

Regulatory Impact Assessment of normative legal acts in the sphere of education (Worked by "Russian Foundation for Humanities № 16-03-00065 ")

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Abstract

The problem of education is currently urgency as without quality legal education is impossible but to build in Russia a lawful state, to increase the level of legal awareness e.g. population. As follows be noted that the question of teaching the individual branches of law school non- sufficiently developed and studied. In particular it should be noted the importance of study of teaching the basics of law.

This contributes to the appearance of regulatory impact assessment in public administration, sustainable development of territories in the development of government programs and policies. On the basis of the sustainable development goals of the United Nations proclaimed, and policy documents in the field of strategic development of the Russian Federation the necessity of inclusion in the program documents of targets and indicators for the analysis of sustainable development, quality of management, both countries and separate territories. The study of quantitative and qualitative indicators, the most commonly used in the state strategic planning, showed the possibility of their application to assess the achievement of sustainable development goals, as well as the need to build a balanced scorecard based on a single methodological approach. The use of such a system of indicators, by analogy with key national figures would effectively implement a regulatory impact assessment technology for pre- and post-analysis of government programs and policies that will improve the quality of public management of sustainable development of territories.

Keywords: Sustainable development, regulatory impact assessment, public administration, regulatory effects.

Introduction

To date, no federal or at the regional level in Russia is not used ODS complex procedures for evaluating government programs and policies, while in developed countries (OECD, US, etc.). Such approaches are widely practiced. The need to use ODS for evaluating government programs is determined by the consequent significant impacts on society and the state, including with regard to the use of financial resources. In our opinion, to begin the process of implementation of ODS for the assessment of state program is necessary to industrial policy, which determines the potential social and economic development as a country and individual regions.

The basis for such an assessment is a federal law of the Russian Federation from 29.12.2012 N 273-FZ "On Education in the Russian Federation." This law regulates relations arising in the field of education in connection with the realization of the right to education, the provision of state guarantees human rights and freedoms in the sphere of education and the creation of conditions for realization of the right to education. This federal law provides the basis for the formation of regional legislation and defines the priorities for the development of educational programs, both at the federal and regional level. Specification of the provisions of this law shall be made at the regional level, through the formation of regional laws and programs.

In 2003, Russia signed the Bologna Declaration (1999) and joined the Bologna process, which involves the creation of a common educational space, the unification of the legal status of Russian and European educational institutions and is aimed at the development of market elements in the economics of education, which, in turn, also required to unify the legal regimes of the Russian education system. Objective factor that required a fundamentally new approach to the regulation of educational relations, of course, was a sharp decline in the quality of education. The most significant crisis manifested itself in the vocational education system. Firstly, there has been explosive growth in the number of university students (with 2.6 million people in 1993/94 to 7.4 million. 2010/11) while reducing the total number of students (with 21.1 million to 13, 2 million. people in the same period). The number of entering universities has reached 90 percent of the number of high school graduates, which is more than twice the average for the countries of the Organization for Economic Cooperation and Development (OECD). Secondly, adopted in the country of the exam system has become an indicator not the actual level of knowledge, and appropriate psychological threshold of underachievement. If in France have passed the matriculation examination in 2011, 85.6 percent of students in Germany - 82.6, only 3.3-3.6 per cent turned out in Russia did not pass the exam. Third, the threefold increase in the number of students and more than double the number of schools (with 514 to 1114 for 1992-2010.) The number of teachers has increased over the same period from 220 to 342 thousand. People (55.4 percent), and today it is in relation to the number of students in Russia, 2.7 times lower than in the US. Fourth, 45 percent of graduates specialized in areas such as social sciences, business and law (in the US - 36.2%, Germany - 22.5%). In - fifth, the post-Soviet period, the country was destroyed

system of vocational education. If in 1989 and 1100 vocational technical schools with 470 thousand. But today 350 colleges enrolled less than 120 thousand. Sixth, not currently provided for and development of elite universities, which could stand on a par with the leading educational institutions of the world. And if in 1991 the UNESCO put the Soviet higher education in third place in the world by 2010, the Russian Federation has fallen in the same ranking at 29th place. [1] Thus, the improvement of educational legislation was due to two main reasons: the social needs of society and the requirements of a legal nature, which, in turn, required the solution of two interrelated tasks:

- A legislative provision of education modernization process in accordance with the needs of a market economy and social, democratic state;
- Improvement of the educational system of legislation in the direction of balance, integrity, structural order in accordance with the requirements of the law-making theory.

The basic methods of realization of passive strategies in the learning process are lecture, study of normative-legal acts and judicial practice, reproductive survey on the passed material.

In the process of applying active strategies the teacher continues to play central role in the occupation, but the nature of its interaction with the students is changing, because the teacher is the only source of educational information, but the students are no longer passive listeners, having the opportunity to ask questions, express their views, to offer their solutions to, etc. In this strategy, the pedagogical process is not subject to full control of the teacher, because in the course of employment may be new topics and issues for discussion generated during the joint debate. However, without further teacher conducting classes becomes impossible.

Thus, in the process of learning and self-learning the basics school students the following objectives to be achieved:

- Education: from the study of the course of the course the basics, such as criminal law, students should know the objective and subjective elements of crimes; types and features of the interpretation of criminal law; history of criminal law; features of criminal responsibility and punishment of minors; be able to: assess a socially dangerous act; to determine the place and role of a particular rule of law in the structure of the Criminal Code; to determine the criminal liability with regard to the circumstances of the act committed the features of his personality; to justify their point of view; be familiarized: the basic tendencies of development of criminal law; with the practice of application of the basic norms of the Criminal Code; with major advances in science of criminal law;
- Educational: the formation of legal awareness and legal culture as in the field of criminal law, and the general socio-legal sphere;
- Development: the development of logical thinking, ability to formulate their thoughts, development of emotional and volitional and motivational areas posing the question. Regulatory Impact Assessment as a public management tool able to solve these and many other urgent problems of modern legal regulation in the sphere of education.

Any legal act is based on a certain concept, defining the direction, goals, and the tools necessary to achieve them. Moreover, such a concept should logically reflect the current state policy. The legal framework of education policy plays a key role of its ideological and organizational foundations.

The ideological basis of the educational policy of the Russian Federation at the present stage can be considered a national doctrine of education in the Russian Federation for the period up to 2025 [2]. The Federal Target Programme for the Development of Education in the 2011 - 2015 years, [3] stated that in accordance with the Concept of Long-Term Socio-Economic Development of the Russian Federation for the period up to 2020 approved by the Federal Government on November 17, 2008 N 1662-p, strategic goal is to achieve a level of economic and social development according to the status of Russia as a leading world power of the XXI century, which occupies leading positions in the global economic competition and reliably providing national security and the implementation of citizens' constitutional rights. [4] In 2015 - 2020 years Russia should enter in five countries - the leaders in terms of gross domestic product (at purchasing power parity). At the same strategic goal of the state policy in the field of education is to improve access to quality education that meets the requirements of innovation development of economy, the contemporary needs of society and every citizen. Realization of this goal requires the following priorities:

- Providing innovative nature of basic education;
- Modernization of the system of education institutions as a social development tool;
- Creation of a modern system of continuous education, training and retraining of professional staff;
- The formation of the quality assessment tools and the demand for educational services with the participation of consumers, participation in international comparative studies.

These and many other problems of development of the Russian educational system, educational legislation could not be solved by making regular changes to the legislation. The modern paradigm of the global partnership was sustainable development of all countries and territories, proclaimed by the United Nations (UN), which is based on the achievement of the Millennium Development Goals aimed at ending poverty on a global scale in all its forms. Sustainable development aims to ensure the cooperation of all countries (rich and poor, economically developed and economically weak) in such critical areas as people, planet, prosperity, peace and partnership. The ideology of sustainable development is to achieve not only economic well-being of countries and improving the quality of life, but also the protection of the planet, conservation of ecological well-being for future generations. Partnership countries to achieve the goals of sustainable development is the foundation on which the new order is formed by the global economic and political cooperation, and which should unite progressive countries to create social, economic and ecological foundation of the world order, based on the highest human values.

In 2015 was an important step in promoting the ideology of sustainable development in the global interaction. September 25 last year, a resolution was adopted by the General Assembly of the United Nations, which defined the objectives and main areas of sustainable development in the

world until 2030, which is comprehensive and indivisible nature and provide a balance of all three pillars of sustainable development: economic, social and environmental.

UN proclaimed 17 in the field of sustainable development:

- The eradication of poverty;
- Elimination of hunger;
- Good health and well-being;
- quality education;
- gender equality;
- Clean water and sanitation;
- A low-cost and clean energy;
- Decent work and economic growth;
- Industrialization, innovation and infrastructure;
- Reduction of inequalities;
- Sustainable cities and towns;
- Responsible consumption and production;
- Combating climate change;
- Conservation of marine ecosystems;
- The preservation of terrestrial ecosystems;
- Peace, justice and effective institutions;
- Partnership for sustainable development [5].

As an important part of the global system of global partnership in the field of sustainable development and one of the world's leading economies and the political forces of Russia is obliged to actively participate in the achievement of specific objectives of the UN Security Council resolution that requires a change in the internal and public policy. The aim of this study is to develop a science-based approach to the application of regulatory impact assessment in the practice of public management of sustainable development of the regions, based on a system of state strategic planning indicators to assess the degree of achievement of sustainable development goals.

Objects and methods of investigation

The objects of study are the processes of public administration and sustainable development of territories of state regulatory policy in the Russian Federation. Under the area for the purposes of the study refers formally established by the Constitution of the country's state-territorial entities - subjects of the Russian Federation (republics, territories, regions, federal cities).

The subject of research is the mechanism of the regulatory impact assessment of government programs and policies.

The methodology is based on theoretical studies and legal analysis of documents, regulations and norms of international and national standards and regulations on regulatory impact assessment,

comparative analysis and benchmarking approaches indicators used in the practice of public administration, the generalization of the recommendations and the results of research on the analysis of the regulatory impact.

Results and its discussion

At the end of the last century Russia entered on the path of socio-economic and political changes, radically changed the purpose and procedure of public administration at both the federal and the regional levels. Declaring itself as a full partner in the issues of progressive development of humanity, the Russian Federation has committed itself to sustainable development, which was confirmed by the adoption of the Presidential Decree of 04.02.1994 number 236 "On the state of the Russian Federation on the protection of the environment and the strategy for sustainable development" [6].

In the future, most of the federal and sub-federal level documents regulating the strategic development and strategic planning, have been identified as priority goals and objectives of sustainable development, has developed various recommendations for the formation of action plans to achieve these goals and objectives. However, in-depth analysis and evaluation of introduced regulatory rules and regulations from the perspective of achieving the desired result is never spent, which does not allow to ensure the quality of regulatory policy and the efficiency of public management of sustainable development of territories.

State regulatory policy, as part of the internal policy of the country, determines the quality of law-making processes and the efficiency of the mechanism of state regulation in all areas: economics, social processes, policies, etc. In a country with this type of government as Russia, which has a large number of territorial units, differing not only climatic, but also the socio-economic conditions, the most important to establish productive and effective regulatory policy.

In achieving the global objectives of public regulatory policy fulfills one of the key features defining quality control technology and application of the law, directly affecting the effectiveness of the application of legal norms. In achieving the goals of sustainable development of state regulatory policy in the field of education must ensure the most effective implementation of the tasks and activities that will contribute to this.

State regulatory policy is implemented through the adoption of acts of different levels and content: policy documents, regulations, at all levels of the legislature, which are part of regulatory policy and key public management tool that aims to achieve the sustainable development of territories. And entered into force regulatory standards in the field of territorial development should be evaluated from the perspective of achieving sustainable development. In this connection there is need for the

reception and transfer of modern technologies development and management decisions from various areas of regulation and the best national and international experience in the field of rulemaking and governance in the education sector. One such technology assessment is to assess the regulatory impact analysis or regulatory impact (eng. Impact Assessment, Regulatory Impact Assessment, Regulatory Impact Analysis, RIA) (further - ODS), which for decades has been used successfully in the OECD countries, the United States and Canada, and since 2010 in Russia.

Experience in the use of ODS in Russia yet is short and fairly limited. According to the Ministry of Economic Development of the Russian Federation at the end of 2014 on the official website regulation.gov.ru the total number of outstanding projects of normative legal acts of the federal level was 17139, of which the procedure of ODS were held in 2453, or just over 14 percent, including 33% received a negative opinion. From previous procedure ODS regulatory acts neither was assessed comprehensively from the perspective of achieving the goals of sustainable development of the country or territory [7]. The main directions of ODS in Russia at the federal level are the following:

- mandatory requirements for the conduct of business;
- state control (supervision);
- tax administration and customs business;
- safety of production processes;
- technical regulations, conformity assessment.

Comprehensive assessment of public policy and programs from the perspective of achieving the strategic objectives, including sustainable development in Russia at the present time is not carried out and taken acts regulating the conduct of such an assessment. Given the large territory of the country, the federal structure, substantial differentiation in the level of socio-economic development of territories, their contribution to the country progress and the formation of a single socio-economic and ecological space need for ODS, not only at the federal but also at the sub-national level, from the perspective of achieving sustainable goals development obvious. The need to include in the ODS criteria for sustainable development of territories is determined by the priorities of the Global Partnership countries.

In Addis Ababa Programme of Action adopted by the Third International Conference on Financing for Development, includes specific policies and measures to support the country's performance in achieving the goals of sustainable development, the success of which will depend on the developed by the strategy of the country, plans and programs for sustainable development.

To date, overdue objective need of significant improvement of the legislation of the Russian Federation on education, which is caused by an excessively large number of gaps in the legal regulation of relations in the field of education, as well as the growth of an array of bylaws in this area to the extent that navigate even professional lawyer quite difficult. In addition, there are many other problems caused by the shortcomings of legal regulation in this area.

The law does not meet the expectations of a significant part of the education community, the expert community, the parents of children enrolled in educational institutions, and Russian society as a whole. In the context of the catastrophic crisis of morality in the Russian society and the state, a significant drop in the quality and competitiveness of domestic education a new law was originally designed essentially as an act aimed at solving the most pressing problems in education and lays the foundation for a long-term positive development of national education. However, the legislator does not notice many problems.

Ongoing countries sustainable development strategy must be based on national ownership and interaction with stakeholders (government, civil society, private sector and other actors) and be supported by strategies to mobilize resources and funding at both the federal and regional levels. This methodological approach is fully in line with the positioning of Russia as an active and influential country - a member of the United Nations, international and domestic standards of ODS, which identified the need to take into account economic, social and environmental implications of regulatory standards.

Russia has accumulated some experience of ODS, not only at the federal but also at the regional level. Legal analysis of documents regulating ODS, has shown that they do not release the state regulatory policy on the sustainable development of the region as an estimate. In May 2012, Presidential Decree № 601 "On the main directions of improving governance" was published (hereinafter - the Decree № 601), which defines the need for the development of ODS at the regional level, as well as the examination of existing regulations, bearing in mean legislative consolidation of such procedures in respect of state power bodies of the Russian Federation - in 2014, the local authorities - from 2015 [8]. Pursuant to this Decree number 601 of the RF Ministry of Economic Development guidelines have been developed for the implementation of procedures and arrangements for regulatory impact assessment in the Russian Federation, approved by Order of September 25, 2012 № 623 (hereinafter - the Order № 623, Guidelines). Area law-making, to which the ODS procedure can be determined on the basis of existing priorities of socio-economic development of the Russian Federation, legislative activity plans, as well as studies of socio-economic conditions, competition in the sectors of the economy, economic indices, ratings, etc. [9]. Thus, the regions have the right to determine the scope of the ODS.

The majority of regions as areas of standard-setting for the ODS have chosen entrepreneurial and investment activities [10]. As for regional policy in the field of education, it was out of ODS procedures at the federal level and in all Russian regions. The accumulated experience of the regions already allows us to give a positive assessment of the impact of the ODS quality of public administration and law-making. However, the limited scope of ODS reduces the effectiveness of the regional regulatory policy and does not assess the quality of public management of sustainable development of territories [11]. Currently, with a significant worsening of the economic situation in

the country and regions, the tendency of decrease in the quality of life in most of the Russian Federation, the active introduction and expansion of the ODS is an urgent need to improve the efficiency provided assessment procedures and compliance with the basic principles and methodological approaches [12].

Not enough attention is paid to the problems of the legislator regulating the legal status of both public and private educational institutions [13]. The number of federal regulatory legal acts regulating the sphere of education, more than 500 sources, especially the large number of by-laws. In the Russian Federation the situation is similar. For example, in the Sverdlovsk region for the formation of governance adopted more than 350 acts. In this regard, the law enforcer is difficult to navigate in a number of legal acts, which has a negative impact on the efficiency of education management. After the alignment of the educational system will automatically clear the legislation should reduce the number of legal acts of management, thus formed sufficiently clear and effective education management mechanism [14]. Collisions educational legislation exist as between the normative acts of different level and in a specific regulation. In his thesis research S.Y. Dubrovin points to a contradiction of the Law of the Republic of Tatarstan "On education" to the federal legislation.

In Art. 2 of the Act, listing the system of laws on education, operating in the territory of the Republic of Tatarstan, called only The Constitution and the republican law on education [4]. No mention of the Russian Federation Constitution and Art. 28 of the Act devoted to the issues of division of powers in the field of education between the public authorities of the Republic of Tatarstan and the Russian Federation. This issue is solved in the Republic are not in accordance with Art. 72 of the Constitution, and on the basis of the Treaty of the Russian Federation and the Republic of Tatarstan "On Delimitation of Jurisdictional Subjects and Mutual Delegation of Powers between the authorities of the Russian Federation, public authorities and public authorities of the Republic of Tatarstan". For example, the Law "On Education in the Sverdlovsk region" 18 reproduces, but does not duplicate most of the rules, adding features related to the Sverdlovsk region. In the law there is a separate chapter, which is devoted directly to the competence of public authorities of the Sverdlovsk region, as well as the activity of local governments of municipalities located on the territory of Sverdlovsk region, in the field of education. In order to improve the efficiency of education management optimal ratio of federal law and the laws of the Russian Federation shall ensure the establishment of a system of legal norms at the entity level, which naturally complements the federal legislation and contained only primary rules on matters within the competence of the Russian Federation. The sharp reduction in the scope of the administrative management and the transition to predominantly economic methods enhances the role of legal regulation by adopting appropriate laws [15].

Rectification of the Educational Legislation connected with the right balance of federal law and the laws of the Russian Federation, involves the creation of a system of legal norms at the entity level, which complements the federal legislation and would contain primary rules on matters within the competence of the Russian Federation, for questions, referred to the exclusive competence of the Federation, should be addressed in the regulatory legal acts of the federal authorities. According to most scientists, the huge volume and poor quality of so-called "institutional acts" in the field of education are forced to reflect on possible ways to reduce this kind of rule-making. One way to improve the quality of normative legal acts is to improve the legislative technique.

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