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RFC: AT1120618V12

**Revista Dilemas Contemporáneos: Educación, Política y Valores.**

<http://www.dilemascontemporaneoseduccionpoliticaayvalores.com/>

**Año: VII    Número: 2    Artículo no.:106    Período: 1ro de enero al 30 de abril del 2020.**

**TÍTULO:** La Consulta como una forma de apoyo científico y experto para la actividad legislativa del parlamento (ejemplo de la Duma Estatal de la Asamblea Federal de la Federación de Rusia).

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**RESUMEN.** El artículo analiza la Consulta como forma de apoyo científico y experto de la actividad legislativa del parlamento, consistente en proporcionar al cuerpo legislativo, varios tipos de propuestas, comentarios, aclaraciones, recomendaciones, opiniones de expertos, antecedentes y otra información sobre temas relacionados con la legislación tanto por escrito como oralmente, que incluye recomendaciones relacionadas con la preparación de proyectos de ley o su finalización en el proceso de actividad legislativa, diversas evaluaciones de las disposiciones de la legislación vigente, disposición de información legislativa, analítica, jurídica, estadística y de otro tipo de interés al legislador a petición suya, o por iniciativa propia, preparación de recomendaciones metodológicas para su uso en el trabajo legislativo, diversos eventos de capacitación para diputados, sus asistentes y empleados del aparato parlamentario, etc.

**PALABRAS CLAVES:** ley, acto jurídico normativo, experiencia jurídica, proporcionalidad de la regulación legal, legislación, actividad y trabajo legislativo.

**TITLE:** Consultation as a form of scientific and expert support for legislative activity of the parliament (example of the State Duma of the Federal Assembly of the Russian Federation).

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**ABSTRACT:** The article analyzes Consultation as a form of scientific and expert support of the legislative activity of the parliament, consisting in providing the legislative body, various kinds of proposals, comments, clarifications, recommendations, expert opinions, background and other information on issues related to legislative activity, as in writing and orally, including recommendations related to the preparation of bills or their completion in the process of legislative activity, various assessments of the provisions of the current legislation, provision of legislative, analytical, legal, statistical and other information of interest to the legislator at his request or on an initiative basis, preparation of methodological recommendations for use in legislative work, various training events for deputies, their assistants and employees of the parliamentary apparatus, etc.

**KEY WORDS:** law, normative legal act, legal expertise, proportionality of legal regulation, lawmaking, legislative activity and work.

**INTRODUCTION.**

As a rule, counseling is a process of interaction between two or more entities (individuals or organizations), the purpose of one of them (specialist) is to provide professional assistance to the other entity to make the right choice in a personal or professional setting.

In the scientific literature on the problems of consulting public authorities, it is noted that the consultant should not determine the goals of the policy underlying the consultation, and his recommendations concern only means and tools to achieve the goal [1]. At the same time, it is very controversial that the expert's task is to provide lawmakers with information that must be taken into

account when making a decision, but by no means an offer of draft decisions already selected by the expert that the politicians can only approve of [Savelyeva E.M. (1999)], since in this case, the functions of an expert are limited only to informational advice.

## **DEVELOPMENT.**

### **Research methodology.**

Dialectical method of cognition allowed to ensure the objectivity and comprehensiveness of the researched phenomena, general scientific methods were used (system, structural-functional, concrete-historical, comparative-legal), general methods of theoretical analysis (analysis, synthesis, generalization, comparison, abstraction, analogy, modeling, etc.) and private-science methods (comparative law, technical and legal analysis, concretization, interpretation, etc.) [S.A. Komarov (2019), p. 32-40].

### **Study results.**

In the theory of state and law, in constitutional law, it is considered quite proven that the content and subsequent effectiveness of adopted bills in parliament largely depends on the quality and objectivity of scientific and expert advice.

Scientific and expert consulting support of legislative activity can be carried out in various organizational forms, among which the implementation of the relevant work can be highlighted:

- In the framework of the activities of special structural units of the legislative bodies, the task of which is analytical, informational, legal, reference and advisory and other expert support of the legislative process.
- In the framework of the activities of scientific and other organizations created by the Parliament and (or) providing scientific and expert support for its activities.

- In the framework of the various consultative and advisory bodies created in parliament, including under its leadership, in committees, commissions, in factions or deputy associations.
- In the framework of meetings of committees and commissions of the parliament, which consider bills or other issues related to the implementation of legislative activities.
- In the framework of special events related to legislative activities (parliamentary hearings, round tables, conferences, etc.).
- In the framework of training events (lectures, seminars, etc.) aimed at improving the professional level of the "deputy corps" and members of the parliamentary apparatus.

As a form of scientific and expert support for legislative activities, counseling can be divided into expert, informational and educational counseling, the difference between which is the nature of the information provided during the consultation. Note that our distinction is conditional and necessary for the analysis of the implementation of counseling, in a whole series of cases the selected types of counseling are closely intertwined in the process of its implementation.

The basis of expert advice, it seems, is the consideration of the issue on the merits, the development and submission of specific proposals, recommendations for solving the existing problem, its expert assessment. Information counseling does not imply such an assessment, since it is limited in its essential framework only to the provision of certain information.

Expert (analytical) consulting involves a more in-depth analysis of the issue than with information consulting, and, as a rule, requires specialized knowledge in a certain area, and therefore analytical (research) and library information services often exist in the form of independent structural units of the parliamentary apparatus. At the same time, in about half of European parliaments, the research and library services are in the same structure, and there is a tendency for these two services to merge, which, in our opinion, emphasizes the close interconnection of expert and information consulting and the difficulty of separating them in practice [3].

Training advice is based on the task of introducing certain theoretical or practical knowledge into the consciousness of trainees, including sound methods (a set of techniques and methods) for solving certain problems, for example, improving the quality of work on a bill due to the proposed techniques for its more rational organization, increasing the efficiency of implementation examination of the bill on the basis of the proposal of a clear methodology for its implementation, etc.

Mostly expert and informational consultation takes place in the activities of the various advisory bodies and advisory bodies (scientific and expert councils, working groups) created and operating in the State Duma under the Chairman of the State Duma, its committees and with factions in the State Duma. The implementation of scientific and expert advice is expressly provided for in the tasks of such bodies. For example, in the Regulation on the Expert Council of the State Duma Committee on Public Associations and Religious Organizations, its main tasks include “providing information and advising deputies of the State Duma - members of the Committee and employees of the Committee’s staff on issues within the competence of the Committee” [4].

These types of scientific and expert advice are also carried out within the framework of the structural units of the State Duma apparatus, whose tasks include analytical, legal, and information support of the legislative activities of the State Duma, and during the conduct of various measures by the State Duma related to legislative activities (parliamentary hearings, round tables, conferences, seminars, etc.). An important body providing information support for the legislative process is the Parliamentary Library, whose functions include library and information support for the legislative activities of the chambers of the Federal Assembly of the Russian Federation, preparation of analytical, information and reference materials on relevant issues.

One of the important forms of expert and informational consultation in the framework of the scientific and expert support of the legislative activity of the State Duma is the publication in the State Duma of information and analytical bulletins on the results of the chamber's work for the spring and autumn sessions, which analyze the results of the legislative work of the State Duma for the indicated periods, as well as the release of other information and analytical materials (analytical bulletins, analytical reviews, analytical Sgiach notes, rapid tests, rapid information) related to legislative activity and to help MPs in their work. The preparation of such materials for informational support of the legislative body is a generally accepted world parliamentary practice [5, p. 20-21].

Training advice in the State Duma is widely used in conducting various training events for deputies of the State Duma, civil servants of its apparatus (lectures, "open lessons", seminars) [6], in the process of holding conferences and other events related to legislative issues by the State Duma [7], to which representatives of the scientific community are invited, reputable scientists are specialists in their field. It should also be highlighted such a form of training counseling provided by educational institutions of higher education, as additional professional education of civil servants of the State Duma apparatus and their advanced training. In accordance with Art. 62 of the Federal Law of July 27, 2004 No. 79-Φ3 "On the State Civil Service of the Russian Federation" provides for the implementation of additional professional education of civil servants, which includes professional retraining and advanced training [8].

In the world practice of expert support for parliamentary activities, a form of consulting the legislator is used through special parliamentary seminars aimed at informing parliamentarians about the results of the research units, which makes it possible to effectively convey the expert position to parliament members by presenting research results, and discussing the possibilities for their

practical use draw the attention of the legislator to certain topics, the cat according to the structural unit, is important for parliament's activity [5, p. 44-53].

The regular holding of such seminars in the State Duma would, in our opinion, contribute to a more effective integration of the results of research work in its legislative activity.

In the structure of training counseling, it is reasonable to single out methodological counseling, which consists in teaching rational methods for implementing certain activities, which can be carried out both through organizational activities (for example, seminars on the exchange of experience in legislative work and the search for its most effective methods), and through training involving scientific and other organizations, their experts, guidelines for use in lawmaking and legislative activity.

It should be noted that it is precisely the methodological scientific and expert support of the legislative activity of the State Duma that currently needs substantial development and improvement. The only methodological recommendations officially recommended for use in the process of expert legislative work in the State Duma are the methodological recommendations approved by the Council of the State Duma on the legal and technical drafting of bills, designed to unify the requirements for the external design of legislative acts [9]. There are no scientifically-methodical recommendations officially recommended for use in the legislative process and legislative activities on the preparation of bills and justifications for them, the implementation of scientific, legal and other examination of bills, and the use of legal technologies in legislative activities. It seems that the development of such recommendations with the participation of experts from leading scientific organizations and educational organizations of higher education and their use in the legislative activities of the State Duma is an objective necessity.

Note that at one time the necessary methodological work to ensure the activities of the Supreme Council of the Russian Federation was carried out by the Institute of Legislation and Comparative Law, which, in particular, developed and submitted to parliament methodological recommendations on the preparation of draft laws of the Russian Federation [P. Sukhorukov (1992), p. 105].

In the case of the creation of an organization carrying out scientific activities under the Russian parliament, it could provide full scientific and methodological support for the activities of the chambers of the Federal Assembly of the Russian Federation and, based on the research work carried out, provide the federal legislator with the necessary methodological materials in a timely manner. Note that in the Republic of Belarus, the methodological guidance of norm-setting activities, including the activity on the application of the requirements of standard-setting techniques, is entrusted to the National Center for Legislation and Legal Research [11], which issued a number of methodological recommendations in the field of lawmaking. This center is a scientific-practical state institution (scientific organization) [12].

On the basis of the analysis carried out, it is possible to state a wide range of scientific and expert consulting support of the federal legislator provided by both internal and external entities of scientific and expert support of the legislative activity of the State Duma.

It should be noted that the internal consulting of the legislator (structures and specialists of the legislative body) has a number of advantages compared to its external consulting (attracted by experts, scientific and other organizations, third-party government bodies), which include knowledge of all the nuances of legislative and legislative work, which allows you to advise the legislator, taking into account the specifics of his activities and in the form he needs, the absence of lobbying interests, professionalism employees and efficiency of a consultation by the legislator for their situation.



It seems that the disadvantages of internal counseling are inherent in general shortcomings that are characteristic of the work of state apparatus. The activities of employees of state apparatus are characterized by a lack of time, and therefore public servants often seek not the most optimal solution, but the first acceptable one. The lack of time also leads to the use of the principle of work by analogy, in which civil servants rely more on their experience in solving similar or similar problems than on considering unique aspects of the situation, and may not take them into account when preparing final recommendations.

An insufficiently creative approach to solving a problem can also be expressed in the uniformity of the proposed solutions. The “weak link” of internal consultation as a form of scientific and expert support for legislative activity is also the minor exposure of its performers to external criticism of their work and, most significantly, significant exposure to the influence of the political factor (lack of ideological independence), if the legislative activity of the legislative body and, as a result, the work of his apparatus is largely determined by the interests of the political power.

As for external counseling, that is, counseling provided by specialists who are not part of the legislative apparatus, it is necessary to highlight the opportunity for the legislator to get a “fresh look” at the solution to the problem from the side, including an alternative solutions, which can often turn out to be more effective, get acquainted with a wide range of expert opinions and, most importantly, attract the most competent actors in those wasps, which require the provision of expert assistance (with the necessary scientific and professional knowledge).

Note that, unfortunately, the practice of consulting the legislator with specialists of independent research organizations (in the USA these are the so-called brain centers), one of the main tasks of which is the provision in various forms of expert analytical support to the work of state bodies. Such organizations have their own staff of research experts who provide not only independent scientific research, but also the transformation of scientific knowledge into analytic information

convenient for the legislator, which is necessary for legislative work. Abroad, such organizations are the link between the legislator and science, with the help of which scientific knowledge is effectively integrated into legislative decisions. As for the Russian parliamentary practice, it should be noted as the lack of desire of the legislator to systematically and regularly use such services, as well as the insufficient development of the scope of their provision.

It seems that ideally it is necessary to create a full-fledged competitive environment in the field of expert advice to the federal legislator between independent analytical and expert centers, lobbying organizations representing various interest groups, and scientific organizations, both with and without state participation, in which these entities carried out would be the marketing promotion of their consulting services to the federal legislator. Currently, the wide potential for the formation of such an environment is provided by the use of the information and telecommunication network “Internet” for scientific and expert support of the legislative activity of the State Duma. A significant step in this direction was the creation of the website “Parliamentary Portal”, one of the main tasks of which is to facilitate the interaction of deputies with experts and on which a number of experts in the field of legislative activity are registered [13].

It should be noted that the external expert advisory support of the federal legislator is widely represented in the federal legislative process; for example, the Chamber of Commerce and Industry of the Russian Federation, whose specialists participate in the work of various expert councils of the State Duma and specialized committees of the chamber, regularly prepares analytical materials calculated for use in their activities by state bodies, including legislative ones. Reviews of changes in legislation and law enforcement practice are regularly prepared by the Russian Union of Industrialists and Entrepreneurs (RSPP).

Actively involved in the legislative work of the State Duma and various structures of civil society are; for example, experts of the Monitoring Center for the identification of dangerous and prohibited content by law provide expert advice to the State Duma committees on improving the legislation in order to increase the effectiveness of the fight against violence against children; specialists of this Center took part in the development of relevant bills, initiated amendments to existing legislation.

One of the important forms of legislative assistance to the legislator on the part of the scientific community is the participation of its representatives in special events held in the State Duma on legislative issues (parliamentary hearings, round tables, conferences, etc.), the purpose of which is to expand the “horizons” and the legislator, identifying the interests of various stakeholders: authorities, organizations, social groups whose interests may be affected by a legislative decision, acquainted opinion with competent experts, including representatives of science. The timely holding of such events allows the legislator to monitor the sphere of legislative regulation, quickly respond to emerging problems, the solution of which requires the adoption of legislative acts, and discuss legislative proposals and draft laws introduced in the State Duma.

Improving the effectiveness of such events, and primarily the institution of parliamentary hearings provided for by the Constitution of the Russian Federation, is associated with improving the requirements for holding them in the Rules of Procedure of the State Duma. We believe that they should include requirements on the timeliness of the relevant events, ensuring the participation of the widest possible range of entities, whose interests may be affected by the proposed legislative decision, as well as the most professional and competent specialists in their field, and placing all materials of the events in an open access to the Internet. The position of I. I. Shuvalov, who believes that in relation to the parliamentary hearings both the choice of topics and their discussion [Shuvalov I.I. (2006), p. 66].

An obvious drawback of external consultation as a form of scientific and expert support for the legislative activity of the State Duma is lobbying for the implementation of the interests of various structures interested in a certain position of the legislator on a particular issue. Note that lobbying can be seen as a form of political consultation in the interests of certain individuals. For example, in the draft federal law “On the legal foundations of lobbying in federal government bodies” lobbying refers to the interaction of legal entities and individuals with federal government bodies and their representatives with the aim of influencing the development and adoption by these bodies of legislative acts, administrative, political and other decisions in their own interests or in the interests of specific clients (Article 3) [15].

In this regard, along with expert support from various commercial and other non-state structures, the main purpose of which is to identify the existing spectrum of various interests and ensure that they find the optimal balance when making legislative decisions, it seems necessary to widely use expert advice from large scientific organizations and educational higher education organizations, the financing of which is carried out from the federal funds budget, which sufficiently guarantees the independence and objectivity of their expert position, as well as the mandatory expansion of internal information and analytical advice, which should allow the federal legislator to receive the necessary advisory support in legislative activity, regardless of the availability of external sources, which will ensure its full intellectual independence.

In this regard, the experience of advisory assistance to the legislator provided by the US Congressional Research Service is interesting. At the stage of identifying a problem requiring a legislative solution, when it is necessary to precisely argue the need for Congress attention to it and determine the general context, the service can provide basic information and historical information on the issue, an analysis of the causes and symptoms of the problem, as well as various approaches to solving it.

At the stage of a legislative proposal within the framework of the consultation, the US Congressional Research Service provides information on the history of the issue in various forms, for example, a collection of articles in which a problem is studied from various points of view, or a synthesis and explanation of scientific data on a technically complex issue, or a comparative analysis of several explanations proposed to interpret this problem.

The US Congressional Research Service can provide information on what effect, from a legal point of view, a bill can have if it is passed, and can also help formulate amendments to the bill. It is widespread practice to immediately consult with congressional members of the service by telephone [Gurinovich A.G., Kozlova N.V. (2007)].

Of course, the provision of such a wide range of advice to the legislator requires the necessary number of specialists in the analytical structure of the legislative apparatus. If we take into account the opinion that the ratio of “one researcher to five deputies” is rational [3], then the number of civil servants in the analytical unit of the State Duma apparatus should be at least 90 people. However, it seems that the size of this structural unit of the State Duma apparatus should be comparable with the number of specialists in the analytical units of the parliaments of the leading Western states; for example, the US Congressional Research Service includes five departments and six departments with a total staff of more than 600 people, 400 of which perform analytical expert functions.

Office W “Science and External Relations” in the Office of the German Bundestag consists of more than 250 employees and includes 11 research units corresponding to 22 parliamentary committees.

The number of employees in the House of Commons Library of the British Parliament, which serves as the parliamentary research unit, is about 150. This would ensure an optimal balance between internal and external advisory assistance to the federal legislator, in which external consulting would organically complement internal rather than substitute it, at the appropriate level to organize the fulfillment of individual requests of deputies of the State Duma and the analytical

support of legislative work in its committees by providing them necessary information and research results.

## **CONCLUSIONS.**

In conclusion, we note that in view of the convenience of such a form of scientific and expert support of the legislative activity of the State Duma for the federal legislator as counseling, which, first of all, is explained by the opportunity for him to promptly receive professional advice on a matter of interest to him at any stage of the legislative process; counseling is the most widely used form of scientific and expert support for the legislative activity of the State Duma. The greater availability of this form of scientific and expert support in comparison with its other forms is due, not least, to financial considerations. Obviously, for example, from a cost point of view it is much more profitable to invite experts to discuss a solution to a problem than to initiate research to study it.

In some cases, the disadvantage of consulting is that they are actually replaced by other forms of scientific and expert support for the legislative activity of the State Duma, which must be used at a certain stage of the legislative or legislative process. However, such a replacement is not complete. Experts are able to describe to the legislator a picture of law enforcement practice or to assess the quality of a law, to propose a way to solve the problem, but the expert's opinion cannot be a substitute for conducting scientific research in cases where it is necessary, or for conducting scientific and other expertise of the bill.

Overcoming the current situation, in our opinion, is possible only by intensifying the implementation of the scientific and expert support of the legislative activity of the State Duma other than by consulting forms of such support, while counseling can be considered as an organic addition to them, but not a replacement; for example, after conducting a study to evaluate the

effectiveness of the application of a legislative act, the expert opinion may be useful, as it can tell the legislator how to optimally use its results in legislative work.

### **Conflict of interest.**

The authors confirm the absence of a conflict of interest.

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**RECIBIDO:** 15 de diciembre de 2019.

**APROBADO:** 27 de diciembre del 2019.