

LEGISLATION AND ENFORCEMENT IN A DEMOCRATIC COUNTRY

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The legal regulation of public relations is carried out by countries in various forms, among which the processes of regulation are distinguished by the importance of establishing certain rules of collective behavior (law-making), by the timely and proper implementation of the established rules of behavior (law enforcement) and by the organizational and material support of the action and protection established rules of conduct (law enforcement). At the same time, law-making activity, in its content and significance, precedes both law enforcement and law enforcement activity. And this means that the real regulation by the state of the relationship of people in society begins precisely and exclusively from the beginning of law-making procedures. In the dynamic legal environment of society, lawmaking takes one of the main places, since it generates the law and forms it. The process of creating a rule of law has its origin in the emergence of certain objective points that are caused by the need for legal regulation of specific social relations [4, p. 106]. This process is subject to rules defined by law; therefore it is carried out on the basis and in the manner established by the Constitution and laws. The relevance of legislation and law enforcement in a democratic country is not in doubt, because it is lawmaking that is the basis for creating a system of legislation, they act as the basis for regulating public relations and, therefore, their study is relevant at any stage of the development of the state and law.

Legislation is the legal form of activity of the state and civil society on the establishment, amendment and repeal of legal norms that are externally expressed in the sources (forms) of law: legal acts, legal precedents, legal customs, legal agreements, etc.; lies in their preparation, adoption, publication and systematization. Legislation is an organized part of lawmaking, with the help of which the state creates mandatory rules of conduct, through which the management of society is ensured.

At the same time, in recent years, legal science has noted: «today there is an urgent need to rethink the phenomenon of lawmaking, not only as a form of expression of will of the subject of lawmaking and a means of forming and developing legislation, but also as a means of developing transformational processes in society» [3, from. 220]. Increasingly, attention is also focused on the essential understanding of legislation, which is based on the fact that lawmaking is not reduced to the activity aspect. Legislation is considered as an attribute of the country, and therefore, along with the formal signs of lawmaking, its substantial aspects exist, reflecting its social essence and social purpose.

A democratic state pursues its legislative policy on the adoption of laws on the basis of studying the needs of society and cognizing trends in social development. The main impulses of lawmaking are a socially significant problem, an acute social situation, an unresolved issue, something that is of great importance for most people, for the country as a whole. The art of lawmaking consists in that, firstly, on time, and secondly, precisely, by adequate legal means, to respond to the public "challenge", to "relieve" the severity of the situation.

Given the complicated nature of the development of lawmaking, due to contradictory factors, both internal (e.g., politicization, corporatization, increased lobbying processes), and external (e.g., legal globalization, integration, standardization), a broad understanding of legislation seems more relevant and justified. The advantage of a broad understanding of lawmaking is that it involves clarifying the direction of those changes that occur in legislation in the context of the processes of transformation of the state and society. Given the above, lawmaking appears as an attributive form of country activity, which is manifested in the active, creative activity of authorized entities or directly of the people, due to the rapidly changing needs of domestic and global social development and the updating of the regulatory framework, has an official, legal, procedural nature and involves the establishment of requirements of justice and ensuring social

development in legal forms. Exact and consistent compliance with all of the above requirements regarding standard design in their entirety can characterize the draft regulatory act as perfect from a technical point of view and testify to the proper legal culture of its preparation and execution.

It should be noted that for the 2014-2018 years of activity of the Verkhovna Rada, almost six thousand bills were registered in the Ukrainian parliament. From November 27, 2014 until mid-2018, the Verkhovna Rada Office registered 6,217 bills, of which 5215 were elected by the people, 861 by the Cabinet of Ministers and 141 by the President. Of all the initiatives, only 870 (14%) are new draft laws. All other changes or additions to existing regulatory acts, which says a lot about the quality of previously adopted laws. Of this mass of initiatives, only 11.8% have become current laws. Every sixth bill registered in parliament is awaiting consideration in the session hall or withdrawn from consideration. Every twentieth draft law was returned for revision. And only two percent of all registered bills are awaiting or preparing for a second reading [1].

The main reason for the low level of legislative work of the parliament is the excessive number of bills registered by deputies. Despite the low productivity indicators of legislative work, deputies are no less responsible for developing current policies and updating the legal framework than the Government or the President. Lack of proper examination of draft laws and an avalanche-like increase in the number of legislative initiatives creates an additional burden on parliamentary committees and significantly reduces the quality of the legislative process [6]. For comparison, Norwegian parliamentarians initiate on average 5 bills a year, Switzerland 6, Greece 13, Great Britain 66, and most of all parliamentarians in France and Italy: 337 and 644, respectively [5].

Analyzing the issues of theory and legislative practice that determine the moral and legal foundations of the activities and behavior of persons involved in law-making activities, we can single out common, general criteria and principles on which effective, creative and responsible work of these individuals should be based [7, p. 181]. This is a high level of legal awareness and legal culture, recognition of the social value of law, respect for human rights, professionalism, competence, honesty, integrity, impartiality, a sense of personal responsibility, knowledge of legal technology, knowledge of politics and legislation, confidentiality, conscientious attitude to their professional duties and like that.

Among the main negative factors affecting the quality of regulatory legal acts, and thus entail the appearance of gaps and other shortcomings in the law, the following can be mentioned: inadequate compliance by law-making entities with the rules of legislative technique; low legal culture of subjects of lawmaking.

A factor affecting the quality of regulatory legal acts is the observance of the rules of legislative technology by the subjects of the legislative process. The main ones are: a logical sequence of prescriptions; the absence of conflicts within the normative act, in the system of law in general; clarity and accessibility of the language of regulatory legal acts; accuracy and unambiguity of terms and language; consolidation of legal acts with the aim of convenience and ease of use. Proper knowledge and use by the legislator of these rules serves to prevent gaps in law, especially «technical» ones. As for the third factor - the low legal culture of the legislator – it should be noted here that the successful work on the creation of legal acts and the legal culture are closely related. The legislator must masterfully master the means of legislative technique, deep and versatile knowledge, constantly replenish it, base his activity on the principles of law-making activity, and communicate with the people to identify his true needs.

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The optional, so to speak, negative factors affecting the quality of regulatory legal acts include the lack of clear interaction between government officials, lobbying, as well as financial difficulties, because of which the implementation of many laws becomes simply impossible [2, p. 225].

Ukrainian legislation to a large extent suffers from shortcomings of both technical and semantic nature, especially those laws and other regulatory legal acts adopted recently. And this, in particular, has become one of the reasons for the intensification of manifestations of legal nihilism that has developed both in the mass consciousness and in the higher echelons of state power. There is an acute need for increasing the professional competence of parliamentarians, civil servants and other officials responsible for the law-making process in the state. In addition, sometimes laws adopted by parliament violate the rights and freedoms of citizens; restrict the rights of local governments. The implementation of many laws is impossible due to the lack of financial guarantees. Thus, there is a decrease in the level of legislative activity, which in turn impedes the implementation of political, economic and social reforms, the solution of problems of state building, the implementation of the main directions of domestic and foreign policy. Thus, in Ukraine, as in most countries of the world, values are constantly being reassessed; the political course of states is being reoriented toward the establishment of common universal principles and standards that are significant for the entire world community. It also requires an appropriate understanding of certain categories and phenomena of law, in particular law-making and other related categories, especially in the context of the implementation of the rule of law. In order to solve problems in the law-making sphere of Ukraine, it is imperative to establish clear regulation of the procedure for adoption, official promulgation and the procedure for the entry into force of laws in Ukraine in a single legislative act. For example, these issues could be addressed in the draft Law of Ukraine «On Laws and Legislative Activities».

It is a common belief that the most urgent task is to develop a single area of legal reform in Ukraine, the concept of reforming the laws of our country, search for the main areas of legislative changes and a clear idea of the goals that must be achieved, as well as the systemic consequences of the relevant changes. However, updating legislation should be organized. In order to improve the legislative process in Ukraine, to adapt laws and other regulatory legal acts of European legislation, it is necessary to develop a mechanism to ensure that this work is completed. The purpose of the mechanism is to improve the procedure for the development, adoption and implementation of regulatory products, to develop uniform rules for the adaptation of legal norms, taking into account the requirements of European legislation. Today, it is extremely important to improve the legislative regulation of participation in legislative activities of state authorities and other entities of the legislative process. The main principles of legal regulation of legislative activity should be the consolidation of its democratic nature and the creation of conditions that would ensure the preparation, consideration and adoption of quality laws. In order to improve the quality of lawmaking, it is imperative to establish clear regulation of the adoption, official promulgation and entry into force of all types of laws in Ukraine in a single legislative act.

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