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EX POST EVALUATION OF LAWS AND REGULATIONS: PERSPECTIVES IN LITHUANIA

Summary

Recently Lithuania decided to reform its regime of *ex post* evaluation of legislation adapting the national regulatory framework to the OECD recommendations and best practices of other European states. In the context of such initiative and upon request of the Ministry of Justice of the Republic of Lithuania, the Law Institute of Lithuania and the authors of this research were contracted to set a scientific background for further political discussions on the issue. As a result, the core objective of this study was to search for an *ex post* evaluation model that would be most suitable for Lithuania and that would be based on OECD-compliant standards.

Considering the main objective of the study, the authors set out the following tasks for their research: (i) to analyze the OECD recommendations and other documents in the field of *ex post* evaluation, as well as best practices in selected jurisdictions (the EU, Estonia, the UK and Germany); (ii) on the basis of international standards developed by the OECD, to define and to substantiate a model *ex post* evaluation of legal regulation; (iii) to study the situation in Lithuania in the field of *ex post* evaluation (legal regulation and practice) and to evaluate it; (iv) to formulate recommendations for further development of *ex post* evaluation regime in the Lithuanian legal system.

Working on this research the authors analysed the relevant OECD documents, legislation and practice of other jurisdictions, also referring to the work of other scholars in the area of evaluation of legislation. To get a clearer look of the situation in Lithuania, the authors collected and analysed various documents resulting from *ex post* evaluations performed by

executive bodies. Furthermore, a survey was carried out among the bodies which are assigned with certain tasks in the area of *ex post* evaluation.

The research is structured into three chapters: “I. Model regulation for *Ex Post* Evaluation”, “II. *Ex Post* Evaluation in Lithuania” and “III. Recommendations”.

The first chapter “Model Regulation for *Ex Post* Evaluation” is intended to analyze OECD recommendations in the field of *ex post* evaluation and to look more closely at selected jurisdictions as regards their regulatory framework and practice in this area. This chapter of the study will be the bedrock for other chapters, as it not only presents the understanding and content of *ex post* evaluation and the position of other states and the EU towards this institute, but also allows us to take one step further for modelling a corresponding regulation in our country.

Part two of the chapter I, “Analysis of Best Practices in the OECD Member States in the Field of *Ex post* Evaluation” is designed to discuss how the EU and some selected countries regulate *ex post* evaluation. It seeks to identify and highlight examples of best practices that are relevant for formulation of recommendations. The study examines relevant practices in four jurisdictions - Estonia, the EU, the United Kingdom (UK) and Germany. This choice is based on several complementary arguments.

Estonia was chosen for its geographic and cultural proximity to Lithuania. An additional argument was that Estonia several years ago initiated major reforms in this area, which were positively evaluated by the OECD, even though it had not carried out an exemplary *ex post* evaluation by the time of the research. On the other hand, even without being one of the leaders in the OECD, Estonia is publicly presented as a very strong average (in the field of evaluation of primary legislation, it occupies 10th place, and in the field of evaluation of implementing legislation - 17th out of 35). Comparing its neighbouring countries, Poland occupies respectively 15th and 27th place out of 35, while Latvia has still not fully implemented the system of *ex post* evaluation.

The choice of the EU and the UK is based on their obvious leadership in *ex post* evaluation, which is reflected in the special political attention given by their parliaments and executive bodies to this issue, as well as in their coherent practice of carrying out *ex post* evaluations.

Germany has been selected for being not only one of the most advanced countries in Europe, but also for having developed and implemented a systematic reform of *ex post*

evaluation. It is also important to note that Germany, the EU and the UK are referred to in the OECD rating as top three *ex post* evaluation systems in the OECD region.

The second chapter of the study “II. The *Ex Post* Evaluation in Lithuania” examines the current situation in Lithuania in the field under consideration – both the legal framework and the practice. It presents historical development of *ex post* evaluation in Lithuania and goes in detail through its present regulatory framework and peculiarities. *Ex post* evaluation in Lithuania is analysed from several perspectives seeking to ensure a consistent and coherent analysis.

Finally, the third chapter “Recommendations” provides insights and suggestions for improving Lithuania’s regulation in the field of *ex post* evaluation by modelling possible options and by outlining their key advantages and disadvantages for national legal system.