

Таким образом, необходимо дополнить НК РФ такими понятиями, охарактеризовав их, чтобы устранить разногласия между налогоплательщиками и налоговыми органами, приводящими к налоговым спорам: необоснованная налоговая выгода, осмотрительность налогоплательщика, недобросовестность, «однодневки», персонифицированные доходы.

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SOME ISSUES OF DIGITALIZATION OF LAW-MAKING PROCESS IN THE REPUBLIC OF UZBEKISTAN

Abstract. The article analyzes the idea of digital technology, which aids to submit legislative acts (laws and resolutions of chambers of the Oliy Majlis) to parliament in electronic form, to monitor the activity of law-making in real time. In addition, the electronic system called “E-law”, which put forward in the article, will serve to reflect automatically the chronological stages of law-making activities and strengthen the transparency. In order to prove the necessity of the launch of the system, the author justifies the idea with scientific research analyzing opinion, views, approaches of lawyers, scientists and experts as well as that developed foreign practice researched in-depth. In addition, relevant amendments to the current laws and adoption of new legislative acts were proposed basing on the scientific research.

Keywords: Electronic systems, Digital technologies, Information, Support with information, Freedom of Information, Legislative acts, Laws, Resolutions of parliamentary chambers, Electronic law, Parliament

НЕКОТОРЫЕ ВОПРОСЫ ЦИФРОВИЗАЦИИ ЗАКОНОТВОРЧЕСКОЙ ДЕЯТЕЛЬНОСТИ В РЕСПУБЛИКЕ УЗБЕКИСТАН

Аннотация. В статье анализируется идея цифровой технологии, позволяющей вносить законодательные акты (законы и постановления палат Олий Мажлиса) в парламент в электронном виде, контролировать законотворческую деятельность в режиме реального времени. Кроме того, предлагаемая в статье электронная система «E-law» послужит для автоматического отражения хронологических этапов законотворческой деятельности и усиления прозрачности. Для обоснования необходимости запуска системы автор обосновывает свою идею научными исследованиями, анализируя мнения, взгляды, подходы ученых-юристов и экспертов, а также детально исследуя развитую зарубежную практику. Также, на основе научных исследований предложены соответствующие изменения в действующие законы и принятие новых законодательных актов.

Ключевые слова: электронные системы, цифровые технологии, информация, информационное обеспечение, свобода информации, законодательные акты, законы, постановления палат парламента, электронный закон, парламент

The development trends of modern digital technologies have brought public-legal relations to a new stage, requiring the use of certain effective tools for provision state bodies with information, storage, analysis, and processing in all areas, including the law-making process.

If we focus on the scientific views of the following scholars such as O. Akhmedova and Kh. Khasanov outlined the advantages of using cryptographic tools in decision-making [56. P. 45–51], A. Miriam noted the fact that cryptographic information exchange between governmental bodies will serve to increase the level of quality of the law-making [12. P. 1057], B. Fox compared the data as a result of the development of information technology [6. P. 90], G. L. Pedraza-Farinya and R. Whalen researched the importance of information flows through “network systems” in decision-making [29. P. 67], L. Rodriguez emphasized the importance of digital technologies in favor of reduction in subjective factors [31. P. 1860], A. Goodman noted that digital technologies can serve to increase effectiveness in data storage [8. P. 23].

In fact, it can be seen from the opinions of the above-mentioned scientists that the introduction of digital technologies into the law-making process can lead to many effective results. However, in this regard, some issues that need to be implemented in the Republic of Uzbekistan are waiting for their solution.

In particular, submitting draft laws, resolutions of parliamentary chambers (hereinafter – legislative acts) to the parliamentary chambers in electronic form, monitoring the status of the draft legislative acts in real (online) time, automatic reflection of the chronological stages of the drafts until its official announcement, strengthening the transparency

of law-making activities and providing law-making process with necessary information remain one of the unsolved issues in Uzbekistan and many other countries as well.

In economically developed countries, digital technologies have been already applied in law-making process in order to support with necessary information and transparency of the activity. For instance, “red tape challenge”, “cutting red tape”, “focus on enforcement” [25], as well as “online intermediary platforms for discussion of draft directives” [3. P. 164-169] have been launched in recent years. The “E-Parliament” program [27] in the EU, which has been launched in 2019, provided complete electronic exchange of information and served other countries as a model. In addition, the use of artificial intelligence in the provision law-making process with information and the use of modern technologies have been introduced in the EU too. In particular, the European Action Plan for 2019–2023 [28] was developed in order to apply artificial intelligence in terms of registration and preparation of reports on monitoring legislative acts.

Also, the strategies of electronic exchange of information in law-making activities have already adopted and tested in practice. In particular, it is possible to cite as an example of such systems as “E-Recht” – “Electronic Law” in Austria [26], “E-Government Act” in the USA [9], “ParlWork” in Australia [22], “De-bureaucratisation Program” in Denmark [2. P. 33], in the Russian Federation the “Legislative support system” (Система обеспечения законодательной деятельности – “АСОЗД”) [51]. According to Article 91s of the German Constitution, the Federation and Lander (local subject of the federation) should agree to establish standards and security requirements necessary for data exchange through their information technology systems [36. P. 140]. In Sweden, a necessary database [24] was created for the effective support law-making process with information, and the possibility of obtaining legal information from XVI, XVII and XVIII centuries was also provided [30. P. 1–12].

Although the Conception of improvement of rule-making in the Republic of Uzbekistan [20], laws “On Electronic Documentation” [18], “On Electronic Digital Signature” [19] and strategy concerning “Digital Uzbekistan – 2030” [4] were adopted by the Oliy Majlis parliament (hereinafter – parliament), digitalization of law-making process was not mentioned in these normative legal acts. Thus, the problem of digitization of the law-making process in our country is slightly distanted. For instance, according to the Conception of improvement of rule-making, “Introduction of modern information and communication technologies in the process of rule-making” is marked as one of the promising areas. However, it has not included solutions to address the following issues:

- introduction of electronic submission of draft legislative acts to the parliamentary chambers (Legislative Chamber and Senate of the Republic of Uzbekistan);
- complete electronization of the system of informational support of law-making activity;
- real-time (online) monitoring of the draft legislative acts by general public;
- automatic reflection of the chronological stages of the adoption of legislative acts;
- carrying out public discussions on the draft legislative acts in a single electronic system;
- ensuring complete transparency of law-making process.

It is appropriate to analyze the above cases gradually, connecting them with the analysis of scientific research and practice.

When discussing the issue of submission of legislative acts to the parliamentary chambers, it is necessary to observe the statistics of the law-making initiatives made by the special subjects with the right to legislative initiative within 2015–2019.

Table 1

Information concerning the legislative initiative during the third convocation of the Oliy Majlis of the Republic of Uzbekistan (2015–2019) [53. P. 9]

Rank	Special subjects with the right to legislative initiative	Number of draft laws	In percentage (%)
	Cabinet of Ministers of the Republic of Uzbekistan	288	54,9 %
	Deputies of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan	88	16,8 %
	President of the Republic of Uzbekistan	53	10,1 %
	Prosecutor General of the Republic of Uzbekistan	51	9,7 %
	Supreme Court of the Republic of Uzbekistan	40	7,6 %
	Constitutional Court of the Republic of Uzbekistan	3	0,6 %
	Regional Council of Karakalpakstan	0	0 %

According to Article 83 of the Constitution of the Republic of Uzbekistan [14], the seven subjects in the table are titled as the subjects with the right to legislative initiative.

In this regard, K. A. Lastochkina noted that rule-making process cannot be realized without the support of special subjects with the right to legislative initiative [45. P. 148–149], I. Yu. Bogdanovskaya [41. P. 407], B. N. Sabirov emphasized that “interest groups” (lobby groups) play a leading role [50. P. 83], L. W. Martin and G. Vanberg [11. P. 14], R. R. Khakimov [55. P. 83], H.U.Turdiyev researched that the executive power plays the main role in providing law-making process with information [52. P. 22], Y. Yang analyzed the necessity to increase the participation of “think tanks” in this regard [37. P. 25–26], F. Kh. Otakhonov supported the idea that legal service of state authorities and governmental bodies are essential in the participation of law-making activities [49. P. 32], Sh. Kh. Zulfiqorov studied the issues of providing deputies with information [42. P. 21]. We also cannot refuse the important role of all governmental bodies, but in order to improve law-making process in terms of provision all necessary information electronically.

The main point in Table 1 above is that the pivotal problem in the exercise of the right to legislative initiative is carried out using the material or physical means. To com-

prehend the idea of material or physical means delivering information, in the following words we make an attempt to develop the definition as follows;

“material or physical means – measures of information exchange through correspondence, documents, information-analytical materials and other physical resources with a specific material form, which are created as a result of certain actions”.

In our opinion, the progress of modern information and communication technologies, increasing the speed and quality of information exchange, in order to reduce excessive transaction costs (time, material supply and other efforts) there is necessity to gradually abandon material or physical means of information supply.

However, in the Republic of Uzbekistan, there is not availability of unique electronic system which services to monitor law-making activity, electronic submission of draft legislative acts, automatic reflection of the chronological stages of the adoption of legislative acts, carrying out public discussions on the draft legislative acts, ensuring complete transparency of law-making activity.

Table 2

Effective electronic systems in the rule-making process in the Republic of Uzbekistan

Title of the system	Official web page	Legal basis
The portal for discussion of draft normative legal acts	https://regulation.gov.uz	Resolution of the President of the Republic of Uzbekistan No. RP-3666, April 13, 2018 [16]
The electronic system for the development and agreement of draft normative legal acts	https://project.gov.uz	Decree of the President of the Republic of Uzbekistan No DP-5997, May 19, 2020 [17]
The electronic system for development, agreement and registration of resolutions of local governmental bodies	https://e-qaror.gov.uz	Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 218, April 14, 2020 [15]
The platform of public initiatives	https://meningfikrim.uz	Joint resolution of the Council of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and the Council of the Senate of the Oliy Majlis of the Republic of Uzbekistan No. 2310-III, February 2, 2019 [13]

However, as mentioned above, such electronic systems are new systems for Uzbekistan, which especially launched last 5 years. The draft legislative acts are not submitted and monitored through a unique electron system that allow them to submit in electronic form and allow to observe the status of the draft in real time.

If we pay attention to the scientific views of scholars in this regard, T. Kerikmae, T. Hoffmann and A. Chochia [10. P. 91–112] noted that digital technology helps to conduct law-making management, process a large number of actions (predictive analysis, management and maintenance of big data).

According to M. B. Stuart, “e-rulemaking initiatives” can be valued more in terms of information acquisition and evaluation than economic benefits [34. P. 893–941].

According to H. T. Odilkoriyev, the wide introduction of modern information and communication technologies is important in the rational organization of activities in this regard [48. P. 73].

L. V. Magdilova noted that advanced information exchange serves to implement the concept of “new public management” in the law-making process [44. P. 178], J. S. Angeyo and P. Jehopio explained that the law-making process involves the use of reliable information to find an optimal solution, the search for information and their appropriateness and compatibility with the draft of the normative legal acts under consideration require modeling and implementation in information systems. [1. P. 55].

American lawyer P. Frank analyzed the use of artificial intellect algorithms to classify the information in law-making process [7 P. 1927], S. I. Nosov emphasizes that countries such as the United States, China, Japan, German, Korea, India have a legal basis for effective use of artificial intelligence [47. P. 11].

In Austria, basing on the research by E. Schweighofer research [32. P. 486–497], the system of “Konterm” – automatic representation of document structure and contents, was launched to developed rule-making process in terms of linguistic analysis of the draft laws. Having supported the idea that electronic technologies outweigh disadvantages there is necessity to launch “E-law” system.

Such software tools can serve not only to exchange, collect and process information for the law-making activity, but also to ensure the rights of the general public to receive information on legislative affairs. We believe that it is appropriate to take into account the experience of the USA in the consistent and complete keeping of statistics and chronological history of legislative acts in our national legislation. Because, through the “GovTrack.us” platform of the USA [23], statistics of the legislative activities of the Congress, shows detailed chronological monitoring, provides comprehensive, open data in conducting scientific research.

According to the official web page of the “electronic democracy” (E-democracy site to improve quality of rulemaking decisions) to improve the quality of decisions, the electronic action in this regard saved \$ 94 million due to the electronic facilities [5. P. 1]. The main reason to achieve such a result is an online document systems (“online docket systems”), the reduction of paper and reducing other administrative costs.

Therefore, the US Office of Management and Budget encourages other government agencies and bodies to create information systems and resources aimed at developing electronic document circulation.

In the UK, it has been developed a necessary information database for the law-making, which is open to the general public. For instance, the portal www.data.gov.uk has formed more than 5,000 databases [35]. According to “the Freedom of Information Act”, all governmental bodies shall regularly publish information on their law making

activities for the public, which this serves to formulate general statistics by the National Statistics Bureau [21].

In addition, the use of digital technologies in provision the process with necessary information also has its own negative aspects as well as the advantages. In particular, the creation of such software systems requires great resources. For instance, A. Singh noted that software systems increase attention to information security [33. P. 78-101], R. A. Abdusalomov noted that the loss of communication in the processing of information is also linked to the level of information technology in regions [38. P. 172.].

In our opinion, the goal of providing the law-making process with information, introducing of legal acts electronically, and increasing the level of complete transparency of law-making process can overcome other disadvantages.

Taking into account the above, it is necessary to introduce the “E-law” electronic system. For this, first of all, we consider that the Article 4 of the Law of the Republic of Uzbekistan “On the Procedure for Preparing and Submitting Draft Laws to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan” should be stated as follows:

“Article 4. Exercise of the right to legislative initiative

The right to legislative initiative is exercised when the subjects of the right to legislative initiative submit draft laws, as well as information-analytical materials and other information attached to them to the Legislative Chamber through the “E-law” electronic system”.

Then it is necessary to launch the electronic system “E-law” together with the Ministry of Information Technologies and Communications Development of the Republic of Uzbekistan and “Single integrator to create and support the state information services” (UZINFOCOM LLC).

The legal basis of this single electronic system is required to develop a joint resolution of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and the Senate of the Oliy Majlis of the Republic of Uzbekistan.

In this draft of the joint decision, it is necessary to define the priority tasks of the “E-law” electronic system as follows:

- online submission of draft legislative acts to the parliament in real-time by subjects of legislative initiative;
- reflection of the chronological stages from the introduction of legislative acts to the parliament and to the official announcement in real time;
- online translation of the parliamentary discussions;
- public discussion of draft laws;
- real-time management, monitoring and control of all actions on the implementation of draft laws and resolutions of chambers submitted to the parliament;
- obtaining, operation, storage, processing of all information submitted to the parliament and the chambers;
- saving time, costs and labor resources spent by the subject of the legislative initiative and the work carried out on the draft;
- supporting the general public with information on legislative affairs;

- automatic formation of (monthly, yearly) rankings of activists in the parliament, active officials of the subjects of legislative initiative and active members (in online discussions) of society.

The application of digital technologies to the process of law-making requires professional development of officials, and in turn, employees working in the subjects of the right to legislative initiative. If employees do not obtain practical skills in use of the “E-law” system, it will eliminate the prospects of this system.

After all, you can find many opinions of national lawyer scholars on this matter:

Sh. X. Zulfikrov noted that the need to further increase the scientific potential of law enforcement [42. P. 26], H. S. Khaitov emphasized that experts involved in the process of law-making should have the necessary knowledge and skills [54. P. 14-19], Sh. N. Berdiyarov [40. P. 24], Z. S. Israilova [43. P. 53] and others focused on increasing the capacity of relevant officials in scientific research.

Also, B. Alimov and O. Makhamov noted that officials need to receive education based on the principle of lifelong learning (Life Long Learning) [39. P. 116], Q. Rakhmanov studied that the need to organize online classes in this regard [46. P. 125–132].

Supporting the approaches of the above-mentioned scientists, we consider that it is appropriate to implement the following measures for the effective use of the “E-law” system:

- preparing printed and electronic methodological instructions and manuals by the Institute of Legislative Problems and Parliamentary Research on the formation of the skills of using the electronic system for the responsible employees of the subjects of the right to legislative initiative;

- preparing short videos containing explanations for the use of the “E-law” system for the general public by the Institute of Legislative Problems and Parliamentary Research in cooperation with the Ministry of Justice of the Republic of Uzbekistan;

- organizing online educational training on the use of the “E-law” system at the Academy of Public Administration of the Republic of Uzbekistan for newly elected deputies to the Parliament;

- organizing distance educational trainings on the use of the “E-law” system by the Legal Training Center under the Ministry of Justice of the Republic of Uzbekistan for legal service employees of the ministries, state committees, local governmental bodies and other responsible agencies.

At this point, it should be noted that the organization, implementation and coordination of the activities of the unified electronic system should be entrusted to the Institute of Legislative Problems and Parliamentary Research under the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan. Hence, the main activities of this institute are compatible with the measures to introduce the “E-law” system.

In this regard, it is necessary to determine the main tasks and directions of activity of the Institute of Legislative Problems and Parliamentary Research:

- taking measures to quickly connect all subjects of the right to legislative initiative to the system in order to introduce the procedure for introducing draft legislation to the parliament through the electronic system “E-law” in a timely manner;

- on a systematic basis conducting seminars, training to explain the essence and procedure of working through the electronic system for the relevant employees of the subjects of the right to legislative initiative;
- preparing proposals for the improvement of legal acts regulating the issues of electronic submission of draft laws to the parliament through the electronic system, public and expert discussion of draft laws;
- taking measures to provide the responsible employees of all subjects with the right to legislative initiative with an electronic digital signature for their full operation within the system;
- submitting draft laws to the parliament electronically by the subjects of the legislative initiative, automatic reflecting of the chronological stages of the bill until its official announcement, continuous monitoring of the process of strengthening the transparency of law-making activities and increasing the effectiveness of providing the necessary information to the law-making process;
- improving the procedure and mechanism of work through the electronic system, including preparation of proposals and recommendations for integration into electronic document circulation;
- taking measures to provide high-quality and continuous operation of the electronic system, as well as its technical maintenance;
- providing information to the Council of the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan and subjects of the right of legislative initiative on the issue of applying legal liability measures to the responsible employees of the subject of the right of legislative initiative and other persons who violated the requirements of the relevant legislation when using the system;
- submitting information to the Council of the Legislative Chamber of the Oliy Majlis no later than the tenth day of each month on the transparency of law-making activities and the effectiveness of providing the necessary information to the law-making process.

Thus, in order to increase the effectiveness of providing the necessary information to the law-making process, introduce electronic submission of draft laws to the parliament by subjects of the right to legislative initiative, monitor the status of the draft, reflect automatically the chronological stages of the draft until its official announcement, strengthen the transparency of law-making activities, form automatically (monthly, yearly) rankings of activists in the parliament, active officials of the subjects of legislative initiative and active members of society, “E-law” electronic system is in line with the spirit of the current era. Although the introduction of this electronic system initially requires a lot of resources, in the end it has a significant positive effect on increasing labor efficiency, saving excessive costs, time and quality of information exchange. Also, it was proposed that the issue of amendments and additions to the relevant legislative acts, the concept of the draft joint resolution of the Legislative Chamber and the Senate of the Oliy Majlis of the Republic of Uzbekistan.

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ЦИФРОВЫЕ ТЕХНОЛОГИИ И ПРАВО: ВЫЗОВЫ, ПРОБЛЕМЫ, ПЕРСПЕКТИВЫ ВЗАИМОДЕЙСТВИЯ

Аннотация. Активное внедрение цифровых технологий приводит к серьезным трансформациям в социальном мире. Праву, как атрибуту человеческого бытия, надлежит обеспечить надежные регулирующие механизмы для новой технологической реальности. В статье предложено авторское размышление о теоретико-методологической модели правового регулирования в условиях современных технологий. Автор предприняла попытку модернизировать теорию правовой регламентации применительно к новым технико-правовым отношениям: взаимодействию человека и «машины». Рассмотрела вопросы теоретической реконструкции ряда правовых понятий и категорий: провела уточнение нюансов природы права, источников, формирующих право, техники законотворческого процесса, расширения круга участвующих в нем акторов. Акцентировала внимание на перспективности совместного с официальными структурам правотворчества технического сообщества, его международную направленность. Изложила свои соображения в отношении формирования в государствах с развивающимися информационными технологиями новой комплексной отрасли права – технологического права. Автор пришла к заключению о необходимости объединения