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## THE ROLE LEGAL IMPACT AND OF LEGAL EXPERIMENT IN THE LEGAL SYSTEM: A LEGAL ANALYSIS

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### ABSTRACT

*The phenomenon of legal experiment and actual problems associated with understanding its essence are investigated. On the basis of an instrumental approach to the understanding of law, the current trend in the development of lawmaking has been determined, which consists in the need to establish possible impacts that a normative legal act can potentially have on public relations. It is argued that all legal practice consists of assessment procedures. Given its own category definition “Legal impact”. It has been established that with respect to some norms of law it is not always possible to predict their actions, in connection with which persons vested with law-making powers, we have to use the mechanism of legal experiment in our practice. Explicitly outlined and analyzed individual approaches to understanding the legal experiment that exist in theory state and law. The article examines the definition of a legal experiment contained in the current domestic legislation. An approach to understanding a legal experiment has been developed, which, on the one hand, accumulates all previous developments in this area of research, and on the other hand, offers a fundamentally new view of the essence of a legal experiment. The source base of the study was based on the provisions of the current domestic legislation, as well as doctrinal works on the subject, including foreign languages. The novelty of the research lies in the presentation of a comprehensive vision of the essence of legal experiment and has a methodological significance for all legal science. The conclusion is drawn about the*

*understanding of legal experiment as a method of legal forecasting. The place of the legal experiment in the conceptual series of the theory of the state and rights. On the basis of the author's approach to understanding the legal experiment, the essence of this legal phenomenon is determined.*

**KEYWORDS:** *Legal Experiment, Legal Forecasting, Legal Impact, Legal Regulation, Legal System, Legal Act, Legal Culture, Legal Principles, Norms Of Law.*

## INTRODUCTION

The significant place and role of normative legal acts in the system of sources of law of the Romano-Germanic legal systems allow us to conclude that the problems associated with increasing the efficiency of a regulatory legal act will be relevant for a long period of time in the development of legal science. This circumstance directs the minds of legal scholars to a constant search for solutions to these problems. Almost every year, more and more requirements are imposed on a regulatory legal act, such as:

- absence of corruption;
- generating factors;
- absence of contradictions between normative legal acts of a general nature and normative legal acts of a special nature regulating homogeneous relations;
- absence of contradictions in normative legal acts regulating homogeneous relations, adopted in different periods of time;
- the presence of a unified conceptual and terminological system in regulatory legal acts;
- lack of duplicate norms of law;
- no errors of a legal and technical nature;
- the absence of provisions introducing excessive obligations, prohibitions and restrictions for individuals and legal entities in the field of entrepreneurial and other economic activities or contributing to their introduction, as well as provisions that contribute to the emergence of unjustified expenses of individuals and legal entities in the field of entrepreneurial and other economic activities, as well as budgets of all levels of the budget system.

In modern realities, in order to adopt a new normative legal act or amend the existing one, it is necessary to do colossal work aimed at establishing the possible impacts that a normative legal act can potentially have on public relations. The establishment of these circumstances is possible through the procedure for assessing the impact of regulatory legal acts. In fact, all legal practice consists of assessment procedures (a process in which a subject, based on certain criteria, makes an inference characterizing an object, subject or phenomenon of legal reality).

The assessment procedure completely permeates the positive legal reality, starting with the lawmaking process, in which one group of subjects assesses the need to create legal regulation (that is, identifies areas of public relations subject to legal regulation and establishes the possibility of settling specific social relations through the rule of law), continuing with an enforcement process in which those in positions of authority powers, assess the actions of legal

entities in a specific situation, by qualifying their behavior in accordance with a set of regulatory and legal requirements, and ending with the process of assessing the actual the impact of a regulatory legal act.

In the domestic theory of state and law, there are several approaches to understanding the legal impact.

So, LN Berg believes that legal impact is the impact of elements of legal reality on social relationships of people, as a result of which the regulation and orderliness of social ties and relations is achieved [2, p. 170].

S.A. Komarov considers legal impact as an effective, regulatory and organizational impact on social relations of a special system of both legal means proper and other phenomena of law [5, p. 413]. E.K. Shcherbakova, considering approaches to understanding legal impact, comes to the conclusion that legal impact should be understood as the impact of the law on the consciousness and behavior of people, on social relations, produced by the system of legal means (norms of law, acts of application of law, etc...), legal phenomena (legal awareness, legal culture, legal principles) and processes [10, p. 73].

Analyzing the approaches that exist in the theory of state and law to understanding the legal impact, the following features of this definition can be distinguished:

1. Legal impact is not an impact only the norms of law, but a whole set of legal means and legal phenomena.
2. When highlighting the second feature of the definition of “legal impact”, a discussion arises regarding the answer to the question about the object of influence of legal means and legal phenomena. Analysis of the approaches of domestic scientists to understand the legal impact allowed highlight at least two points of view:
  - legal means and legal phenomena have an impact on public relations;
  - legal means and legal phenomena affect the consciousness and behavior of people. We adhere to the point of view that law can regulate public relations only through the impact on people's behavior. Based on our position, we can come to the conclusion that the primary object of legal impact is the behavior of people, while social relations are derivative subject to legal impact.

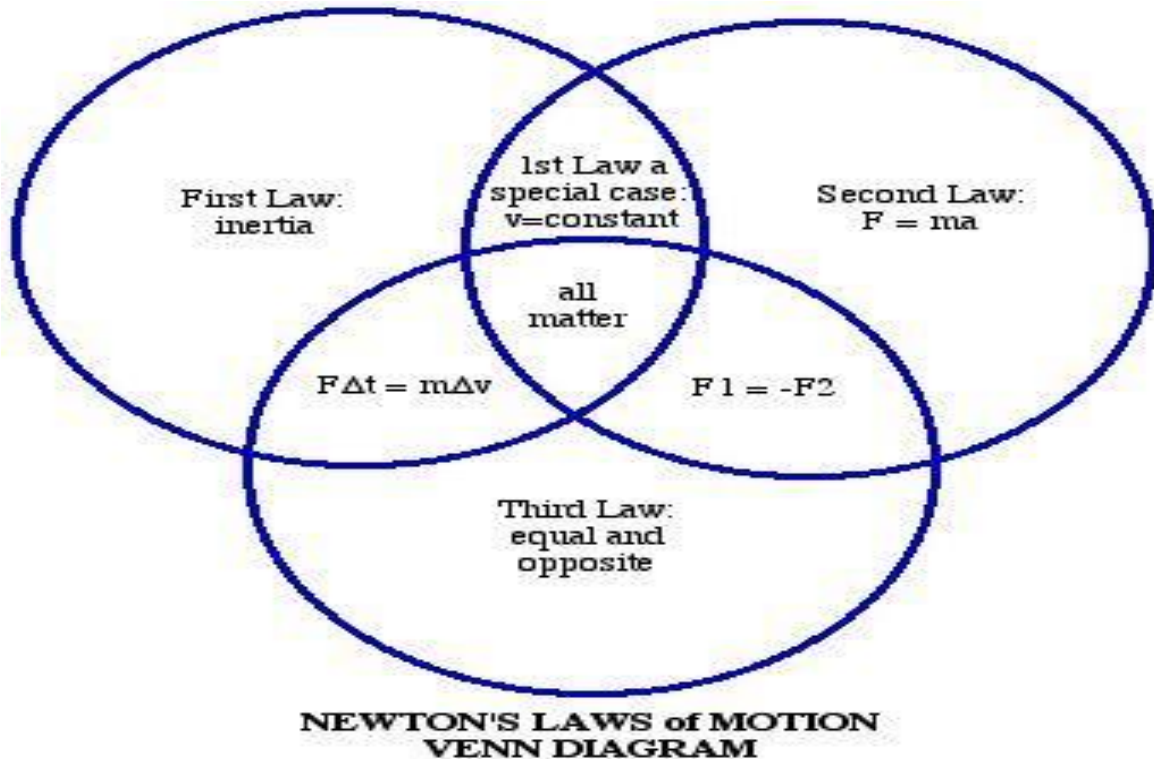
Meanwhile, the analysis of some works of foreign scientists allows us to come to the conclusion that the phenomena of legal reality are designed to influence not the behavior itself, but the motivation of subjects to a certain (planned) behavior by the law-making body, that is, the rule of law is a motor stimulus that prompts the subject to certain actions or inaction [11, p. 39].

1. Legal impact is always effective impact.

Thus, under the legal impact, in our opinion, one should understand the effective influence of the totality of legal means and legal phenomena exerted on the motivation of the subjects of public relations to the behavior determined (planned) by the law-making body. Legal impact assessment can be forward-looking and retrospective. The first is carried out in relation to a regulatory legal act that has already entered into force, while the second is carried out in relation to projects

regulatory legal acts. A prospective assessment of legal impact within the framework of this article is identified by us with legal forecasting.

Regarding the understanding of legal forecasting, we adhere to the position of K.V. Agamirov, according to which legal forecasting is a theoretical and practical activity in the social and legal sphere, aimed at identifying trends in the development of the legal system for a given perspective in order to develop proposals for its improvement [1, from. twenty].



However, regarding some norms of law, it is not always possible to predict their actions, while the need for their adoption is dictated by life itself. In such in the case of persons vested with powers of authority, resort to using the mechanism legal experiment. In the theory of state and law, there are several approaches to understanding the legal experiment. V.I.Nikitinsky understands a legal experiment organized by a competent law-making body approbation of alleged legislative innovations on a limited scale to test the effectiveness and efficiency of experimental legal norms and work out optimal options, future law-making decisions of general action [8, p. 33].

V.V. Lazarev believes that under the legal experiment should be understood as intentional a change in the legal order system undertaken in a limited space and time sphere of legal relations in order to test the hypothesis regarding the role of new state-legal forms in development data of public relations [6, p. 85–86].

Legal experiment is also considered in the theory of state and law as:

- a method of cognition; scientific research method;
- method of legal regulation [9, p. 42];

- a way to overcome crisis trends in the field of legislation [7, p. 57];
- a tool and resource for improving legal policy;
- The principle of scientific character of lawmaking [3, p. 569]. In the last decade, the state, represented by its authorized bodies, has actively resorted to using the mechanism of legal experiment, in connection with which approaches to understanding a legal experiment can be found in current regulatory legal acts, which in relation to draft acts, a decision can be made to conduct an experiment, Such a variety of approaches to understanding a legal phenomenon, in our case legal experiment often complicates and distorts the perception of the essence of the legal phenomenon itself. We are not opponents of the comprehensive approach in law [4, p. 5], we are not against pluralism of opinions.

Direction	Stage	Number of respondents						X <sup>2</sup>	P*
		High Level		Average Level		Low Level			
		EG	CG	EG	CG	EG	CG		
Legislative	February	7	8	39	44	48	38	3.24	> 0.05
	June	16	10	69	51	9	29	6.12	< 0.05
Normative	February	11	18	38	52	45	20	7.76	< 0.05
	June	20	19	62	60	12	11	2.38	> 0.05
Ethical	February	13	17	62	66	19	7	3.75	> 0.05
	June	23	15	70	67	1	8	8.22	< 0.05
Social	February	9	10	38	40	47	40	2.57	> 0.05
	June	45	16	45	51	4	23	8.89	< 0.05
Informational	February	17	13	50	49	27	28	4.06	> 0.05
	June	32	19	59	50	3	21	8.11	< 0.05
Psycholo-gical	February	15	18	58	50	21	22	2.16	> 0.05
	June	21	25	49	52	24	13	4.62	> 0.05

P\*: P > 0.05 - X<sup>2</sup> < 5.991; P < 0.05 - 9.21 > X<sup>2</sup> > 5.991.

Moreover, we believe that such parallax is natural for legal science. However, we adhere to the point of view according to which, when understanding a particular legal phenomenon, one should first of all isolate its inner content, which is expressed in the stable unity of all diverse and contradictory forms of his being, that is, to determine his essence. Establishing the essence of a legal phenomenon makes it possible to distinguish it from other related legal phenomena and to determine its place in the conceptual series of the theory of state and law. Considering the question of the essence of a legal experiment, first of all it is worth turning attention to the fact that an experiment in general as a phenomenon of objective reality is a product of natural scientific thought and represents a method aimed at the formation of new knowledge by testing in controlled and guided hypotheses put forward by the researcher. These circumstances determine the essence of the legal experiment. A legal experiment, in contrast to an experiment used in natural sciences, has a number of distinctive features, which include the impossibility of conducting a legal experiment in fully controlled and controlled conditions. At the same time, both a legal experiment and an experiment that is used in natural sciences are aimed at obtaining new knowledge by testing the hypotheses put forward. However, in a legal experiment, in



contrast to an experiment used in natural sciences, only one hypothesis is always put forward - a hypothesis about the effectiveness, efficiency and expediency of legal regulation by legal means proposed in the course of a legal experiment. The verification of this hypothesis is carried out by means of a mechanism for assessing the legal impact, which has as its ultimate goal the determination of possible patterns of development of social relations under the influence of the rules of law of an experimental nature, that is, the implementation of legal forecasting. Thus, when conducting a legal experiment, it is important not only to establish the presence of causal links between the experimental impact and the changes in social relations that have occurred, but also determine the possibility of extending the conclusion obtained as a result of a legal experiment to non-experimental situations. Regulatory legal acts adopted by administrative-territorial entities independently determine the duration of experimental measures in within the maximum period established by law and come into force upon publication in the "Official Gazette of the French Republic". However, proceeding from the status of the body that adopted them, these acts are subject to general appeal to the administrative tribunals. However, unlike the case of delegated legislation, The National Assembly does not lose the right to legislate in the areas in which the experiment is being conducted. Another feature of local experiments is associated with the assessment of the consequences they caused. For this purpose, before the end of the experiment, the Government sends a report to the National Assembly, which reflects the results of the experiment. Finally, before the expiry of the experiment and for the purpose of its evaluation, the legislator can choose one of the following options: to extend the experiment as a general rule; refuse him; prolong the experiment, including number with the necessary changes, but not more than 3 years (i.e. a total of 8 years). In other words, the legislator is placed in a rigid framework and, when declaring a local experiment, he must take into account the need to evaluate the experience gained on a national scale, bearing in mind that the experiment does not always lead to a satisfactory result and can lead to negative consequences for authority. Perhaps that is why the mechanism provided for in par. 4 tbsp. 72 of the French Constitution is not applied very often. As an example, we will cite a large-scale experiment with a social transfer known in France "income from active solidarity" (RSA), aimed at ensuring a minimum income for the unemployed and stimulating employment. The 2007 Budget Law allowed departments that expressed their intention to participate in the experiment to deviate from the provisions of social legislation regarding social benefits - the minimum income from inclusion.

## REFERENCES

1. Agamirov K.V. Y Legal forecasting as a factor in improving the Russian legal system [Legal Forecasting as Factor of Improvement of the Russian Legal System]: dis. ... cand. Jurid. Sciences. Moscow, 2020, 48 p. (in Russian)
2. Berg L.N. Research on legal impact: methodology, theory, practice [Legal impact research: methodology, theory, and practice]: diss. ... d-raJurid. Sciences. Yekaterinburg, 2019, 429 p. (in Russian)
3. Elcov V.N. Legal Experiments in Contemporary Russia: Evaluation of Effectiveness [Legal experiments in modern Russia: to assess the effectiveness]. Bulletin of the University of Tambov [Bulletin of Tambov University], 2008, vol. 1, pp. 569-574. (in Russian)
4. Zaharcev S.I. CHtoest'komprekhendnayateoriyaprava? [What is a comprehensive theory of law?] YUridicheskayanauka [Legal science], 2016, vol. 3, pp. 5-9. (in Russian)

5. Komarov S.A. General theory of state and law: textbook. puppies [General theory of state and law: textbook], Saint Petersburg, Piter Publ., 2006, 510 p. (in Russian)
2. Lazarev V.V. Spaces to the right of the path [Legal in gaps and ways to address them], Moscow, YUrid. lit. Publ., 1974, 184 p. (in Russian) Meshcheryakova A.V. The concept of an experimental
3. legislation and importance for improving lawmaking [The concept of experimental legislation and its significance for improving law-making activities] Obshchestvo: politika, ekonomika, pravo [Society: politics, Economics, law], 2017, vol. 3, pp.56-58. (in Russian)
4. Legal Experiments Improvement of Legislation [Legal experiment and improvement of legislation], eds. V.I. Nikitinskogo, V.S. Samoshchenko. Moscow, YUrid. lit. Publ., 1988, 304 p. (in Russian)
5. Fatyanov I.V. Law-making experiment: a method of cognition or a method of legal regulation? [The law-making experiment: a method of learning or the method of legal regulation?] Y Uridicheskieissledovaniya [Legal research], 2015, vol. 12, pp. 42-71. (in Russian)
6. Shcherbakova E.K. Problemypravovogovozdejstviya v sovremennyhusloviyah [Problems of legal influence in modern conditions] Vestnik Saratovskojgo sudarstvennojyuridicheskajakademii [Bulletin of the Saratov state law Academy], 2017, vol. 5, pp. 71-77. (in Russian)
7. Feldman Y. The Complexity of Disentangling Intrinsic and Extrinsic Compliance Motivations: Theoretical and Empirical Insights from the Behavioral Analysis of Law. Washington University Journal of Law & Policy, 2011, no. 35, pp. 11-51. (in English)
8. Allègre G. (2012) L'expérimentation du RSA et sesambiguities. Informations sociales, no 6 (174), pp. 51–60. Available at: [www.cairn.info/revue-informations-sociales-2012-6-page-51](http://www.cairn.info/revue-informations-sociales-2012-6-page-51) (accessed: 20.09.2016)
9. Baghestani-Perrey L. (2004) Le pouvoir de l'expérimentation normative locale, une nouvelle conception partagée de la réalisation de l'intérêt general. Petites Affiches, no 55, pp. 6–10.
10. Chevallier J. (1993) Les loisexpérimentales: le casfrançais. Evaluation législative et loisexpérimentales, sous la direction de Ch.-A.
11. Morand. Aix-en-Provence: Presseuniversitaire d'Aix-Marseille, pp. 120–152.
12. Crouzatier-Durand F. (2003) Réflexions sur le concept d'expérimentationlégislative (à propos de la loiconstitutionnelle du 28 mars 2003 relative à l'organisationdécentralisée de la République).
13. Revue française de droit constitutionnel, no 4 (56), p. 675–695. Available at: [www.cairn.info/revuefrancaise-de-droit-constitutionnel-2003-4-page-675.htm](http://www.cairn.info/revuefrancaise-de-droit-constitutionnel-2003-4-page-675.htm) (accessed: 20.09.2016) 18. Faure B. (2004) Les relations paradoxales de l'expérimentationet du principed'égalité (à propos de la décision n° 2004-503 DC du 12 août 2004, loi relative aux libertés et responsabilités locales).

14. Revue française de droit administrative, no 6, pp. 1150–1156. Finck N. (2012) Les expérimentations législatives et réglementaires prévues par les articles 37-1 et 72-4 de la Constitution.
15. Courrier juridique des finances et de l'industrie, pp. 2–9. Available at: [www.economie.gouv.fr/files/files/directions\\_services/daj/cjfi/2012/cjfi67.pdf](http://www.economie.gouv.fr/files/files/directions_services/daj/cjfi/2012/cjfi67.pdf)