

Summary of Normative instruments for evaluating the effectiveness of law

This doctoral dissertation addresses the issue of legal effectiveness, as prior research has predominantly focused on analyzing intended consequences. Authors have typically understood effectiveness in terms of the objectives aimed to be achieved by proposed regulations. However, there exists a notable gap in extensive analyses concerning the costs of implementing regulations or the unforeseen consequences they may engender. Effectiveness, as understood within legal doctrine, is primarily dichotomized into two concepts:

1. Effectiveness, interpreted as efficacy, where the fulfillment of assumptions leads to the assumption that regulations are effective.
2. Effectiveness, understood in economic terms, where the fulfillment of assumptions and the minimization of social, economic and other costs lead to the assumption that regulations are effective.

In both these premises, effectiveness is perceived in terms of fulfilling the intended purpose, with one distinction being the analysis of costs at the initiation of the legislative process. The dissertation posits that the effectiveness of law and the premises for its determination exist within most contemporary trends and theoretical-legal methods, though they have not yet been explicitly distinguished. This underscores the necessity to differentiate between effectiveness and the efficacy of law, as well as to identify the significance of effectiveness within contemporary theoretical-legal trends and to determine the values guiding legislators in adopting regulations.

Establishing effectiveness standards enables further analysis of contemporary legislation. It is assumed that legislators deliberate intentionally in creating norms and implement the assumptions of individual stages of the legislative process. For the purpose of this dissertation, analyses of normative acts were conducted, aiming to demonstrate whether the Polish legislature adheres to its own guidelines in creating legal norms.

The research thesis asserts that within the Polish legislative process, there exists a model of mixed effectiveness. However, the individual elements of this model are not exclusively associated with values derived from any specific trend within legal theory. Moreover, the legislative process, depending on the entity having legislative initiative, is characterized by differing values regarding the achievement of effectiveness.

The objective of this work is to demonstrate that, fundamentally, the Polish legislative system is characterized by values mainly derived from contemporary trends in legal theory.

Nevertheless, it is possible to observe a departure from the values of legal positivism, including its softer variety. Another task of this dissertation is to address whether normative instruments in the Polish legislative process aim at achieving the effectiveness of law and whether there is one normative model of the legislative process that implements the demands of the effectiveness of law. To accomplish these goals, an analysis must be conducted to demonstrate the existence of instruments and to determine whether and what the model of effectiveness is in Poland and how it will evolve *de lege ferenda* in the future.

The research problem undertaken was presented and developed in five chapters. The introductory chapter contains preliminary terminological issues and presents the concept of effectiveness and efficacy of law as understood by S. Wronkowska and Z. Ziemiński, who distinguish effectiveness from efficacy. The author, for the purposes of further analysis, adopts the concept of effectiveness and justifies his choice.

The second chapter presents various trends in contemporary legal theory. It discusses the assumptions of positivism, realism, psychologism, the concept of good law, and contemporary theories of reflection on law. It was noted that each discussed trend in legal theory is characterized by different values that the law is supposed to serve. The culmination of discussing a given trend involves its analysis in terms of determining the values that characterize it. This is necessary to establish the category of the effectiveness of law that a given theoretical trend is characterized by. The author does not limit himself to presenting general assumptions; if there are schisms within individual trends, they are also discussed, and their analysis is carried out to determine the effectiveness of the law.

Chapters three and four mostly focus on a doctrinal analysis of the legislative process. However, in the third chapter, instruments for assessing the effectiveness of law are discussed. The work focuses on selected, fixed elements of the legislative process, especially governmental ones, as they are characterized by the greatest complexity; interministerial agreements, opinions, and social consultations were discussed. Due to their importance in the legislative process, an analysis of the *Ocena Skutków Regulacji*, which is a mandatory attachment to the government's project, was also carried out. This dissertation also analyzed the so-called parliamentary legislative initiative, which can be undertaken by deputies. The conclusion of each of the analyzed instruments of the legislative process is to compare them with the premises of the effectiveness of law discussed in the second chapter and to argue for the choice made as a result of the analysis.

In the fourth chapter, the dissertation focuses mostly on entities in the understanding of bodies involved in the governmental legislative process, due to their stage and elaborate

structure. The work analyzes governmental initiatives in the standard form of the subject of the process, i.e., without the bodies involved in the procedure for particular projects. Similar to the third chapter, using a comparison of the essence of the activity of the discussed bodies, an analysis was carried out to determine the realization by them of effectiveness standards. Additionally, in this chapter the activity of the Najwyższa Izba Kontroli was discussed, as a body not actively involved in the legislative process but with a significant impact on it.

In the fifth chapter of this dissertation, an analysis of selected examples of legal acts was applied to determine the impact of the legislative process on their effectiveness. Examples of the real impact of individual legal instruments and bodies on the final wording of provisions were used, and their effectiveness was also assessed. In this chapter of the work, an evaluation was made of the real impact of social consultations on the wording of proposed provisions and the attitude of the drafter to the comments made by the social side. It is important to note that in the content of this chapter, to demonstrate that the problem of effectiveness concerns not only laws but also delegated acts, a draft regulation was used as an example. It has been proven that even a strictly technical act can arouse controversy at the stage of the legislative process, and mistakes made by the drafter can affect the subsequent occurrence of the effectiveness of the law in this respect. Furthermore, legislative projects of statutory rank were selected in this work in such a way that the analysis conducted covered a wide range of areas of social life.