

STAKEHOLDER ANALYSIS IN THE PRACTICE OF THE NEW CIVIL SERVICE OF UKRAINE

Policy Analysis Cycle: Norm and Practice.

Public policy is the result of a complex process of developing and implementing government decisions aimed at solving public problems.

The Cabinet of Ministers of Ukraine (§ 3-1 of the rules) defines the following stages of the policy-making process:

- study of the state of affairs in certain spheres;
- identification of socially important problems that need to be solved and their prioritization;
- definition of optimal ways to solve problems;
- development of concepts of implementation of public policy;
- planning of resources and measures necessary for the implementation of public policy;
- drafting legislative acts, monitoring the implementation of adopted acts;
- monitoring and evaluating the results of the implementation of public policy and developing proposals for its continuation, correction or termination based on such an evaluation.

Public policy is not made in a vacuum - the head of state, lawmakers, representatives of executive branch, judges, managers (official participants) and political parties, public organizations, interest groups, research organizations, mass media, individual citizens (informal participants) are the leaders of this process.

Stakeholder analysis: normalization, training and implementation.

Policy analysis should include identifying stakeholders - all those individuals (groups of people) who are involved in the policy process (both in government and outside the authorities). That is, everyone who is affected by a problem and possible ways of its solution (related costs, output and consequences of policy implementation). These individuals are "shareholders" of the policy process, because they have a "share" - they need to be considered in the policy process.

Stakeholders participate in the policy process, they are policy makers, decision makers as well as policy analysts.

Policy makers are those who "make" policy, individuals who are responsible for policy development and decision-making in the authorities - the head of state, legislators, representatives of executive branch, judges, managers (official participants) and political parties, public organizations, groups of interests, research organizations, mass media, individual citizens (informal participants) are participants of the process.

Policy analysts are experts who carry out a preliminary analysis, prepare recommendations for policy analysis customers.

Carrying out policy analysis it is needed to consult with two groups of stakeholders, with representatives of interest groups and interested authorities.

Interest groups are institutionalized groups of participants, that have a common interest in the policy process (hereby we take into account formal and informal connections linking participants to the group). For example, they are groups of business interests, lobbying groups of entrepreneurs; political parties and movements (for example, "greens", who should be considered in the implementation of most investment projects that affect the environment). Representatives of interest groups need to hold appropriate consultations in the policy process, especially before making any decisions.

Stakeholders are a part of society that is a carrier of a group (corporate) interest. For example: students, apartment owners in apartment buildings, parents, local council members, bakers, dairy consumers, etc.

The other group of stakeholders, whose representatives are to hold preliminary consultations with, are interested bodies. Normative documents or experts, taking into account the expediency, determine these authorities.

The CMU rules introduce a new procedure for forecasting the impact of decisions taken by the Government on the key interests of interested parties. As a result the forecast of impact of an act on key interests of interested parties (hereinafter - the forecast of impact) is prepared as a mandatory annex to the explanatory note (Annex 41 to paragraph 1 § 50).

The forecast of impact is a complex task and one of the elements of the public policy development process. Therefore, to understand the methodology of preparing a forecast of impact, it is necessary to understand its place in the process of policy development.

The forecast of impact is usually prepared when the optimal ways of problem solving are being developed. It is usually carried out before the draft act is prepared. However, we can carry it out in relation to the draft act developed for well-founded reasons without the prior conduct of the appropriate stage of the public policy development.

Before we prepare a draft act, we usually study the state of affairs in certain sphere, while it is recommended to collect and systematize all available information about the stakeholders and their interests. It can greatly simplify to develop the forecast of impact.

We can collect quantitative statistics (number of jobs created, volume of output, wage level, level of execution of court decisions, number of persons sentenced to imprisonment, etc.), and qualitative data (opinions of experts, international organizations in certain fields, results of public opinion polling, other studies). Information should include the most diversified data on various social factors (gender, age, income level, etc.).

To manage this process it is recommended to form a list of sources of information and carry out their constant monitoring. Information on the state of affairs in the field should be formulated in the "policy dossier", and on the stakeholders - in the "dossier of the stakeholders".

Stakeholder analysis: forecast of policy impact

Policy analysis should aim at identifying stakeholders - all those individuals (groups of people) who are involved in the policy process (both in government and outside the authorities).

The forecast of impact on stakeholders occurs as following:

- collection and analysis of all relevant data, scientific recommendations, expert opinions, other data for the development of the project of impact forecast;
- determination of the stakeholder, who will be affected by the implementation of the act;
- development of the draft forecast of impact on the basis of the data available to the developer;
- acquainting the stakeholders with the content of the proposed innovations in order to get some feedback on possible changes in meeting their interests in case when the decision is adopted;
- verification (confirmation) of stakeholders' forecasts by experts (representatives of state bodies, research institutions, think tanks or public organizations that are experienced specialists in a particular area of public policy). All the differences between the stated and verified forecasts should be fixed and, if required, further discussed with stakeholders;
- comments and suggestions received from stakeholders and experts are captured or reasonably rejected or adjusted based on available data. At the same time, if necessary, it may be decided to hold additional consultations;
- development of the final version of the forecast of impact.

According to the new wording of the explanatory note, if the draft act on the subject of legal regulation does not have the appropriate effects, this is indicated separately.

Considering the specifics of Ukrainian legislation and practice, the forecast of impact should NOT be developed for the following acts:

- on creation and approval of the working groups on the issues of liquidation of the consequences of emergencies;
- on allocation of funds from the reserve fund of the public budget;
- on delegation of the CMU powers to executive authorities in certain cases;
- on transfer of property;
- on personnel and other organizational and administrative issues;
- on changing the person authorized to sign the international treaty of Ukraine;

- on approval of the financial plan of the economic entity of the public sector of the economy;
- on establishment, reorganization and liquidation of consulting, advisory and other subsidiary bodies;

- on amendments to the CMU Regulations.

In any case (but not exceptionally), the forecast of impact is being developed for:

- draft laws, existing laws that set out in the new edition (the previous text of the law varies by more than half),

- Resolutions of the Cabinet of Ministers of Ukraine.

The prepared forecast of impact and the draft act, in accordance with the procedure provided by the CMU Regulations for the approval of draft acts, must be sent to all interested bodies to enable them to state the impact on the stakeholders in the spheres, which they are responsible for the formation of the public policy in.

At the same time, one should be aware that according with paragraph 38 of the CMU rules the terms for the approval of the act have not been changed. So, suggestions for the forecast of impact at the conciliation stage can be submitted within a maximum of 30 working days.

Despite the fact that the CMU regulations do not require the drafting of an act solely based on policy documents, the departments responsible for policy making are encouraged to develop a comprehensive policy document, and then prepare, on their basis, draft acts of the Cabinet of Ministers of Ukraine.

It is necessary to ensure a gradual transition to the introduction of the process of developing public policy on the principle of "from a policy document to a subordinate act" (at least for acts that are developed on its developer`s initiative). In this case, it is desirable to carry out a deep forecast of impact once for the whole policy or its significant part when developing a policy document. Later this estimate will be used for a draft act that is submitted within the same policy as it relates to this act.

Thus, before drafting an act, it is desirable to use the tools of development of policy documents envisaged by the laws of Ukraine and Chapter 8 of Section 4 of the CMU Regulation.

The forecast of impact on the interests of the stakeholders is expressed in the appendix to the explanatory note (Annex 4-1 to the CMU Regulation). Annex 4-1 contains a brief description of the essence of the draft act and a table consisting of the following columns:

- 1) Stakeholder

- 2) Main interest

- 3) Expected (positive or negative) influence on the main interest, indicating the expected dynamics of changes in key indicators (in numerical or qualitative terms). The column is divided into two columns: short-term impact (up to year) and medium-term impact (over a year);

- 4) Explanation.

The description of the project should be short, specific, and understandable and contain only the essence of the innovations. The description should answer the questions:

- who is not satisfied with the current legal regulation and what particularly with?;

- what is proposed to change in the relevant regulatory legal regulation and in what a way?.

The sentences are to be built as simple as possible with a minimum of coordinated and subordinate clauses. The description should not contain any unnecessary text, in particular, it is not necessary to indicate the formal basis for the development of the project and the acts of legislation that are proposed to amend. It is necessary to minimize the use of abstract structures such as: "medical reform", "reforming the system of punishment", "increasing the efficiency of registration", etc. The main task of the description is for the members of the Government to understand immediately the essence of the proposed solution.

Who are the stakeholders? How to identify them? A department that is to ensure the formation of public policy in a certain field should compile a list of interested parties that are the objects of the influence of public policy in the fields of its responsibility. This stems in particular with the requirements of the Decree of the Cabinet of Ministers of Ukraine dated April 11, 2018, No. 239.

Group of stakeholders for analysis

In order to organize the work with stakeholders it is proposed to proceed from their conditional distribution into six groups:

1. Target group. Separate layers (groups) of the population, having a direct influence on which is the purpose of the policy (including the act).

Testing question:

- Whose life will change because of implementation of the policy?
- Who cannot avoid the influence of this policy?
- Who should change their behaviour because of policy implementation?

2. Group of indirect impact. Separate layers (groups) of the population, having a direct impact on which is NOT the purpose of the act, but such influence will be caused by the implementation of the act.

Testing question:

- Whose life will change because of the direct impact of policies on the target group?
- Who wins or loses due to changes arising from this policy?

3. Group of potential impact. Individual strata (groups) of the population, having a direct impact on which is NOT the purpose of the act, but for which there is an assumption that under certain circumstances the influence may be caused by the implementation of the act.

Testing question:

- Who will be forced to change their behaviour because of policy implementation in specific circumstances?

4. Group with strong authority. Individual groups (organizations, institutions, experts, etc.), that are authorities in a certain field and whose opinion is important for decision-making. Involving this category is important for advocating a draft act.

Testing question:

- Are there any important persons or groups, without who it is impossible to implement the policy?
- Who can prevent implementation of the policy, if not involved?

5. Experts. Specialists in the field of policy who can provide qualified assistance in comparing and predicting both an act and politics in general.

Testing question:

- Who studied the field of politics and published an expert opinion on this topic?
- Who has a detailed action plan for policy implementation?
- Are there any individuals or groups, who are authorities in the field?

6. Groups of interest. Groups that are actively interested in the policy field. Their involvement also contributes to the advocacy of the act.

Testing question:

- Are there any organizations or individuals, who have demonstrated interest publicly?
- Has anyone conducted a public campaign to highlight issues in the relevant field?
- Is there anyone who publishes or broadcasts a public position on these issues?

Thus, identified stakeholders can be divided into the six groups described above. However, a forecast of impact should NOT be prepared for all six groups. The groups described above can be divided into two categories:

I. Category of stakeholders, who are the objects of the influence of public policy - this category includes the following groups:

- Target group;
- Group of indirect impact;
- Group of potential impact.

II. Category of stakeholders, who are not affected, but who facilitate the adoption of an act and can improve its quality. This category includes the following groups:

- Group with strong authority
- Experts
- Groups of interest.

We need to develop a forecast of impact ONLY for the first category of stakeholders. The act will have an impact during its implementation on this category. The second category is to be involved at the consultation stage - they will promote the advocacy of the act, help to make the act qualitative, advise on the impact on the first category of interested parties.

According to the CMU regulations, public authorities, which position should be taught separately in paragraph 9 of the explanatory note, are not stakeholders. The position of the interested bodies is determined when developing an act, if the development is carried out in the interdepartmental working groups, in the course of approval of the act, during other conciliation procedures.

At the same time, civil servants, state notaries, state executors, servicemen, etc. can be stakeholders, as public policy in a certain field may relate to their social protection, access to the profession, conditions for the provision of services to citizens, etc. Thus, these stakeholders are the objects of public policy; therefore, their interests should be taken into account while a forecast of impact is being prepared.

Stakeholders` analysis. We also should consider that the impact of an act might be different within the same circle of stakeholders of the first category. An act can affect women and men differently, depending on their socioeconomic status, on vulnerable groups even if at first glance such an impact is not obvious. If such an impact differs significantly, when defining the stakeholders, it is necessary to consider the factors that allow the most accurate and detailed description of the impact of the act by dividing the stakeholders into the relevant subgroups.

For example, when making decisions the Government of Canada takes into account the following factors:

- Gender
- Age
- Incomes
- Employment
- Marital status
- Education
- National minority
- Status of an immigrant, foreigner, stateless person
- Residence
- Health (including but not exceptionally disability);
- Race
- Other factors that the developer considers necessary.

The selection and use of the above-mentioned factors is carried out, where necessary, depending on the essence of the public policy, which is implemented. Moreover, the factor "gender" is mandatory for application in accordance with the requirements of Article 4 of the Law of Ukraine "On ensuring equal rights and opportunities for women and men". Also, the developer of the draft act must take into account the factors that may lead to discrimination of individuals or groups of individuals when implementing the act. For this purpose, an anti-discrimination expertise is provided according to Article 8 of the Law of Ukraine "On the Principles of Prevention and Counteraction of Discrimination in Ukraine".

If the draft act has no impact on the provision of equal rights and opportunities for women and men, and it does not contain any signs of discrimination, this should be noted separately in paragraph 11 of the explanatory note.

Stakeholders are groups (strata) of the population, who are carriers of common interest, make up one group (for example, medium-sized business entrepreneurs). The developer of an act must describe a stakeholder in such a generalized form in Annex 4-1.

At the same time, stakeholders have their own representatives (for example, associations of medium-sized business entrepreneurs) that represent their interests. The developer of the act should conduct

consultations with these representatives to identify and clarify the interest of the party and influence on this interest.

It is important to distinguish between interested parties and their representatives / intermediaries in order that the influence of public policy is carried out on the general interests of individual strata (groups) of the population, and not on the private interests of individual representatives of such a group.

Conclusions

Since 2014, there were reforms with multi-level results in the system of public administration of Ukraine. Therefore, we can talk about a new civil service. We have an approved Civil Service Reform Strategy and monitoring of its performance results SIGMA. We have new challenges to governance because of the renewed political situation in the country - the election of the President of Ukraine and parliamentary elections (probably in the fall). We have the main tasks and steps to be taken in the reform in 2019-2020.

The CMU Regulations have been amended, stakeholders analysis and forecast of impact on interests of stakeholders are regulated. Stakeholders are divided into six groups:

- Target group
- Group of indirect impact
- Group of potential impact
- Group with strong authority
- Experts
- Groups of interest.

The groups of stakeholders can be divided into two categories:

1) Category of stakeholders, who are the objects of the influence of public policy:

- Target group;
- Group of indirect impact;
- Group of potential impact.

2) Category of stakeholders, who are not affected:

- Group with strong authority
- Experts
- Groups of interest.

According to the CMU regulations a forecast of impact must be developed only for the first category of stakeholders indicating:

- Stakeholder
- Main interest
- Expected (positive or negative) influence on the main interest
- Explanation.

It is also important to distinguish between interested parties and their representatives / intermediaries in order that the influence of public policy is carried out on the general interests of individual strata (groups) of the population, and not on the private interests of individual representatives of such a group.