

MAIN FACTORS INFLUENCING LEGAL MONITORING OF THE IMPLEMENTATION OF LEGISLATIVE ACTS

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Abstract

This article examines the theoretical views of legal scholars on the factors influencing the conduct of legal monitoring. At the same time, the main attention is paid to identifying negative factors that impede legal monitoring and ways to eliminate them.

Keywords Legal monitoring, implementation of legislative acts, government bodies, information regarding monitoring, monitoring effectiveness, public relations, mutual cooperation etc.

INTRODUCTION

Legal scholars that have many factors that influence legal monitoring note this. For example, Russian legal scholars O.A.Korotkova and T.A.Shavenkova, while analyzing the factors that have a negative impact on the conduct of legal monitoring, they emphasize that, despite the planning and complexity of legal monitoring, the mutual cooperation of the subjects performing legal monitoring has not yet been clearly defined in the legislation. At the same time, these scientists have come to the conclusion that it is necessary to adopt the Law "On legal monitoring in the Russian Federation" as a solution to the problem noted in the research work[1].

In our opinion, the fact that the rules of mutual cooperation between the entities performing legal monitoring are not clearly defined in the legal documents may have a negative impact on the monitoring. However, it is inappropriate to consider this factor as the only factor that has a negative impact on legal monitoring.

For example, any entity interested in the results of legal monitoring can cooperate with the entity conducting it in any form. Therefore, there is no great need to define such cooperation by legislation.

We can find the idea of relevance of mutual cooperation of bodies conducting legal monitoring in the researches of other scientists.

In particular, another legal scientist, N.A. Polyashuk, who conducted a separate study on legal monitoring, puts forward the idea that the effectiveness of legal monitoring largely depends on the cooperation of the bodies that implement it [2].

Pay attention to one more issue here. If mutual cooperation of state bodies performing legal monitoring ensures the effectiveness of monitoring on the one hand, on the other hand, these state bodies are not interested in revealing to the public the deficiencies identified in their respective

activities as a result of monitoring, and try to hide information that works against them.

Another important factor affecting legal monitoring is the fact that the information necessary for legal monitoring is not open.

In this case, some scientists, talking about the importance of the closure of information necessary for legal monitoring, come to the conclusion that this situation can lead to the instability of the economic and political situation in the country [3, 127].

In fact, the availability of information is of great importance in conducting legal monitoring. At the same time, it is desirable to clarify the question of what information is included in the sentence of information necessary for conducting legal monitoring.

In the current legislation, in particular, in the regulation on the procedure for legal monitoring of the execution of regulatory legal documents, only the concept of "information on the object of legal monitoring" is used, but no explanation is given to it.

In our opinion, legal monitoring information should be understood as any information that is not prohibited by law and is relevant to legal monitoring. Such information includes any information on the activities of state bodies and officials, as well as judicial practice materials and any other information not prohibited by law.

It should be noted that in recent years, a number of reforms have been implemented in our country to ensure the transparency of information related to the activities of state bodies and officials.

In particular, PQ-4273 [4] of the President of the Republic of Uzbekistan dated 09.04.2019 "On additional measures to ensure the openness and transparency of state administration and increase the statistical potential of the country", "Openness of budget information and citizens' participation in the budget process" dated 22.08.2018 Decisions PQ-3917 [5] on measures to ensure active participation" can be evaluated as important reforms aimed at ensuring information transparency.

The implementation of some tasks related to the openness of information, which is important for conducting legal monitoring, has not been ensured until today.

In particular, the concept approved by the Decree No. PF-5505 dated 08.08.2018 of the President of the Republic of Uzbekistan "On approval of the concept of improving the activity of norm creation" envisages promptly announcing the texts of draft laws and analytical materials related to them on the web resources of the parliament after each reading [6].

However, to date, the implementation of these tasks is not provided in any of the web resources of both chambers of the parliament, which in turn is one of the factors that has a negative impact on legal monitoring.

Some legal scholars pay particular attention to the fact that the process of conducting social surveys among the population is not foreseen as a factor affecting legal monitoring.

In particular, O. V. Krilova emphasizes that conducting social surveys among the population is considered one of the main components of legal monitoring [7].

In fact, conducting social surveys among the population serves to ensure the objectivity of legal monitoring. At the same time, it should be noted that the current legislation does not provide for the requirement to conduct social surveys during monitoring.

When it comes to the negative factors affecting the legal monitoring, the lawyer E.R. Chernova in his research concludes that the current stage of the development of the monitoring of legislative documents does not allow for complete and objective information about the effectiveness of regulatory legal documents in the country.

In this case, this scientist cites the lack of a database that allows to obtain information about the effectiveness and completeness of legislative documents as the basis for his conclusion.

At the same time, this scientist does not clarify what information should be reflected in the database, which will allow to obtain information

about the effectiveness and completeness of legislative documents.

In addition, such a database does not provide information about which state body it is maintained by.

In our opinion, at this point, it is appropriate to clarify the concept of the database itself, which provides information about the effectiveness and completeness of legislative documents. In addition, it is necessary to clarify issues such as which state body maintains such a database, what information is reflected in it, and what are the indicators for finding the information in the database effective and complete.

At the same time, it should be noted that it is inappropriate to conclude that legal monitoring is ineffective just because there is no database. For example, assessing the effectiveness of legal monitoring based only on the existence of a database leads to a one-sided assessment and cannot fully reveal the essence of legal monitoring.

Some scholars associate the factors affecting legal monitoring with the entities that have the authority to conduct monitoring.

In particular, legal scientist V.S. Eliseeva, who has conducted special researches on legal monitoring, singles out the fact that the courts, which are state bodies that apply important rights, are excluded from the scope of legal monitoring subjects as the main problems encountered in the practice of monitoring in Russia [8].

Supporting the above opinion of V.S. Eliseeva, it should be noted that judicial bodies are considered the main subject of legal monitoring, that at the same time the norms of the legal document are applied in practice in this body, and through this, it is possible to evaluate the effectiveness of the legal document in regulating social relations.

In addition, it is worth paying attention to the fact that judicial bodies, unlike other legal monitoring entities, are considered a separate branch of government, they are not subject to executive authorities, and in practice they are a truly independent branch of government. All this serves to ensure objectivity and comprehensiveness of legal monitoring conducted by judicial authorities.

V.S. Eliseeva points out that as additional factors affecting legal monitoring, law enforcement monitoring plans do not have information about the entities that initiate monitoring according to regulatory legal documents, and the non-transparency of the criteria for selecting proposals for the monitoring plan and law enforcement practice monitoring report. , cites the lack of understanding of qualitative and quantitative measurement of law enforcement monitoring indicators (indicators, coefficients) [8].

In our opinion, it is inappropriate to consider all of the factors listed above as factors that have a serious negative impact on legal monitoring. In particular, the non-availability of information about the entities that initiate legal monitoring cannot be assessed as a factor that has a serious negative impact on monitoring.

Non-disclosure of the results of legal monitoring by legal scholars has been evaluated in the legal literature as one of the factors that have a negative impact on monitoring.

In particular, in the researches of some legal scholars, it is emphasized that the results of legal monitoring must be published in open sources, that the entities adopting normative legal documents should study and analyze such information, and through this, it is necessary to take measures to improve the quality of the adopted legislative documents [9, 127].

In fact, not only legal monitoring, but also the results of any research conducted by state bodies and non-state organizations on the effectiveness of legislative documents should be disclosed to the public through mass media.

This, in turn, on the one hand, strengthens the confidence of the population in the legality of society, on the other hand, it serves to increase the legal consciousness and culture of citizens, as well as to increase the effectiveness of public control.

In some legal literature, the lack of opinion of citizens, civil society institutions and other non-governmental organizations during the monitoring process is mentioned as a factor that has a negative impact on legal monitoring [10, 55].

When it comes to this, some scientists emphasize

that ensuring the participation of civil society institutions and citizens in legal monitoring is one of the main tasks of the state and society.

It is also noted that the involvement of civil society institutions and citizens in the process of monitoring by these scientists is considered one of the main tasks facing the state and authorized state bodies in order to achieve the main goal of monitoring.

At the same time, these sources put forward the view that the opinion of citizens and non-governmental organizations should be considered as a legal obligation during legal monitoring [10, 55].

In our opinion, there is no need to specify in the legal documents as a legal obligation to obtain the opinion of citizens or institutions of civil society in any legal monitoring conducted.

After all, citizens and public organizations should be interested in every process in society, especially the results of legal monitoring, and participate in this process with their own free will.

In the legislative documents, the establishment of the legal obligation to obtain the opinion of citizens and public organizations in relation to the organizers of legal monitoring may lead to the falsification of such information in the future or the failure to fulfill such a requirement at all.

For this reason, it is necessary to pay special attention to the extent to which it is possible to perform any obligation on the entities conducting legal monitoring.

As we have seen, certain studies have been conducted by scientists on the factors affecting legal monitoring. As a result of the research, all the identified factors that have a negative impact on legal monitoring are rightfully recognized, but also reflect the aspects specific to the legal system of the respective state.

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