Systematization of legal regulation as a mechanism of public administration and regulatory assessment

E.S. Alekhina*, and S.V. Nadtoka
Don State Technical University, Gagarina Square, 1, Rostov-on-Don, Russian Federation

Abstract. Introduction. In modern conditions of the development of legal relations, legal regulation seems to be insufficiently effective due to a number of reasons: the lack of a unified approach to public administration, an excessive number of legislative prescriptions, the disintegration of legal regulation elements, inconsistency of regulatory requirements, as well as fragmentation in the activities of government bodies. In scientific discourse, the solution of these problems is possible only if legal regulation is systematized and legislation is optimized. The systematization of legal regulation can solve many regulatory issues and lead to the improvement of public administration. Materials and Methods. The methodological base of the research consists of a compilation of general scientific and private scientific methods: analytical, logical, structuring, as well as comparative legal, formal legal and predictive, aimed at a detailed study of regulatory processes, their content stages, principles and functions. Research results. The main purpose of the legal regulation systematization is to optimize legislation by prioritization laws and regulations through their integration into a single system. In the most general form, the legal assessment should be based on factual data and relevant research conducted by expert organizations and scientific centers. In this regard, the main condition for the development of the legal system is the cooperation of the government with representatives of business and public, the use of modern technologies, the transformation of legal regulation structures based on practically applicable results and requirements. Discussion and Conclusions. In this direction, the practically applicable regulations are the prioritization of legislative elements, the competent distribution of powers, the coordination of stages and functions of legal regulation in the process of introducing new mechanisms and methods of public administration.

1 Introduction

In the modern realities of legal regulation, there are many structural elements of management and control through the accumulated legislative array over the years, a variety of normative legal acts and coordination orders.

* Corresponding author: Ket_as@mail.ru
All these components are distinguished by the heterogeneity of requirements and regulations adopted at different times, in force or actually expired, which leads to the need to systematize legal regulation.

At its core, the systematization of legal regulation implies a special type of legal activity, the implementation of which is aimed at the development and prioritization of the existing legal system.

Legal regulation includes a significant number of constituent elements, including: legal norms and legislative requirements, legal relations, activities of regulatory institutions and governing bodies, legal responsibility and legal awareness, methods and tools of legal regulation, etc.

It can be noted that the creation and application of normative legal acts is a leading element in the regulatory process, nevertheless, in conditions of balanced, progressive development of society, systematization plays a priority role in lawmaking.

"Lawmaking cannot stop at a certain stage, but is constantly in development due to the dynamism of social ties, the emergence of new needs in public life that require legal regulation. The state and legal basis of any civilized society is characterized by the presence of a significant number of normative acts adopted by the legislative and executive authorities" [1, p. 24]. Therefore, the systematization of legal regulation is aimed at optimizing the functioning of legislation, but along with this, there is an ordering of institutional structures, the introduction of innovative elements, training, as well as the improvement of law enforcement activities.

In the domestic practice of legal regulation, there is no single approach and universal legislative prescriptions that could normalize all social processes. The main problem is the disintegration of the legal regulation elements, inconsistency of regulatory requirements and fragmentation in the activities of government bodies.

Therefore, the purpose of this study is to analyze the systemic elements of legal regulation and identify mechanisms for optimizing these processes and structures.

The tasks of scientific work include:

1. Defining the features of the functioning of the modern legal regulation system;
2. Highlighting key legislative and regulatory elements in the context of public administration;
3. Search for relevant mechanisms for improving the legal regulation system, etc.

It is important to note that the essence of the systematization concept is based on scientific and theoretical ideas about the "system" and the practical use of a systematic approach.

Thus, in the scientific discourse, a number of studies by both domestic and foreign scientists devoted to the problems of law systematization can be distinguished. In this context, Eriashvili N. D., Sarbaev G. M., Ivanova Yu. A. consider the process of legislation systematization as the basis for improving all structures of legal regulation. Questions of a methodological nature and the selection of relevant systematization techniques are raised in the works of Sorokina Yu. V., Kozhevnikova V. V. and other scientists. The ideas of Lipen S. are relevant, considering the process of transformation of the legislation systematization theory in the era of law digitalization.

Thus, the development of modern social, economic and political relations requires effective legal regulation, the provision of which directly depends on the optimization of the management process and legal assessment. In these conditions, it is very important to study the phenomenon of legal regulation systematization aimed at the development and transformation of all legal structures.
2 Materials and Methods

The research direction determines the methodological basis of scientific research based on a number of general scientific and private methods.

The structural core of the study is a systematic approach that reveals the essence of the object under study through the identification of the entire complex of internal and external relations. The application of a systematic approach to the study of legal regulation processes at all levels increases the ability to identify its content and form, and also helps to determine the relationship and correlation of its parts and components.

With regard to the issues of law systematization, it is meant to build internal unity and structuring of the dominant legal elements.

The analysis and synthesis of relevant scientific ideas and concepts makes it possible to study the basics of the activities of regulatory authorities, the process of allocating powers and legal requirements to obtain in-depth data on relevant legal principles.

The application of private scientific methods (comparative law, formal law, method of legal forecasting, etc.) is aimed at studying political and legal phenomena and structures in the context of legal regulation and public administration, as well as to substantiate the prospects for the development and transformation of the domestic legal system.

3 Research results

The process of natural evolution of social, economic and political relations generates the need for constant updating and improvement of the legal system.

The achievement of effective legal regulation is possible through the creation of a qualitative model for the systematization of legal norms, as well as the formation of a structured system of legislative acts. The systematization of legislation as a type of lawmaking is the starting point in solving the problem of legal regulation inefficiency, since legislation is the primary link in the legal regulation mechanism [2, p. 233].

In the modern domestic legislative system, there are many outdated, contradictory or unused laws, rules and requirements, "therefore, carrying out a complete systematization of legislation by competent state bodies is extremely important for any modern state, since this allows developing the legal system, improving it, raising the level of its legal technique and eliminating various legal problems" [3, p. 115].

Legislative bodies are actively adopting new laws and regulations. This leads to regular changes in the legal system. The optimization of the legislative system involves work on the rationalization of its elements. An actual type of such work is the systematization of normative legal acts and regulatory prescriptions.

The main purpose of the legislation systematization is to streamline laws and regulations by integrating them into a coherent system that meets modern requirements of legal regulation. The activity of legislation systematization occupies one of the main places in the legal policy of modern states, nevertheless, the general concept of "legislation systematization" may well be limited only to the external processing of normative material, meanwhile everything related to the so-called internal systematization (codification and aspects of lawmaking in the consolidation of legislation, the drafting of a single normative legal act as a result of systematization, cancellation of previously valid acts, etc.), can be transferred to the theory of lawmaking and considered within its framework [4, p. 132].

According to the researchers, the development of legal systematizing practice and legal science in modern conditions of digitalization of public relations significantly transforms the traditional content of the theory of legislation systematization based on three elements: incorporation, codification and consolidation.
"Codification is a way of streamlining normative material by combining it into a single, logically integral, coordinated consolidated act with a change in its internal content" [5, p. 11].

According to its varieties, codification is divided into: universal, sectoral and special ones, depending on the subject of legal regulation.

"The incorporation of legislation implies the unification in a systematic form into collections or assemblies of existing normative legal acts without changing their content" [5, p. 14].

In turn, consolidation has common features, both with codification and incorporation, and is "a form of systematization in which several normative legal acts that operated in the same field of public relations are combined into a single consolidated normative legal act without changing their content" [5, p. 18].

In the most generalized form, these methods pursue the goals of prioritizing, structuring and integrating legislative elements with subsequent transformation of legal regulation.

It is important to note that in any legal system, the rule of law is considered the foundation of all regulatory processes, while the activities of State bodies, institutions and officials are controlled by existing norms to counteract arbitrariness.

Nevertheless, in practice, the functions of the regulatory authorities are strictly limited by contradictory regulations, leading to disintegration and disunity.

In this direction, it is considered appropriate to apply the concept of "deregulation", which implies the modernization of management policy through a number of reforms that reduce administrative costs associated with the development of the political, legal, economic and social sectors [6, p. 1].

The point of view is quite popular, according to which deregulation is regarded as a rejection of permissive regulation (total state control) and a transition to other institutional mechanisms (elimination of excessive regulation, optimization of rulemaking, self-regulation of society, liability insurance) [7, p. 25].

The implementation of a set of legal instruments and digital technologies can reduce regulatory costs, develop new productive solutions, and respond effectively and dynamically to the challenges, needs and desires of the population [8, p. 809].

As a result of the systematization of the legal regulation policy, researchers note the growing openness of the rulemaking process and a gradual increase in confidence in the country's legal system, as well as a significant increase in transparency of management processes [9, p. 9].

We believe that legal regulation should be based on evidence, modern research and standards that have proven their effectiveness. In this regard, it is advisable for the government to cooperate with representatives of business and the public, leading expert organizations and research centers to develop and implement updated legal regulation structures based on the practically applicable results of modern approaches to "smart regulation", manufacturability and evidence.

The dynamic development of modern society requires constant improvement and updating at all levels of the legal system, including management and regulatory structures. Thus, it is necessary to ensure the effectiveness of legal regulation by systematizing legislation, transforming legal relations and transforming functional requirements for the activities of public administration bodies.

4 Discussion and Conclusions

The process of legal regulation systematization in the most generalized form implies the optimization of legislative elements, the structuring of various types and forms of legal regulation, as well as the co-measurement of prohibitions and regulations.
The systematization of legislation and current regulatory legal acts is aimed at permanently eliminating points of stagnation and shortcomings in legal regulation through comprehensive analysis and processing of legal regulations, the application of evidence, the involvement of leading scientific and analytical centers of legal and economic science, ensuring the participation of the public and business representatives.

It can be noted that regulatory requirements, prohibitions and positive coercion guide the ways in which law affects public relations, but the deep structures of legal regulation touch on more important and detailed questions about the mechanisms of assessment, management, functionality of its participants and structures.

All of the above implies maintaining a balance of interests of the parties involved, principles of development and legal possibilities (considering public opinion when making significant decisions, influencing the economic sector and entrepreneurship, involving the population in self-organization at the local level, joint implementation of government projects, reaching consensus between state interests, business structures and public opinion) [10, p. 39].

In this regard, the systematization of legal regulation can solve many problems related to the foundations, principles and forms of public administration [11, p. 78], providing a general regulatory assessment in the most accessible form, as well as issues related to the coordination of legal regulation institutions and bodies.

References


5. V.V. Kozhevnikov, Law and the state: theory and practice, 4(136), 11-21 (2016).


