documents - to implement the anti-corruption policy and eliminate identified corruption factors;

e) according to Russian normative legal documents - to eliminate contradictions between normative legal documents having equal legal force.

As we have seen above, in most cases, the objects of legal monitoring are the current legal documents.

It is noteworthy that legal monitoring is not carried out in connection with drafts of normative legal documents in any foreign country.

In our opinion, such an approach is correct, and it can be explained by the fact that direct legal monitoring is directly aimed at the implementation of current legislation. In this case, the fact that the regulatory legal document is still at the draft stage eliminates the possibility of conducting legal monitoring of it.

III. Legal monitoring in foreign countries has similar goals.

For example, according to the legislation of Belarus, legal monitoring aims to systematically analyze and evaluate the quality of legislation, the practice of law enforcement, and the effectiveness of legal regulation of social relations.

According to the legislation of Kazakhstan, legal monitoring is aimed at identifying contradictions, repetitions, legal gaps, inefficiently applied, outdated and corrupt legal norms in the legislation of Kazakhstan, and improving them by forecasting,

analyzing, and evaluating the effectiveness of the adopted regulatory legal documents in the practice of law enforcement. It is determined that proposals will be held for development.

A situation similar to the above can be witnessed in Russian legislation. According to it, the purpose of legal monitoring is to improve the legal system of Russia.

IV. It is clearly defined in the legislation that legal monitoring is carried out mainly by state bodies.

In the legislation of Kazakhstan, the structural units of state bodies carry legal monitoring out, which they adopted and (or) were the main developers, according to the normative legal documents related to their authority.

The legislation of Belarus specifies the legal monitoring bodies. According to it, law-creating bodies (officials) who have adopted relevant regulatory legal documents carry legal monitoring out.

The state bodies conducting state policy, regulation and management in the relevant field also conduct legal monitoring of regulatory legal documents in this direction, and other state bodies - legal monitoring of regulatory legal documents developed by themselves.

Following Russian legislation, it is envisaged that executive and state authorities, subjects of the Russian Federation within the scope of their powers, will carry out that legal monitoring.

V. The legislation of foreign countries envisages direct coordination of legal monitoring processes by judicial authorities.



In the legislation of Kazakhstan, it is directly noted that the activities of state bodies related to legal monitoring are carried out by justice bodies.

In addition, it is determined that the single electronic register of legislative documents and normative legal decisions of the Government, which will be monitored by law, will be maintained by the judicial authorities, and the creation of the electronic register will be entrusted to the Ministry of Justice.

Judicial bodies have a leading role in conducting legal monitoring in Russia. In particular, the plan for conducting legal monitoring under the legislation will be developed by the Ministry of Justice of Russia. The developed legal monitoring plan will be submitted to the Government for approval by August 1.

In addition, judicial bodies in Russia have a unique role in the process of legal monitoring. Legislative executive authorities and state authorities of the subjects of the Russian Federation are required to submit a report to the Ministry of Justice on the results of the monitoring conducted by them every year by June 1.

Based on the submitted reports, the Ministry of Justice will prepare a report on the monitoring results to the President of Russia and submit it by September 1.

It is noteworthy that the report on the results of monitoring prepared by the Ministry of Justice in Russia will be published in the mass media after the President's review, as well as posted on the official website of the President of Russia and the Ministry of Justice for everyone to see.

As we have witnessed, special attention is paid to the place of the Ministry of Justice in conducting legal monitoring in Russia from the above-mentioned foreign countries, in which this body not only

participates in the stage from the development of the legal monitoring plan to the presentation of the results of the monitoring conducted by state bodies to the Head of State but also in these processes, appears to be the main coordinating competent state body.

VI. In the legislation of foreign countries, there is a strict requirement to inform the population in advance about the conduct of legal monitoring.

It should be noted that in countries where there is legal monitoring, informing the population about its implementation in advance has some positive aspects, which are reflected in the following:

a) the public will be informed about which areas of law enforcement are being studied by state bodies, and this will allow them to contact the state bodies conducting monitoring on certain cases of law enforcement practice, and create conditions for expressing their opinions and positions;

b) study of the implementation of the law of the state body conducting monitoring, through critical review, misinterpretations of legal norms arising in the practice of law enforcement, identification and elimination of conflicting situations, in general, creates conditions for improving the legal foundations of a particular field.

In the legislation of foreign countries where legal monitoring is in force, there is a rule on posting information about monitoring in relevant sources.

In particular, the legislation of Kazakhstan stipulates that the list of normative legal documents subject to legal monitoring and the state body responsible for this, as well as the deadlines for legal monitoring, will be formed in the "E-zañnama" information system. Following the legislation of Belarus, the organizer of legal monitoring not less than 5 working days before the start of legal monitoring will announce on his

official website on the Internet about conducting legal monitoring to study the proposals of citizens, including individual entrepreneurs and legal entities regarding the object of legal monitoring. Such notifications should include the following information:

– the object of legal monitoring;

- deadlines for conducting legal monitoring and submission of proposals by citizens, including individual entrepreneurs and legal entities regarding the object of legal monitoring;

- methods of submission of proposals by citizens, including individual entrepreneurs and legal entities to the object of legal monitoring.

Here, in the process of conducting legal monitoring, it is not required to respond or report to the proposals received from citizens, including individual entrepreneurs and legal entities regarding the object of legal monitoring, as well as to the special section "Electronic appeals" on the official website or to the appeals received via the e-mail address of the organizer of legal monitoring.

A similar experience can be found in Russian legislation. According to it, the monitoring plan is approved by the Government of Russia by September 1 every year. The annual monitoring plan approved by the Government is published on its official website (<http://government.ru/>).

The following information is reflected in the monitoring plan:

a) a group of regulatory legal documents or a legislative field (network) that is planned to be monitored;

b) bodies of executive power participating in monitoring, bodies of state power of Russian subjects and self-government bodies of citizens;

c) monitoring periods;

g) other information.

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