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THE REQUIREMENTS FOR INFORMATION USED IN THE RULE-MAKING PROCESS

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Article history:		Abstract:
Art Received: Accepted: Published:	Inition May 30 th 2022 June 30 th 2022 August 4 th 2022	This article analyzes the requirements for information used in rule-making process. The subject matter of the research is the normative legal acts on the rule-making in the Republic of Uzbekistan, law enforcement practice, as well as scientific-theoretical conceptual approaches and legal categories. The purpose of the study is to develop appropriate proposals, recommendations and conclusions to improve the requirements for information used in the rule-making process of in the Republic of Uzbekistan. The methods such as historical, systematic-structural, logical, induction, deduction, comparative-legal, complex study of scientific sources and analysis of statistical data were applied in the research. As a result of this research, the requirements for information used in the national rule-making process were developed: 1) completeness of information; 2) reliability of information; 3) timely; 4) novelty of information; 5) accuracy of information should be based on expertanalytical data; 7) information supply systems; 9) openness or confidentiality. The results of the research can be used to conduct research, interpret relevant national normative legal acts, improve national legislation, as well as to further enrich scientifically such modules as Theory of State and Law, Rule-
Karandan		making and Legal writing.

Keywords: Information, requirements for information, rule-making, informational support of rule-making, legal information, reliability of information, expert-analytical data, Code of Rule-making.

I. INTRODUCTION

Current requirements for drafts of normative legal acts and information-analytical materials and other necessary information are mainly based on Legal writing rules and external form. As an example, T.V. Kashanina puts forward the following six rules in the preparation of legal documents: logical rules, structural rules, linguistic rules, rules of requisites, rules of procedure and requirements for content¹. According to R.H.Fallon, a scientist of Harvard University, it is necessary to take into account the requirements of textualism originalism in this regard². Generally, we believe that national rule makers especially focus on the external form of the draft legal documents rather than the internal logics and expectations of the public. In this regard, we intent to develop general requirements for the information in the draft normative legal acts and other necessary documents for the Uzbek (national) rule maker.

If we prove with additional instances, in the uniform methodology of legal-technical formalization of the drafts of normative legal acts, as well as the information-analytical materials attached to them, approved with the Law of the Republic of Uzbekistan "On Normative Legal Acts"³, April 20, 2021, more attention is paid to legal-technical (external) requirements than substantive requirements. It is not difficult to understand from its title, as well.

¹ Кашанина Т.В. Юридические документы. Чему не учат студентов. Как правильно понять и подготовить. – М.: Проспект, 2021. – С. 113.

² Fallon R.H. The meaning of legal 'meaning' and its implications for theories of legal interpretation // The University of Chicago Law Review, 2015. Vol. 82. – No. 3. – Р. 1235-1308. ³ Конунчилик маълумотлари миллий базаси, 20.04.2021 й., 03/21/682/0354-сон.



This, in turn, may cause some defects in the normative legal acts, which is the final product of rulemaking. Therefore, in our opinion, it is necessary to pay special attention to the internal, substantive requirements of the information used in rule-making process.

This issue is also reflected in various opinions, views and approaches expressed by legal scholars of the Republic of Uzbekistan. In particular, the necessity to improve the system of criteria for evaluation of rule-making process (Sh.A.Saydullayev)⁴, the necessity to develop the "criterion of justice" of normative legal acts (Kh.S. Khaitov)⁵, the need to involve scientists, experts and specialists in improving the quality and effectiveness of legislation (Sh.Kh. Zulfikarov) were emphasized⁶.

In fact, the rule-making process, as well as the issue of improving the quality of normative legal acts, has been discussed by many scientists. However, it can be observed that the quality of the information used in rule-making process and the requirements for such information have not been fully scientifically studied. Since, as noted by L. Floridi, lack of clear understanding of the quality of information causes costly mistakes, confusion, and extremely dangerous risks⁷.

In our opinion, the quality of information used in rule-making process is a complex concept, and in order to determine its features, it is appropriate to pay attention to the opinions expressed in the scientific works of scientists.

II. RESEARCH RESULTS AND DISCUSSION

As a result of this research, the requirements for information used in the national rule-making process was developed. According to it, the following requirements for information used in the national rulemaking process were developed: 1) completeness of information; 2) reliability of information; 3) timely; 4) novelty of information; 5) accuracy of information; 6) information should be based on expert-analytical data; 7) information should be based on public attitude; 8) the acceptability of information supply systems; 9) openness or confidentiality. In order to come to such a conclusion and develop the requirements for information, first of all, national and foreign scientists and advanced foreign experience were studied, scientific analysis was carried out.

First of all, the quality of information used in rule-making process is studied separately by scientists from the USA and European countries, and is explained by concepts such as "information quality" and "data quality". D.D. Fehrenbacher and M. Helfert emphasize that the concepts of data quality and information quality are the same⁸.

From the point of view of content and language rules, it is not necessary to distinguish these two concepts and to mention their features. Because both words are combined under the word information, we believe that it is appropriate to analyze them not separately, but because of their common origin, in the form of information quality. T.V. Kashanina, who is famous in the CIS countries in the sphere of legal writing, does not directly address the quality of information used in rule-making. The scientist mentioned requirements such as legality, compliance with moral norms, expediency, reasonableness, efficiency, economic efficiency, compliance with real life and existence of acceptable solutions⁹.

In our opinion, it is necessary to separate the informational and content requirements used in rulemaking process. Due to the breadth of quality requirements, it should be noted that it also includes content requirements. We came to the conclusion that since the legal writing requirements have already been formed and their use in information-analysis materials is considered a mandatory requirement, they should be analyzed separately from the content requirements.

On the other hand, the quality of information is a system of characteristics that allow effective use of information, corresponding to the requirements and goals of information users. Such features are analyzed scientifically below.

According to F. Ferraro and A. Zambon, the quality of information used in rule-making should be rational and morally cognitive¹⁰, R.A.Elias notes that it

⁴ Сайдуллаев Ш.А. Хукуқдаги бўшлиқлар: назарий хукуқий муаммолар // 12.00.01 – ю.ф.н. илмий даражасини олиш учун тақдим этилган диссертация автореферати. – Т.: ТДЮИ, 2011. – Б.17.

⁵ Хайитов Х.С. Адолатли конунлар қабул қилиш конун ижодкорлигининг бош мезонидир // Ўзбекистон қонунчилиги таҳлили. 2018. – №3. – Б. 10.

⁶ Зулфиқоров Ш.Х. Мамлакатимизда қонун лойиҳаларини тайёрлаш ва қонунлар ижросини назорат қилишда депутатлар ҳамда кенг жамоатчиликнинг иштироки // Юридик фанлар ахборотномаси. – Т.: ТДЮУ, 2020. – № 01. – Б. 23.

⁷ Floridi L. Information quality // Philosophy & Technology journal. 2013. Vol. 26(1). – P. 2.

⁸ Fehrenbacher D.D., Helfert M. Contextual factors influencing perceived importance and trade-offs of information quality // Communications of the Association for Information Systems, 2012. Vol. 30. Article 8. – P. 112.

⁹ Кашанина Т.В. Юридические документы. Чему не учат студентов. Как правильно понять и подготовить. – М.: Проспект, 2021. – С. 153-157.

¹⁰ Ferraro F., Zambon A. Ekins's Moral Assumptions and Their Impact on the Analysis of Legislation // American Jurnal of Jurisprudence. 2019. Vol. 64. – No. 1. – P.28.



is necessary to rely on the results of informal rulemaking process based on such information exchange¹¹.

Malaysian researchers N.A. Azimi, H. Zaidi, N. Hussin divided the requirements for the information quality into four categories (internal quality – accuracy and reliability; accessibility – the ability of the general public to access; contextual quality of the text – appropriateness, timeliness; delivery quality of information – ease of information exchange and understanding)¹².

O.A. Alshikhi and M.A. Bandar suggest evaluating the information quality based on the following seven criteria:

- 1) accuracy the fact that the data reflect reality;
- authenticity the degree of strict connection between the internal elements of information;
- consistency related to consistency in the definition of data elements;
- 4) completeness availability of all necessary information;
- 5) suitability suitability for the specified purpose;
- timeliness presentation in the required space and time;
- availability of accessibility information should be understandable and convenient to access¹³.
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At this point, in the studies of scientists A. Lee and Y. Levy, who made a turning point in the science of information quality, the classification of information quality indicators is carried out as follows.

1) accessibility of information quality – the availability of access to information, the amount of information that can be obtained, the possibility of constant information exchange, the availability of a reliable source of information, appropriateness, the ability to easily perform various actions on the information, the accuracy of the areas of information obtained, the strength of the information, adherence to information security;

2) contextual information quality – quantity of information, accuracy of information content, completeness of information, coverage of information,

whether information is gathered under a specific heading, whether information is reflected on paper, relevance of information at the current time, relevance of information, usefulness of information, whether information has a certain value;

3) intrinsic information quality – the reliability of information, the accuracy of information, the fact that information is formed in a certain order, the justification of information, the validity of information;

4) representational information quality – comprehensiveness of information, ease of understanding, flexibility of information, information representation, selected language style, availability of information that can be interpreted, effectiveness of information¹⁴.

Charles de Montesquieu notes that the simplicity and openness requirements should be observed in this regard¹⁵, A.Singh notes that the information should first of all be in accordance with the specified purpose¹⁶. According to E.V.Slukina, T.V.Komorovskaya, information should meet the following requirements: adequacy (aimed at meeting reliability (correspondence to needs), reality), completeness (sufficiency of information for decisionmaking), availability of access (ability to obtain information), relevance (at the same time it is necessary to meet quality criteria such as relevance to events)¹⁷.

In our opinion, although the opinions of the above-mentioned scientists are comprehensive, attention has not been paid to aspects such as the validity of the information and the detail of the scientific apparatus. In addition, some scientists include the reception, transmission, analysis and collection, presentation of information using appropriate means information and communication (for instance, technologies) in rule-making process. Also, the issue of collecting necessary information based on the model of "smart regulation" cannot be ignored.

In particular, S.A.Sultanova suggests to collect relevant information based on the "smart regulation" model¹⁸, Sh.A.Saydullayev notes to ensure the viability

Government: People, Process and Policy, 2014. – No. 8(1). – P. 83.

¹⁸ Қаранг: Султанова С.А. Теоретико-правовые вопросы применения модели «Умное регулирование» в

¹¹ Elias R.A. The legislative history of the administrative procedure act // Fordham Environmental Law Review. 2015. Vol. 27. - No. 2. - P. 219.

¹² Azemi N.A., Zaidi H., Hussin N. Information quality in organization for better decisionmaking // International Journal of Academic Research in Business and Social Sciences, 2017. Vol. 7. – No. 12. – P. 431.

¹³ Alshikhi O.A., Bandar M.A. Information quality: definitions, measurement, dimensions, and relationship with decision making // European Journal of Business and Innovation Research, 2018. Vol. 6. - No.5. - P. 38.

¹⁴ Lee A., Levy Y. The effect of information quality on trust in e-government systems' transformation // Transforming

¹⁵ Montesquieu de Baron The spirit of laws. New edition. – Ontario, Canada. "Batoche Books", translated by Thomas Nugent. 2001. – P. 548.

 $^{^{16}}$ Singh A. Data protection: India in the information age // Journal of the Indian Law Institute, 2017. Vol. 59. – No. 1. – P. 80.

¹⁷ Слукина Е.В., Коморовская Т.В. Основы информационной культуры личности // М-во науки и высшего образования РФ, – Красноярск., 2019. – С. 30.



of normative legal acts depending on many legal instruments, I.A.Khamedov puts forward to gather necessary information for decision-making depending on reliability, relevance and completeness of the data¹⁹, R. Schwester stresses out the necessity to use information and communication technologies in the decision-making process²⁰, J. Nou and E. Stiglitz also notes that the information used in rule-making process should be based on the "two for one" principle²¹.

By comparing the scientific approaches of foreign and national legal scholars, it can be observed that the quality requirements of information have been widely studied by foreign scholars. Meantime, the fact that the lawyers of our country have a one-sided approach to the issue makes it difficult to come to a complete conclusion. Among the scientists of our republic who approached in detail to a certain extent, it is possible to recognize the scientific researches of Kh.I.Ruzmetov and M.K.Najimov. In particular, Kh.I.Ruzmetov suggests that the information used in rule-making process should meet the following requirements:

providing decision-makers with sufficient and necessary information;

information should not contain mandatory instructions, but do motivate decision-making;

analytical data should have a fixed form, clarity, consistency, text with a consistent structure;

high level of richness of information;

the use of statistical data;

devoid of emotions and subjective thoughts²².

Regarding the requirements for the information used in rule-making process, M.K. Najimov states that it will be implemented based on the following:

completeness of the volume of information – all relevant information is taken into account and, on this basis, information gaps and losses should be avoided;

reliability of information – the text of the officially published normative legal acts is presented,

and at the same time, the subsequent changes and additions are also included;

ease of use – the ability to quickly and qualitatively find the necessary information about the relevant legal norm 23 .

In our opinion, in order to enter into a scientific debate and reach a fully justified scientific conclusion, it is certainly appropriate to focus on advanced foreign experience. As A.R. Akilov pointed out, many scientists need to use the methods of comparison to determine the truth²⁴. In this case, it is possible to witness that the issue of the information quality used in the rule-making process is regulated in the USA on the basis of special legal acts. Therefore, focusing our attention on the experience of the USA, it is possible to observe the adoption of several legislative acts on the effectiveness of providing the rule-making with information. In particular, "Administrative Procedure Act", "Regulatory Flexibility Act", "Paperwork Reduction Act" and "Information Quality Act" are clear examples²⁵. It is required that the information used in the development of normative legal acts should be useful, necessary, justified, truthful, and the opinions of the population should be taken into account.

It is also determined that the information provided to the federal agencies involved in making binding decisions should be qualitative, objective, useful and comprehensive.

According to the executive order, the first in this regard, No. 12291, adopted by former US President R.Reagan²⁶, the practice of monitoring information provided by state agencies was introduced. The central bodies such as Office of Management and Budget, Office of Information and Regulatory Affairs were established, whose duty were to carry out verification of information used in making political decisions.

The adoption of Executive Order No. 12866, by the former President of the USA B.Clinton, created the requirements and uniform methodology for the

нормотворчестве // 12.00.01 – диссертация на соискание ученой степени д.ф.п. (PhD). – Т.: ТГЮУ, 2021. – 184 с.

¹⁹ Хамедов И.А. Открытость государственного управления как принцип и механизм // Жамият ва бошқарув, 2013. – №2. – Б.15.

 $^{^{20}}$ Schwester R. Examining the barriers to e-government adoption // Electronic Journal of e-Government, 2009. Vol. 7. – No. 1. – P. 115.

²¹ Nou J., Stiglitz E.H. Regulatory bundling // The Yale Law Journal. 2019. Vol. 128. – No.5. – P. 1179

²² Рузметов Х. Хорижий мамлакатлар парламентларининг ахборот-таҳлилий жиҳатдан таъминланиши // Парламент фаолиятини илмий ва ахборот-таҳлилий жиҳатдан таъминлашнинг долзарб масалалари. Халқаро конференция материаллари / Масъул муҳаррир: Ф.Х.Отаҳонов. – Т., 2021. – Б. 207.

²³ Нажимов М.К. Норма ижодкорлиги. – Т.: ТДЮУ, 2018. – Б.124.

²⁴ Акилов А.Р. Замонавий киёсий хукукшуносликнинг методологик муаммолари // 12.00.01 — ю.ф.д. илмий даражасини олиш учун диссертацияси. — Т.: ИИВ Академияси, 2002. – Б. 47.

²⁵ KapaHr: Office of Management and Budget, Guidelines for ensuring and maximizing the quality, objectivity, utility, and integrity of information disseminated by federal agencies // Republication, Federal Register, February 22, 2002. Vol. 67.
No. 36. – P. 8452. Available at: https://fas.org/sgp/crs/misc/RL32240.pdf

²⁶ Қаранг: Executive Order 12291 of Feb. 17, 1981 // CFR, Presidential Documents. 1981. – No. 46FR13193, – 127 р.



information provided by government agencies²⁷. According to this act, the state bodies and agencies submit all information on draft normative legal acts to the Office of Management and Budget, Office of Information and Regulatory Affairs for review and monitoring.

Former US President D. Trump adopted the Executive Order No. 13771, which introduced the requirements of information in accordance with "one in two out" principle²⁸. In addition, the judicial system of the country has developed requirements for the information reflected in the judicial acts. For instance, the Access to Justice Commission under Illinois Supreme Court states that information used in judicial decision-making shall be neutral, universal, objective, specific, and not limited²⁹.

As the experience of the USA shows, the relations of providing the rule-making process with information are regulated not only by the laws adopted by the Congress, but also by the relevant normative legal acts of the Presidents. In addition, special state bodies have been established, and monitoring of the provision the rule-makers with reliable information has been effectively carried out.

In some advanced foreign countries, uniform methodological guidelines aimed at regulating rulemaking activity have been developed, which include requirements for information used in the process. In particular, the information used in the rule-making process in the Kingdom of Denmark should be detailed and complete³⁰, In Germany, the Guide "On Techniques of Rule-making" (Handbuch Der Rechtsfoermlichkeit)³¹ strictly defines the requirements for information. In particular, section 29 of the Guide states information quality requirements. The Guide covers 895 rules and, in a sense, illustrates a "Code of Rule-making". In cooperation with the France, Council of State (Conseil D'état) and the Secretariat of the Prime Minister (Premier Ministre Secrétariat Général du Gouvernement) developed the "Legislative Guide" (Guide de Légistique)³², which summarizes the purpose of the rule-making activity, all the rules, principles and methods that should be observed in the preparation of official acts. Strict adherence to this Guide is prescribed in the development of laws, ordinances, decrees and all other types of normative legal acts.

According to the experience of the Great Britain, the British Parliament is focused on the availability of necessary, effective, clear, consistent and free access to information and other analytical materials used for law-making under the concept of "green law"³³. The legal basis for rule-making process is called "Cabinet Manual"³⁴, which sets out requirements for information (paragraph 7.4).

The Manual stipulates the use of reliable information in the development of all normative legal acts, even in the development of normative legal documents of local executive and representative bodies. In this regard, information verification is called "legislative scrutiny". This mechanism is carried out in three stages: during the development of a normative legal act ("pre-legislative scrutiny"), during its adoption ("legislative scrutiny"), after its implementation ("postlegislative scrutiny"). An important aspect of the "legislative scrutiny" on the subject of this article is that special attention is paid to the reliability and justification of the relevant information-analytical data in the development of normative legal acts.

As it can be seen, in Great Britain, not only the Parliament, but also in the activities of local government bodies, the practice of three-step verification of information reflected in the drafts of relevant normative legal acts is carried out effectively.

<u>https://www.bmjv.de/SharedDocs/Downloads/DE/Themen/</u><u>RechtsdurchsetzungUndBuerokratieabbau/HandbuchDerRec</u> <u>htsfoermlichkeit eng.pdf;jsessionid=740D8472BA9219ED7</u> <u>5F45C8502915BBF.2 cid289? blob=publicationFile&v=4</u> ³² Қаранг: "Legifrance" – The official webpage of the State Service for the Distribution of Legislation (Le service public de la diffusion du droit). (Қонунчилик ҳужжатларини тарқатиш бўйича давлат ҳизматининг расмий вебсаҳифаси).

https://www.legifrance.gouv.fr/contenu/menu/autour-de-laloi/guide-de-legistique

²⁷ Қаранг: Executive Order 12866 of October 4, 1993 // CFR, Presidential Documents. 1993. – No. 190. – 10 p.

²⁸ Қаранг: Executive Order 13771 of February 3, 2017 // CFR, Presidential Documents. 2017. – No. 82 FR 9339. – 1 p.

²⁹ Illinois Supreme Court Commission on Access to Justice, "What is Legal Information?", Guide to Using the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers. – Illinois: Illinois Supreme Court Commission, 2018. – P. 2.

³⁰ Better Regulation in Denmark. Better regulation in Europe: an assessment of regulatory capacity in 15 member states of the European Union. – Paris. OECD, 2009. – P. 54. Available at: https://www.oecd.org/denmark/43325733.pdf

³¹ Қаранг: ГФР Адлия вазирлиги расмий веб-саҳифаси. Available at:

³³ https://www.gov. uk/government/publications/when-lawsbecome-too-complex/when-laws-become-too-complex – The official webpage of the Cabinet of the UK (Буюк Британия хукуматининг расмий веб-саҳифаси)

³⁴ The Cabinet Manual. A guide to laws, conventions and rules on the operation of government. – London. 2011. – P 21.



Of course, based on the experience of foreign countries, we believe that it is appropriate not to develop the "Code of Rule-making" in the Republic of Uzbekistan, but rather to strictly define the quality of information used in the rule-making process and the requirements for it in the existing legal acts, and to limit the subjective approach in this regard.

If we turn our attention to Muslim law, the word "information" is used once in the Qur'an, which is the main source of Muslim law, in ayah 6 of Surah Ash-Shu'ara³⁵, but the word "correct (truthful) information", which refers to the requirement for information, used twice in ayah 120 of Surah Al-Baqarah and ayah 157 of Surah An-Nisa³⁶.

III. CONCLUSION

Thus, based on the above-mentioned opinions of foreign and national scientists, advanced foreign experience, we believe that the requirements for information used in rule-making process should be formulated as follows:

 – completeness of information – sufficient level of information to understand the essence of the event and make a decision;

 reliability of information – compliance of information with objective reality, lack of difference between real reality and information;

- timely - the information should be on the grounds for the creation of an appropriate perception of the reality, object, process or event in the recipient of information on time;

– novelty of information – for all rule-makers, the received information is required to form a new objective information structure on the relationships that need to be regulated. Abstract or generally known information cannot be the object of legal relations without this characteristics, therefore, old information is not of great importance in rule-making;

- accuracy of information – comes from the fact that the presented information fully corresponds to the characteristics of real reality, semantic accuracy as an indicator of the effectiveness of information retrieval, the ability to express information;

 information should be based on science – the level of using the results of scientific research, scientific achievements, scientific analysis in the preparation of the necessary information;

 information should be based on expertanalytical data – the level of taking into account the opinions of experts and specialists with special knowledge and qualifications; information should be based on public attitude – with the aid of public surveys, public opinion, feedbacks on social networks etc.;

 the acceptability of information supply systems – the information provided to rule-maker should be sufficient for decision-making and should not lead to additional time losses in the process of information collection, storage, transmission and processing;

– openness or confidentiality of certain information – the possibility of using information includes the need to ensure free and open access by subjects and the need to prevent disclosure and dissemination of information related to certain state and military secrets.

In turn, section 21 of the Uniform methodology of legal and technical formalization of the draft normative legal acts, as well as the informationanalytical materials attached to them, approved with the Law of the Republic of Uzbekistan "On Normative Legal Acts" should be supplemented in accordance with information quality researched in the article. In addition, the Law of the Republic of Uzbekistan "On Preparation of Draft Laws and Submission to the Legislative Chamber of the Oliy Majlis of the Republic of Uzbekistan" should be supplemented with Article 13¹.

In them, it is necessary to strictly define the quality requirements for information used in rulemaking process: such as timeliness, application of appropriate means of IT, completeness, reliability, exactness, novelty and accuracy, as well as scientific basis, expert-analytical support and openness or confidentiality.

Thus, in a broad sense, information is a social category, and depending on its types and the scope of its use, it has been determined that it acquires a different essence in other areas.

However, the information used in rule-making process requires research as a separate legal category in terms of compliance with specific requirements, prevention of defects in normative legal acts in the future, and effective use in practice.

The careful research of advanced foreign experience in this article has shown that separate normative legal acts on providing rule-making process with information have already been put into practice, and regulatory mechanisms are operating effectively.

Based on the fact that the information contained in draft normative legal acts and analytical materials attached to it have a high specific effect on rule-making process, it is necessary to develop methodological approaches in this regard. We believe

³⁵ Шайх Абдулазиз Мансур. Куръони карим маъноларининг таржима ва тафсири. – Т.: Саноатстандарт, 2019. – Б. 367.

³⁶ Ўша манба. – Б. 19, 103.



that it is important to develop a methodic and methodology for specific requirements for information used in the rule-making process in the Republic of Uzbekistan.

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