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# Goal setting in the mechanism of public-legal regulation of finance

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## Abstract

The objective of this article is to determine the nature of goal-setting as an integral part of the mechanism of public legal regulation, the factor and the criterion of the effectiveness of its functioning via the structural-functional method. As a result, it is recognized that the implementation of legal support for the activities of subjects in the sphere of public finance is not sufficient only by means of procedural aspects. In conclusion, there is a need to specify the purpose of legal regulation in the texts of financial laws and the subsequent definition of criteria for achieving the goals fixed.

**Keywords:** Mechanism, Public, Law Regulation, Finance.

# Establecimiento de objetivos en el mecanismo de regulación público-legal de las finanzas

## Resumen

El objetivo de este artículo es determinar la naturaleza de la fijación de objetivos como parte integral del mecanismo de regulación legal pública, el factor y el criterio de la efectividad de su funcionamiento a través del método estructural-funcional. Como resultado, se reconoce que la implementación del apoyo legal para las actividades de los sujetos en el ámbito de las finanzas públicas no es suficiente solo por medio de aspectos procesales. En conclusión, es necesario especificar el propósito de la regulación legal en los textos de las leyes financieras y la posterior definición de criterios para lograr los objetivos fijados.

**Palabras clave:** Mecanismo, Público, Legislación, Finanzas.

## 1. INTRODUCTION

The effectiveness of the legal regulation of social relations is predetermined by a number of factors, among which the indication of the goals that the legislator sets for himself is played the leading role. In this case, when it comes to what the legislator wanted to achieve, they usually talk about the direction of laws to regulate the life activity of the whole society or its separate spheres. But the meaning of the process of ordering is brought to insurance of the order of activities of certain subjects, to determine the responsibility for its violation. In its turn, the order is an indication of the rights and duties of the subjects,

the sequence, the procedure for implementing the prescribed forms and methods of exercising their rights and obligations. With this approach, the goal of the legislator is boiled to put it simply, to the establishment of an activity procedure.

Civil law (with its private law method) is an example of a procedural settlement where the legislator has set and largely achieved the goal in order to the participants of civil law turnover, making any transaction, transfer each other the equivalent that is the subject of the transaction. Participants in the transactions themselves choose the order of activities, that is, the form of the transaction, the scope of rights and obligations (RAWLINGS & LOWRY, 2017), and the State's task is, at the same time, not to violate the legitimate rights and interests of each participant in the transaction, so that there is not what we call scam. From the point of view of the mechanism of legal regulation, the State, in the person of its legislator, did not provide (and it is quite correctly) an indication of the purpose for participants in all concluded transactions.

The fact is that the goal - to participate or not to participate in the conclusion of a transaction - each individual entity each time decides solely independently. He as a reasonable subject, seeking to secure his interests, assumes certain obligations and determines his rights in a single complex of legal relations that are formed during the conclusion and subsequent implementation of the transaction. Therefore, the legislator does not reasonably point the question of

goal-setting for the subjects-participants in civil legal relations. This is their private or personal, affair.

However, in the case of the participation of representatives of public interests as a party to the transaction, it immediately becomes necessary to determine the purpose of such participation in the text of the normative legal act. An example is a legal provision for participation in the procurement of goods, works and services from budgetary funds, the emphasis of which is exclusively on formal compliance with the procurement procedure contrary to a reasonably determined goal. In this regard, we believe it is necessary to consider goal setting as the main factor that should be legislatively fixed and taking into account which the issue of efficiency or inefficiency of legal regulation of any (including financial) sphere (DOLAKOVA, ZUBANOVA & PASHENTSEV, 2018; SHESTAK & VOLEVODZ, 2019).

Functional interrelations that exist in the system of financial law allow identifying the social nature and role of any industry in improving social management in modern market economy and in settings of legal state formation (HAENTJENS & DE GIOIA CARABELLESE, 2017; ROE & COAN, 2017). At present, financial law is evidently an independent branch of law in domestic legal science. This independence grounds on the peculiarities of financial and legal regulation mechanisms, in which inter-dependent elements are bonded by unbreakable bonds (SHESTAK, VOLEVODZ & ALIZADE, 2019; PAUWELS & SNYERS, 2018). Public relations

emerging in state financial activities are the subject of financial law. The property nature of these relations defines what methods will be most effective in legal regulation (WOOD, 2014).

New realities of Russian statecraft require an additional understanding of the essence of modern financial law, formed from different perspectives, including that of legal science (MAGGS, SCHWARTZ & BURNHAM, 2015; NINA, ZHANNA, LARISA & OLESYA, 2015). Therefore, this article discusses the nature of goal setting as an integral part of the mechanism of public legal regulation that allows distinguishing financial law from other branches of Russian law, and thereby improving legislative and law enforcement processes.

## **2. METHODOLOGY**

The set goal was considered using the general dialectical method of cognition that is based on formal-legal and structural-functional methods. Within the framework of activity and instrumental approaches, these methods allowed considering objects in a holistic manner. The theoretical basis of the research is built up from domestic and foreign research papers in the field of civil, financial, and public law, as well as from the general theory of law.

### 3. RESULTS

The use of a public legal method of regulating public relations by the legislator depends, first of all, on the status and nature of the relationships of participants in these relations. In the process of applying the public legal method, the legislator can also set the task of ensuring only the procedure, that is, the order of the process of the activities, without specifying the goal-setting factor for those who are prescribed by the State, mandated order of the implementation of certain duties. Mainly, such a mechanism is used in cases where the public legal method of legal impact is intended for entities that are not public in their essence. In a simplified form, the subject of legal regulation is seen as follows (Figure 1).

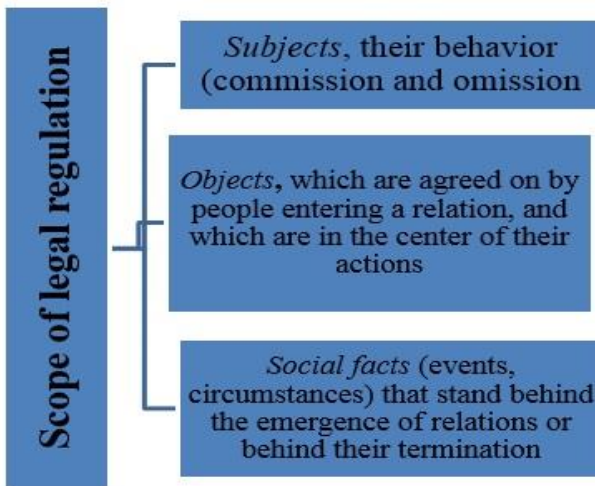


Figure 1: The public legal method of regulating public relations



These are, for example, traffic rules. In this case, the legislator with the use of power, the imperative methods require all road users to observe strictly the established procedure by all participants in the movement. The goal of their movement each subject chooses independently without the State indicating. In another case, the legislator prescribes the taxpayer to give part of his property, and to realize it independently in accordance with the procedure established by law. In this case, the goal of the State aimed at obtaining material opportunities for securing public interests (realized through the State functions) for the taxpayer is an external task for him.

It can become part of the interests of the taxpayer himself if the State convinces him that taxes and fees will indeed be used to solve common, public interests, including the interests of the taxpayer. In this regard, the position of NERSESYANTS (2009) about the tax law as a form of expression of the commonweal (general interest) (NERSESYANTS, 2009) is interesting. For this, a high tax culture must be formed within the whole society, including the State. If the State, having the tax sovereignty established by the Constitution of Russia, simultaneously rejects tax arbitrariness, and the tax burden will be commensurate for the taxpayer, he will agree with the State in providing the budget with tax revenues. And from legal entities it is easier to take taxes because there the tax is levied on collective property. An individual gives his personal property.

In the third case of the application of the public law method, the subject of public law acts as a subordinate, being called itself to

provide public interests. Here, the legislator determines not only the procedure, the procedure of activities, but also the goals that the performer performing this activity should achieve. For example, the State has set before the Russian Defense Ministry a specific task to ensure, by certain criteria, the quality indicators of the country's defense capacity by 2020, which are currently being implemented in the main. There is a sense to draw attention once again to the fact that for the separate ministry as a carrier of public authority and public interests, two groups of tasks are defined in this case: first, to achieve a certain quality of defensive capacity, that is, the goal; secondly, to observe at the same time all the rules and procedures for activities, formalized by the norms of public law.

However, there is no such clarity in the application of the method in question in the case of authorized representatives of public authorities that manage public finances. We refer to such representatives not only authorized subjects of public and legal entities, but also State corporations formally separated from the State, a number of public organizations that have finances to support their public goals, and the Bank of Russia. A view of Vinnytsky is interesting in this plan.

Largely, the efforts of the legislator and legal science in this area are aimed at establishing, in fact, procedural moments. The financial legislation prescribes in detail the questions of the status of financial entities of public and legal entities, the order of their activities, but there is no indication of the ultimate goal for which the budget and

other types of public finance will be used. But even when the law prescribes the purpose of creating financial entities (for example, the purpose of the Bank of Russia's activity in Federal Law No. 86-FZ of July 10, 2002 On the Central Bank of the Russian Federation (Bank of Russia), the objectives of activity of the Vnesheconombank in the Federal Law of May 17 2007 No. 82-FZ On the Development Bank, etc.), can we talk about the achievement of these goals while carrying out their activities? The purpose of the subject of financial activity is the expected final result of its functioning within the framework of a certain financial sphere in the medium term, corresponding to its main field of activity. But who will determine the achievement of their goals?

The choice of the way of development of the financial system of the Russian State with its subsequent orientations either to the liberal model or to the pole of paternalization depends on the answer to this question, in the final analysis.

#### **4. DISCUSSION**

When considering the legal mechanism as a category, let us take as a basis the idea of S.S. Alekseev, that the mechanism of legal regulation is a system of legal means taken together, with the help of which an effective legal influence on public relations is provided. It is the effectiveness associated with the impact on the qualitative

indicators of the development of society, which is the goal of legal support. More precisely, formally, the goal is to generate revenues and implement expenditures for the budget, for example. That is, the goal is the achievement of quantitative monetary indicators.

For example, in the Federal Law of June 08, 2015, No. 140-FZ On the voluntary declaration of assets and accounts (deposits) by banks in banks and on the introduction of amendments to certain legislative acts of the Russian Federation (the so-called Law on Amnesty of Capital) a goal such as the creation of a legal mechanism for voluntary declaration assets and accounts (deposits) in banks, providing legal guarantees for the safety of capital and property of individuals, protecting their property interests, including outside the Russian Federation, reducing the risks associated with the possibility of bubbled limitations of using Russian capital, who are in foreign countries, as well as with the Russian Federation, the transition to the automatic exchange of tax information with foreign States has established. This goal can be called quite definite and achievable, since the declarative campaign had clearly defined deadlines and was held before July 1, 2016. However, the declaratory company had not achieved its goal - by the end of June 2016 only about 2500 declarations had been filed.

## **5. CONCLUSION**

The application of the public law method to the relations that arise between public legal entities supposes an obligatory definition of the goal which should be achieved by the subject fulfilling the power orders. However, there is no such clarity in the application of the method in question in the case of authorized representatives of public authorities that manage public finances. In practice, this situation leads to violations by not only authorized subjects of public and legal entities but also formally separated from the State corporations, public organizations, endowed with financial resources to ensure their public goals.

The mechanism of public-law regulation of finance necessarily includes a qualitatively determined goal of using public finance, i.e. goal-setting, the principles of legal regulation of certain groups of relations, the establishment of the status of participants in the relationship, the regulation of their activities, as well as forms of responsibility for violation of the established order.

The main criterion for the effective use of public finance is the indication of a clear, qualitatively defined goal that can be formulated in the Constitution provisions about the development of the national society, indicators of conservation and development of the population, economic development and the solution of social problems. National interests are the criteria for determining the relevance of other indicators.

Goals must be established in all financial laws. The next step should be the introduction of a system for analyzing their achievements (for example, summing up the results of the execution of financial laws, an intermediate summary of the results). The lack of results implies the need for a correction of the law (right up to its abolition). Information about the results and achievement of the goals set forth in the law shall be subject to mandatory publication in open sources.

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