

ORGANIZATIONAL AND LEGAL ISSUES IN STREAMLINING THE HORIZONTAL STRUCTURAL CONNECTION BETWEEN CENTRAL AND LOCAL PUBLIC BODIES

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The article reveals the reasons for the lack of coordination functions and horizontal links in the apparatus of public authorities in the Republic of Moldova. The object of the research is a complex of legal and non-legal relations, multiparty, which arise in the initial stages of the formation of unstable organizational structures, linear-functional, of the central public administration bodies. The aim of this paper is to develop methods for streamlining the relationships and structures of the functional matrix at all levels of governance and self-government. Ways to weaken the multiparty factor are proposed by developing self-regulatory organizations of entrepreneurs and delegating them to state functions. The relevance of the topic is due to the fact that the lack of flexible links and coordination structures between the governing bodies, in the conditions of constant conflicts between party leaders, can lead to problems that call into question the very existence of the state. The author also argues that concrete measures need to be taken in order to combat imperfect legal rules in the form of tightening control over departmental regulation and establishing a permanent review of legislation. Based on the author's experience in using the various questionnaires and surveys in his monographs, it is proposed, in drafting each new bill, to conduct a content analysis of current regulatory acts in the relevant field or industry and, from a scientific point of view, reach a final decision on whether such a regulatory act can be adopted. It is proposed to formulate at the state level and include in the legislation the various strategic objectives of promoting cooperation in the field of scientific and technological progress and small business.

Keywords: coordination, organizational structure, legal norms, reationalization, delegation of functions.

PROBLEME ORGANIZAȚIONALE ȘI JURIDICE ALE RAȚIONALIZĂRII CONEXIUNII STRUCTURALE ORIZONTALE ÎNTRE ORGANELE PUBLICE CENTRALE ȘI LOCALE

Articolul dezvăluie motivele lipsei funcțiilor de coordonare și a legăturilor orizontale în aparatul autorităților publice din Republica Moldova. Obiectul cercetării îl constituie un complex de relații juridice și non juridice, pluripartite, care iau naștere în stadiile inițiale ale formării structurilor organizatorice instabile, liniar-funcționale, ale organelor administrației publice centrale. Scopul prezentei lucrări este de a dezvolta metode de raționalizare a relațiilor și structurilor matricei funcționale la toate nivelurile de guvernare și autoguvernare. Sunt propuse modalitățile de slăbire a factorului multipartit prin dezvoltarea organizațiilor de autoreglementare ale antreprenorilor și delegarea acestora a unor funcții ale statului. Relevanța temei se datorează faptului că lipsa unor legături și structuri flexibile de coordonare între organele de conducere, în condițiile unor conflicte constante între liderii de partid, poate duce la apariția unor probleme care pun în discuție însăși existența statului. De asemenea, autorul susține că este necesar să se întreprindă măsuri concrete în vederea combaterii normelor juridice imperfecte sub forma înăsprii controlului asupra reglementărilor departamentale și instituirea unei expertize permanente a legislației. Pe baza experienței autorului de utilizare a diverselor chestionare și sondaje în monografiile sale, se propune, la elaborarea fiecărui nou proiect de lege, să se efectueze o analiză de conținut a actelor de reglementare actuale în domeniul sau industria relevantă și, din punct de vedere științific, ajunge la o decizie finală dacă

poate fi adoptat un astfel de act de reglementare. Se propune formularea la nivel de stat și includerea în legislație a diverselor obiective strategice de promovare a cooperării în domeniul progresului științific și tehnologic și al micului business.

Cuvinte-cheie: coordonare, structură organizatorică, norme juridice, raționalizare, delegarea funcțiilor.

PROBLÈMES ORGANISATIONNELS ET JURIDIQUES LIÉS À LA RATIONALISATION DE LA CONNEXION STRUCTUREL HORIZONTAL ENTRE LES ORGANISMES PUBLICS CENTRAUX ET LOCAUX

L'article révèle les raisons du manque de fonctions de coordination et de liens horizontaux dans l'appareil des autorités publiques de la République de Moldova. L'objet de la recherche est un complexe de relations juridiques et non juridiques multipartites, qui se posent aux stades initiaux de la formation de structures organisationnelles instables, linéaires et fonctionnelles des organes centraux de l'administration publique. Le but de ce travail est de développer des méthodes de rationalisation des relations et des structures de la matrice fonctionnelle à tous les niveaux de gouvernement et d'autonomie gouvernementale. Des moyens d'affaiblir le facteur multipartite par le développement d'organisations d'autoréglementation des entrepreneurs et leur délégation de certaines fonctions de l'État sont proposés. La pertinence du sujet est due au fait que l'absence de liens et de structures de coordination flexibles entre les organes directeurs, dans des conditions de conflits constants entre chefs de parti, peut conduire à l'émergence de problèmes qui remettent en cause l'existence même de l'État. En outre, l'auteur soutient qu'il est nécessaire de prendre des mesures concrètes pour lutter contre les normes juridiques imparfaites sous la forme d'un contrôle renforcé de la réglementation départementale et d'un examen permanent de la législation. Sur la base de l'expérience de l'auteur de l'utilisation de divers questionnaires et enquêtes dans ses monographies, il est proposé, lors de l'élaboration de chaque nouveau projet de loi, de procéder à une analyse du contenu des actes réglementaires en vigueur dans le domaine ou l'industrie concerné et, d'un point de vue scientifique, de prendre une décision finale sur la possibilité d'adopter un tel acte réglementaire. Il est proposé de formuler au niveau de l'État et d'inclure dans la législation divers objectifs stratégiques pour promouvoir la coopération dans le domaine du progrès scientifique et technologique et des petites entreprises.

Mots-clés: coordination, structure organisationnelle, normes juridiques, rationalisation, délégation de fonctions.

ОРГАНИЗАЦИОННО-ПРАВОВЫЕ ПРОБЛЕМЫ РАЦИОНАЛИЗАЦИИ ГОРИЗОНТАЛЬНЫХ СТРУКТУРНЫХ СВЯЗЕЙ МЕЖДУ ЦЕНТРАЛЬНЫМИ И МЕСТНЫМИ ОРГАНАМИ ПУБЛИЧНОГО УПРАВЛЕНИЯ

В статье раскрываются причины отсутствия координационных функций и горизонтальных связей в аппарате публичных органов Республики Молдова. Объект исследования – комплекс правовых и неправовых, многопартийных отношений, возникающих на начальных стадиях формирования неустойчивых, линейно-функциональных организационных структур центральных органов публичного управления. Целью данной работы является разработка методов рационализации функционально-матричных связей и структур на всех уровнях государственного управления и самоуправления. Предлагаются пути ослабления фактора многопартийности за счет развития организаций саморегулирования предпринимателей и делегирования им некоторых функций государства. Актуальность темы обусловлена тем, что отсутствие гибких координационных связей и структур между органами управления, в условиях постоянных конфликтов между лидерами партий может привести к появлению проблем, ставящих под сомнение само существование государства. Автор также придерживается мнения о необходимости реализации конкретных практических шагов в преодолении несовершенных норм права в виде ужесточения контроля над ведомственным нормотворчеством и учреждения постоянно действующей экспертизы законодательства. На основе накопленного автором опыта использования различных опросных листов и анкет, описанного в своих монографиях, предлагается при разработке каждого нового законопроекта проводить контент-анализ действующих нормативных актов в соответствующей сфере или отрасли и, с научной точки зрения, приходить к окончательному решению, нужно

ли принимать к рассмотрению такой нормативный акт. Предлагается сформулировать на государственном уровне и закрепить в законодательстве различные стратегические цели содействия кооперации в области НТП и малого бизнеса.

Ключевые слова: координация, организационная структура, правовые нормы, рационализация, делегирование функций.

Introduction

The subject of this article is the development of organizational and legal measures to rationalize the organizational structure of central and local public authorities through the introduction of applied methods for analyzing structural functional-matrix relationships. The object of research is a complex of legal and non-legal, multi-party relations that arise at the initial stages of the formation of unstable, linear-functional organizational structures of central public administration bodies.

Purpose of the article. The main goal of the work is the research and development of methods for rationalizing functional-matrix relationships and structures at all levels of government and self-government.

Research methods. In preparing the article, the following theoretical and applied research methods were used: dialectical, system-structural, comparative legal, content analysis of existing regulations and theoretical and prognostic.

Presentation of the main ideas

The organizational structure of the management of the national economy of the Republic of Moldova has constantly changed and will continue to change. We have accumulated a lot of experience in analyzing and improving this structure since Soviet times. We came to the conclusion that “in addition to analyzing the formal organizational structures of ministries, state committees and departments, their divisions, it is possible to identify the real, actual management structure” [1, p. 63]. For this purpose, a special questionnaire was de-

veloped for the head of a subdivision (ministry, department) [1, p. 116-118], which can be used at the present time to analyze the existing organizational structures of ministries and departments of the Republic of Moldova. The methodology is not outdated, only the functions of ministries and departments have changed, which must be taken into account when applying the above questionnaire.

“The links of the organizational structure of the management of the national economy (OSUNKh) of the republic are complex economic, structural and administrative-legal and social phenomena. Their close relationship in terms of resources and managers not only does not exclude, but also implies the presence of features of functioning in a particular territory, and therefore the need to study each separately and in conjunction with other elements of the economic mechanism, the state apparatus and the rules of law, including - determining the legal status, legal relations, economic activity, independence in the formation of higher management structures” [2, p. 4].

In the central public administration bodies of the Republic of Moldova, a linear or linear-functional management structure is mainly used. Linear structure is the most logical in terms of structuring, precise but not as flexible as we would like it to be. Each leader has an expanded package of opportunities, while he/she must be more often highly specialized, to be able to implement special knowledge.

In order to strengthen horizontal coordination between ministries and departments, it would be advisable to introduce, where necessary, a matrix type of structure.

It consists of two parts, the first is a linear structure, the second is a program-targeted one. In the program-target structure, special attention is paid to the successful fulfillment of the set goal, in the solution of which all departments participate. All works performed on a given topic must not only be completed quickly, but created with precision in each specific block. For this, favorable conditions must be provided, a normalized working day and a certain amount of work to be done. That is why all managers must clearly monitor the effectiveness and success of the process, making their own adjustments. The creation of a matrix structure is used only when necessary. In the presence of short terms for implementation, as well as a certain complexity of the work performed.

In some cases, a program-target structure should be introduced. It consists of elements of a functional and divisional structure. There is double subordination, to two leaders from different structures. Such a structure is being created for temporary work. She fully focuses on the development of a new project and makes every effort for its successful implementation. This is especially important for the digitalization of the economy, public administration and the rule of law.

We propose to consider the process of digitalization as a new function of management and interpret the definition of “digitalization” as a process of changing (state) management (as well as various industries and sectors of the economy and the social sphere) by qualitatively changing the approach to the processes of organizing, planning, forecasting, managing and controlling the use of digital technologies and modern approaches to effective management. The practical part of digitalization lies in the application of basic management functions in the interaction system for both government bodies and business entities (points of contact in the process of digitalization of the economy and management).

A multi-party system is a political system in which there can be many political parties that theoretically have an equal chance of winning a majority of seats in a country's parliament.

Advantages:

- real competition;
- a wide range of representatives of public opinion;
- the ability to vote for the party that suits your interests (or against all if there is such a column).

Disadvantages:

- a multi-party system performs the function of aggregation (generalization) of interests worse;
- the voter, voting for such a party, often does not know what exactly he/she is voting for in the end;
- most often, with such a party system, one party is not able to win the parliamentary elections and therefore is forced to compromise with other political parties.

In the Republic of Moldova, even under the conditions of a multi-party system, one party could win, which does not contribute much to the formation of an optimal management structure of the central public administration bodies, the freedom of entrepreneurship.

Even in the principalities and kingdoms of the European Union, freedom of enterprise is guaranteed. So, according to Article 38 of the Constitution of the Kingdom of Spain on February 27, 1978 “recognizes the freedom of enterprise within the framework of a market economy.” At the same time, “public authorities guarantee and protect its implementation in accordance with general economic requirements and ensure its productivity, and, if necessary, in accordance with planning requirements” [3]. Article 28 of the Constitution of the Principality of Andorra of March 14, 1993 also states that “free enterprise is recognized within the framework of a mar-

ket economy and is carried out in compliance with the law” [4]. Article 32 of the same Constitution states that “the state may intervene in the organization of economic, commercial, financial and labor life in order to ensure, within the framework of a market economy, the balanced development of society, as well as general welfare” [5].

Article 16 of the Charter of Fundamental Rights of the European Union, which is called “Freedom of entrepreneurial activity”, states that “Freedom of entrepreneurial activity is recognized in accordance with communitarian law and with national legislation and national practice” [6]. Taking into account the prospects for the accession of the Republic of Moldova to the EU, it would be advisable in Chapter II “Fundamental Rights and Freedoms” of the Constitution of the Republic of Moldova, after Article 33, to provide for Article 33* “Freedom of entrepreneurial activity and self-regulation” with the following content:

(1) The freedom of entrepreneurial activity is recognized and guaranteed within the framework of a market economy and is carried out in compliance with the law, including various forms of commerce, intermediation and small business.

(2) The State may intervene in the organization of economic, commercial, financial and working life in order to ensure the balanced development of society within the framework of a market economy and to prevent illegal speculative transactions in order to establish fair social relations.

(3) Self-regulation is an independent form of association of entrepreneurs and entrepreneurial communities, in which a voluntarily created self-regulation organization independently sets goals, objectives, functions, powers, rights, obligations and a mechanism of mutual responsibility between small businesses within this organization and streamlines its relations

with the state by submitting a self-regulation act (code of conduct, rule for settling disputes in its own court) to the relevant body, and the state authorizes it (agrees, legitimizes) and can delegate to it part of its powers to regulate the market in the relevant industry on a contract basis.

In this regard, it is also necessary to adopt the Law of the Republic of Moldova “On Self-Regulatory Organizations”. This will give impetus to the transfer of some functions of the central public authorities to these organizations in such sectors as, for example: construction, audit, insurance, in the financial market, etc.

In Article 126 of the Constitution of the Republic of Moldova, which is called “Economy”, in part (2) it is stated that “The state must [7] ensure: ... b) freedom of trade and entrepreneurial activity, protection of fair competition, creation of favorable conditions *for the use of production factors*” (underlined by us - B.И. V.I.). Thus, the freedom of trade and entrepreneurial activity is considered by the legislator as an institution of a market economy or even as a production factor, but not as a human and citizen’s right, and not even as an obligation of the state to ensure such freedom, but its duty. What causes bewilderment not only among entrepreneurs, officials, but also among legal scholars, for example, specialists in constitutional and civil law, including experts of the Higher Attestation Commission, since disputes arise over whether the right of a person and a citizen to entrepreneurial activity and its various forms is a subject of constitutional the rights. After all, for this there are such branches of law as civil and business law.

But, as our numerous studies show, any form of entrepreneurship, including commerce, mediation and small business, must initially be provided with constitutional norms and guarantees, which will allow stabilizing

the relevant legislation. Only with such a formulation of the question is it possible to build a rule of law state in which the engagement in these types of activities will become legal, honest, socially oriented towards the development of the general welfare of society and *the establishment of fair social relations based on the constancy of the operation of the norms enshrined in organic laws*. Indeed, over the past 15 years, the texts of many laws have been changed, repealed or completely replaced three, four or more times.

It seems that democratic and civilized relations between subjects of any form of small business and the state depend primarily on the availability of a sufficient number of legal norms of high quality, on how stable both the relevant rights and obligations of small businesses and the powers of public administration are regulated in the legislation, as well as guarantees aimed at ensuring, observing and protecting the interests of small businesses. The modern regulation of the administrative and legal regulation of small businesses in various areas of socio-economic life, on the one hand, is distinguished by a significant number of regulations, which ultimately determines a complex and diverse set of administrative and legal relations. On the other hand, this legislation is characterized by scattered, unsystematic, duplication, insufficient legal justification for a particular normative act, lack of clarity and clarity of presentation. And without this, it is impossible to strengthen small business - the most important component of sustainable political stability in the Republic of Moldova.

The implementation of entrepreneurial activity at any stage of its development took place within the framework of state regulation. The development of entrepreneurship is inextricably linked with the development of statehood, the strengthening of state power, and the existence of entrepreneurship outside

the state, and, consequently, of administrative and legal regulation, is impossible.

Our government should use the Japanese model of state regulation and planning and the system of contracts and subcontracts we propose, described in paragraph 4 of Chapter II of our monograph, which is called "The nature, essence and development of contractual and subcontracting relations in the system of correlation of civil and administrative law" [8, p. 121-135].

At present, the so-called "Japanese model" of interaction between small and large businesses has been formed in Japan, which has been adopted by many developed countries of the world. In all areas, small and large businesses coexist. Small businesses are engaged in the construction of mass housing, and large businesses are involved in the construction of roads, factories, multi-storey residential and office buildings and shopping malls. It is the same in transport: there are small enterprises engaged in transportation, and large taxi fleets, bus corporations. That is, big business gives work to small ones. As for mechanical engineering, wherever there are labor-intensive processes, large companies determine what is more profitable for them - to create their own production facilities or to load a network of small subcontractors with orders. About 55% of small enterprises in industry operate in this way [10, p. 32].

We propose to transform the Ministry of Economy and Infrastructure into the Ministry of Economy and State Planning. At the same time, the functions of state planning in relation to a market economy and its digitalization should be carried out jointly with the Ministry of Finance. In this regard, approximately half of the functions of the Ministry of Finance listed in articles 1-19, 27-33 of the Law on the audit of financial statements dated December 15, 2017 No. 271 should have been delegated to the relevant self-regulatory or-

ganizations, but after the adoption of the Law of the Republic of Moldova on self-regulatory organizations. Similar laws have been adopted in Belarus, Kazakhstan, the Russian Federation and other states.

Since many normative acts have accumulated during the structural transformations (the composition of the Parliament and the Government and various courts have changed), some of which were developed and adopted while lobbying the disparate interests of party leaders, it would be necessary to conduct a content analysis of all normative acts of the Republic of Moldova.

Content analysis is a method that is a systematic numerical processing, evaluation and interpretation of the form and content of an information source. Content analysis is a method that can be used to generalize certain material manifestations of the behavior and relations of various types of subjects. The ability to study a large number of cases is one of the main attractive features of content analysis as a research method.

Since any law is a significant text that determines the state policy and norms of behavior of society in a particular area of socio-economic relations and has a number of special characteristics that are important for conducting content analysis, it is necessary to establish whether the material verified from all points of view, on the creation which specialists from various fields and representatives of various parties worked, whether there are random spontaneous words and meanings in the law that do not reflect a known situation, qualitative content.

Ideally, the text of the law is a well-defined semantic structure, where each of the elements has a meaningful and logical justification. At the same time, the law covers a large semantic field, subject to several dominants (tasks), what is called the main content. This is what is visible to the naked eye and what is

primarily subjected to intuitive analysis. But there is also a second and third semantic series, which can be revealed only by special methods, in particular with the help of content analysis.

Conclusions and recommendations

1. In order to improve the legislation on entrepreneurship, it would be advisable to conduct a **second survey** of officials at all levels (central and local, including the PMR) and the entrepreneurs themselves, which we conducted in 2004 using our “Questionnaire on Entrepreneurial Legislation” [8, p. 327-331], “Questionnaire for determining the quality of the law” [8, p. 331-332] and “Questionnaires (local level)” [8, p. 342-344].

2. In addition, for the successful development of small business it is necessary: 1) to create a department of entrepreneurship, contracts and protection of small business interests in the Government of the Republic of Moldova, 2) to establish mandatory goals in normative acts, that a certain percentage of all public procurement contracts will be generally awarded to small businesses.

3. All republican departments that develop and implement fiscal, legislative and regulatory policies must publish information about the “economic impact” of all their new decisions on small business” [9, p. 77].

4. To achieve all the goals outlined in this article, it is necessary to form an interdepartmental group (program-target structure) of the following specialists: in the field of artificial intelligence (there is such a laboratory at the Institute of Mathematics of the Academy of Sciences of the Republic of Moldova), economists, lawyers, programmers, etc.

5. Before the development of each new draft law, it is necessary to conduct a content analysis of existing regulations in the relevant area or industry and, from a scientific point of

view, justify whether such a regulation should be accepted for consideration.

6. It is necessary to formulate at the state level and fix in the legislation the following strategic goals of promoting cooperation in the field of scientific and technical progress and small business:

Establish on the basis of universities, institutes of the Academy of Sciences of Moldova small firms, commercial laboratories as objects for attracting investments, integrating science and small business;

Stimulate the investment activity of the corporate sector by attracting talented scientists and engineers also from other countries (especially those who left Moldova) in the implementation of national and joint investment scientific and technical programs;

Create small scientific, scientific-technical, scientific-production firms, organizations, laboratories, associations, centers in the form of scientific and technological parks, technopolises near large scientific and industrial centers;

Liberalize legislation in order to stimulate investment in innovation, combine the joint efforts of large corporations in conducting joint promising (pre-competitive) R&D of a strategic nature.

To this end, it is necessary to develop a draft Law of the Republic of Moldova "On Technological Innovations", which will fix the status of the National Science Foundation and cooperative research centers and entities (for example, NSF, universities, institutes of the Academy of Sciences of Moldova, etc.), which should be allowed to create such centers to develop industrial technologies together with these organizations and in cooperation with small businesses and non-profit organizations [8, p. 251 and others].

7. The draft Law of the Republic of Moldova "On the Transfer of Technologies to Small Businesses" proposed by us could also serve

as a legislative basis for the development of small businesses, on the basis of which certain sectoral structures (for example, technology management under the relevant ministry) would act as an intermediary between large and small businesses in Transnistria and Moldova in general, would establish real interaction between the government, local public authorities in large cities) and small businesses, and would also encourage cooperation within the small business sector and between small enterprises and universities.

This would significantly contribute to the final settlement of the Transnistrian conflict and the revival of all sectors of the national economy on both banks of the Dniester.

8. In this regard, it is also necessary to fix the terms of the technical contract, which should be determined by the parties: 1) the name of the subject of the contract; 2) the content, scope and requirements of the objectives of the work; 3) plan, pace, deadline, place and method of implementation; 4) keeping technical information and materials secret; 5) responsibility for risk; 6) ownership of the technical result and its distribution; 7) criteria and methods of practical verification; 8) price or remuneration, as well as methods of payment; 9) a penalty or the procedure for calculating the amount of compensation for losses; 10) the procedure for settling disputes; 11) explanation of names and technical terms.

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