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**COMPARATIVE ANALYSIS OF APPROACHES TO DESIGNING  
OF REGULATORY IMPACT ASSESSMENT INSTITUTE IN RUSSIA,  
KAZAKHSTAN, AND KYRGYZSTAN**

**Abstract.** The goal of the research is comparative analysis of approaches to designing and adoption of the regulatory impact assessment institute in the post-Soviet countries – Russia, Kazakhstan, and Kyrgyzstan, revealing the problems and prospects of this institute development in the countries of analyzed summation.

The research was conducted using general scientific and specialized methods. General scientific methods of comparative and evolutionary-genetic researches were applied to conduct cross-national comparisons of processes on implanting of new national institutes in historical retrospective. The specialized methods of the institutional and constitutional theory allowed analyzing mutual influence of legislative and economic factors for making national decisions in the field of economy regulation within the established national systems of the state administration.

By the research results, the conclusions reflecting the specifics of the regulatory impact assessment institute designing in Russia, Kazakhstan, and Kyrgyzstan were made in view of selection of key actors and distribution of powers among them. The high role assigned in Kazakhstan, during the assessment institute designing, to structures expressing the interests of the entrepreneurs is noted. The level of the assessment institute maturity in the analyzed countries is characterized.

**Key words:** regulatory impact assessment institute, analysis of regulatory control, regulatory policy, post-Soviet space, problems of adoption, comparative analysis.

**Introduction.** An important tool favoring the enhancement of the government regulation effectiveness as of today is the regulatory impact assessment (hereinafter, RIA). RIA is aimed at improving the conditions of entrepreneur and investment activity, limitation of the overabundant regulation in economy. Especially its role should be mentioned for enhancement of transparency of the national regulatory policy, and development of the civil society. This type of the legislative acts expertise is relatively new for the post-Soviet countries. First steps in this direction, Russia and Kazakhstan made in late 90-s of the former century, and Kyrgyzstan made it in the beginning of 2000. However, it can be safely stated about specific importance of this institute for forming of optimal conditions for interaction of business and government.

In this regard the goal of the conducted research was comparison of approaches to designing and adoption of the regulatory impact assessment institute in Russia, Kazakhstan, and Kyrgyzstan, revealing of general and specific tendencies, problems and justification of development prospects of this institute for the analyzed countries. The selection of these countries is stipulated by their interest in development of RIA institute, high level of economic integration, active participation in supranational international economic unions that requires common grounds on key positions of the national regulatory policy.

**Main body.** Russia and Kazakhstan were among first post-Soviet countries that had the prerequisites for adoption of RIA institute (1997 – 1998) [1]. In Kazakhstan, the first step toward this direction was adoption of the Law on March 24, 1998, #213 “On laws and regulations” [2] that fixed the main principles of the research expertise conduction of legislative acts. In Russia, the starting point was 1997 when on March 13, 1997 the government has adopted a Decree #1009 “On approval of rules for preparation of laws

and regulations of federal bodies of the executive branch and its national registration” [3]. These rules fixed a capability of outside experts to conduct the work on preparation of conclusions for the laws and legislations of federal bodies of the executive branch, and assessment conditions of budget consequences of its adoption.

The next step was made in the beginning of 2000. On May 20, 2002 the Kazakhstan government has adopted a Decree #598 “On measures to improve the regulatory activity” [4] describing the process of the research expertise of laws and regulations (legislative, criminological, linguistic, anti-corruption, ecological). In Russia, the order according to which the regulation drafts regulating the relations of the entrepreneur activity relations are forwarded for expertise to the Ministry of Economic Development and Trade, for the first time was adopted in 2004 [5]. This time Kyrgyzstan started to adopt the RIA mechanism. In 2006 they have elaborated “Standards on conducting of individual specialized evaluation of law drafts”. They included different types of appraisal: gender, ecological, legislative, and on observance of human rights and anti-corruption measures [6]. After that there was a Decree of the President dated 23 July 2007, #344 “On some measures on optimization of permissive-regulatory system in the Republic of Kyrgyzstan” that introduced a procedure of analysis of regulative impact (hereinafter, ARI) of permissive laws and regulations for business activity. ARI as a process for review and optimization of the permissive regulatory framework of regulation in the field of business and investment activity has become an instrument on elimination of administrative obstacles and limits in this field [7]. The order of its conduction was affirmed by “Methods of analysis of regulatory impact of legislative acts on activity of business entities” [8]. The Law of April 5, 2008, #55 “On optimization of the regulatory framework regulation of the Republic of Kyrgyzstan” has assigned ARI as the main instrument for the preparation of laws and regulations determining a united approach to projects and active legislation acts [9]. The obligation of the ARI application for laws and regulations was fixed by the Law dated July 20, 2009, #241 “On laws and regulations” [10].

In Russia, RIA becomes an obligatory procedure in 2010 [11]. In Kazakhstan, adoption of RIA elements started in 2011, when the Rules of research expertise process were amended and from now obligated the governmental body – developer to make an assessment of social and economic consequences of adopted bills actions [12].

In consequent years, Russia had been developing the regulatory impact assessment institute very actively: the number of fields of economic legal relations undergone the RIA procedures increased, a methodical base, specialized information resources and software products were developed. In Kazakhstan, the next large step was made only in 2015 [13]. The main content of this step – transition from the laws and regulations expertise to adoption of RIA institute oriented on the international standards of assessment. In 2014, Kyrgyzstan has amended the Methodic of ARI. Its new edition has provided the ARI developers more understandable tools prescribing more different analysis and determining a structure of the analytical note. It outlines a capability to conduct partial and full ARI. The full ARI is conducted in the case if a size of assumed benefits or expenditures exceeds 0.1% of the country GDP for the previous year [14]. At the present time there is the ARI methodic is being improved.

While designing the RIA institute it is very important to select a proper authorized body, i.e. governmental body that will be responsible for implementation of policy in the field of RIA according to fixed powers. At selecting an authorized body, the analyzed countries used a model within which these functions are imposed on already existing executive body. In Russia, since 2010 an authorized body in the field of RIA on the federal level is the Ministry of Economic Development of RF. It exercises the functions on elaborating the national policy and legislative regulation in the field of regulatory impact assessment. In Kazakhstan, in 2011-2015 the Ministry of Economics and Budget Planning (now the Ministry of the National Economics) was an organizer of the research economic expertise of draft laws of the Republic of Kazakhstan. From 2016 for the Ministry of the National Economics, RIA becomes a constituent part of the implemented by it policy on regulating the business activity in the Republic of Kazakhstan. In Kyrgyzstan the authorized body on ARI is the Ministry of Economics. It carries out an expertise on analysis of regulatory impact of legislative acts drafts regulating business activity on its compliance with the ARI Methodic [15].

**Distribution of authorities to carry out the RIA among the authorized body and regulatory bodies.** Since 2010, Russia, on the federal-wide level, used the centralized model of RIA arrangement.

The assessment was conducted directly by the Ministry of Economic Development of Russia. The centralized model is the most appropriate at the stage of a new institute adoption. It helps to provide the higher quality of RIA reports preparation, and form national standards of the assessment process. However, it has some disadvantages. An authorized body cannot provide specialists who are experts in that fields of economy for regulating of which this or that legislation act is prepared. Accumulating necessary experience, from July 1, 2013 Russia transited to decentralized model of assessment. From that moment, the reports on RIA conducting were prepared directly by developers, federal executive bodies. The Ministry of Economic Development of RF was to control the quality of the prepared reports, prepare final conclusions, and carrying out additional public consultations, returning a report for renewal. Along with this, RIA arrangement in Russia is quite flexible. Particularly, at adopting in Russia a new form of retrospective assessment (assessment of actual impact), initially, from 01.01.2016 to 01.07.2017 the assessment report and its public discussion was conducted by the Ministry of Economic Development of Russia. By this, the base for transition to a new form of assessment by the regulatory bodies was prepared.

In Kazakhstan, an authorized body initially was the organizer of research economic expertise of draft legislative acts that could be conducted by research institutes, higher education institutes, experts (scientists and specialists). Since 2011, the role of regulatory bodies, that earlier actually only waited for the expertise results, became more active. The regulators started to prepare Passports on assessing social and economic consequences of adopted bills action. And, finally, since 2016 the regulatory bodies prepare a report on assessment carrying out that is further forwarded to the authorized body. Along with this, the model currently forming in Kazakhstan cannot definitely be considered as decentralized. The major part in its functioning belongs to the National Chamber of Entrepreneurs of the Republic of Kazakhstan that conducts the obligatory expertise of draft laws concepts, drafts of legislative and other regulatory acts related to the interests of private entrepreneurship entities [16], and the Interagency Committee on the issue of business regulation [17]. Adoption of a new regulatory instrument is conducted upon the recommendation of the authorized body only after consideration at the session of the Interagency Committee.

The Republic of Kyrgyzstan uses the decentralized approach for ARI development. In 2008, for implementation of ARI process, the Interagency Commission on optimization of legislative base for entrepreneurship activities regulation was created; it was the body assessing the reasonability of keeping these or those regulation standards. And this assessment was conducted after the interested national bodies provided ARI for the existing legislative act [18]. Its legal successor was the Interagency Commission on reforming the system of the national regulation of entrepreneurship activities. The operation of this Commission is aimed at introducing proposals on creating legislative base regulating the entrepreneurship activities, and meeting the principles of market economy [19]. The analysis of regulatory impact is conducted according to the adopted Methodic and is ensured by the developer of the legislative act, i.e. by executive bodies and local authorities. However, at local level ARI is not applied during development of the draft legislative acts regulating the entrepreneurship activities.

**Mechanism of conflict resolution between an authorized authority and regulatory body.** One of the key parameters for RIA institute designing is also a mechanism of conflict resolution between the authorized body and regulatory body. In practice, to resolve the arising conflicts, different instruments are used. If the conclusion is negative then a long cycle of conciliation procedures is launched: the laws and regulation draft can be returned for renewal, submitted for additional discussion, repeated public consultations, etc. In some countries, the authorized body has veto power on adopting laws and regulations act hampering the entrepreneurship activities.

In Russia, the authorized body possesses quite wide capabilities for solving the arising conflicts. In the case of negative conclusion of the authorized body the law and regulation act draft is returned for renewal. If after this action, the disagreements are not resolved, a supervisor submitting the draft shall ensure its discussion with leaders of the authorized body to come to mutually acceptable solution. On federal level the draft act of the government can be submitted to the government with disagreements only together with a protocol of conciliation meeting and remark originals signed by corresponding leaders or their deputies by order of the leaders having the disagreements. Since July 1, 2015 the Ministry of Economic Development of Russia has a right to return a draft act to the developer without its conclusion on RIA if the RIA procedure was violated (Ministry of Economic Development of Russia informs the developer in written form during five developer days on revealed violations of the procedure). Earlier upon revealing of

violations and sending of cumulative report for renewal, the Ministry of Economic Development, nevertheless, had to prepare a conclusion on carrying out the RIA.

Along with this, quite often, at early stages of RIA adoption an opinion of the authorized body on the results of laws and regulations assessment is of advisory nature. For instance, in Kazakhstan, at negative conclusion of the research expertise, the Majilis Bureau made a decision itself on renew of a draft legislative act according to proposals of expert conclusion. Since 2016 the situation changed significantly [20]. Now, if the authorized body gives a negative conclusion the regulator renews the report and forwards it for repeated consideration. If complaints to the report still remain after the renewal, and alternative assessment can be carried out. An initiator of the alternative assessment can be the authorized body, National Chamber of Entrepreneurs or other interested persons. In case of the regulatory body disagreement with the results of alternative assessment, the renewed documents are again submitted to the authorized body. In case of regulatory national body disagreement with results of alternative analysis, the final decision is made by the Interagency Commission on issues of business activity regulation.

In Kyrgyzstan, by the results of draft legislative act consideration, there can be a decision to return the draft for renewal indicating the remarks and suggestions. However, the laws and regulation act is to be rejected in case of lack of justification prepared on the base of regulatory impact analysis [21].

**Discussion.** The analysis of the obtained results show that Russia, Kazakhstan, and Kyrgyzstan consider RIA as a contemporary institute of the state management having large potential [22, 23]. While designing RIA institute the variety of economic, legislative, social, and culture factors should be considered for its effective functioning, as well as necessity of integrated researches in this field [24-26].

In view of approaches to adoption of RIA institute into the practice of the state management, there are some definite differences. For instance, Kazakhstan authors underline a necessity to use simple and understandable methods, gradual adoption of RIA institute [27, 28]. In whole, it is necessary to agree with this approach. However, the analysis conducted within this research shows that transition to a new model of assessment in Kazakhstan in 2016 has interrupted this succession to some degree. In Russia, in view of scale and intensity, RIA institute adoption can be considered as more mature. For example, RIA is obligatory for implementation at RF entities, and at major part of municipal bodies [29]. At this, the priority one is the problem of RIA institute operability and often its formal, bureaucratic character, lack of through economic analysis of consequences of legislative acts adoption [30, 31].

The important thing for investigation of approaches to designing of RIA institute is analysis of this institute role in the system of the national economic policy in whole, and regulatory policy in particular. And here the important is the difference related to the issue, if the development of a definite institute enters the system of the national priorities of the highest order [32, 33]. Within such an approach it is necessary to admit that despite long history and scales of RIA adoption into the practice of decision-making process in Russia, for the present moment Kazakhstan tries to implement more well-shaped and integrated concept in its content. Within the implemented paradigm, RIA institute becomes one of the key instruments of the national policy on economy regulating. Its development is considered together with development of the institutional system of entrepreneurship activity regulation, the system of permissive procedures, the state control and supervision, and self-regulation [34]. Creation of RIA effective system is fixed as a strategic priority for Kazakhstan development [35]. The future will show what approach — maximum wide coverage of possible subject areas and authority levels, enlargement of RIA application field in real managing practice, or affirmation of values that in future will gradually become a base for making decisions, will be more effective.

The problems mentioned above are also noted by Kyrgyzstan experts [36, 37, 38]. Within the institutional model active in Kyrgyzstan, application of ARI to draft legislation acts regulating the entrepreneurship activity, in essence, is of formal nature. There are no full-fledged structural subdivisions in Ministries and Agencies to carry out ARI, no effective mechanisms of the institutes interaction on ARI between the government, Zhogarku Kenesh and the National Bank; independent institutes for monitoring and assessment of actual impact of active laws and regulations on entrepreneurship development. The active institutes of ARI do not cover Zhogarku Kenesh, the National Bank of Kyrgyzstan and regions level, including the local autonomous bodies [39].



### Conclusion.

1. Designing of RIA institute in the considered countries, on the one hand, is based on the experience of the national regulation of economy available in the country, and on the other hand reflects the features of interaction between the state, business and society. As result, even at formal coincidence of the implemented institutional models, the influence capabilities of the main RIA participants on the process of decision making can differ significantly.

2. The functions of the authorized body, in Russia, Kazakhstan, and Kyrgyzstan are imposed on a Ministry responsible for implementation of the national economic policy in the country (Ministry of Economic Development, Ministry of the National Economics, Ministry of Economics, respectively). Under such approach, at the stage of RIA national system establishing, there is an opportunity to use knowledge, qualification and other resources of already long-time operating structures, optimize expenditures on adopting new instrument of management.

3. Russia, Kazakhstan, and Kyrgyzstan are forming the national system of RIA orienting on decentralized model of assessment arrangement. The flexibility and adaptability of the RIA national system in Russia is ensured by free selection of assessment model on the subnational level and opportunity to choose another RIA model at adopting of new types of assessment. In Kazakhstan and Kyrgyzstan, an opportunity of different models coexistence within a united legislative field is not provided yet. However, Kazakhstan has mechanisms of “checks and balances”. This role is implemented by the National Chamber of Entrepreneurs and Interagency Commission on the issues of entrepreneurship activity regulation.

4. In case of conflicts arising between an authorized body and regulatory body in the analyzed countries, the complex conciliation procedures are foreseen. In Kazakhstan, while solving such disagreements the role of advisory bodies and organizations protecting the interests of entrepreneurs is much higher. In particular, the National Chamber of Entrepreneurs of the Republic of Kazakhstan can initiate the process of alternative assessment of regulating impact, and the Interagency Commission on the issues of entrepreneurship activity regulation has a right to make a final decision if irremediable disagreements exist between the authorized authority and regulatory body.

5. At the present time, Russia, Kazakhstan, and Kyrgyzstan created the main legislative and organizational prerequisites to conduct the regulatory impact assessment; however, the adoption of the discussed institute cannot be considered as completed. In Russia the RIA institute is more mature, starting from 2010 the RIA develops within one concept which developer and performer is the Ministry of Economic Development of RF. In Kazakhstan, in 2015 there was sharp step forward, there was a reject, to some extent, from the established practice of gradual adoption of new institutes of management. In Kyrgyzstan the ARI institute continues its development. However, there are some system problems impeding to enhance the quality of ARI process. Along with this, enhancement of RIA role in the system of instruments of the national regulation of economy, more integrated interpretation of RIA as a key element of regulation policy of the entrepreneurship activity allow making positive forecast regarding the prospects of its development. At this, the quality of the countries models and RIA systems is important for forming of effective supranational model including the system of Eurasian economic commission regulation.

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# **РОССИЯ, КАЗАҚСТАН ЖӘНЕ ҚЫРҒЫЗСТАНДАҒЫ РЕТТЕУШІЛІК ӘСЕРДІ БАҒАЛАУ ИНСТИТУТЫН ЖОБАЛАУ ТӘСІЛДЕРІНЕ САЛЫСТЫРМАЛЫ ТАЛДАУ ЖАСАУ**

**Аннотация.** Зерттеудің мақсаты – посткеңестік кеңістіктегі, яғни Ресей, Қазақстан және Қырғызстан елдеріндегі реттеушілік әсерді бағалау институтын жобалау мен енгізу тәсілдеріне салыстырмалы талдау жасау және аталмыш институттың талдау жасалған елдердегі даму проблемалары мен келешегін анықтау болып табылады.

Зерттеу жалпы ғылыми және мамандандырылған әдістерді пайдалана отырып жүргізілді. Салыстырмалы және эволюциялық-генетикалық зерттеулердің жалпы ғылыми әдістері тарихи ретроспективада жаңа мемлекеттік институттардың имплантация процестеріне кросс-ұлттық салыстырулар жүргізу үшін пайдаланылды. Мамандандырылған институционалдық және конституциялық теория әдістері мемлекеттік басқарудың қолданыстағы ұлттық жүйелерінің шеңберінде экономикалық реттеу саласындағы мемлекеттік шешімдерді қабылдау кезінде құқықтық және экономикалық факторлардың өзара ықпалдастығын талдауға мүмкіндік берді.

Зерттеудің қорытындысы бойынша Ресей, Қазақстан және Қырғызстандағы реттеушілік әсерді бағалау институтын жобалаудың олардың арасында негізгі субъектілерді іріктеу және олардың арасында өкілеттіктерді бөлу аясындағы ерекшеліктерін көрсететін тұжырымдар жасалды. Бағалау институтын жобалау кезінде Қазақстандағы кәсіпкерлердің мүддесін білдіретін құрылымдарға жоғары рөл бөлінген. Талдау жасалатын елдерде бағалау институтының жетілу дәрежесіне сипаттама берілді.

**Түйін сөздер:** реттеушілік әсерді бағалау институты, реттеуші әсерді талдау, реттеуші саясат, пост-кеңестік кеңістік, ендіру проблемалары, салыстырмалы талдау.

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**СРАВНИТЕЛЬНЫЙ АНАЛИЗ ПОДХОДОВ  
К ПРОЕКТИРОВАНИЮ ИНСТИТУТА ОЦЕНКИ РЕГУЛИРУЮЩЕГО ВОЗДЕЙСТВИЯ  
В РОССИИ, КАЗАХСТАНЕ И КЫРГЫЗСТАНЕ**

**Аннотация.** Целью исследования является сравнительный анализ подходов к проектированию и внедрению института оценки регулирующего воздействия в странах постсоветского пространства – России, Казахстане и Кыргызстане, выявление проблем и перспектив развития данного института в странах анализируемой совокупности.

Исследование проведено с использованием как общенаучных, так и специализированных методов. Общенаучные методы сравнительных и эволюционно-генетических исследований использованы для проведения кросс-национальных сравнений процессов имплантации новых государственных институтов в исторической ретроспективе. Специализированные методы институциональной и конституциональной теории позволили проанализировать взаимное влияние правовых и экономических факторов при принятии государственных решений в сфере регулирования экономики в рамках сложившихся национальных систем государственного управления.

По итогам исследования сделаны выводы, отражающие специфику проектирования института оценки регулирующего воздействия в России, Казахстане и Кыргызстане с точки зрения выбора ключевых актеров и распределения между ними полномочий. Отмечена высокая роль, которая при проектировании института оценки отведена в Казахстане структурам, выражающим интересы предпринимателей. Охарактеризована степень зрелости института оценки в анализируемых странах.

**Ключевые слова:** институт оценки регулирующего воздействия, анализ регулятивного воздействия, регуляторная политика, постсоветское пространство, проблемы внедрения, сравнительный анализ.

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