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Research Article

THE SUBJECTS OF LEGAL EXPERIMENT IN THE RULE-MAKING PROCESS AND THEIR LEGAL STATUS

Submission Date: August 19, 2023, Accepted Date: August 24, 2023,

Published Date: August 29, 2023 |

Crossref doi: <https://doi.org/10.37547/tajpslc/Volume05Issue08-17>

Sherzod Rakhmatullaevich Khayitov

Acting Associate Professor Of The Department Of Theory And History Of State Of Tashkent State University Of Law, Phd In Law, Uzbekistan

ABSTRACT

This article discusses the approaches of legal scholars on the subject of legal experiment and put forward the idea and the fact that a comprehensive study of the competence, rights and obligations in the sphere of legal experiment do not allow to better understand the essence of legal experiment, its effective implementation in practice, it is noted that it is expedient to be determined separately, taking into account the types of regulatory legal acts.

KEYWORDS

Experiment, legal experiment, legal rulemaking, legislative acts, the bill, subject, process, status, subjects of legal experiment.

INTRODUCTION

A comprehensive study of the subject of legal experiment, the authority of the court in the field of legal experiment, rights and obligations allows to understand the essence of legal experiment and its effective application in practice.

In the context of law, a legal entity is a natural or legal person who has legal rights and has the ability to undertake legal obligations.[1]

No separate studies on subjects of legal experiment and legal mechanisms of its implementation have been conducted either at the national or international level. It would not be wrong to say that these issues were studied only as part of research, within the framework of understanding the legal nature of legal experiment.

V.I. Nikitinsky understands the legal experiment and its mechanisms as "activities organized by the competent legislative body to test proposed legislative

innovations on a limited scale to test the effectiveness and usefulness of experimental legal norms, as well as to develop acceptable options, decisions on the adoption of future laws." [2]

In the legal literature, two main elements are distinguished in the experimental stages. The first element includes the means of perception - this is the aspect of action through which the goals of the experiment are achieved; in the first, the uniqueness of the method reflects its material appearance. The second element is the practical aspect - that is, what people's activities are directed towards.[3] We should consider these conclusions with the help of practical examples conducted in our country.

According to the law, the legal examination of the validity of a non-legal document is carried out by the person authorized to accept the non-legal document.[3] It follows from this that the owner of the right and obligation of the relationship related to the conduct of legal experiment, that is, as the subject, is the state official or official who has the authority to accept the normative legal document.

Due to its legal nature, the legal experiment is carried out in the framework of the legal document. It is important to pay attention to the existing structure of the non-structural legal document and the authority of the state and official who has the right to accept the draft in determining the scope of the subject of the legal experiment.

According to the Law of the Republic of Uzbekistan "On Non-legal Documents", the Chamber of the Oliy Majlis of the Republic of Uzbekistan, the President of the Republic of Uzbekistan, the Chamber of Deputies of the Republic of Uzbekistan, ex officio, state committee, and local government authorities are

defined as the legal documents that have the right to accept non-legal documents.[5]

The subject that receives attention in the legal process, which has the right to receive a non-legal document, is an applicant. The legal status of another organ, which is authorized to adopt a non-mative-legal document, is formed in a certain way, both in the legal document on the organ in the state organ system, and in the practice of the Judiciary. In particular, according to legal status, authority:

About the Chamber of the Oliy Majlis of the Republic of Uzbekistan "On the Legislature of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan",[5] "On the Legislation of the Senate of the Oliy Majlis of the Republic of Uzbekistan",[5] the constitutional law of the Republic of Uzbekistan, as well as separate legislation;[8]

Law of the Republic of Uzbekistan "On the main guarantee of the activity of the President of the Republic of Uzbekistan" related to the activity of the President of the Republic of Uzbekistan; [9]

The Law of the Republic of Uzbekistan "On the Supreme Court of the Republic of Uzbekistan" about the Supreme Court of Uzbekistan;

The Law of the Republic of Uzbekistan [10] on "Local State Powers on Local Government Powers" can be found here. Also, a constitutional document has been installed in our General Dictionary about the subject listed above.

In the list approved by the Decree of the President of the Republic of Uzbekistan "On the improvement of the system of public administration of the Republic of Uzbekistan", the duties of the public administration of the Republic of Uzbekistan, state committees, agencies, committees, maps and inspections are

mentioned.[11] It turns out that there is no organizational structure called idopalap in the state's other opganlapi system. In legal practice, the word "idopa" means a whole organization and institution. In the explanatory dictionary of the Uzbek language, it is mentioned that the concept of idopa comes in such meanings as "boshkapuv", "ma'muriyat", "institution".[12]

In the "Rules for the creation and acceptance of legal documents of the Republic of Uzbekistan" approved by the decree of the Ministry of Justice of the Republic of Uzbekistan dated February 28, 2014, the concept of legal documents is defined as follows: - it is understood that the right to accept a legal document has been granted to the republican state, or to a special authority. This definition, which was given in relation to the bipoq idopa, is also determined to be valid in the scope of the rules for the preparation and acceptance of the idopavi-non-optimative-legal document.[6]

The concept of identity remains a controversial topic not only in the field of legal experimentation, but also in the issue of non-fiction in general. In order to understand this issue in the context of the legal experiment, the following options are used. That is, in a general sense, a body authorized to adopt a non-pative legal document is defined as a subject of a legal experiment.

Entrusting the legal examination to the authority authorized to accept non-legal documents does not create the obligation to determine the scope of competence of the authority in this matter. Conducting a legal experiment in the creative field is a multi-step, complex and complicated process. It is a legal experiment for a person who has the right to accept a non-legal document to the law, limiting the effectiveness of a non-legal document and its temporary validity in a certain area and (or) on a

personal basis. This definition of a legal experiment raises serious questions. In particular, is it the right or obligation of the competent authority to study the effectiveness of a specific non-legal document in the legal examination? A direct answer to this question cannot be understood from the ambiguous content of the legal experiment in the law.

When making a legal assessment of this issue, it is best to approach it based on the general rules and principles of creative creativity. It is one of the general requirements for the activity of legal creativity that the adopted legal document is of high quality, carefully developed, and is closed to the effective implementation of social relations in practice.[7] In turn, this kind of demand puts a difficult task in front of the creative copy. In particular, the innovative new mechanism that ensures quality, transparency, systematization, coordination and public involvement will be increased. If the aypimlap of this chapalap is a hapakatlap, which has a lot to do with its characteristic, the aypimlap has a majbupi hapaktep.

Obtaining the necessary data, statistical data and other information for the preparation of the draft of the legal document from the legal representative of the state and other organizations, obtaining the advice and recommendation of scientific and other organizations, scientists and experts, as well as the expert opinion regarding the draft of the legal document, to submit the draft of a legal document to the state agency, scientific and other organizations, in the prescribed manner, within the scope of one's authority, or to make a purchase on the basis of a contract, to prepare an alternative draft of a non-formal-legal document to several state agencies, scientific and other organizations, in the prescribed manner, has the right to submit or make a purchase on the basis of a contract within the scope of his authority, as well as to carry out

the work related to holding a competition to find the best legal document project.[4]

In other words, in order to ensure the quality and perfection of the adopted legal document, it is necessary to fulfill the requirements mentioned above.

If one relies on the legal principle established in the legislation regarding the legal experiment, it can be witnessed that the issue of its being a right or an obligation is controversial. Since it is impossible to give a clear answer to the solution of the main issue with the existing legal basis of the legal experiment, it is useless to pay attention to the scientific-normative aspect of the legal experiment. It is approached based on the nature of the legal experiment as a method of knowledge. That is, it is considered a method used when it is not possible to know the effect of a legal document in a quantitative way.

From this point of view, it is important for the creative person to make sure of the state of effective implementation of the draft legal document in practice in order to solve the issue of adoption of the non-legal document. A two-pronged approach would be to use the assessment report of a newly introduced institution for innovation in Japan as a criterion for assurance.

It is recommended that the suggestions and opinions received during the public discussion of the draft of the draft of the draft of the draft of the draft, be summarized, compiled into a report on the evaluation of the draft of the draft, and presented to the party that accepts the draft of the draft of the draft. In this report, the name of the developer and co-developer, the name and title of the draft legislative document, the expected date of entry into force, the analysis of the problems that are intended to be solved by the project, the goals that should be clearly defined

by the project, the analysis of the advantages and disadvantages of alternative methods of implementation, the adoption of the project The expected result is multiplied by the suggestions received in the public discussion.

Acquaintance with the conclusion of the evaluation of the implementation of the regulation allows the competent authority to form an appropriate opinion on the effective implementation of the non-regulatory legal document in practice or not. For this reason, a person authorized to adopt a non-legislative act may carefully study the conclusion obtained on the assessment of the application of the act when preparing to adopt a non-legislative act.

However, the conclusion of the evaluation of the applicability is for some reasons not the only and appropriate mechanism for the adoption of the cap for the conduct of many legal experiments. In particular: the draft of the non-legislative legal document, which is being adopted, will not be evaluated. In addition, the evaluation of the application of the multiple application of the property is a three-stage process, the third stage of which is carried out after the entry into force of the legislative act. This means that it is impossible to form complete information on its validity at the stage of adoption of a non-legislative document.

During the work on the draft of the normative-legal document, a lot of studies are conducted, and based on the analysis of the received information, it will be possible to make a certain prediction about the implementation of the document. That is, the working group that develops the project of non-optimative-legal document directly faces the situation regarding the current social attitude and perspective of the project. For this reason, the working group developing the draft of the normative-legal document should consider the issue of whether or not it is necessary to

conduct a legal experiment on its effective implementation in Japan.

The conclusion drawn on the relevant issue should be included in the list of documents that will be submitted when the draft non-legal document is submitted to the competent authority. A state party authorized to adopt a non-legislative legal document shall study this conclusion presented in the proposal for adoption of the draft and shall make a decision to accept the draft as a legal experiment or not.

According to tradition, a person who has certain rights and obligations and has a corresponding legal relationship is evaluated as a subject.

According to the opinion of S.S. Alekseev, the subject of the legal experiment is held in custody only by the person who has the power of creative creativity.

Therefore, the subject of creative work in the Republic of Uzbekistan: the President of the Republic of Uzbekistan, the Chamber of Deputies, the Senate of the Oliy Majlis of the Republic of Uzbekistan, the Legislative Chamber, the executive committee, the state committee, and the local government can be considered as the subject of conducting legal experiments.

Moreover, the general public should not be forgotten when conducting the legal examination of non-legal documents.

Zepo, it is important to study the opinion of the public and develop appropriate proposals and recommendations based on this.

As a subject of legal examination of a non-legal document, it is possible to focus on the following:

1. The Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan according to the legislation of the Republic of Uzbekistan and the draft of the Oliy Majlis chamber;
2. Administration of the President of the Republic of Uzbekistan according to the project of the President of the Republic of Uzbekistan;
3. The Cabinet of Ministers of the Republic of Uzbekistan according to the draft of the Cabinet of Ministers of the Republic of Uzbekistan;
4. Vazipliklap, state committee, Idopalap on the draft of the buipuk and capoplap of the Vazipliklap, state committee, Idopalap;
5. The Juqopig Council of the Republic of Kazakhstan on the draft law of the Republic of Kazakhstan;
6. The Council of the Vazilap of the Republic of Kazakhstan on the draft of the project of the Council of the Vazilap of the Republic of Kazakhstan;
7. According to the project of the local state authority within the scope of its competence - the relevant hokimal.

In conclusion, the improvement of the activity of the subject of the legal examination of the non-formal-legal document will not only enable the determination of the legal status of the subject, but will also help to organize the work in this area efficiently.

In addition, in the draft law proposed for adoption (attached), it is proposed to divide the range of subjects of legal experiment into two, that is, subjects who put forward the initiative of experimenting the regulatory legal document and subjects who implement it.

REFERENCES

1. Sh.A. Saidullayev. Theory of state and law. - Tashkent: TDYU, 2020. - P. 188

2. S.V. Vishnovetskaya K voprosu o ponyatii i struktur metodologii nauki trudovogo prava // Trudovoe pravo v Rossii i za rubejom. – 2013. – No. 1. - P. 49-52.
3. National database of legal documents, 04/20/2021, No. 03/21/682/0354
4. Fatyanov I. V. Pravotvorchesky experiment: the method of poznaniya or the method of pravovogo regulirovaniya? //Yuridicheskie issledovaniya. – 2015. – no. 12. - P. 42-71
5. National database of legislative information, 04/21/2021, No. 03/21/683/0375
6. National database of legislative information, 24.06.2021, No. 10/21/2565-11/0594
7. National database of legislative information, 04/30/2021, No. 06/21/6218/0398
8. National database of legislative information, 04/21/2021, No. 03/21/683/0375, 10/26/2021, No. 03/21/724/0994
9. National database of legislative information, 21.04.2021, No. 03/21/683/0375
10. National database of legislative information, 04/21/2021, No. 03/21/683/0375, 08/17/2021, No. 03/21/708/0799
11. Bulletin of the Oliy Majlis of the Republic of Uzbekistan, 2003, No. 11-12, Article 178; National database of legislative information, 08/23/2021, No. 06/21/6280/0811
12. Madvaliev A. Explanatory dictionary of the Uzbek language-T // National encyclopedia of Uzbekistan. - 2006. - T. 2008.