

**Institute of Law-Making and Scientific-Legal Expertise
of the National Academy of Sciences of Ukraine**

**SYSTEMATIZATION OF UKRAINIAN
LEGISLATION: CONTEMPORARY
CHALLENGES AND EUROPEAN
EXPERIENCE**

Collective monograph



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The monograph is devoted to the topical issues of systematization and development of Ukrainian legislation in the context of contemporary challenges and taking into account European experience. Particular attention is paid to the theoretical and methodological foundations of law-making activity and systematization of Ukrainian legislation, the features of the system of normative-legal acts of Ukraine in the mechanism of legal regulation of public relations, particular forms of the systematization of legislation, as well as European and international legal factors of the systematization of Ukrainian legislation. A number of proposals are formulated for improving the law-making process and ensuring the consistency of Ukrainian legislation in the context of European integration. The monograph partially incorporates the findings and conclusions presented in the collection of research papers "Systematization of Ukrainian Legislation as an Important Component of Law-Making Activity in the Context of European Integration", prepared by researchers of the Institute of Law-Making and Scientific-Legal Expertise of the National Academy of Sciences of Ukraine in 2024. The publication is addressed to academics and scientific-pedagogical staff, doctoral students, postgraduate students, practicing lawyers and anyone interested in topical issues of law-making activity.

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FOREWORD

The problem of the systematization of legislation is one of the key problems in the development of Ukraine's legal system, as the effectiveness of the state, the stability of the legal order, and the effective protection of human rights and freedoms depend on the level of consistency, internal consistency, and quality of legal regulation. Legislation cannot be viewed solely as a collection of individual legal acts, as its effectiveness is determined primarily by the ability to form a holistic, logically constructed and coordinated system of legal regulation.

For a long time, the development of Ukrainian legislation took place in conditions of intensive legislative activity. This, on the one hand, ensured the state's prompt response to new social needs, but on the other, led to the accumulation of a significant number of normative-legal acts without the proper level of systematization and internal consistency. Under these conditions, the systematization of legislation has acquired strategic importance and is one of the defining areas of modernization of Ukraine's legal system. This is about the need to form a modern law-making model, based on the principles of consistency, legal certainty, predictability of legislation and high-quality of normativ legal regulation.

The issue of the systematization of Ukrainian legislation is acquiring particular importance in connection with the implementation of the state's European integration course. Implementation of the provisions of the Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States,

on the other hand¹ of June 27, 2014 provides for the adaptation of Ukrainian legislation to the *acquis* of the European Union (hereinafter referred to as the EU), covering virtually all areas of legal regulation. The Association Agreement has become a key catalyst for the modernization of national legislation and the development of new approaches to its harmonization and updating. At the same time, Ukraine's acquisition of candidate status for EU membership on June 23, 2022, imposed additional obligations to adapt national legislation to EU law, even in those areas where changes were not envisaged by the Association Agreement.

The imperative to ensure the effective implementation of the State's European integration legal policy has necessitated the establishment of fundamental principles governing law-making activity. This became possible through the adoption, on 24 August 2023, of the Law of Ukraine "On Law-Making Activity"², which, for the first time since Ukraine gained independence, provided organizational and legal support for law-making at the legislative level, transformed approaches to legislation as a system, and reconceptualized law-making as a process of the formation of legal norms.

Of particular importance for the contemporary development of Ukrainian legislation was the approval by the Cabinet of Ministers of Ukraine, on 1 April 2026, of the National Programme for the Adaptation of the Legislation of Ukraine to the Law of

¹ Uhoda pro asotsiatsiiu mizh Ukrainoiu, z odniiiei storony, ta Yevropeiskym Soiuzom, Yevropeiskym spivtovarystvom z atomnoi enerhii i yikhnimy derzhavamy-chlenamy, z inshoi storony [Association Agreement between Ukraine, on the one hand, and the European Union, the European Atomic Energy Community and their Member States, on the other hand]. URL: https://zakon.rada.gov.ua/laws/show/984_011#Text (in Ukrainian).

² Pro pravotvorchu diialnist [On Law-Making Activity]: Zakon Ukrainy [Law of Ukraine] vid 24 serpnia 2023 r. ¹ 3354-IX. URL: <https://zakon.rada.gov.ua/laws/show/3354-20#Text> (in Ukrainian).

the European Union (EU *acquis*)³. This comprehensive strategic document establishes a systematic approach to the harmonization of Ukrainian legislation with EU law and forms the legal foundation for Ukraine's further integration into the European legal space. Undoubtedly, the process of adaptation Ukrainian legislation to EU law has naturally intensified the need to order (streamline) the regulatory framework, eliminate duplication in legal regulation, overcome normative fragmentation, improve legislative drafting techniques, and develop a coherent system of legislation.

The necessity for reforming and systematization of Ukrainian legislation has become even more pressing under the conditions of martial law in Ukraine. Russia's full-scale aggression has required the prompt adoption of a substantial number of normative-legal acts aimed at ensuring the State's defense capability, maintaining economic functioning, protecting human rights, supporting internally displaced persons, and restoring destroyed infrastructure. Under such conditions, ensuring an appropriate balance between the efficiency of legal regulation and the systemic coherence of legislation becomes critically important.

The development of contemporary legislation is also significantly influenced by the processes of societal digitalization. The advancement of the digital economy, artificial intelligence, and electronic services creates new challenges for legal regulation. Modern legislation must be not only internally coherent but also sufficiently flexible to adapt to rapid technological change. In this context, European experience in the systematization of legislation

³ Pro zatverdzhennia Natsionalnoi prohramy adaptatsii zakonodavstva Ukrainy do prava Yevropeiskoho Soiuzu (*acquis* YeS) [On approval of the National Program for the Adaptation of Ukrainian Legislation to the Law of the European Union (EU *acquis*): Postanova Kabinetu Ministriv Ukrainy [Resolution of the Cabinet of Ministers of Ukraine] vid 1 kvitnia 2026 r. № 438. URL: <https://zakon.rada.gov.ua/laws/show/438-2026-ï#Text> (in Ukrainian)]

acquires particular significance, demonstrating the importance of combining legislative stability with the capacity for continuous modernization.

Taking into account contemporary challenges, scientific research on issues of updating and systematization of Ukrainian legislation is being updated. In this regard, it is important to acknowledge the existing academic contributions of Ukrainian researchers, in particular the collection of research papers entitled “Systematization of the Legislation of Ukraine as an Important Component of Law-Making Activity in the Context of European Integration”⁴, prepared in 2024 by researchers of the Institute of Law-Making and Scientific-Legal Expertise of the National Academy of Sciences of Ukraine, certain provisions of which were partially used in the preparation of this collective monograph. At the same time, despite the existence of certain doctrinal developments, continuous scholarly analysis of numerous issues related to the systematization and improvement of Ukrainian legislation remains highly relevant for ensuring effective legal regulation of social relations.

The purpose of the collective monograph “Systematization of Ukrainian Legislation: Contemporary Challenges and European Experience” is to develop a comprehensive scholarly vision of the processes involved in the systematization of Ukrainian legislation under conditions of contemporary transformation, as well as to identify the prospects for applying European experience to the modernization of the national legal system. The monograph provides a thorough analysis of the theoretical and methodological foundations

⁴ Systematyzatsiia zakonodavstva Ukrainy yak vazhlyva skladova pravotvorchoi diialnosti v umovakh yevrointehratsii [Systematization of Ukrainian Legislation as an Important Component of Law-Making Activity in the Context of European Integration] (2024): zbirnyk naukovykh prats [Collection of Scientific Works] / za zah. red. O.O. Kota, A.B. Hryniaka, N.V. Milovskoi. Kyiv: Alerta, 248 (in Ukrainian)

of law-making activity and the systematization of Ukrainian legislation, the peculiarities of constructing the system of normative-legal acts of Ukraine, specific forms of their systematization, as well as European and international legal factors influencing the modernization of Ukrainian legislation. Special attention is devoted to defining the concept and essence of law-making activity in Ukraine and Europe; methodological approaches to ensuring the systemic coherence of Ukrainian legislation; the peculiarities of constructing the system and hierarchy of sources of law; the essence of the legal norm and its place within the system of law and legislation; the specific nature of statutes within the national legal system; the peculiarities of subordinate normative regulation of social relations; the significance of codification processes in the systematization of legislation; the peculiarities of incorporation and consolidation as forms of systematization normative-legal acts; as well as the influence of European legal standards on the development of Ukrainian legislation.

The theoretical findings and practical recommendations of Ukrainian scholars reflected in this monograph are expected to contribute to resolving problematic legal issues in the fields of law-making and law-application activities, to the further development of Ukrainian legislation, and to ensuring its systemic coherence in the context of the contemporary challenges of European integration and the post-war reconstruction of Ukraine.

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SECTION I THEORETICAL AND METHODOLOGICAL FOUNDATIONS OF LAW-MAKING ACTIVITY AND SYSTEMATIZATION OF UKRAINIAN LEGISLATION

CHAPTER 1

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LAW-MAKING IN UKRAINE AND EUROPE: CONCEPT, ESSENCE AND FOUNDATIONS OF LEGAL REGULATION

Kolodiy A. M., Kot O. O.

INTRODUCTION

When examining the principles of legal regulation of law-making activities in Ukraine and Europe, it is first and foremost necessary to analyse the fundamental (legal and non-legal) aspects of this issue, namely the understanding and interpretation of: 1) the concept and essence of law-making activities; 2) the principles of legal regulation of law-making activities in Ukraine; 3) the principles of legal regulation of law-making activities in Europe.

In doing so, we recognise that the principles of legal regulation of law-making activities in Ukraine and Europe should be considered by dividing them into the principles of legal regulation

of law-making activities in Ukraine and the principles of legal regulation of law-making activities in Europe.

The principles of legal regulation of law-making activities in Ukraine will be examined by analysing: 1) their foundations (main provisions and ideas); 2) fundamental rules of conduct; 3) the principles of law themselves; 4) the nature, forms and purpose of implementation, as the principles of legal regulation of law-making activities in Ukraine that best reflect them.

The principles of legal regulation of law-making activities in European countries will be examined, in accordance with the provisions mentioned in the preceding paragraph, through an analysis of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, ratified by the Law of Ukraine 'On the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950 of 17 July 1997, with amendments made in accordance with the provisions of Protocols Nos. 11, 14 and 15 to Protocols Nos. 1, 4, 6, 7, 12, 13 and 16, which entered into force for Ukraine on 11 September 1997; The consolidated versions of the Treaty on European Union of 7 February 1992 and the Treaty on the Functioning of the European Union of 25 March 1957; The Constitution of the Republic of Poland of 2 April 1997 and the Basic Law of the Federal Republic of Germany of 23 May 1949, which regulate in considerable detail the principles of legal regulation of law-making activities in Europe.

1. Concept and essence of law-making

When it comes to understanding law-making, it must be acknowledged that there are various, and sometimes conflicting,

viewpoints on this issue; this is certainly not a shortcoming of modern legal scholarship, but rather reflects the diversity, scope and multifaceted nature of the concept of law-making. In particular, law-making is understood as: ‘... a sphere of state activity connected with the official codification of legal norms through the formulation, amendment, supplementation and repeal of provisions’ [1, p. 721], or it is emphasised that ‘Law-making is understood as an organisationally regulated, specific form of activity of the state or directly of the people, as a result of which the needs of social development and the demands of justice take on a legal form, which finds its expression in a specific source of law (a normative act, precedent, custom, etc.)’ [2, p. 321].

Part One of Article 2 of the Law of Ukraine ‘On Law-Making Activity’ of 24 August 2023 № 3354-IX stipulates that law-making activity is an activity carried out by a body specified in Article 4 of the said Law, with the aim of: 1) planning the drafting and adoption (promulgation) of legislative acts; 2) drafting legislative acts; 3) adopting (promulgating) legislative acts; 4) maintaining a register of legislative acts; 5) carrying out legal monitoring [3].

With regard to the essence of law-making activity, it is worth noting that the Great Explanatory Dictionary of the Modern Ukrainian Language defines ‘essential’ as: ‘Constituting the very essence or substance of something; important, significant. That which constitutes the very essence, the content of something. Having great, special significance’ [4, p. 1218]. In view of the above, there is every reason to assert that essence is a philosophical concept that can be applied to the cognitive activity of various social aspects of the development and functioning of humanity, society, the state, and law, including law-making activity.

It can also be argued that the concept of ‘essence’ represents the profound, most essential characteristics, which are not formal but substantive and require deep reflection. ‘Essence (substance) – a philosophical category expressing the principal, fundamental, defining aspect of an object, which is determined by deep-seated, necessary, internal connections and trends of development and is apprehended at the level of theoretical thought’ [5]. When applying the category of ‘essence’ to legal phenomena, one must bear in mind that, ‘Since “essence” denotes the totality of the deepest, most enduring qualities of an object (in this case, law) that determine its origin, nature and directions of development, the subject of discussion was the causes of the emergence of law, its definition, role in society, qualitative characteristics, and so on. For some, the law is an instrument of justice and freedom, a means of protecting the individual from authority, and an achievement of human culture and reason; for others, it is merely a class-based regulator of social relations” [6, p. 286].

From the above, it becomes clear that the essence reveals the most fundamental and distinctive characteristics and qualities of a given subject, in our case, law-making activity. It reveals what this subject is, its origin, nature, functioning, prospects for development, and its place and role in the life of society, the state and the individual. In other words, essence, as a socially integrated system, encompasses certain interrelated features and elements of the subject, which constitute its inner nature.

Based on the above, it can also be argued that the nature of law-making is multifaceted and therefore requires the use of comprehensive approaches and methods to understand it. It is also worth acknowledging that the understanding of the essence of law-making activity is influenced by the historical and political

circumstances in which it is conceived, the prevailing legal doctrine, the political regime and form of government prevailing in the state, and even the aims and objectives of scientific research, etc. Thus, the above gives us every reason to assert that the essence of law-making activity lies in the planning, drafting and adoption (enactment) of legislation, the drafting of bills, the adoption (enactment) of legislation, record-keeping, and the legal monitoring of normative-legal acts.

Taking the above into account, one may conclude that the most optimal approach would be to study the essence of law-making activity by analysing its principles, for 'PRINCIPLE. 1. The foundation of something; that which is fundamental, upon which something is based. 2. A fundamental, main proposition, principle; the basis of a worldview, a rule of conduct. 3. A way, method of carrying out something' [4, p. 419].

Legal academic sources emphasise that 'THE PRINCIPLES OF LAW, the foundations of law (English: foundations of law) – the defining, fundamental conditions of law, the determinants of its content, upon which the law is based and which constitute its foundation. The problem of the foundations of law arises because its existence, firstly, is not self-evident; that is, law is not something that can be perceived by the senses. It requires confirmation of its existence through justification – derivation from principles which, strictly speaking, are not law; secondly, it cannot lack principles, for then it would be arbitrary' [7, pp. 273–277].

Law-making activity extends to any socially significant, conscious and volitional social phenomenon regulated and protected by law, with the exception of certain types of social

relations. The regulation and protection of certain social relations by law is referred to as legal regulation. 'LEGAL REGULATION – (from the Latin *regulare* – to direct, to organise) – one of the primary means by which the state influences social relations with the aim of organising them in the interests of the individual, society and the state. It is a form of social regulation. The subject of legal regulation is legal, political, economic and other social relations, the organisation of which is impossible without the use of legal norms" [8, p. 40]. Throughout this, 'LEGAL REGULATION – the organisation of social relations by means of legal instruments (legal norms, normative-legal acts, acts of application of the law, acts of realisation of rights and obligations, etc.). Legal regulation is a type of social regulation (from the Latin *regulo* – a standard, a rule), that is, the organisation of human activity in society through the development and social acceptance of rules governing such behaviour" [9, pp. 516–522]. Legal regulation is characterised by its own subject matter, method, means, types, mechanism, elements of the mechanism, stages, subjects and objects, and a certain level of effectiveness.

There is therefore every reason to assert that the foundations of the legal regulation of law-making activity in Ukraine consist of the fundamental (basic, principal) provisions, ideas and rules of conduct set out in the principles and norms of law; these constitute an independent legal institution which exerts a legal influence on social relations with a view to regulating them in the interests of the individual, the state and society; as a result of which the needs of social development and the requirements of justice take on a legal form, finding expression in a specific legislative act.

2. Principles of legal regulation of law-making activity in Ukraine

Based on the foregoing, it can be stated with complete confidence that the foundations of the legal regulation of law-making activity in Ukraine encompass: 1) its foundations (main provisions, ideas); 2) fundamental rules of conduct; 3) the principles of law themselves; 4) the essence, forms and purpose of its implementation, etc. At the same time, the foundations of the legal regulation of law-making activity in Ukraine may be either directly enshrined in the principles and norms of law, coinciding with their content, or logically derived from the general context, the content of a range of legal principles and norms, and the spirit of the law of a particular country. The foundations of the legal regulation of law-making activities in Ukraine must be aimed at regulating social relations with a view to organising them in the interests of the individual, society and the state. They must find expression in a specific source of law (a statutory instrument, a precedent, custom, etc.).

That is why, in this section, the principles of legal regulation of law-making activities in Ukraine will be examined by highlighting:

1. Foundations (main provisions, ideas) as the basis for the legal regulation of law-making activities in Ukraine. In this context, 'FOUNDATION, n. That upon which something is based, rests, or is founded. // The main constituent part of something; the core, the essence. // The most important part of the content of something. // The main principles, foundations of something (morality, behaviour, etc.). // The guiding principles, rules by which someone is constantly guided in life and activity. // The source, basis for the emergence and development of something.

The most important, fundamental tenets of something (science, theory, etc.). The foundations of legislation. The main condition, guarantee of something. // A defining feature, characteristic of something' [4, p. 861].

In view of the above, it can be stated with complete certainty that the following categorical and conceptual theories and doctrines should be recognised as the key principles and most significant ideas underpinning law-making activity: law formation; law-making; legislative activity; rule-making; popular law-making; popular law-making initiatives; popular veto; public discussion of regulatory legal acts; public scrutiny of regulatory legal acts; public, state and municipal law-making activity; democracy; popular sovereignty; civil society; the priority of social order over the state; the primacy of law over regulatory legal acts; the primacy of the legal system over the system of regulatory legal acts and the legislative system; the rule of law; a democratic, legal and social state; the supremacy of the Constitution of Ukraine within the system of regulatory legal acts; the primacy of international treaties over domestic regulatory legal acts; social justice; humanism; liberalism; pluralism; equality and equal rights; the inalienability of human rights; the theory of natural law; sociological jurisprudence, etc.

The foundations, main provisions and ideas mentioned in the previous paragraph form the methodological basis for the implementation and understanding of the principles of law-making. It is therefore necessary to distinguish between the foundations for the implementation of law-making and the foundations, main provisions and ideas underlying its understanding.

2. Fundamental rules of conduct, as the basis for the legal regulation of law-making activities in Ukraine. In this context, 'FUNDAMENTAL, adj., lit. Defining the basic

principles of something, providing the basis for something; fundamental' [10]. The Law of Ukraine "On Law-Making Activity" of 24 August 2023 № 3354-IX sets out the fundamental rules of conduct in Article 2, entitled "Law-Making Activity and its Legal Foundations" [3]. Firstly, Part One provides that law-making activity is an activity carried out by a specific entity, i.e. the institutional basis of law-making activity is established. Part two of Article 4 of the Law of Ukraine "On Law-Making Activity" of 24 August 2023 № 3354-IX elaborates on this principle [3].

Part 2 of Article 2 of the Law of Ukraine 'On Law-Making Activities' № 3354-IX of 24 August 2023 sets out the legal framework for law-making activities, as it is stipulated that law-making activity in Ukraine is regulated by the Constitution of Ukraine, the Law of Ukraine "On Law-Making Activity" of 24 August 2023 № 3354-IX, other laws of Ukraine and subordinate regulatory legal acts adopted in accordance with them [3]. Other laws include, for example, the Laws of Ukraine 'On the All-Ukrainian Referendum' of 26 January 2021 № 1135-IX, 'On the Rules of Procedure of the Verkhovna Rada of Ukraine' of 10 February 2010 №1861-VI, 'On the Cabinet of Ministers of Ukraine' of 27 February 2014 № 794-VII, etc., whilst subordinate regulatory legal acts governing legislative activity include the 'Regulations on the Procedure for the Preparation and Submission of Draft Acts of the President of Ukraine', approved by Decree of the President of Ukraine № 970/2006 of 15 November 2006, the 'Rules of Procedure of the Cabinet of Ministers of Ukraine', approved by Resolution of the Cabinet of Ministers of Ukraine № 950 of 18 July 2007 (as amended by the Resolution of the Cabinet of Ministers of Ukraine of 9 November 2011), etc.

Part 3 of Article 2 of the Law of Ukraine ‘On Law-Making Activities’ № 3354-IX of 24 August 2023 sets out the principles governing the relationship between Ukraine’s international treaties and the said Law of Ukraine. In particular, it states that if an international treaty of Ukraine, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, establishes rules other than those provided for by the said Law, the rules of the international treaty of Ukraine shall apply [3]. Without disputing the primacy of international treaties over national legislative acts, I would like to draw attention to the indisputable fact that the aforementioned provision is not entirely consistent with Part 1 of Article 9 of the Constitution of Ukraine, which recognises existing international treaties, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, merely as part of Ukraine’s national legislation.

Parts four and five of Article 2 of the Law of Ukraine ‘On Law-Making Activities’ № 3354-IX of 24 August 2023 are aimed at ensuring the principles of stability, legal continuity, durability and the inviolability of legislation on law-making activities, as it is stipulated that amendments to the Law of Ukraine “On Law-Making Activities” of 24 August 2023 № 3354-IX may be made exclusively by a law amending the Law of Ukraine “On Law-Making Activities”. And if a body with the right of legislative initiative submits to the Verkhovna Rada of Ukraine a draft law regulating social relations in the sphere of law-making in a manner other than that provided for by the Law of Ukraine “On Law-Making” of 24 August 2023 № 3354-IX, it is obliged to simultaneously submit a draft law amending the said Law of Ukraine. The submitted draft law shall be considered by the Verkhovna Rada of Ukraine simultaneously with the corresponding

draft law amending the Law of Ukraine “On Law-Making Activities” of 24 August 2023 № 3354-IX [3].

3. The principles of law as the foundations of the legal regulation of law-making activities in Ukraine. The principles, as a component of the foundations of the legal regulation of law-making activity in Ukraine, are set out, first and foremost, in the Law of Ukraine “On Law-Making Activity” of 24 August 2023 № 3354-IX [3]. Article 3 of the said Law of Ukraine stipulates that law-making activity shall be carried out in accordance with the following principles:

1) the rule of law, which includes, but is not limited to, the following principles: a) legality; b) legal certainty; c) the prevention of abuse of power; d) equality before the law and non-discrimination; e) access to justice. It is immediately apparent that the rule of law is understood in an extremely broad sense, as it encompasses other principles, and this list is by no means exhaustive.

Therefore, first and foremost, it should be noted that the rule of law is generally understood as a concept or principle that entails ‘... the primacy of law in the life of civil society and the functioning of the rule of law state. This concept has been interpreted in its broadest sense, that is, as the recognition of the necessity to subordinate ‘positive’ (state-established or sanctioned) law to ‘non-positive’ law (natural human rights, the needs of human nature, the demands of reason, morality, etc.)’ [11, p. 341].

Considering this and other definitions of the rule of law, it can be argued that its characteristics should be regarded as follows: 1) in legal scholarship it is treated as a concept, whilst in the fields of law and legislation it is treated as a principle; 2) it entails the primacy of law in the life of civil society and the functioning

of the rule of law; 3) its essence lies in the recognition of the necessity for 'positive' law to be subordinate to 'non-positive' law; 4) it entails the subordination of the state and its institutions to human rights; 5) it requires the recognition of the primacy of law over other social norms (morals, customs, etc.); 5) originated within the Anglo-Saxon legal tradition; 6) some of its elements are already found in the works of ancient Greek and Roman thinkers, as well as religious figures and philosophers of the Middle Ages, meaning it has a long history; 7) may be regarded, in a broad sense, as the principle of the legal organisation of state power in society and, in a narrower context, as the relationship between law and legislation in the regulation of social relations;

a) legality is a general legal principle, the essence of which lies in the precise and strict implementation of the Constitution and laws of Ukraine, as well as other regulatory legal acts adopted in accordance with them, by all state bodies, local self-government bodies, their officials and civil servants, public associations, legal entities and natural persons, and all other social actors.

It is worth emphasising that legality is a fundamental, multifaceted, complex, social and legal concept that reflects the system of intricate interrelationships between society, the state and the law; consequently, it can be regarded not only as a general legal principle (although it must be acknowledged that this is the most common understanding of it), but also as having other meanings. Namely:

- as a regime of socio-political life – this is a political and legal requirement for the precise and strict enforcement of laws and other regulatory acts adopted in accordance with them by all subjects of law;

- as a principle of the exercise of public authority – this is a public-law regime under which the bodies exercising public authority (state and local government bodies) exercise it in strict accordance with the grounds provided for by law, their own competence, and the procedures for its exercise;

- as the basis of the legal status of the individual and the citizen – this is the fundamental principle of the legal position of the individual and the citizen in society and the state, according to which the legal status of the individual and the citizen (legal personality, principles of legal status, citizenship, the system of rights, freedoms and duties, and guarantees for their realisation) must be enshrined and guaranteed by acts of the highest legal force, primarily the constitution and laws of the country. This principle is confirmed in Article 3 and paragraphs 1 and 2 of Part One of Article 92 of the Constitution of Ukraine [12];

b) legal certainty. The principle of legal certainty, as a component of the rule of law, is ‘... one of the fundamental principles setting out the requirements for legislative acts. It is an integral part of the rule of law, ensuring the predictability of legislative acts in terms of the consequences of their application. They must also be formulated clearly and comprehensibly enough to ensure lawful conduct on the part of legal subjects. This is required by the principle of the rule of law, since a legal subject, before planning their actions, must clearly understand what the legal consequences will be’ [9, pp. 616–619].

In view of the above, it can be stated with complete certainty that the criteria for legal certainty in law-making activity are the following characteristics: the clarity of the formulation of legal norms in legislative acts (interconnectedness, consistency); the definiteness, clarity and unambiguity of the legal norm;

the ability of an individual to distinguish lawful conduct from unlawful conduct and to foresee the legal consequences of their conduct; the conformity of legal norms with norms of higher legal force, primarily constitutional norms and those set out in international treaties; the existence of a fully-fledged enforcement mechanism, that is, their actual implementation in social relations; ensuring the predictability of the application of legal norms; the stability of legal norms, that is, their immutability over a relatively long period of time; the guarantee of the authentic elaboration of legal norms in other, primarily subordinate, regulatory legal acts, etc.;

c) the prevention of abuse of power. The principle of preventing the abuse of power, as a component of the principle of the rule of law, is primarily enshrined in the second part of Article 19 of the Constitution of Ukraine, which states: 'State authorities and local self-government bodies, and their officials shall act solely on the basis of, within the limits of, and in the manner prescribed by the Constitution and the laws of Ukraine' [12]. In this context, prevention refers to the implementation of measures to prevent, avert or avert the occurrence, realisation or impact of a negative phenomenon, act (whether an action or omission) or behaviour. Abuse of rights is the legal conduct of a person who possesses a specific subjective right, the exercise of which, whilst within the bounds of the law but contrary to its fundamental purpose, causes harm to third parties or creates a real threat of such harm, thereby entailing negative legal consequences [13, pp. 47–52]. And authority is '... the set of rights and duties of state bodies and public organisations, as well as officials and other persons, vested in them in accordance with the procedure established by law for

the performance of the functions assigned to them' [14, p. 590]. To summarise, 'ABUSE OF AUTHORITY (English: abuse of authority) – the deliberate use, for the purpose of obtaining an unlawful benefit for oneself or others, contrary to the interests of a private-law legal entity, regardless of its organisational and legal form, by an official of such a legal entity of their powers, if this has caused substantial harm to the rights or interests of individual citizens protected by law, or to state or public interests, or to the interests of legal entities" [15, p. 282]. In other words, the prevention of abuse of power as a component of the rule of law in legislative activity entails the establishment of powers in a manner that precludes unjust, unfounded, unlawful, and, even more so, arbitrary and totalitarian decisions;

d) equality before the law and non-discrimination, as an integral part of the principle of the rule of law, as provided for in Article 24 of the Constitution of Ukraine, which stipulates that 'Citizens shall have equal constitutional rights and freedoms and shall be equal before the law. There shall be no privileges or restrictions on grounds of race, skin colour, political, religious or other beliefs, sex, ethnic or social origin, property status, place of residence, language or other grounds' [12].

In general, the principle of equality means that: firstly, citizens are equal in rights and freedoms; secondly, legislative and regulatory acts are applied equally to different natural and legal persons, and social communities; thirdly, when cases are considered by the competent authorities, it is prohibited to treat identical situations differently, or to treat different situations identically; and, fourthly, all social actors have equal rights in the process of defending their rights and freedoms before the competent authorities.

When drafting legislation, it is essential to bear in mind that the Law of Ukraine 'On the Principles of Preventing and Combating Discrimination in Ukraine' of 6 September 2012 № 5207-VI, in Article 1, declares that discrimination is a situation in which a person and/or a group of persons, on the grounds of their race, skin colour, political, religious or other beliefs, gender, age, disability, ethnic or social origin, citizenship, family or property status, place of residence, language or other characteristics that were, are, or may be, real or presumed, is subject to restrictions in the recognition, exercise or enjoyment of rights and freedoms in any form established by the said Act, except where such restrictions have a legitimate, objectively justified aim, the means of achieving which are appropriate and necessary, and indirect discrimination is a situation in which, as a result of the implementation or application of formally neutral legal provisions, evaluation criteria, rules, requirements or practices, a person and/or group of persons, on the basis of their specific characteristics, are placed in a less favourable position or situation compared to other persons and/or groups of persons, except where their implementation or application has a legitimate, objectively justified aim, the means of achieving which are appropriate and necessary [16];

e) access to justice, as a component of the principle of the rule of law in legislative activity, means that, in accordance with paragraphs 1 and 2 of Article 55 of the Constitution of Ukraine, 'The rights and freedoms of the individual and the citizen shall be protected by the courts. Everyone is guaranteed the right to appeal in court against decisions, actions or omissions of state authorities, local self-government bodies, officials and civil servants' [12].

It was precisely on this matter that the Decision of the Constitutional Court of Ukraine was issued in the case concerning

the constitutional appeal lodged by Mr Sergei Vladimirovich Osetrov regarding the official interpretation of the provisions of Article 55(2) of the Constitution of Ukraine, Article 2(2) and Article 17(3)(2) of the Code of Administrative Procedure of Ukraine, Article 110(3), Part 2 of Article 236 of the Code of Criminal Procedure of Ukraine, and the constitutional submission by the High Specialised Court of Ukraine for Civil and Criminal Cases regarding the official interpretation of the provisions of Articles 97, 110, 234, 236 of the Code of Criminal Procedure of Ukraine, Articles 3, fourth and 17 of the Code of Administrative Procedure of Ukraine in the context of Article 55 of the Constitution of Ukraine (case concerning an appeal against the inaction of public authorities regarding reports of crimes) of 14 December 2011 № 19-rp/2011 states: 'In the context of a constitutional appeal, the provisions of the second part of Article 55 of the Constitution of Ukraine must be understood to mean that the constitutional right to challenge in court any decisions, actions or inaction of all state authorities, local self-government bodies, officials and civil servants is guaranteed to everyone. The exercise of this right is ensured in the relevant form of judicial proceedings and in the manner prescribed by procedural law' [17];

2) the priority of upholding and safeguarding human rights and freedoms, and compliance with international human rights standards. This principle is enshrined in the second part of Article 3 of the Constitution of Ukraine, which states that 'The upholding and safeguarding of human rights and freedoms is the primary duty of the state' [12].

At the same time, it is worth emphasising that the constitutional and legal institution of safeguarding human and civil rights and freedoms is being firmly enshrined in legislative acts. First and

foremost, in Article 2(2) of the International Covenant on Civil and Political Rights of 16 December 1966, which was ratified by Ukraine on 19 October 1973 and entered into force on 23 March 1976, and which stipulates that ‘Each State Party to the present Covenant undertakes to respect and ensure to all individuals within its territory and subject to its jurisdiction the rights recognised in this Covenant, without distinction of any kind such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status’ [18, p. 38].

Compliance with international human rights standards, as referred to in the second part of this principle of law-making, entails bringing the law and legislation into line with certain universally recognised legal standards. Such compliance involves establishing uniform, minimum, model requirements for legal regulation in the field of human rights. In this context, a distinction is made between international universal and regional human rights standards. International universal standards include: The Charter of the United Nations and the Statute of the International Court of Justice of the United Nations, signed on 26 June 1945 and entered into force on 24 October 1945 [19]; The Universal Declaration of Human Rights, adopted and proclaimed by Resolution 217 A (III) of the United Nations General Assembly on 10 December 1948 [20]; The International Covenant on Civil and Political Rights, adopted by the General Assembly of the United Nations at its twenty-first session (Resolution 2200 A/XXI/ of 16 December 1966), ratified by Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR № 2148-VIII of 19 October 1973, entered into force on 23 March 1976 [21, pp. 36–58]; The International Covenant on Economic, Social and Cultural Rights, adopted by the General Assembly of the United Nations at its 21st session

(Resolution 2200 A/XXI of 16 December 1966), ratified by Decree № 2148-VIII of the Presidium of the Supreme Soviet of the Ukrainian SSR of 19 October 1973, which entered into force on 3 January 1976 [18, pp. 59–68], and many other legal acts.

International regional instruments include: the European Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950, ratified by the Law of Ukraine ‘On the Ratification of the 1950 Convention for the Protection of Human Rights and Fundamental Freedoms’ of 17 July 1997, with amendments made in accordance with the provisions of Protocols Nos. 11, 14 and 15, together with Protocols Nos. 1, 4, 6, 7, 12, 13 and 16, which entered into force for Ukraine on 11 September 1997 [22]; the American Convention on Human Rights, adopted by the Inter-American Conference on Human Rights on 22 November 1969 in San José, entered into force on 18 July 1978 [23]; The African Charter on Human and Peoples’ Rights, adopted at the meeting of the Heads of State of the Organisation of African Unity on 26 June 1981 in Nairobi, entered into force on 21 October 1986 [24]; The Asia-Pacific Declaration on the Human Rights of Individuals and Peoples, adopted on 15 February 1988 at the Second Conference of Lawyers of the Region on Legal Issues of Peace, Development and Human Rights [25] and many other legal instruments;

3) democracy. ‘DEMOCRACY [Greek *democratsa* – rule by the people, from *demos* – people + *cratos* – power] – rule by the people, the exercise of power by the people directly (direct democracy: elections, referendums, etc.) or through state authorities and local self-government bodies (representative democracy)’ [26, p. 84]. Democracy requires that power belong entirely to the people. It exercises this power directly through

direct participation in the resolution of state and public affairs (referendums, plebiscites, demonstrations, rallies, citizens' assemblies, popular initiatives, etc.) or through representatives (deputies) elected by the people to representative bodies of state authority and local self-government.

Accordingly, the principle of democracy in law-making requires the enshrinement of the Ukrainian people's powers to: adopt legislative acts of varying legal force through all-Ukrainian and local referendums; launch popular initiatives (popular legislative and popular referendum initiatives); launch local initiatives; exercise a popular veto; public consultation on draft legislative acts; public opinion polls regarding legislative acts; public review of legislative acts and draft legislative acts;

4) proportionality, which aims to strike a reasonable balance between instances of human rights restrictions in a democratic society and the legitimate purpose of such restrictions. In support of this, it is worth mentioning authors who consider that 'In the course of long-standing practice, international judicial bodies, in particular the ECtHR, and national courts, primarily constitutional courts, have formulated a series of requirements of the principle of proportionality, which can be summarised as follows:

- any restrictions on fundamental rights and freedoms are permissible only on the basis of law, for purposes provided for by the constitution (or acts of international law), and only to the extent necessary for the proper functioning of a democratic society;
- such restrictions must be applied only where there are no less onerous measures (means and methods) to prevent infringements of the rights and freedoms of others and to safeguard the public interest;

– the consequences of measures restricting the exercise of rights and freedoms must not be excessive and must be strictly proportionate to the aim pursued' [27, p. 87];

5) necessity and justification. Necessity is an intrinsic, essential, and inherent connection between objects and phenomena of objective reality, which determines their very existence. Necessity is inevitable; under certain circumstances, it occurs unavoidably [28, pp. 168–169]. 'JUSTIFICATION – In logic and the methodology of science – the process of evaluating various forms of knowledge (statements, hypotheses, theories). In the development of philosophical thought, two lines of understanding of justification have emerged: justification as the establishment of the correspondence of elements of a system of theoretical knowledge to conditions external to the system, and justification as the establishment of the correspondence of a specific logical element of the system to the system as a whole, determining its place and functions within the logical system" [29, p. 438].

Based on the above, there is every reason to assert that the principle of necessity and justification, in law-making activity, entails the drafting and adoption of normative-legal acts that are relevant, significant, objectively determined, consistent with actual social relations, and designed for their contemporary regulation and protection;

6) systematicity. 'SYSTEMICITY (connection, formation): 1) a term (concept) that reveals a defining (fundamental) property of the world in which people live and demonstrates that the surrounding world (material and spiritual) consists not of phenomena and processes isolated from one another, but a set of interrelated and interacting components at all stages and levels of their development as systemic, holistic formations;

2) a fundamental principle of scientific knowledge and social practice, the essence of which lies in the application of a systemic (holistic) approach to the study of complex objects (systems) and directs research towards revealing their integrity and identifying all types of relationships within them, bringing them together into a single system of knowledge. The main characteristics of a system are: a) the presence of elements that constitute it; b) the presence of subsystems as a result of the interaction of elements; c) the presence of components as a result of the interaction of subsystems; d) the presence of relationships between subsystems and components; e) the presence of a certain level of integrity, characterised by the fact that the system, through the interaction of its components, produces an integrated result; f) connections with other systems in the external environment' [30]. Consequently, this principle implies that, to ensure the quality and effectiveness of law-making activities, it is necessary to take into account the entire body of legislative acts regulating and protecting homogeneous or similar social relations, and consequently to coordinate measures for their implementation. The isolated adoption of an individual legislative act undermines the quality and effectiveness of legal regulation as a whole;

7) scientific support – this implies the need to acquire objective scientific knowledge regarding law-making activities, the legal system and legislation, their nature and outcomes, and therefore, trained academic staff must be utilised in the process of drafting any legislative act, and particularly in the conceptualisation of concepts and characteristics, sources, determinants, types, functions, principles, objects and subjects, methodology and the process of law-making activity and its outcome – the legislative act;

8) resource provision. 'Resources – natural, raw material, material, labour and financial assets. Which may be used, where necessary, to create products, provide services or generate added value' [31, p. 226]. In view of this, there is every reason to conclude that law-making activity will be of high quality, effective and fruitful if it is supported by the necessary material, financial, organisational, scientific, human resources and other measures.

4. Essence, forms and objectives of implementation as the foundations of the legal regulation of law-making activities in Ukraine. With regard to essence as the foundation of the legal regulation of law-making activities, I would like, once again, to draw attention to the etymological understanding of the concept of 'essence'. Thus, 'ESSENCE, -ness, n. 1. The most important, fundamental, essential aspect of someone or something; the essence, the substance. 2. In philosophy – the principal, defining aspect of an object, determined by deep-seated connections and trends of development and apprehended at the level of theoretical thought' [32, p. 485].

Taking the above into account, one may conclude that the most optimal approach would be to study the essence of law-making activity through an analysis of its functions, since in legal science the term 'functions' is used to denote the essence, social purpose, and social role of a particular legal phenomenon in society, the state, the law, and so on. In this context, scholars assert that 'the functions of law are the main directions of the legal impact of law on existing social relations, which actually determine the essence and social purpose of law in the life of society' [33, p. 167].

In light of the above, it should be noted that the functions of law-making constitute the main areas of its implementation,

reflecting the essence and social purpose of law-making. There are good reasons to identify the following functions:

1) regulatory, since law-making activity is primarily intended to create legislative acts necessary for regulating social relations in all spheres of public life;

2) protective, since the normative-legal acts created in the course of law-making establish not only regulatory norms but also legal norms aimed at protecting socially significant relations in various spheres of social life;

3) predictive, the essence of which lies in forecasting the future development of legislative acts, legal regulation and the legal system of Ukraine, and the ability to draw conclusions as to what their future state will be in the near or distant future. Undoubtedly, forecasting must be based on verified facts, have proper scientific backing and may take the form of a hypothesis, assumption or concept;

4) system-forming, since law-making activity initiates the formation of any legal system and brings together a great many legal institutions. To be convinced of this, one need only note that the Law of Ukraine 'On Law-Making Activity' of 24 August 2023 № 3354-IX amends a large number of other regulatory acts; at the same time, it sets out a whole range of tasks addressed to: the Verkhovna Rada of Ukraine; the Cabinet of Ministers of Ukraine; the Constitutional Court of Ukraine; the National Academy of Sciences of Ukraine; and many other bodies. In view of the above, it can be stated with complete certainty that this Law of Ukraine, by its very nature and content, constitutes a regulatory framework and provides for the reform of Ukraine's legal system, the improvement, systematization, and optimisation, first and

foremost, of such subsystems as law-making, legislative activity, and rule-making, etc.;

5) planning, which becomes clearer when one considers that the essence of the planning function of law-making activity lies in the logical sequence of its implementation, the current and prospective planning of the process of preparing and adopting (issuing) regulatory legal acts, the optimal allocation and use of methods and means, and the forecasting of final and desired outcomes. Undoubtedly, other functions of law-making activity can also be identified as its foundations.

When considering the forms of legislative activity as its foundations, it is worth noting that in legal scholarship, 'FORM – latin forma – appearance, form, structure, variety) – The outward appearance, outline of a thing, action, etc., or the external expression of a particular content. 2) The structure, type, form, or organisation of relevant social (social, economic, legal, organisational, etc.) entities or processes (e.g., administration, judicial proceedings, payment, exchange), as well as the order of something" [34, p. 294].

It is precisely with this in mind that Article 9 of the Law of Ukraine 'On Law-Making Activities' of 24 August 2023 № 3354-IX regulates the forms of law-making activities, establishing that the legislation of Ukraine is an interrelated and organised system of normative-legal acts of Ukraine and applicable international treaties. Ukrainian legislation is structured from acts of higher legal force to acts of lower legal force. Consequently, a system of normative-legal acts is envisaged [3].

As regards the purpose of law-making activity as its legal basis, it is worth noting that the aforementioned first part of Article 2 of the Law of Ukraine 'On Law-Making Activity' of 24 August 2023

№ 3354-IX sets out the purpose of law-making activity as its legal basis, namely establishing that it is carried out with the aim of:

1) planning the drafting and adoption (promulgation) of regulatory and legal acts [3]. In general, ‘planning is the process of drawing up plans, one of the functions of management, which consists in determining the sequence of implementation of a programme of action (development) for a specific object (phenomenon, subject, collective, enterprise, etc.) for a specific (medium- and long-term) period, specifying its purpose, content, scope, methods and means, deadlines for implementation, etc.’ [14, pp. 565–567].

In view of this, Article 24, ‘Principles of Planning Law-Making Activities’, of the Law of Ukraine ‘On Law-Making Activities’ of 24 August 2023 № 3354-IX stipulates that, with a view to ensuring the predictable development of public policy, unity and continuity in the process of preparing and adopting (issuance) of regulatory legal acts, and coordinated law-making activities, entities engaged in law-making activities shall carry out such planning by adopting the following documents: 1) short-term planning (for a period of up to one year); 2) long-term planning (for a period of more than one year). The planning of law-making activities itself is carried out taking into account: 1) Ukraine’s international legal obligations, as well as the directions, priorities and objectives set out in policy documents; 2) public policy documents provided for in Articles 23 and 27 of the Law of Ukraine ‘On Law-Making Activities’ of 24 August 2023 № 3354-IX [3];

2) the drafting of legislative acts. This principle is governed by Articles 27–30 of the Law of Ukraine ‘On Law-Making Activities’ № 3354-IX of 24 August 2023. They define the formulation of the concept for a draft regulatory act, legislative

initiatives, the drafting of a regulatory act, and the assessment of the impact of a draft regulatory act on social relations [3];

3) the adoption (enactment) of regulatory acts. With regard to this point of Part 1 of Article 2 of the Law of Ukraine ‘On Law-Making Activities’ of 24 August 2023 № 3354-IX, it is worth noting that the first paragraph of Part 1 of Article 46 of the Law of Ukraine ‘On Law-Making Activities’ of 24 August 2023 № 3354-IX provides that entities engaged in law-making activities shall consider a draft regulatory act and adopt (issue) a regulatory act in accordance with the procedure established by the Constitution of Ukraine and/or the law, or other regulatory acts [3], and the second paragraph of Part One of Article 46 of the Law of Ukraine “On Law-Making Activities” of 24 August 2023 № 3354-IX accordingly establishes that the procedure for considering draft laws and adopting laws is determined by the Constitution of Ukraine and the Rules of Procedure of the Verkhovna Rada of Ukraine [3]. The third paragraph of Part 1 of Article 46 of the Law of Ukraine ‘On Law-Making Activities’ № 3354-IX of 24 August 2023 stipulates those specific procedures for the consideration of draft subordinate legislative acts may be determined by subordinate legislative acts adopted in accordance with the law [3];

4) keeping records of regulatory legal acts. In accordance with Article 55 of the Law of Ukraine “On Law-Making Activities” of 24 August 2023 № 3354-IX, records of regulatory legal acts shall be kept by: a) the law-making entity; b) the ministry responsible for the formulation of state legal policy. The law-making body keeps records of the regulatory legal acts adopted (issued) by it and ensures the safekeeping of their originals, whilst the ministry responsible for formulating state legal policy maintains a state register of regulatory legal acts adopted by law-making bodies by

including them in the Unified State Register of Regulatory Legal Acts [3];

5) conducting legal monitoring. Article 67 of the Law of Ukraine 'On Law-Making Activities' № 3354-IX of 24 August 2023 stipulates that legal monitoring is a systematic and comprehensive monitoring activity aimed at tracking, analysing and evaluating the implementation of adopted legislative acts with regard to: 1) their full entry into force (the coming into force of legislative acts, the implementation of legal provisions set out in their transitional provisions, the adoption (issuance) of subordinate legislative acts aimed at implementing the legislative acts subject to legal monitoring); 2) the achievement of the planned objectives of regulatory control, their impact on society and/or on specific social groups, sectors or industries, as well as the identification of social, legal, political, economic, environmental, administrative and/or other possible planned consequences or the identification of unintended consequences [3].

3. Principles of legal regulation of law-making activity in Europe

When studying the principles of legal regulation of law-making activity in Europe, it is worth, first of all, paying attention to part one of Article 46 of the European Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, ratified by the Law of Ukraine "On the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950" of July 17, 1997, with amendments made in accordance with the provisions of Protocols № 11, 14 and 15 with Protocols № 1, 4, 6, 7, 12, 13 and 16, which

entered into force for Ukraine on September 11, 1997, which stipulates that the contracting parties undertake to comply with the final decisions of the European Court of Human Rights in any cases to which they are parties [22] and which corresponds to this provision part one of Article 2 of the Law of Ukraine “On the Execution of Decisions and Application of the Practice of the European Court of Human Rights” of February 23, 2006 № 3477-IV, which regulates that the decision of the European Court of Human Rights is binding for Ukraine in accordance with Article 46 of the Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950. Moreover, Article 17 of the above-mentioned Law of Ukraine declares that “Courts shall apply the Convention and the case-law of the Court as a source of law when considering cases,” and Part One of Article 19 states that “The representative body shall conduct a legal examination of all draft laws, as well as subordinate regulatory acts subject to the requirement of state registration, and shall prepare a special opinion on their compliance with the Convention based on the results of which” [35].

In this way, the institutional basis, which is composed of the contracting parties, the normative basis, under which the decisions of the European Court of Human Rights should be understood, the principles of the correlation of national and European legislation are determined, since it is stated that the representative body carries out a legal examination of all draft laws, as well as subordinate regulatory acts, which are subject to the state registration requirement, for compliance with the Convention.

It is undeniable that the basic regulatory acts that, in the most detailed way, regulate the law-making activities of the countries of the European Union are the Consolidated Versions of the Treaty

on European Union of February 7, 1992 and the Treaty on the Functioning of the European Union of March 25, 1957.

In particular, the Consolidated Version of the Treaty on European Union of February 7, 1992, in Part One of Article 15, Section III, establishes that “The European Council shall provide the Union with the necessary impetus for its development and shall define its general political guidelines and priorities. It shall not exercise legislative functions”, and in part four of the said article, that “Unless otherwise provided in the Treaties, the European Council shall act by consensus”. In the course of the above-mentioned part one of Article 16 of Title III, it is provided that the European Council, together with the European Parliament, shall exercise legislative and budgetary functions, and in part 8 of the same article, that “When the Council is considering and voting on legislative acts, its meetings shall be held in public. To this end, each meeting of the Council shall be divided into two parts, devoted, respectively, to the consideration of legislative acts of the Union and to non-legislative activities [36]. That is, the institutional, procedural and functional principles of the activities of the European Council and the European Parliament are determined.

Part two of Article 17 of Section III is also devoted to the legal regulation of law-making activity, as it establishes the provision according to which “The adoption of legislative acts of the Union is possible only on the basis of a proposal from the Commission, unless otherwise provided for in the Treaties. The adoption of other acts shall be based on proposals from the Commission in cases provided for in the Treaties” [36]. In this connection, it would be appropriate to note that the institutions of the European Union are: the European

Parliament; the European Council; the Council; the European Commission; the Court of Justice of the European Union; the European Central Bank; the Court of Auditors. From this it can be argued that we are talking about the institutional principles of the law-making activity of the European Union. The most detailed regulation of the law-making activity of the countries of the European Union is the Treaty on the Functioning of the European Union of 25 March 1957, in which Chapter 2 of Section 1 of Part Six is entitled “Legal acts of the Union, adoption procedures and other provisions”. In particular, Article 288 provides that “In order to exercise the Union’s powers, the institutions shall adopt regulations, directives, decisions, recommendations and conclusions.

A regulation shall have general application. It shall be binding in its entirety and directly applicable in all Member States.

A directive shall be binding, as to the result to be achieved, upon each Member State to which it is addressed, but shall leave to the national authorities the choice of form and methods.

A decision is binding in its entirety. If a decision specifies those to whom it is addressed, it is binding only on them.

Recommendations and conclusions are not binding” [36].

It is undeniable that the cited article defines the normative and hierarchical principles of the law-making activity of the European Union.

The following articles 289–299 regulate that the ordinary legislative procedure consists in the joint adoption by the European Parliament and the Council of a regulation, directive or decision on a proposal from the Commission. That is, we are talking about the institutional principles of the law-making activity of the European Union.

In certain cases, provided for in the Treaties, the adoption of regulations, directives or decisions by the European Parliament with the participation of the Council or by the Council with the participation of the European Parliament is a special legislative procedure. Legal acts adopted in accordance with the legislative procedure are legislative acts. In certain cases, provided for in the Treaties, legislative acts may be adopted on the initiative of a group of Member States or of the European Parliament, on a recommendation from the European Central Bank or at the request of the Court of Justice or the European Investment Bank.

Legislative acts may delegate to the Commission the power to adopt non-legislative acts of general application to supplement or amend certain non-essential elements of a legislative act. The objectives, content, scope and duration of the delegation of power shall be clearly defined in the legislative acts. The essential elements of the scope shall be reserved to the legislative acts and shall therefore not be the subject of the delegation of power. Legislative acts shall clearly lay down the conditions governing the delegation, which may be as follows:

- a) the European Parliament or the Council may decide to revoke the delegation;
- b) the delegated act may enter into force only if no objection has been expressed by the European Parliament or the Council within a period set by the legislative act.

For the purposes of the above, the European Parliament shall act by a majority of its component members and the Council by a qualified majority.

Member States shall adopt all measures of national law necessary to implement Union acts which are binding. Where

uniform conditions are needed for the implementation of Union acts which are binding, such acts shall confer implementing powers on the Commission and, in duly justified individual cases and in the cases provided for in Articles 24 and 26 of the Treaty on European Union, on the Council.

The European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down in advance the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers.

The Council shall adopt recommendations. It shall act on a proposal from the Commission in all cases where the Treaties provide for the adoption of acts on a proposal from the Commission. The Council shall act unanimously in those areas where unanimity is required for the adoption of a Union act. The Commission and the European Central Bank shall adopt recommendations in the specific cases provided for in the Treaties.

In regulating the procedure for the adoption of acts and other provisions, the Treaty on the Functioning of the European Union of 25 March 1957 provides that where, in accordance with the Treaties, the Council is to act on a proposal from the Commission, it may amend such a proposal only by acting unanimously, save in certain specified cases. Until the Council has acted, the Commission may amend its proposal at any time during the procedure for the adoption of a Union act. Where the Treaties refer to the ordinary legislative procedure, that procedure shall apply for the adoption of the act. The Commission shall submit a proposal to the European Parliament and to the Council. The European Parliament shall adopt its position at first reading and communicate

it to the Council. If the Council approves the position of the European Parliament, the act in question shall be adopted in the wording which corresponds to the position of the European Parliament. If the Council does not approve the position of the European Parliament, it shall adopt its position at first reading and communicate it to the European Parliament. The Council shall inform the European Parliament fully of the reasons which led it to adopt its position at first reading. The Commission shall inform the European Parliament fully of its position.

If, within three months of such communication, the European Parliament: (a) approves the Council's position at first reading or takes no action, the act in question shall be deemed to have been adopted in the wording which corresponds to the Council's position; (b) rejects the Council's position at first reading by a majority of its component members, the proposed act shall be deemed not to have been adopted; (c) proposes amendments to the Council's position at first reading by a majority of its component members, the text thus amended shall be forwarded to the Council and the Commission, which shall deliver an opinion on those amendments.

If, within three months of receipt of the amendments from the European Parliament, the Council, acting by a qualified majority: (a) approves all those amendments, the act shall be deemed to have been adopted; (b) does not approve all those amendments, the President of the Council shall, with the agreement of the President of the European Parliament, convene a meeting of the Conciliation Committee within six weeks. The Council shall act unanimously on amendments on which the Commission has delivered a negative opinion.

The Conciliation Committee, composed of the members of the Council or their representatives and an equal number of members

representing the European Parliament, shall have the task of reaching agreement on a joint text by a qualified majority of the members of the Council or their representatives and by a majority of the members representing the European Parliament, within six weeks of its being convened, on the basis of the positions of the European Parliament and the Council at second reading.

The Commission shall take part in the Conciliation Committee and shall take all necessary initiatives with a view to reconciling the positions of the European Parliament and the Council. If, within six weeks of the date on which the Conciliation Committee is convened, it has not approved the joint text, the proposed act shall be deemed not to have been adopted. If, within that period, the Conciliation Committee approves the joint text, the European Parliament, acting by a majority of the votes cast, and the Council, acting by a qualified majority, shall have six weeks from the date of approval to adopt the act in question in accordance with the agreed text. If they fail to do so, the proposed act shall be deemed not to have been adopted. The three-month and six-week periods shall be extended by a maximum of one month or two weeks respectively at the initiative of the European Parliament or the Council.

Where, in the cases provided for in the Treaties, on the initiative of a group of Member States, on a recommendation from the European Central Bank or at the request of the Court of Justice of the European Union, a legislative act is not applicable under the ordinary legislative procedure, it shall not apply. In that case, the European Parliament and the Council shall forward the proposed act to the Commission, setting out their positions at first and second readings. The European Parliament or the Council may, throughout the procedure, request an opinion from the Commission, which the Commission may also issue on its own

initiative. The Commission may, if it considers it necessary, take part in the meeting of the Conciliation Committee.

The European Parliament, the Council and the Commission may consult each other and, by common accord, lay down the arrangements for their cooperation. To this end, they may conclude interinstitutional agreements, which may be binding, in accordance with the Treaties.

Where the Treaties do not specify the type of act to be adopted, the institutions shall choose the type of act to be adopted on a case-by-case basis in accordance with the procedures applicable and in accordance with the principle of proportionality. Legal acts shall state the reasons on which they are based and shall contain a reference to any proposals, initiatives, recommendations, requests or opinions required by the Treaties.

When examining draft legislative acts, the European Parliament and the Council shall refrain from adopting acts not provided for in the relevant legislative procedure in the area in question.

Legislative acts adopted under the ordinary legislative procedure shall be signed by the President of the European Parliament and the President of the Council. Legislative acts adopted under a special legislative procedure shall be signed by the President of the institution which adopted them. Legislative acts shall be published in the Official Journal of the European Union. They shall enter into force on the date stated therein or, in the absence thereof, on the twentieth day following that of their publication.

Non-legislative acts adopted in the form of regulations, directives or decisions, where such do not state to whom they are addressed, shall be signed by the President of the institution which adopted them.

Regulations and directives which are addressed to all Member States, and decisions which do not state to whom they are addressed, shall be published in the Official Journal of the European Union. They shall enter into force on the date stated therein or, in the absence of such a date, on the twentieth day following their publication. Other directives and decisions which specify to whom they are addressed shall be notified to those to whom they are addressed and shall enter into force upon such notification.

In carrying out their tasks, the institutions, bodies, offices and agencies of the Union shall be supported by an open, efficient and independent European administration. In accordance with the Staff Regulations and Conditions of Employment adopted on the basis of Article 336 of the Treaty on the Functioning of the European Union of 25 March 1957, the European Parliament and the Council, acting by means of regulations in accordance with the ordinary legislative procedure, shall lay down the relevant provisions for the purpose.

Acts of the Council, the Commission or the European Central Bank which impose a pecuniary obligation on persons other than States shall be enforceable. Enforcement shall be governed by the rules of civil procedure in force in the State in whose territory it is sought. The order for enforcement shall be attached to the decision without any further formality than the establishment of the authenticity of the decision by the national authority designated for that purpose by the government of each Member State and notified to the Commission and the Court of Justice of the European Union.

When these formalities have been completed, on application by the interested party, that party may proceed to enforcement in

accordance with national law by bringing the matter directly before the competent authority. Enforcement may be suspended only by decision of the Court. The courts of the country concerned shall have jurisdiction over complaints that enforcement has not been carried out in an appropriate manner [36].

It can be stated with full certainty that the provisions referred to above concern, first of all, the procedural and functional framework for the law-making activities of the countries of the European Union.

It is undeniable that the principles of legal regulation of law-making activity are also provided for in the national legislation of European countries. Thus, the Constitution of the Republic of Poland of April 2, 1997 contains Section III “Sources of Law” in parts one and two of Article 87, which states that the sources of generally binding law of the Republic of Poland are: the Constitution, laws, ratified international treaties, as well as regulations. The sources of generally binding law of the Republic of Poland in the territory of the bodies that established them are acts of local law.

Further, Articles 88–94 specify: the conditions for the entry into force of laws, regulations, as well as acts of local law; the principles and procedure for the publication of regulatory acts; the procedure for the ratification, denunciation and publication of international treaties; the grounds and procedure for the transfer of competence to an international organization or international body; the legal force of an international treaty; the place of a regulation in the system of regulatory acts; hierarchy of resolutions of the Council of Ministers, orders of the Chairman of the Council of Ministers and ministers in the system of regulatory legal acts; principles and procedure for adopting acts of local law [37].

The Basic Law of the Federal Republic of Germany of May 23, 1949 provides for Chapter VII “Legislation of the Federation”, which contains the following articles: 70 “Distribution of legislative powers between the Federation and the Länder”; 71 “Exclusive legislative competence of the Federation”; 72 “Concurrent legislative competence”; 73 “Areas of exclusive legislative competence of the Federation”; 74 “Areas of concurrent legislative competence”; 76 “Bills”; 77 “Legislative process – Conciliation Committee”; 78 “Procedure for adopting laws”; 79 “Amendments to the Basic Law”; 80 “Adoption of legal acts”; 80 a “Crisis situation”; 81 “State of legislative necessity”; 82 “Formulation – Publication – Entry into force” [38].

Analysis of the above provisions of the Constitution of the Republic of Poland of April 2, 1997 and the Basic Law of the Federal Republic of Germany of May 23, 1949 shows that they enshrine the normative, procedural, functional, competitive, hierarchical principles of legal regulation of law-making activity in these countries.

CONCLUSIONS

The provisions of this section are the basis for formulating the following conclusions:

1. Regarding the understanding of law-making activity, it is worth recognizing that there are different, sometimes opposing points of view on this problem, and this is certainly not a shortcoming of modern legal science, but rather indicates the diversity, scale and multi-vector nature of the concept of law-making.

2. The essence of law-making activity is planning the development and adoption (publication), development of projects, adoption (publication), record-keeping, and legal monitoring

of regulatory legal acts. The most optimal would be to study the essence of law-making activity by analyzing its principles.

3. The principles of legal regulation of law-making activity in Ukraine are the main (fundamental, main) provisions, ideas, rules of conduct set forth in the principles and norms of law, which is an independent legal institution that provides legal influence on social relations in order to regulate them in the interests of man, the state and society, as a result of which the needs of social development and the requirements of justice acquire a legal form, which is reflected in a certain regulatory legal act.

4. The principles of legal regulation of law-making activity in Ukraine include its: 1) foundations (main provisions, ideas); 2) fundamental rules of conduct; 3) the principles of law itself; 4) the essence, forms and purpose of implementation, etc. At the same time, the principles of legal regulation of law-making activity in Ukraine can be either directly enshrined in the principles and norms of law, coincide with their content, or logically follow from the general context, the content of a number of legal principles and norms and the spirit of the law of a particular country. The principles of legal regulation of law-making activity in Ukraine should be aimed at regulating social relations in order to organize them in the interests of man, society and the state. They should find their expression in a certain source of law (normative act, precedent, custom, etc.).

5. The Convention for the Protection of Human Rights and Fundamental Freedoms of November 4, 1950, ratified by the Law of Ukraine "On the Ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950" of July 17, 1997, with amendments made in accordance with the provisions of Protocols № 11, 14 and 15 with Protocols № 1, 4, 6, 7, 12, 13 and 16, entered into force for Ukraine on September 11, 1997; Consolidated versions of the Treaty on European

Union of February 7, 1992 and the Treaty on the Functioning of the European Union of March 25, 1957; The Constitution of the Republic of Poland of April 2, 1997 and the Basic Law of the Federal Republic of Germany of May 23, 1949 establish the following principles of legal regulation of law-making activity in European countries: institutional; normative; correlation (correlation of national and European legislation); procedural; functional; hierarchical; competitive.

SUMMARY. Legal regulation of law-making activity is an important component of the functioning of the modern legal system, since it is in the process of law-making that the normative principles of regulation and protection of social relations are formed, the directions of development of regulatory legal acts are determined, and the implementation of public, state and personal interests is ensured. The purpose of the study is to identify the concept and essence of law-making activity, to clarify and interpret the principles of legal regulation of law-making activity in Ukraine and Europe. The solution of the specified research goal determined the logic of presenting the material and formulating research tasks. According to which the understanding of law-making activity, the essence of law-making activity, a general understanding of the principles of legal regulation of law-making activity, the principles of legal regulation of law-making activity in Ukraine and the principles of legal regulation of law-making activity in European countries were worked out. The research methodology is based on a combination of philosophical approaches: cultural; anthropological; phenomenological; axiological (value); systemic, (systemic-structural and system-functional); activity; methodological principles: scientificity; historicism; comprehensiveness; objectivity; pluralism; general

scientific methods: dialectical; metaphysical; hermeneutic; historical; functional; synergistic; special methods: sociological; modeling; idealization; proper legal methods: historical-legal; comparative-legal; formal-legal. It is concluded that the principles of legal regulation of law-making activity in Ukraine include its: 1) foundations (main provisions, ideas); 2) fundamental rules of behavior; 3) the principles of law itself; 4) the essence, forms and purpose of implementation, etc. The principles of legal regulation of law-making activity in Europe also encompass the above-mentioned elements, in connection with which institutional, normative, correlational (correlation of national and European legislation), procedural, functional, hierarchical, and competitive principles are distinguished.

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CHAPTER 2

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METHODOLOGICAL APPROACHES TO ENSURING THE SYSTEMATICITY OF UKRAINIAN LEGISLATION

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INTRODUCTION

The current state of the national legal system of Ukraine is characterized by the unprecedented dynamism of regulatory material, which is due to both internal transformation processes and the external imperative of European integration. The legislation of Ukraine, which is rapidly developing in response to the challenges of wartime, post-war reconstruction and the need for harmonization with the law of the European Union, is increasingly faced with the risks of internal inconsistency, duplication, gaps and chronological collisions. In these conditions, the problem of ensuring the consistency of legislation acquires not only theoretical and legal, but also applied, political and managerial significance. Streamlining the legislative framework becomes a necessary prerequisite for effective law enforcement, the realization of citizens' rights, as well as the proper fulfillment of the state's international legal obligations.

Despite the increased attention of domestic legal science to the issues of systematization, codification and harmonization

of regulatory legal acts, the systematicity of legislation is mainly studied through the prism of formal-logical and structural-functional characteristics. At the same time, methodological tools, with the help of which this systematicity should be ensured at all stages of the law-making process – from planning legislative activity to the examination of projects and monitoring of current regulatory acts – often remain outside the scope of scientific discourse. That is why it seems relevant to resort to methodological approaches that allow not only to state the presence or absence of systemic connections between legislative norms, but also to purposefully form, maintain and restore them.

This issue acquires particular importance in the light of European experience, where the systematic nature of legislation is traditionally considered an integral attribute of legal certainty and the rule of law. The Member States of the European Union and the EU institutions have developed a number of effective methodological solutions – from standards of legislative technique to mechanisms for regular revision and systematization of legislation. The study and adaptation of these approaches to Ukrainian realities is not only of scientific interest, but also a practical necessity, especially in the context of Ukraine's acquisition of the status of a candidate for EU membership.

Therefore, today it becomes relevant to determine key methodological approaches to ensuring the consistency of Ukrainian legislation, taking into account contemporary challenges and European experience in systematization of regulatory legal acts. In this context, special attention deserves the understanding of those methodological guidelines that are able to ensure

the integrity, logical consistency and functional unity of legal provisions in modern conditions of legislative development.

1. Transformation of methodological approaches to legislation-making in Ukraine in the context of European integration aspirations

Through the prism of a methodological approach to ensuring the consistency of Ukrainian legislation, three main problems can be identified related to legislation-making in Ukraine, the European integration process, and the methodology for studying these processes at the current stage of domestic state formation.

It should be noted that law-making is a generic concept in relation to legislation-making, which is its leading form. Accordingly, any study of the methodology of legislation-making must take into account the general regularities of law-making activity, and the development of approaches to regulating legislation is impossible without understanding the specifics of both the legislation-making and general law-making levels.

The problem of law-making was a classic one in jurisprudence in general and in the theory of state and law in particular. Legislation-making and law-making in Ukrainian jurisprudence still today manifest the statism (legal) inherited from the Soviet era, which consists in the absolutization or exaggeration of the role of the state in this process. Law as a result of law-making was interpreted as a system of generally binding norms established or sanctioned by the state, compliance with which is ensured by its purposeful activity. Actually, law-making was interpreted as the activity of competent state bodies and public organizations aimed at creating, changing, and abolishing legal norms (normative acts).

In the first fundamental edition of the “Legal Encyclopedia” (Volume 5, Kyiv, 2003) it was also indicated that law-making is a direction of state activity associated with the official consolidation of legal norms by forming regulations, their changes, additions, and cancellations [1, p. 51]. At the same time, law-making is carried out by the state within the framework of the legislation-making process, and the result is the adoption of a regulatory legal act. That is, any law-making activity is reduced to the procedure for creating laws, and the final result of such activity is recognized as a regulatory legal act.

Discussions on law-making, which took place exclusively within the framework of positivist methodology and legal dogma, ultimately led their participants to a methodological dead end. It is impossible to ignore Article 8 of the Constitution of Ukraine, which enshrines the rule of law. However, few people manage to grasp the content of this category (or principle of jurisprudence) in practice. Therefore, the vast majority of authors who study this topic either return to the legacy of Soviet normativity or engage in epigony, borrowing their achievements and ideas from others.

It should be noted that some domestic authors (primarily representatives of the Kharkiv and Odessa legal schools) began to present the creation of law as a previously unknown legal construct, subordinating law-making to the law-creating. For example, in the third volume of the “Great Ukrainian Encyclopedia. General Theory of Law” there is no article on law-making, but there is only an article on the creation of law [2, p. 600]. It seems that this concept is to some extent indifferent, devoid of dynamics, although it is about the formation of law.

Another remark regarding law-creating is that it is a non-subjective concept, that is, law is formed either spontaneously, or as

a result of an evolutionary process, or *ex nihilo* (as if from chaos in synergistic processes).

A number of scholars write about law-creating as a long process of forming legal norms, which begins with the state's definition of recurring social relations, the need for their legal regulation, formal consolidation and state protection of legal provisions. The leading role of the state here is again decisive. Probably, the first place in this formula should be the awareness of the need for legal regulation, and only then the definition at the level of social relations. With this approach (when law-making is treated as a derivative part of law-creating), such sources of law as tradition, custom, treaty, international legal norms, judicial precedent fall out of sight. How do these sources of law relate to the concepts of "state-defined" or "formal consolidation"?

The Law of Ukraine "On Law-Making Activity" [3], adopted by the Verkhovna Rada of Ukraine on August 24, 2023, brought significant clarity to this issue. It completed thirty years of work on draft laws under various names that related to norm-making activity. Article 2 of this Law defines the concept of "law-making activity" – an activity carried out for the purpose of planning, developing and adopting (issuing) a regulatory legal act, keeping records of such acts and carrying out their legal monitoring. At the same time, the Law of Ukraine "On Law-Making Activity" defines a norm of law and a regulatory legal act. The former is considered a generally binding and formally defined rule of conduct that regulates social relations. It is protected and ensured by the state. That is, the state does not act as a monopolist in the development and adoption of a legal act. It can be developed, adopted (approved) by other entities, including members of civil society and international entities. There is no direct reference to judicial precedents, but this can be deduced using logical research methods.

A normative-legal act is associated with a subject of law-making activity and is adopted in the manner provided for by the Constitution and laws of Ukraine. Subjects of law-making activity in accordance with Article 4 of the Law are state bodies, heads of local state administrations and heads of their structural divisions, local self-government bodies and territorial communities (at a local referendum).

It should be emphasized that, with regard to the latter subject, its law-making activity is limited only to a local referendum. Similarly, the subjectivity of law-making of the Ukrainian people is limited only to an all-Ukrainian referendum. However, certain doubts arise here. Article 5 of the Constitution of Ukraine defines the people as the bearer of sovereignty and the sole source of power – the people, who exercise power directly, through state authorities and local self-government bodies [4]. Article 140 of the Constitution of Ukraine also provides for the possibility of the community performing local self-government functions directly or through local councils and their executive committees. Section II of the Constitution of Ukraine “Elections. Referendums” establishes the provision that the people’s will is expressed through elections, referendums, and other forms of direct democracy (but it does not specify which ones). That is, including the powers of the people and the community as law-making subjects are limited to elections and participation in referendums. And the procedure for their conduct is determined by state laws. The question of the hierarchy of sovereignty arises: does supremacy belong to the people or the state? It is obvious that the sovereignty of the people has priority. But in fact, the state limits it, including reducing the powers in the field of law-making to participation in the all-Ukrainian referendum. The situation is similar with the powers of

the community, because its law-making activity is limited to a local referendum.

Summing up, we note that the analyzed Law of Ukraine “On Law-Making Activity” has become a significant step in the development of Ukrainian jurisprudence and in such an extremely important area as law-making activity. However, it should be noted that the law sets out many provisions on law-making, but not all and not final. Scientific research on law-making in the sense of creating traditions, customs, contracts, judicial precedents and, possibly, legal doctrines requires additional development.

2. Methodological foundations of modern legislation-making: from systematicity to European integration compatibility

Modern legislation-creating is no longer an intuitive “art of the legislator”. It is transformed into a strictly organized, rational activity, guided by a system of methodological principles. These principles ensure the transition from political will to high-quality, effective and systemically integrated legal norms. The methodology of law-making is a toolkit that implements philosophical and legal ideals in legislative techniques.

The fundamental methodological imperative of legislation-making is a systematic approach. Its content is revealed in the following:

1. The internal systematicity of legislation-making is that a new norm should not be considered in isolation, but as an element of the field of law and the entire legal system. The key requirements are logical consistency, the absence of conflicts with higher-level legal acts and non-contradiction of related institutions.

2. The external systematicity is that in the process of legislation-making it is necessary to take into account the

interaction of law with other social systems – economy, politics, morality, technology. This prevents the creation of ineffective, “dead” norms, disconnected from social reality.

One of the effective methodological approaches that should be applied in legislation-making is the predictive-effective one, which consists in moving from reactive to proactive legal modeling.

The main methodological tools of legislation-making also include the assessment of the regulatory impact RIA (Regulatory Impact Assessment). This is a systematic, evidence-based process used by governments to clearly define the problem and objectives of regulation; analyze alternative ways to solve it (including non-regulatory ones); quantitative and qualitative assessment of costs and benefits for the state, business and citizens; forecast social, economic, environmental consequences. The purpose of RIA is to minimize unwanted side effects, increase the effectiveness and economic feasibility of legislation.

When developing methodological tools for legislation-making, an interdisciplinary approach is important. It should be emphasized that interdisciplinarity and expert support for legislation-making look like overcoming legal monologism. The development of complex legal norms (in particular, in the IT sphere, bioethics, in the field of financial markets) requires knowledge of economics, sociology, psychology, technology, natural sciences, etc.

Another methodological aspect is the institutionalization of expertise in legislation-making, which entails the introduction of mandatory procedures for involving independent scientific institutions, think tanks, and professional associations in the preparation of draft laws.

It should also be noted that in legislation-making, the principles of legislative technique are implemented as methodological tools

of clarity and precision. This includes linguistic and logical clarity, which involves the use of unambiguous terminology, the avoidance of evaluative and emotional categories, and the simplicity and clarity of language.

The structural integrity of a normative-legal act is also important – its logical structure (preamble, general and special provisions, transitional provisions), and the consistency of presentation.

In addition, it is methodologically necessary to economize on legal means, that is, to resolve the issue in the least burdensome and most effective way, avoiding excessive detail and duplication.

There is no alternative to the procedural-communicative methodology in legislation-making, which requires transparency and participation of civil society actors. Transparency must be ensured at all stages and include mandatory public discussion of projects, access to texts and expert opinions, and openness of plenary and committee meetings.

Public participation is institutionalized through mechanisms of public hearings, electronic petitions, and advisory councils, which translate the demand for democracy into specific procedural forms.

Constant monitoring and evaluation of the results of legislative activities is mandatory, which consists in the systematic collection of data on the application of normative-legal acts and allows for the prompt identification of gaps, conflicts, and ineffective solutions for further improvement.

A novel in the methodology of legislation-making in the context of European integration is the principle of compatibility and consistent interpretation. Such a “Europeanization” of the methodology should include the stage of verification of compliance with EU law in the legislation-making process.

The implementation of the European approach to legislative activity consists in the fact that instead of mechanical copying, harmonization with the *acquis communautaire* should occur as a result of the creative assimilation of its key principles (proportionality, non-discrimination, effectiveness) and their integration into the national legislative methodology.

In the process of legislation-making, orientation on the practice of the Court of Justice of the EU is certainly important. Today, taking into account the precedents and approaches of the Court of Justice of the EU in national legal proceedings is becoming an integral part of the methodology for interpreting and applying national norms of European origin.

Thus, the modern methodology of legislation-making is an integrated system of approaches and tools aimed at ensuring the quality of law. It combines the internal logic of systematicity, the rationality of prognostic assessments, the accuracy of legislative techniques and the openness of communicative procedures. The conditions of European integration add to this methodology the requirement of external compatibility with supranational standards. Only the conscious application of this complex methodology can transform legislation-making from a political instrument into a scientifically based mechanism of stable social development.

3. Methodological models of legislation-making in the EU and their significance for Ukraine

Legislation-making in the European Union is a unique space for testing the synthesis of national legal traditions and developing new, interdisciplinary approaches. Its analysis requires

considering a methodological approach taking into account specific instruments and procedures for ensuring the quality of law.

Methodological tools today can be considered both in the context of national specificities and in view of the common policy of “Better Regulation Agenda” [5], which establishes the obligation of impact assessment, consultations, expertise and *ex-post* monitoring for all European and national (in the field of application of EU law) legislation-making.

It should be noted that *ex-post* evaluation means a systematic study of the actual results and consequences of existing legislation or policies after their implementation. Its purpose is to close the loop of regulatory management, taking into account that legislation-making is not a one-off event, but a cyclical process of learning and adaptation. It ensures the accountability of the regulator and answers the question: “Is this law working as intended?”. As a result of *ex-post* evaluation, conclusions are provided on whether the law is working well and should be maintained; needs correction; is ineffective and should be repealed.

Regulatory Impact Assessment (RIA) is also mandatory in the EU, which involves a systematic process of identifying and analyzing the expected consequences of proposed regulatory acts. It is not just a technical report, but a tool for rational risk management and substantiation of political decisions. Its main idea is to move from intuitive or politically motivated regulation to evidence-based law-making.

Regarding *ex-post* evaluation, we would like to add that its results are necessarily considered by the legislator (parliamentary committee, government) in the EU member states and become the basis for revising or repealing the legislative act, launching

a new RIA cycle to adjust the policy, and disseminating successful experiences.

Ukraine also applies principles and tools that meet EU better regulation standards. This process is part of a systemic deregulation reform that is being implemented to improve the business climate and European integration. The Better Regulation Office (BRDO) is an active driver of these changes, working closely with the government and international partners¹.

Among the main areas of implementation of the principle of better regulation, we can single out the following:

- analysis of regulatory effectiveness, which involves a systematic review of existing regulatory acts in order to “clean” the legislative field of outdated norms;
- analysis of regulatory impact, which is implemented in order to assess their potential impact on business and society at the stage of creating new legislative acts. This helps to avoid making economically unjustified decisions;
- digitalization of permitting procedures, i.e. when instead of paper queues, a single state electronic system of permitting documents “ePermit” works. It was launched with financial support from the EU and allows you to obtain licenses and permits online, which minimizes corruption and saves time.

The implementation of the better regulation policy in Ukraine is taking place with direct technical and expert support from the EU².

¹ Rolling review methodology. *Better Regulation Delivery Office (BRDO)*. URL: <https://brdo.com.ua/en/our-approach/#card-2> (accessed: 11.04.2026).

² See : Year Two of the Deregulation Action Plan in Ukraine: e-Permits, Updated Diia.Business Portal, and e-Licensing. URL: <https://eu4business.org.ua/en/success-stories/year-two-of-the-deregulation-action-plan-in-ukraine-e-permits-updated-diiabusiness-portal-and-e>; Ecorys backs Ukraine’s (post-)wartime Recovery via Policy Reform. URL: <https://www.ecorys.com/ecorys-backs-ukraines-post-wartime-recovery-via-policy-reform> (accessed: 11.04.2026).

This means that Ukraine is not simply copying individual rules, but is systematically implementing the European philosophy of “good governance”, where the state creates favorable conditions for honest business.

In general, regarding the issue of interaction of national methodologies with EU law, its effectiveness depends on the implementation of the principles of proportionality and transposition as a creative task. The latter does not mean mechanical copying, but ensuring the implementation of the main tasks of the EU directive, taking into account the national context. The principle of proportionality in this case provides a kind of connecting link between the philosophical and legal approach and the European standard of judicial control over national regulatory decisions.

Therefore, for Ukraine to implement European standards in the field of legislation-making, it would be advisable to:

- adopt at the legislative level the principle of better EU regulation with mandatory RIA, consultations and *ex-post* evaluation;
- make the principle of proportionality the central methodological test for each draft law that restricts rights;
- consider harmonization not as technical work, but as a process of deep legal transformation aimed at establishing the philosophy of the rule of law and human rights.

To develop an effective methodology for national legislation-creating, it is also important to study the theoretical work of European scholars. Among the main areas of research in this field, one can highlight the concept of “law as integration” and the principle of mutual recognition, the crisis of legitimacy and the search for new forms of participation (deliberative democracy), the

empirical turn in law (regulatory technologies and data analytics), the principle of subsidiarity as a philosophical and methodological challenge, and green transformation as a new philosophy of regulation.

The author of the concept of “law as integration” is the German lawyer Werner Miguel Kühn [6]. This concept considers law not simply as a set of rules, but as a tool that ensures legal integration and unity in supranational structures. The concept contrasts “integration law” with the classical “community law”, focusing on the mechanisms by which legal methods contribute to the unification of legal systems. The development of this idea is associated with the practice of the Court of Justice of the EU, which treats law as a means of deepening integration ties.

Portuguese scholar Luis Maduro, analyzing the concept of “law as integration”, primarily in the context of EU law, argues that EU law is not just a set of norms, but a mechanism of integration through governance [7]. He emphasizes the principle of mutual recognition as an alternative to full harmonization. This has direct methodological consequences for the national legislator: instead of creating identical norms, it is necessary to formulate minimum standards of mutual trust that allow the functioning of different national systems in a single space. In addition, the researcher raises an urgent methodological question regarding the need to revive doctrinal legal research in Europe in such a way that it is ready for such future challenges as the blurring of the boundaries between European and national law, public and private law, state and non-state law, which means an interdisciplinary turn in legal research [8].

Professor Susanne Schmidt of the University of Bremen, relying on the principle of mutual recognition and exploring the

practical aspects of this approach, emphasizes that it forms a new methodology of legislation-making, focused on risk assessment and equivalence of results, rather than on harmonization of procedures [9].

Renowned Italian scholar Alberto Alemanno is a recognized advocate of policy development based on the “law of evidence” (*evidence-based law-making*), often challenging the status quo of regulatory practice. In his scientific publications, he significantly criticizes the RIA system for its formalism and proposes a more technologically advanced, empirical approach to law-making, including a radical increase in the role of empirical data, randomized controlled trials (RCTs), and artificial intelligence for modeling the consequences of applying legal norms [10].

Dr. Sumeyer E. Bieber from the University of Luxembourg, systematizing the practice of interpreting automated decision-making to identify legislative conflicts and predict the approaches of the Court of Justice of the EU to the application of law, indicates that in the future, the methodology of legislation-making will become deeply technological [11].

Dutch researcher Philip Kever emphasizes that the principle of subsidiarity has transformed from a political declaration into a complex procedural and methodological construct. He suggests that the European Commission conduct detailed assessments of subsidiarity and proportionality, creating a new type of inter-level methodological dialogue, where national parliaments should argue their position using the same tools as the EU [12].

Therefore, it can be stated that the Ukrainian legislator, striving for European integration, should focus not on the past, but on the future standards of European legislation-making. This means readiness for:

- digitalization of methodology (creation of tools for working with big data and algorithmic analysis of legislation);
- experimental regimes (introduction of mechanisms for testing norms before scaling them up);
- deep greening (incorporation of “green” criteria into each impact assessment);
- new forms of participation (institutionalization of deliberative practices for strategic development issues).

In general, modern European thought on legislation-making indicates the need for radical modernization not only of norms, but also of the legislator's way of thinking, who must master the methods of working with evidence, coordinate public dialogue, and implement the results of scientific research into legal practice.

Thus, the above analysis demonstrates that successful European legislation-making is built on a combination of national legal foundations (which ensure legitimacy) and flexible, rational methodological tools (which ensure quality). For Ukraine, this means the need for parallel work: strengthening its own constitutional doctrine of the rule of law and simultaneously introducing advanced European management technologies into the legislation-making process.

4. Methodological basis for the integration of continental and case-law systems in the EU and Ukraine

The methodological approach to the integration of continental and case-law systems cannot be reduced to the simple borrowing of individual institutions or the mechanical imposition of one system on another. Instead, it involves the development of hybrid research strategies capable of combining the normative systematicity of the

Romano-Germanic tradition with the casuistic flexibility of case-law. In this context, the methodology of integration appears as a tool for harmonizing heterogeneous legal logics, rather than as an attempt at unification for the sake of unification itself.

Today, it is customary to distinguish three types of methodology that interact and compete with each other. These are: 1) logical-methodological, 2) historical, 3) socio-cultural methodology. The first type is characterized by unity and integrity, and the methodology of this type is associated with the philosophy of science, constitutes its main part. The historical type of methodology is characterized by changes associated with changes in a particular science or social phenomena. In the socio-cultural type of methodology, the determination of social events, methods of their cognition can be ignored or occupy an insignificant place.

Analysis of current social and cultural processes, in particular, the integration of Ukraine into the European community, its structures and institutions, can be carried out using historical and socio-cultural methodology.

It should be noted that in historical methodology, the classical, neoclassical, and postclassical periods are distinguished. The classical period is associated with faith in the power of science, historical progress, the establishment of a reasonable order of things, a systematic change in historical realities, etc. The neoclassical period is characterized by the loss of an exclusive orientation to reason and science as universal and infallible. Postclassical methodology is associated with synergism, polyvariance, pluralism, and nonlinearity of social development. To this should be added a total revision of “vertical” methodologies (or connections of methodologies), and the postmodernist rejection of previous socio-cultural, historical, and philosophical

experience. In this context, the methodology of cognition manifests its conditionality, dependence on social, human, cultural, and historical dimensions. The methodology, separated from the subject of knowledge, is now replaced by a methodology linked to the subject, the socio-cultural environment, predictable and unpredictable social changes and transformations. Examples of the latter can be considered the gaining of independence by Ukraine, the “orange” and “revolution of dignity”. On the other hand, the predictability of Ukraine’s course towards returning to Europe and European transformation can be considered as a dialectical pair.

In Europe, two systems of legal understanding, two systems of law initially developed (we emphasize that law is a manifestation of socio-cultural and historical development). The first system of law – continental (or Romano-Germanic) – is based on Roman law, Ripuarian and Salic “truths”, Napoleon’s codification and their spread in the German, Austro-Hungarian, and Russian empires. The main and fundamental source of law in this system was the law, norm, statute. Another system of law – Anglo-Saxon (or precedential) – was provided in England at the beginning of the second millennium AD, and then spread to its colonies and dominions. This system relies more on the decisions of independent courts, judicial precedents. Although the role of law is not rejected. In connection with globalization (natural, not artificial), the expansion of ties between states, their regional and world integration, there is an increasing linking of social relations with both systems of law. It can be argued that the integration of the two legal systems was initiated by the practice of the Nuremberg and Tokyo Tribunals, the practice of the UN and its institutions and structures, the bodies of the European Union, the Council of Europe, the European Court of Human Rights. Despite the withdrawal of the UK from the EU, judicial practice is based on precedents in this union

and its structures, that is, the case-law system in the EU has remained and continues to develop.

It is also indicative that the understanding of the processes of European integration continues to be carried out using historical and socio-cultural methodologies. On the one hand, European integration is natural, predictable and recognizable, starting from the European Coal and Steel Union in 1951 to the creation of the EU. On the other hand, spontaneous, unpredictable, retroactive events are manifested, such as the blocking of the draft Constitution for Europe approved on December 14–15, 2001 by the European Convention in Laeken (Belgium) (the so-called Laeken Declaration), the withdrawal of the United Kingdom from the EU (BREXIT), the renewal of discussions about national and pan-European sovereignty in the “young” EU member states.

Ukrainians have been in Europe throughout their history, they were part of it. Three hundred years of being part of the Russian Empires, and then in the USSR, undoubtedly left its mark on the level of culture, science, art, and jurisprudence. Such sources of law as the *Sudebnyky* in the Russian Empire had as their historical source the “*Russkaya Pravda*” as the first pro-Ukrainian code. In its methodology, it was close to the European Salic and Riparian *Pravdas*. This methodology consisted in the proximity of worldview foundations and the generalization of folk traditions and customary law in them. The continuation of this line took place during the Khmelnytskyi period during the preparation of the Constitution of *Pylyp Orlyk*, during the conclusion of the Rights by which the Little Russian people are judged in 1743. The Ukrainian state restored at the beginning of the 20th century and the Constitution of the UNR, the Law on the Provisional State System, the Constitution of the ZUNR, the Law on the

Provisional Supreme Administration and the Order of Legislation in the UNR provided for typically European provisions: the ideas of justice, equality before the law, freedom, democracy, an independent judiciary, the value of a person and his spiritual life, the election of government bodies, etc.

Over 30 years of independence in Ukraine have led to the creation of its own national system of legislation and sectoral regulations. At the same time, Ukraine's accession to the Statute of the Council of Europe (1995) [13], ratification of the Convention for the Protection of Human Rights and Fundamental Freedoms (1997) [14], establishment of the European Court of Human Rights in accordance with Art. 19 of the Convention, fixation in Art. 8 of the Constitution of Ukraine of the provision on the rule of law and in Art. 17 of the Law of Ukraine "On the Execution of Decisions and Application of the Practice of the European Court of Human Rights" of 23. 02. 2006 [15] provides that Ukrainian courts must apply the Convention and the practice of the Court as a source of law when considering cases. Although, it seems, this logically followed from the fact that, according to Art. 9 of the Constitution, ratified international agreements are part of national legislation, and thus, the Convention for the Protection of Human Rights and Fundamental Freedoms is part of it, and the decisions of the ECHR are binding on Ukraine. Based on this, in our opinion, the precedents of the ECHR should be part of the national legal system. It can be argued that the turn of using in Ukraine is also the decisions of the EU Court, the International Court of Justice in the Hague, and courts operating on the basis of the Rome Statute. It should be emphasized that the decisions of the Constitutional Court of Ukraine are also precedents. To a certain extent, the decisions of the Supreme Court are also precedents.

Therefore, it can be stated that in Ukraine the integration of the continental and precedent systems of law is taking place through the use of precedents (both national and international courts) as sources of national law.

It seems that the integration of continental and case-law systems in the EU and Ukraine requires not so much a universal methodology as a contextually sensitive toolkit that takes into account the degree of maturity of national legal institutions and their readiness to perceive case-law logic. Therefore, the methodology here should not be dogmatic (which corresponds to the general nature of law as a social regulator), but pragmatic (which “works” in the conditions of a specific legal system). Only under such conditions will the assimilation of the case-law experience of the EU become for Ukraine not a formal copying, but an organic element of its own legal development.

5. Methodology for research into internal parliamentary processes in relation to the methodology of legislation-creating

The methodology of studying internal parliamentary processes is organically linked to the methodology of legislation-creating, since the parliamentary procedure is the main environment where law is formed and adopted. Therefore, the analysis of methodological approaches to legislation-creating is impossible without taking into account the internal logic of parliamentary activity.

It should be noted that the methodology of cognition is a holistic, structural doctrine. It is a worldview based on a theory through which the existence of the world, natural and social phenomena are understood [16]. The authors do not accept

the hierarchical interpretation of methodologies (philosophical, general scientific, specific scientific), but believe that the subject of cognition uses a ready-made theory at the level of worldview, becomes its supporter and follower, or creates his own worldview theory or concept (if he is capable of it), in its context he explores the object of cognition. Cognition can be theoretical, practical or mixed. Legal cognition, being associated with jurisprudence as a scientific and practical complex, is mixed cognition. And it can use monocognition (using a single methodology) or eclectic cognition (when several methodologies are used). At the same time, it is worth highlighting methodology (worldview level), technique (technological level), methods (instrumental level).

It can be stated that in science (which should develop methodologies, techniques and methods, including in jurisprudence) there is an undifferentiated approach, a mixing of the concepts of “methodology”, “methodology” and “method”. Thus, in the “Great Ukrainian Legal Encyclopedia” the methodology of legal knowledge is defined as a system of means, techniques and instruments for understanding law or individual legal phenomena [17, p. 460]. In our opinion, means and instruments belong to methods, and techniques can be related to the methodology of knowledge. Of course, they are related to the methodology. But the subject of knowledge can be a follower of positivist methodology and at the same time use sociological, psychoanalytic or phenomenological methods.

Lawyers and philosophers interpret law as a normative form of expression of freedom [18, p. 20], as a specific social form in which the will of a civilized community is embodied [19, p. 259], as norms established by an external authority, mainly the state, as those that are developed by social relations, gradually formed

and crystallized from mental experiences, rooted in the ethical consciousness of a person, etc. [20, p. 189]. In today's European legal science, authors avoid defining law, but write about natural law, positive law, realistic law, understanding law through the concept of argumentation, analytical-linguistic approach, law as a social technique, etc. [21; 22].

In our opinion, law should be approached as an existential, ontological phenomenon. The bearer of law is the consciousness of the individual and social groups of society as a whole. Since the structure of consciousness distinguishes religious, moral, worldview (philosophical), political, cultural, legal and other subsystems, law is inextricably linked with religious, ethical, political, economic and other norms and rules [23, p. 20].

In view of the above, it seems that since law is an ideal phenomenon, law-making is the conscious and subconscious activity of an individual, social groups, and society to understand laws, ethical social norms and transform them at the level of consciousness into traditions, customs, norms, etc. Therefore, when it comes to law-creating, it can be argued that Presidents, parliaments, governments, executive bodies and local governments do not create law (do not carry out law-making). They are engaged in legislation-creating and norm-creating, which are related to law-making, but are not identical and are in a hierarchical relationship: legislation-creating and norm-creating should be derivative, secondary to law-making. The inconsistency of legislation (legislation-creating) and normative acts (norm-creating) with law (law-making) may indicate the illegal or even anti-legal nature of legislation and normative acts.

The methodology of law-making can be the theories of creative perception (J. Berkeley), productive imagination (I. Kant, F. Schelling), the opposition of the creative organic principle

to technical rationality (A. Bergson), “limit experience”, “self-actualization” (E. Fromm, K. Rogers, A. Muskow), “depth psychology” of archetypes of consciousness (Z. Freud, C. G. Jung), etc.

The methodology of legislation-making (and norm-making) is, on the one hand, connected with the methodology of law-making, and on the other hand, with the methodology on which the creation of the modern Ukrainian state and civil society is based. Such a methodology is the theory of classical liberalism (from the Latin *liberalis* – free), not neoliberalism, not postliberalism, but classical liberalism. The essence of this theory is the justification of the recognition of human rights, the rule of law, parliamentary democracy, private property and free entrepreneurship. Liberalism in the above-mentioned classical sense originated in the 17th–18th centuries. as the ideology of the third estate. The first social practice of liberalism is seen in the Spanish war of liberation against Napoleon Bonaparte (1810).

In the legal discourse of liberalism, such basic ideas as freedom, progress, rationalism, individualism, social contract, civil society, constitutionalism, and the relationship between the individual and the state are highlighted. The most clearly defined are Anglo-Saxon liberalism with a significant role of spontaneous factors and continental-European liberalism with skepticism towards spontaneous factors and the prevalence of constructivist rationalism in social and state-legal development. At the turn of the 19th and 20th centuries, classical liberalism began to transform into modern liberalism as social liberal-reformism or neoliberalism. The central issue of modern liberalism was the issue of social guarantees of the rights and freedoms of the individual and the idea of state regulation of the social sphere, partnership relations between oneself and the state, and the rule of law. A variety

of modern liberalism is neoliberalism, which is based on self-regulation of the economy, free competition, economic freedoms, the spread of corporate trends, social protection and partnership, and the combination of free competition with state regulation [24, pp. 349–351, p. 429].

The Ukrainian Constitution, adopted in 1996, enshrined a largely liberal doctrine, which is expressed in the state's responsibility to man, its implementation of social protection of property rights holders, ensuring social development of the economy, competition, preventing a monopoly position in the market of unfair competition, protecting consumer rights, and monitoring the quality and safety of products, services, and works.

Over the past several decades, the liberal doctrine has been implemented in Ukraine with varying intensity.

There were periods of minimal intervention in the economy and civil society, there were attempts to move to direct administrative control, and there were times with the prevalence of one or several oligarchic clans and an attempt to authoritarily encompass and regulate all spheres of public life. Therefore, it can be argued that liberalism in the Ukrainian state and legal creation is far from fully realized.

The Parliament in Ukraine is the only legislative body. Its activities are a certain system, which is implemented through such functions as legislation-creating; parliamentary control; participation in the formation of executive bodies and the appointment and dismissal of officials; overcoming vetoes and promulgation of laws; ratification and denunciation of international treaties, consent to their binding nature, etc. The scope of functions is quite large. The Parliament carries out its activities through sessions, parliamentary committees, coalitions, factions,

deputy groups, the opposition, with the help of the parliamentary apparatus, working groups, investigative commissions, and parliamentary hearings.

The technology of the parliament's activities is regulated by the Law of February 10, 2010 № 1861-VI “On the Rules of Procedure of the Verkhovna Rada of Ukraine”, the orders of the Chairman of the Verkhovna Rada on approval of the “Regulations on the procedure for working with documents in the Verkhovna Rada of Ukraine” dated February 8, 2021 № 19, “Regulations on the website of the Verkhovna Rada of Ukraine on the global information network Internet” dated January 31, 2022 № 21, etc.

Taking into account the above, it seems appropriate to define the methodology for researching intra-parliamentary activity. Such a methodology may be praxeology (from the Greek *praktis* – practice, activity, *lóyos* – word, expression) – the theory of effective organization of legislative and other organization of parliamentary activity. Since praxeological ideas were developed in other methodologies (utilitarianism, pragmatism, rationalism, organization theory, general theory of action), by including individual fragments of these teachings or theories, praxeology becomes a universal theory of activity. Praxeology can investigate the effectiveness of the functioning of the legislative sphere in the context of state and legal administration, which is carried out through state institutions, political parties, individual deputies, committees, groups, factions and coalitions.

It is possible to distinguish certain types of legislative praxeology associated with the impact on state-legal, political, economic, cultural, scientific and technical, educational and other spheres, namely:

- 1) legislative-social;

- 2) legislative-political;
- 3) legislative-educational;
- 4) legislative-economic;
- 5) legislative-cultural;
- 6) legislative-scientific and technical, etc.

At the same time, the methodology of legislative praxeology is designed to synthesize initiatives to develop or improve the specified branches of legislation that appear in social practice, various spheres of social life. The decisive factor here is the will of political parties, lobby groups, oligarchic clans, regional deputy groups or individual deputies, their action without regard to the case, their own interests or local interests of certain groups, authority, speculative and populist ideas. Thus, based on the theory of praxeology, we can talk about the need for legislative compromise (from the Latin. *compromissum* – agreement based on mutual concessions). Mandatory requirements in this case are ensuring the impossibility of evading the conditions on which the compromise was reached, the possibility of criticism without discrediting.

Certain methods of this activity are associated with the praxeological methodology of legislation-creating. Although, of course, methods that stem from other methodologies can also be applied and which should ultimately lead to systematic, planned law-making work, maintaining a rational balance between political interest and legislative need when implementing theoretical and analytical-synthetic support for work on draft laws [25].

In the modern world, human experience is formed under the influence of scientific and technological progress and the constant growth of technical armament of individuals, social groups and the whole society. On the other hand, the 21st century is marked

by the aggravation of global, ecological, property, interpersonal, interethnic and other conflicts. They are reflected in the life of society and an individual in our country. Legislative activity is aimed at balancing and, if possible, leveling both external and internal problems. Therefore, through the prism of praxeological methodology, expedient legislative activity should be determined by their solution, the need for appropriate practical and theoretical actions, awareness and balancing of the interests of political parties, lobby groups, regional deputy groups or individual deputies with the interests of a person, social groups, and the Ukrainian people.

The application of praxeological methodology in law-making will make it possible to analyze and evaluate “signals” (social needs, relationships) that come to parliament through various ways and channels, to identify elements and forms of rational activity, to develop a technology of actions and, through legislative techniques, to translate the content of such “signals” into the language of the law, to identify the most appropriate and effective actions for the preparation of a draft law and its adoption.

It should be emphasized that the methodology for studying internal parliamentary processes in its connection with legislation-making cannot be reduced to a simple set of methods or techniques. The most appropriate approach in this context is praxeology – a theory of effective organization of legislative activity of parliament, which allows analyzing social needs, transforming them into the language of law and ensuring a rational balance between political interest and legislative necessity. It is the praxeological methodology that is able to synthesize heterogeneous initiatives, assess the effectiveness of parliamentary actions and contribute to achieving a legislative compromise.

CONCLUSIONS

As a result of the study of methodological approaches to ensuring the consistency of Ukrainian legislation in the context of contemporary challenges and European experience, the following main conclusions were formulated.

1. The conceptual and categorical distinction between law-making and legislation-making has not only theoretical, but also applied methodological significance. Law-making as a generic concept covers a wider range of sources of law (traditions, customs, treaties, judicial precedents, legal doctrines), while legislation-making is its leading form, which is implemented mainly by state bodies. The adoption of the Law of Ukraine “On Law-Making Activity” in 2023 was an important step in overcoming Soviet statism, but requires further development in terms of recognizing judicial precedents and other forms of law-creating as full-fledged sources of national law.

2. The systematicity of legislation is ensured by a set of methodological approaches, among which the following are of key importance: a systematic approach (internal and external consistency of norms), a predictive-effective approach (assessment of the regulatory impact of RIA), a legislative-technical approach (clarity, accuracy, structural integrity, economy of legal means), a procedural-communicative approach (transparency, public participation) and a monitoring approach (constant assessment of the effect of norms). Only the integrated application of these approaches can transform legislation-making from a political instrument into a scientifically based mechanism of social development.

3. The conditions of European integration add to the national methodology of legislation-making the imperative of

external compatibility with *acquis communautaire*, which provides for a mandatory verification of draft laws for compliance with the *acquis communautaire*, adaptation of the principles of proportionality, non-discrimination and effectiveness, as well as orientation to the practice of the Court of Justice of the EU. Mechanical copying of European norms should give way to creative assimilation of their key principles, taking into account the national context.

4. Analysis of European methodological models (primarily “better regulation”, subsidiarity assessment, deliberative democracy and evidentiary law) indicates the need for Ukraine to simultaneously strengthen its own constitutional doctrine of the rule of law and introduce advanced management technologies. Among the priority steps is the digitalization of the methodology for researching legislation (data analytics, algorithmic detection of conflicts, etc.).

5. In Ukraine, the integration of continental and case-law systems of law is taking place due to the binding nature of the decisions of the European Court of Human Rights, the practice of the Constitutional Court of Ukraine and the Supreme Court. This allows us to assert that precedent is increasingly acquiring the status of a source of national law, which should be properly reflected in legislation and taken into account in the methodology of legislative activity.

6. The methodology for studying intra-parliamentary processes in connection with legislation – should be defined as praxeology – a theory of effective organization of activity that allows analyzing legislative compromise, a rational balance of political interests, social needs, and the effectiveness of parliamentary procedures. The application of the praxeological

approach will contribute to the transformation of legislation-making into a systematic, planned, and scientifically based activity.

Thus, ensuring the consistency of Ukrainian legislation requires not fragmentary changes, but a comprehensive transformation of the methodological culture of legislation-creating – from worldview principles (recognition of law as an ontological phenomenon) to specific instruments of legislative technique and control. Only such a multi-level methodological approach is able to overcome legal uncertainty, political voluntarism and internal inconsistency of legislation, ensuring its quality, predictability and compliance with European standards.

SUMMARY. The study is devoted to the methodological tools for ensuring the systematicity of Ukrainian legislation in the context of European integration. Its purpose is to identify key methodological approaches to ensuring the systematicity of Ukrainian legislation, taking into account contemporary challenges and European experience in systematization of normative-legal acts, as well as to justify the need for a comprehensive transformation of methodological approaches to domestic legislation-creating. The research methodology is based on systemic and logical-legal methods. Historical and socio-cultural methodologies were used to distinguish key concepts, as well as a praxeological approach to analyze parliamentary processes. The results obtained indicate the need to distinguish between law-making (as a broader concept that encompasses traditions, customs, treaties, judicial precedents) and legislation-making (the leading form implemented by state bodies). A set of methodological approaches to ensuring the consistency of legislation is defined: systemic (internal and external consistency), predictive and effective, legislative and

technical, procedural and communicative, and monitoring. In the context of European integration, the imperative of external compatibility is highlighted, which implies compliance of legislation with the *acquis communautaire*, adaptation of the principles of proportionality, non-discrimination, and efficiency, as well as orientation to the practice of the Court of Justice of the EU. It is proposed to use praxeology as a methodology for studying intra-parliamentary processes and legislative compromise. The practical significance lies in the fact that the results of the study can be used in the legislative activities of the Verkhovna Rada of Ukraine to improve the procedures for planning, examination and monitoring of regulatory legal acts; in the activities of central executive bodies in implementing regulatory impact assessment and public consultation procedures; in scientific research and teaching work. The value/originality of the research is due to the substantiation of a comprehensive, interdisciplinary view of the methodological support for the systematicity of legislation, which combines conceptual and categorical analysis, instrumental and institutional levels. The originality lies in the critical rethinking of the Soviet legacy of statism in the light of the Law "On Law-Making Activity"; the substantiation of the integration of the precedent and continental systems of law through the practice of the ECHR and national courts; the application of praxeology as a methodology for analyzing intra-parliamentary processes, which has not previously been systematically covered in domestic legal science.

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SECTION II

SYSTEM OF NORMATIVE-LEGAL ACTS OF UKRAINE IN THE MECHANISM OF LEGAL REGULATION OF PUBLIC RELATIONS

CHAPTER 3

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CONSTRUCTION OF A SYSTEM OF SOURCES OF LAW AND THEIR HIERARCHY

Bodiul Ye. M.

INTRODUCTION

Building the system of sources of law and determining their hierarchy belong to the fundamental issues of contemporary legal theory and are of direct importance for law-making and law-enforcement practice. Normative-legal acts do not exist in isolation; rather, they are interrelated in a certain manner determined by their legal force, the competence of the law-making actor, the subject matter of regulation, the territorial scope of operation, and the procedure for their adoption. Therefore, the hierarchy of sources of law is not merely a means of organizing normative material, but

also an important guarantee of legislative coherence, stability of the legal order, and effectiveness of law enforcement.

For Ukraine, this issue is particularly relevant in the context of legislative renewal, European integration, and increasing requirements for the quality of law-making. The national system of sources of law includes the Constitution of Ukraine, laws, subordinate normative-legal acts, acts of local self-government bodies, and international treaties of Ukraine in force. At the same time, European Union law is acquiring increasing significance, as it influences the development of Ukrainian legislation.

An important stage in the normative ordering of this sphere was the adoption of the Law of Ukraine “On Law-Making Activity”, which enshrined the concept of the legal force of a normative-legal act, defined the hierarchy of normative-legal acts, established requirements for their coherence, and provided mechanisms for preventing legal contradictions. In this context, legal force appears as a key criterion for determining the position of an act within the system of sources of law, its binding nature, the limits of its operation, and its priority or subordination in relation to other acts.

The multi-level nature of the system of sources of law naturally gives rise to the problem of conflicts between normative provisions. Such conflicts may arise between acts of different legal force, between general and special norms, between earlier and later acts, as well as between the national, international, and European levels of legal regulation. Their resolution requires the application of classical conflict-of-law principles, as well as the development of preventive means, including the systematization of legislation, legal monitoring, and legal review.

1. Legal force of normative-legal acts: concept, content, theoretical-legal approaches

In the national legal system, a normative-legal act is an official written decision of an authorized law-making actor, adopted in the prescribed form, within the limits of competence and in accordance with the established procedure, by which legal norms are established, amended, or repealed. One of its key properties is legal force, which determines the position of the act within the system of sources of law, its relationship with other normative-legal acts, as well as the limits of its priority, subordination, and operation. Therefore, clarifying the legal force of a normative – legal act is of significant importance both for legal theory and for law-making and law-enforcement practice.

In Ukrainian legal scholarship, the issue of the legal force of normative-legal acts has traditionally been examined through the lens of the relationship between laws and subordinate acts, the hierarchy of sources of law, and conflict-of-law rules. This issue became especially relevant after the adoption of the Law of Ukraine “On Law-Making Activity” of 24 August 2023 № 3354-IX, which established legislative approaches to determining the legal force of normative-legal acts, their hierarchy, and the requirements for coherence in legal regulation.

In scholarly literature, legal force is most often defined as the principal property of legal acts that determines their legal effect, their capacity to produce legal consequences, and also defines the relationship between acts and their binding nature [39, p. 446]. In particular, P. Rabinovych links legal force to the capacity of a law or another legal document to operate at a certain time and within a certain territory, as well as to the formal binding nature

of a normative-legal act, which is determined by the position of the law-making body within the state apparatus [36, p. 107]. A similar approach may be observed in other works, where legal force is treated as a property reflecting the position of an act within the legal system, its priority or subordination in relation to other acts, and also as a criterion for classifying normative-legal acts [34, p. 98; 37, pp. 14–18].

Thus, at the theoretical level, legal force is generally understood as a specific property of a normative-legal act that characterizes its position within the system of legal acts, the degree of its binding nature, and its relationship with other acts. In this sense, it encompasses not only the capacity of an act to produce legal consequences, but also its priority or subordination in relation to other sources of law. Therefore, legal force is one of the main features by which the system of normative-legal acts is constructed.

The concept of legal force is closely connected with such categories as binding nature, validity, and operation of a normative-legal act; however, it is not reducible to any of them. Binding nature reflects the capacity of an act to constitute a generally binding rule of conduct for the relevant subjects; validity characterizes the belonging of an act to the system of law in force; and the operation of an act reflects its functioning in time, space, and with respect to persons. By contrast, legal force is a broader category, since it encompasses not only the validity and binding nature of an act, but also its position within the hierarchy of sources of law, and its priority or subordination in relation to other acts.

For this reason, legal force cannot be identified solely with the fact that an act has entered into force. A normative-legal act may be valid, that is, formally in force; however, the issue of its legal force arises when it is necessary to establish its position within

the system of normative legal acts, determine its relationship with other acts, and ascertain whether it has priority in the event of a contradiction with other sources of law. In this sense, legal force combines the formal, systemic, and functional aspects of the characterization of a normative legal act.

At the same time, the legal force of normative-legal acts cannot be determined solely through the categories of a “higher” and “lower” law-making actor. The complexity of organizational relationships within the system of public authority does not always allow acts to be clearly distinguished on this basis. Moreover, the issue of legal force also arises when comparing acts of the same authorized actor, since such acts may differ in form, subject matter of regulation, and position within the system of normative-legal acts [32, p. 13].

In our view, the legal force of a normative-legal act should be understood as its specific legal property that characterizes the position of the act within the system of sources of law, its binding nature, its relationship with other normative-legal acts, and its capacity to produce legal consequences. It is in this understanding that legal force serves as the basis for determining the hierarchical structure of the system of normative-legal acts and is of fundamental importance for ensuring the internal coherence of legal regulation.

Indicative in this context is the legislative definition enshrined in Article 19 of the Law of Ukraine “On Law-Making Activity”. It treats legal force as a property of normative-legal acts and the legal norms established by them that serves as the basis for determining their mutual hierarchical subordination within the system of normative-legal acts. Such subordination is determined by the foundations of the constitutional order, the competence and territorial jurisdiction

of the law-making actor, as well as other features defined by the Constitution of Ukraine and by law. Thus, legal force is not only a theoretical category but also a normatively established instrument for constructing the system of sources of law.

In contemporary foreign legal scholarship, the issue of the legal force of normative-legal acts is predominantly analyzed through the theory of the hierarchy of norms and the category of “legal validity”. These categories explain why certain acts occupy a higher level within the system of sources of law than others, how their position within the legal system is determined, and on what basis they acquire a generally binding character [2, pp. 5–10; 17, pp. 29–31].

In foreign doctrine, the hierarchy of norms is viewed not merely as the formal arrangement of acts according to the principle of “higher – lower”. Rather, it refers to a structure of the legal system in which some norms determine the grounds, limits, and procedure for the creation of others. Therefore, the hierarchy of norms is used to explain the internal organization of law, the limits of law-making, and the methods for resolving contradictions between legal provisions [17, pp. 29–31; 15, pp. 163–166].

The classical normativist approach to explaining the hierarchical structure of law in foreign legal scholarship is primarily associated with the works of H. Kelsen and A. Merkl. Its significance lies in the fact that law is regarded not as a random set of prescriptions, but as an internally ordered system in which each norm has a specific place and is connected with other norms by relations of legal dependence [17, pp. 29–32].

Central to this concept is the idea that a lower-level norm arises on the basis of a higher-level norm and in accordance with the procedure established by it. A lower norm is therefore legally significant not in itself, but because its creation is authorized

by a norm occupying a higher level in the legal system. In this understanding, a law has force because its adoption is provided for by the constitution, while a subordinate act has force because its issuance is permitted by law [17, pp. 29–31]. Accordingly, the legal force of an act is determined not only by its position within the system of sources of law, but also by whether it was created in the proper procedure and within the limits of the competence granted.

From this perspective, legal force has not only a substantive but also a procedural dimension. An act is legally significant not merely because it contains a legal prescription, but because that prescription arose within a procedure established by law. This makes it possible to explain why acts of different levels do not merely coexist, but form a single ordered system. Within such a system, the legal force of each act depends on its connection with acts of a higher level, which is especially important for analyzing the relationship between the constitution, the law, and the subordinate act.

At the same time, the actual structure of the hierarchy of norms in different legal systems may be more complex than the classical model suggests. This is particularly evident in the relationship between the constitution, international law, laws, subordinate acts, and European Union law. For example, in Cyprus, after the constitutional amendments of 2006, European Union law acquired supremacy even over constitutional provisions, while the constitution itself retained higher force in relation to national legislation, and international treaties occupied an intermediate position between the constitution and laws [11]. This model demonstrates that the contemporary hierarchy of norms may include not only classical national levels of legal regulation, but also a supranational component that alters the traditional structure of the system of sources of law.

For this reason, contemporary foreign doctrine does not treat the hierarchy of norms as an absolutely complete and self-evident construction. In particular, É. Millard emphasizes that the hierarchy of norms is not only an object of scholarly inquiry, but also a theory that itself constructs this object [15, pp. 163–166]. This approach is important because it allows the hierarchy of norms to be understood not only as a description of the actual state of sources of law, but also as a normative-theoretical instrument through which an idea of the proper order of their interaction is constructed.

V. Iturralde Sesma draws attention to the criteria for establishing the hierarchical relationship of legal norms: the basis of the validity of the norm, the obligation of bodies creating lower norms to comply with higher norms, the form of the source, the complexity of the adoption procedure, and the capacity of a norm to amend or repeal other norms [13, pp. 261–263]. This means that the legal force of an act cannot be determined solely by its name or by the status of the body that issued it. Rather, it is the result of a combination of several factors that together make it possible to establish the position of the act within the legal system.

In this respect, the position of R. Paour is illustrative. He emphasizes that reference to higher-level norms in legal argumentation is not accidental. When a court, public authority, or another authorized actor substantiates its decision, it refers to higher norms because such reference gives the decision proper legal justification [16, pp. 201–218]. Thus, the hierarchy of norms has not only theoretical but also practical significance: it serves as the basis for legal argumentation, for substantiating the priority of some norms over others, and at the same time for restraining arbitrariness in law-making and law enforcement.

For this reason, contemporary foreign literature increasingly treats the hierarchy of norms as a category that combines structural and practical dimensions. On the one hand, it explains how a legal system is constructed, in which the constitution, law, subordinate act, and other sources of law are linked by relations of authorization and control. On the other hand, it operates as an instrument of law enforcement, since it is through the hierarchy of norms that conflicts between different prescriptions are resolved and the priority of some norms over others is justified [2, pp. 5–7].

Alongside the theory of the hierarchy of norms, the category of legal validity is of considerable importance for understanding legal force. In contemporary foreign legal scholarship, it is associated with the existence of a norm, its binding nature, applicability, conformity with higher norms, belonging to the legal system, and effectiveness [19, pp. 100–103]. Therefore, legal validity cannot be regarded merely as the formal fact of an act's adoption. It presupposes the inclusion of a norm within the relevant legal system and its capacity to produce legal consequences.

Within the positivist tradition, legal validity is most often explained through the belonging of a norm to the legal system and its origin in a proper legal source. In this sense, a norm is legally valid when its creation is authorized by a higher norm, while the entire body of norms is ultimately derived from the basic norm [23, pp. 146–148]. Accordingly, the legal force of a normative-legal act is manifested not only in its binding nature, but also in the position it occupies within the system of legally recognized sources of law.

At the same time, contemporary legal scholarship emphasizes that law is perceived as such not only because it originates from a proper source, but also because it complies with the basic

requirements of legal form: generality, clarity, accessibility, relative consistency, and foreseeability [23, pp. 157–159]. This is of considerable importance for the study of the legal force of a normative-legal act, since a formally adopted act may prove problematic in practice if it fails to ensure the proper determinacy and coherence of legal regulation.

Alongside the normativist explanation of the legal force and validity of law, an important place is occupied by the approach associated with the ideas of H. Hart. Within this tradition, the question of what should be regarded as law in a particular legal system is explained through the rule of recognition – a basic rule that determines the criteria of the legal validity of norms and makes it possible to establish which acts belong to the system of law in force [10]. Unlike a purely formal approach, the rule of recognition links the validity of a norm not only to its origin in a proper source, but also to the actual practice of officials, primarily courts and other public authorities.

The rule of recognition does not necessarily exist in the form of a single written formulation or a separate normative act. Its content is revealed through the criteria used by official actors when determining what is to be recognized as law within a particular jurisdiction. In this sense, the validity of a norm is explained not only by its formal position within the legal system, but also by whether it is perceived by official legal practice as belonging to that system.

Developing this idea, K. Ehrenberg emphasizes that every legal system rests upon a certain basic rule of validity, which contains the most general criteria of what is regarded as legally binding within the relevant jurisdiction. It is precisely through this rule that one can determine whether a particular normative-legal act belongs to

a given legal system, whether it has a proper source of origin, and whether it corresponds to the characteristics of a legally significant act [8, pp. 37–38].

It is important that, in the Hartian tradition, the rule of recognition not only explains the belonging of a norm to the legal system, but also allows for a deeper understanding of the very nature of the legal force of a normative-legal act. Whereas the normativist approach focuses on the hierarchical connection between a lower norm and a higher norm, Hart's approach shifts attention to the practice of official recognition of certain sources of law. In this sense, the legal force of an act depends not only on its formal origin, but also on whether it is perceived by courts, public authorities, and other official actors as an appropriate legal reference point.

This circumstance is of fundamental importance for the contemporary understanding of the system of sources of law. A normative-legal act may possess the external features of a legal act – written form, official origin, and the general character of its prescriptions – yet its actual legal force manifests itself only when it is included in the system of legal recognition and application. In other words, legal force is not a purely formal characteristic of the text of an act; it is connected with its position in the system of law-making, the procedure for its adoption, the competence of the actor, and the subsequent functioning of the act in law-enforcement practice.

In this respect, the distinction between the formal existence of an act, its validity, and its legal force becomes particularly significant. Formal existence means that an act has been adopted by a certain actor and has the relevant external form. Validity indicates that the act belongs to the system of law in force and may be applied. Legal force, by contrast, shows what position this act

occupies among other sources of law, whether it has priority over other acts or, conversely, is subordinate to them. Therefore, legal force is a more complex category than mere validity: it reflects not only the fact that an act operates, but also its systemic position.

This approach makes it possible to avoid a simplified understanding of legal force as the mechanical consequence of the issuance of an act by a competent body. In contemporary legal systems, especially multi-level ones, legal force is formed at the intersection of several criteria: the constitutional basis, the competence of the law-making actor, the procedure for adoption, the subject matter of regulation, territorial scope, official promulgation, and practice of application. It is precisely the combination of these criteria that makes it possible to determine whether a particular act is a full-fledged element of the system of sources of law and what position it occupies within that system.

The rule of recognition complements the classical theory of the hierarchy of norms by showing not only the formal structure of the legal system, but also the mechanism of its actual functioning. It explains why some acts are recognized as legally significant and applied as sources of law, whereas others, despite possessing certain external features of normativity, do not acquire full legal force. In this sense, the legal force of a normative-legal act is not only the result of its position within the hierarchy, but also a consequence of its official recognition, inclusion in the legal system, and capacity to perform a real regulatory function.

This approach makes it possible to explain more precisely why legal force cannot be reduced merely to the fact of the formal adoption of an act. In order for an act genuinely to acquire legal significance, it must not only be adopted by a competent actor in the proper form, but also be included in the system of official recognition and application. In other words, what is at issue is not

only an act of law-making, but also the acceptance of that act by the legal system as one that meets the criteria of legal validity.

In this respect, the rule of recognition has important methodological significance, since it makes it possible to distinguish between two closely related but non-identical questions: how a norm is created and why it is recognized as law. The first question concerns the competence, procedure, and form of the act; the second concerns the criteria by which the legal system accepts this act as one of its own elements. For this reason, the Hartian approach complements the normativist view: while normativism explains legal force through the hierarchical derivation of a lower norm from a higher one, the rule of recognition shows how the legal system actually identifies its sources of law and ensures their official validity.

For the characterization of the legal force of a normative-legal act, this means that it cannot be explained exclusively through the categories of a “higher” and “lower” act. Legal force also depends on whether the act corresponds to those criteria which, within a particular legal system, are recognized as characteristics of a legally significant source of law. Therefore, the rule of recognition serves as an important bridge between the formal hierarchy of sources of law and their actual operation in legal practice.

2. System of levels of legal regulation in national, international, and European law

The system of levels of legal regulation in the national law of Ukraine has a clearly expressed hierarchical character. Its normative basis today consists not only of the provisions of the Constitution of Ukraine, but also of the Law of Ukraine “On

Law-Making Activity”, which, for the first time at the legislative level, systematically enshrined the hierarchy of normative-legal acts, defined the principles governing their interrelationship, and established general criteria of legal force. Therefore, the analysis of the basic levels of legal regulation in Ukraine should be carried out through the prism of this Law, which has provided comprehensive legislative consolidation of the system of sources of law.

Pursuant to Article 19 of the Law of Ukraine “On Law-Making Activity”, the legal force of a normative-legal act is defined as a property of normative-legal acts and of the legal norms established by them, which serves as the basis for determining their mutual hierarchical subordination within the system of normative-legal acts. Such subordination is determined by the foundations of the constitutional order, the competence and territorial jurisdiction of the law-making actor, as well as other features defined by the Constitution of Ukraine and by law. Thus, the system of levels of legal regulation is linked not only to the form of the act, but also to the position of the law-making actor within the system of public authority, the scope of its powers, and the nature of the regulated relations.

Within this system, the basic levels of legal regulation are the Constitution of Ukraine, international treaties of Ukraine in force, laws, and subordinate normative – legal acts. The constitutional level establishes the primary foundations of legal regulation; the international legal level ensures the incorporation of Ukraine’s international obligations into the national legal system; the legislative level establishes the basic rules for regulating the most important social relations; and the subordinate level ensures the specification, development, and practical implementation of legislative provisions. In this sense, subordinate regulation is

not autonomous in relation to acts of higher legal force, but is derivative in nature.

The first and determining level of legal regulation is the constitutional level. Pursuant to paragraph 1 of part two of Article 19 of the Law of Ukraine “On Law-Making Activity”, the Constitution of Ukraine has the highest legal force within the system of normative-legal acts of Ukraine and is binding throughout the entire territory of Ukraine. This provision is consistent with Article 8 of the Constitution of Ukraine, according to which the Constitution of Ukraine has the highest legal force, while laws and other normative-legal acts are adopted on its basis and must conform to it.

The special position of the Constitution of Ukraine is determined by its constituent content. It defines the foundations of the constitutional order, the legal status of the individual and citizen, the system of public authorities, the territorial structure of the state, the principles of local self-government, and the principles governing the organization of the entire system of legislation. In this regard, the constitutional level has a foundational character: all other levels of legal regulation may function only within the limits defined by the Constitution of Ukraine. Any law-making activity that exceeds these limits or contradicts them loses its proper constitutional basis.

The second basic level of legal regulation is the legislative level. Pursuant to paragraph 3 of part two of Article 19 of the Law of Ukraine “On Law-Making Activity”, laws are adopted on the basis of the Constitution of Ukraine and international treaties of Ukraine in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine; they have higher legal force within the territory of Ukraine than normative-legal acts of lower levels and are binding throughout the entire territory of Ukraine.

Thus, the legislative level occupies a central place in the system of national legal regulation, since it is at this level that the primary normative regulation of the most significant and stable social relations is carried out.

Laws in the Ukrainian legal system include several types. These include the Constitution of Ukraine as the Fundamental Law, constitutional laws, ordinary laws, including codified acts, as well as laws by which consent is granted to the binding nature of international treaties of Ukraine. Regardless of these distinctions, a law is characterized by a special procedure for its adoption, general binding force, regulation of the most important social relations, and higher legal force in relation to subordinate normative-legal acts.

The importance of the legislative level is emphasized by Article 92 of the Constitution of Ukraine, which determines the range of matters that are regulated exclusively by the laws of Ukraine. These include, in particular, human and civil rights and freedoms, guarantees of these rights, the fundamental duties of citizens, the principles of the use of natural resources, the foundations of social protection, regulation of labour, marriage, healthcare, national security, and other matters of national importance. This means that the legislative level is not only higher in relation to the subordinate level, but is also substantively defined: it is the law that possesses primary regulatory competence in the most important spheres of public life.

The subordinate level of legal regulation is derivative in nature. Although subordinate normative-legal acts have lower legal force than the Constitution of Ukraine, international treaties of Ukraine in force, and laws, their significance within the system of legal regulation is considerable. They ensure the detailing, specification,

and organizational implementation of laws. The existence of the subordinate level is conditioned by the complexity of social relations, which cannot be exhaustively regulated by law alone.

The Law of Ukraine “On Law-Making Activity” not only generally recognizes the existence of subordinate acts, but also constructs their internal hierarchy. After laws, Article 19 of this Law identifies resolutions of the Verkhovna Rada of Ukraine and decrees of the President of Ukraine, resolutions of the Cabinet of Ministers of Ukraine and normative-legal acts of the National Bank of Ukraine, orders of ministries, normative-legal acts of other state bodies, acts of the authorities of the Autonomous Republic of Crimea, local state administrations, and local self-government bodies. This approach demonstrates that the subordinate level is not homogeneous, but has its own internal structure, built with regard to the constitutional status of the law-making actor, its competence, and territorial jurisdiction.

Subordinate normative-legal acts are formed on the basis of the principle of derivation from acts of higher legal force. This means that each such act must be adopted on the basis and in implementation of the Constitution of Ukraine, the laws of Ukraine, and international treaties of Ukraine in force, and, at the relevant levels, also on the basis of acts of higher actors of subordinate rule-making. From this follow the main features of a subordinate normative-legal act: conformity with acts of higher legal force, adoption by an authorized actor within the limits of competence, a specific subject matter of regulation, official character, the need for promulgation, and, in certain cases, state registration.

A special place within the subordinate level is occupied by acts of local self-government bodies. Pursuant to paragraph 13

of part two of Article 19 of the Law of Ukraine “On Law-Making Activity”, they are adopted on the basis and in implementation of the Constitution of Ukraine and/or laws, as well as international treaties of Ukraine in force, and are binding within the territory of the relevant administrative-territorial unit or territorial community. Their specific feature lies in the fact that they are subordinate in nature, but do not form part of the system of executive power; rather, they constitute a separate subsystem of local legal regulation based on the constitutionally guaranteed autonomy of local self-government.

The above characterization of the internal hierarchy of normative-legal acts would be incomplete without taking into account the international legal component, since under contemporary conditions the system of sources of law of Ukraine is formed not only by acts of national origin, but also by international treaties of Ukraine in force.

The constitutional basis for the position of international treaties within the legal system of Ukraine is enshrined in Article 9 of the Constitution of Ukraine. It provides that international treaties in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine. At the same time, the conclusion of international treaties that contradict the Constitution of Ukraine is possible only after the relevant amendments have been introduced to the Constitution of Ukraine. In conjunction with Article 8 of the Constitution of Ukraine, which grants it the highest legal force, this means that an international treaty enters the system of national legislation, but cannot prevail over the Constitution and cannot be introduced into the legal order contrary to its provisions.

The special legislative consolidation of this level is contained in the Law of Ukraine “On Law-Making Activity”. Part one

of Article 9 of this Law defines the legislation of Ukraine as an interconnected and ordered system of normative-legal acts of Ukraine and international treaties in force. Paragraph 2 of part two of Article 19 establishes that international treaties of Ukraine in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine, are concluded in accordance with the Constitution of Ukraine and have higher legal force within the territory of Ukraine than the normative-legal acts specified in paragraphs 3–13 of that part. Thus, the legislator not only recognizes international treaties as part of legislation, but also assigns them a separate position within the system of sources of law – between the Constitution of Ukraine and other types of normative-legal acts.

Article 19 of the Law of Ukraine “On International Treaties of Ukraine” is of key importance for the domestic operation of international treaties. It provides that international treaties of Ukraine in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine, are part of national legislation and are applied in the manner prescribed for the norms of national legislation. The same article establishes a conflict-of-law rule: if an international treaty of Ukraine that has entered into force in the prescribed manner establishes rules other than those provided for in the relevant act of Ukrainian legislation, the rules of the international treaty shall apply. In this way, an international treaty in the legal system of Ukraine has not only an incorporative but also a priority character in the event of a conflict with a legislative act of a lower level.

At the same time, the significance of an international treaty is not limited to its formal inclusion in national legislation. The Law of Ukraine “On International Treaties of Ukraine”

defines the mechanisms for granting consent to the binding nature of an international treaty, as well as its ratification, promulgation, registration, and implementation. This indicates that an international treaty within the system of sources of law of Ukraine is not merely a normative element, but also a genuinely operative regulator whose implementation is ensured by domestic organizational and law-enforcement mechanisms.

The above characterization of the national hierarchy of sources of law shows that it is not formed solely as the vertical structure “Constitution – law – subordinate act”. The contemporary system of legal regulation is more complex, since it includes international treaties of Ukraine in force and is also subject to the increasing influence of European Union law. Therefore, the study of the levels of legal regulation requires going beyond a purely domestic model and taking into account international and supranational dimensions.

In foreign legal doctrine, the question of the position of international treaties within the system of sources of law is examined as part of the broader problem of the relationship between the national and international levels of legal regulation. At the same time, the emergence of *jus cogens* norms and the growing role of obligations from which states may not derogate indicate the formation of elements of hierarchy within international law itself [20]. This is important for understanding the legal nature of an international treaty, since it does not function in isolation, but within a broader international legal system, where issues of priority, imperativeness, and the limits of states’ treaty freedom also arise.

Comparative legal material shows that international treaties may occupy different positions in national systems of sources of law. Thus, in Croatia, international treaties concluded, confirmed

in accordance with the Constitution, promulgated, and in force form part of domestic legislation and have higher legal force than laws [5]. In the Republic of Cyprus, international treaties, conventions, and agreements concluded in the prescribed manner and promulgated also have higher legal force than national law, although the constitutional level retains special significance in view of the obligations of the state as a member of the EU [6]. In Latvia, the priority of international law is combined with the requirement to preserve the fundamental principles of the Constitution, while in Austria the position of an international treaty depends on its content and the method of its implementation [1; 7; 14].

Thus, the European experience demonstrates the absence of a single universal model for placing international treaties within the system of sources of law. In some states, they have priority over laws; in others, their status depends on the method of incorporation into domestic law or on the subject matter of regulation. For Ukrainian legal scholarship, this experience is important because it confirms that the position of an international treaty within the system of sources of law is determined not abstractly, but through the constitutional model of a particular state, the procedure for granting consent to the binding nature of the treaty, and the mechanism of its domestic application.

Even more profound changes in the classical model of legal regulation are associated with the formation and development of European Union law. Whereas, in the traditional national model, the hierarchy was constructed primarily as an internal state vertical of “constitution – law – subordinate act”, the development of European integration added a supranational level to this structure. As a result, EU law has become not merely an external point of reference for the national legislator, but also an independent factor

transforming the internal structure of the legal systems of the Member States.

In general theoretical terms, EU law confirms that the hierarchy of norms cannot be reduced to a simple “vertical of acts”. It functions as a complex system of interaction between different normative levels, within which supranational norms may affect the operation of constitutional, legislative, and subordinate acts of the Member States. Therefore, the contemporary hierarchy of normative acts in the European legal space is formed not only within an individual state, but also through that state’s inclusion in a broader supranational legal order.

The experience of the EU Member States demonstrates different models of interaction between the national and supranational levels. In Cyprus, after the constitutional amendments of 2006, EU law was placed directly above the Constitution, which constitutes one of the most radical variants of restructuring the classical hierarchy of normative acts [6]. The Italian model, by contrast, combines recognition of the primacy of EU law with the doctrine of the so-called counter-limits, according to which the supreme principles of the Constitution and inalienable human rights cannot be displaced even under the influence of EU law [4]. A similar logic is also evident in Latvia, where the priority of EU law is recognized only insofar as it does not affect the immutable core of the Constitution [7].

The Austrian approach also combines recognition of the priority of EU law with a reservation concerning the preservation of the foundations of the state’s constitutional identity. Official Austrian materials emphasize that, after accession to the EU, the foundations of the Austrian legal order are determined not only by national constitutional law, but also by European Union law. At the same

time, the priority of EU law does not extend to the leading principles of the Constitution, including the democratic, republican, federal, and liberal principles, the principle of separation of powers, and the rule-of-law principle [1]. This indicates that EU law does not automatically abolish national constitutional systems, but enters into complex interaction with them.

The Croatian experience shows that, under contemporary conditions, EU law is perceived not merely as an external body of supranational obligations, but as an independent element of national legislation. Article 145 of the Constitution of the Republic of Croatia provides that acts and decisions adopted by EU institutions are applied in the Republic of Croatia in accordance with the *acquis communautaire*, while Croatian courts ensure the protection of subjective rights based on EU law [5]. This demonstrates the gradual incorporation of EU law into the internal system of legal regulation of a Member State.

The influence of EU law on the contemporary system of normative acts is manifested not only in the relationship between supranational and national norms, but also in the internal structure of EU law itself. After the entry into force of the Lisbon Treaty, EU law drew a clearer distinction between legislative and non-legislative acts. Article 289 TFEU defines the category of legislative acts, while Articles 290 and 291 TFEU distinguish delegated acts from implementing acts. In this way, EU law acquired a more ordered internal structure, within which a distinction is made between acts that establish basic rules and acts that supplement, amend, or ensure uniform conditions for the implementation of those rules [3].

Delegated and implementing acts are of particular importance. Delegated acts are adopted by the Commission in order to supplement or amend certain non-essential elements of a legislative

act, whereas implementing acts ensure uniform conditions for the implementation of legally binding EU acts. The distinction between them is not only technical-legal but also functional in nature, since it is connected with different regimes of delegation, control, and participation of EU institutions and Member States [22]. This confirms that, even within a supranational legal order, the hierarchy of normative acts has not only a formal but also a functional dimension.

For the Ukrainian legal system, EU law is of particular significance, since it is gradually becoming a normative point of reference for the reform of national legislation. Even in the absence of full integration of EU law into the internal hierarchy of normative acts in the form characteristic of the Member States, EU law already performs the function of an external standard for law-making, legal interpretation, and legislative approximation. For this reason, EU law affects the contemporary hierarchy of normative acts not only in the Member States, but also in countries that orient themselves toward the *acquis communautaire* as a model of a proper normative order.

Thus, the system of levels of legal regulation in contemporary law has a multi-level character. In the national law of Ukraine, its foundation consists of the Constitution of Ukraine, international treaties of Ukraine in force, laws, and subordinate normative-legal acts. At the same time, under contemporary conditions, this system cannot be considered in isolation from the international and European legal space. International treaties of Ukraine constitute an independent element of legislation, while EU law serves as an important supranational point of reference that influences the development of the national system of sources of law, its hierarchy, and the mechanisms for ensuring the coherence of normative material.

3. Conflicts between levels of legal regulation and mechanisms for overcoming them

The specific features of contemporary legal regulation naturally give rise to contradictions between normative provisions of different levels, content, and origin. The more complex a legal system becomes, and the more it encompasses diverse law-making actors, forms of normative expression, and regulatory regimes, the higher the likelihood of clashes between provisions that claim to regulate one and the same issue.

For the contemporary Ukrainian legal system, this problem is of particular importance. First, the system of Ukrainian legislation remains overloaded with a significant number of acts adopted at different times and based on different regulatory logics. Second, the Constitution of Ukraine, international treaties in force, laws, subordinate and local regulation, as well as European Union law as an external normative point of reference for European integration, form a multi-level normative space whose elements constantly interact. Third, the Law of Ukraine “On Law-Making Activity” directly enshrines systemic coherence as one of the principles of law-making activity, defines the legislation of Ukraine as an interconnected and ordered system of normative-legal acts of Ukraine and international treaties in force, establishes the concept of legal force and the hierarchy of normative-legal acts, and requires the coherence of norms with acts of higher and equal legal force. At the same time, even such normative systematization does not eliminate the need for a doctrinal analysis of the nature of conflicts and the mechanisms for their resolution.

In this sense, conflicts are not an accidental deviation in the functioning of law, but an objective consequence of

the development of legislation, the increasing complexity of social relations, the specialization of the normative body, and the interaction of national, international, and supranational law [35, pp. 3–4]. Therefore, the analysis of conflicts between levels of legal regulation cannot be reduced merely to identifying the formal incompatibility of individual norms. It concerns the broader problem of the internal coherence of the legal system, the limits of the competence of law-making actors, the relationship between different sources of law, and the development of legal techniques capable of ensuring the stability, foreseeability, and integrity of legal regulation.

In general theoretical terms, a legal conflict should be understood as a contradiction between legal phenomena, primarily between legal norms or normative provisions, which determine different legal outcomes with respect to one and the same or a related subject matter of regulation. The category of legal conflict is broader than the concept of a conflict in legislation, since it may encompass contradictions between legal norms, acts, approaches to legal interpretation, acts of law application, and legal positions of different bodies. Conflicts in legislation constitute part of this broader phenomenon and are expressed in the inconsistency between normative provisions enshrined in sources of law [33, pp. 86–87].

A legal conflict should be distinguished from related legal phenomena – gaps, duplication, competition of norms, and legal disputes. A gap means the absence of necessary normative regulation, whereas a conflict arises where several normative reference points exist. Duplication involves the repeated reproduction of a provision without a necessary contradiction. Competition between a general and a special norm is not always

a defect of the legal system, since it often reflects the normal differentiation of legal regulation and requires only the proper rule of priority [33, pp. 87–88]. A legal dispute, in turn, usually describes a clash of interests, positions, or actors, whereas a conflict has primarily a normative-structural character and reflects a contradiction between legal provisions or acts [29, pp. 50–53].

The emergence of legal conflicts is caused by a combination of objective and subjective factors. Objective factors include the dynamism of social relations, the increasing complexity of the subject matter of legal regulation, the emergence of new spheres of social life, the multi-level organization of the legal system, and the uneven renewal of legislation. Subjective causes include errors in law-making activity, non-compliance with the rules of legal drafting technique, insufficient consideration of existing acts when preparing new ones, duplication of regulatory provisions, law-making actors acting beyond the limits of their competence, as well as the insufficient effectiveness of legal review [35, pp. 43–46; 29, pp. 50–53]. It is precisely the combination of these factors that explains why conflicts in contemporary law are not accidental but systemic in nature.

The most established classification in legal theory is the classification of conflicts according to the nature of the relationship between the norms or acts that come into contradiction. Temporal, hierarchical, spatial, substantive, competence-based, mixed, and intersystemic conflicts are usually distinguished. Temporal conflicts arise between earlier and later adopted provisions; hierarchical conflicts arise between acts of different legal force; spatial conflicts arise due to differences in the territorial limits of the operation of acts or legal regimes; substantive conflicts arise between norms of equal legal force that

regulate the same issue differently; competence-based conflicts arise in connection with the unclear delimitation of powers between law-making actors; mixed conflicts occur where several types of contradictions are combined between the same norms; and intersystemic conflicts arise between norms of different legal origin, in particular national, international, and supranational norms [25, pp. 134–136; 35, pp. 115–117; 29, pp. 113–117].

For the study of the hierarchy of sources of law, hierarchical and intersystemic conflicts are of the greatest importance. Hierarchical conflicts are directly connected with the issue of the legal force of a normative-legal act and its position within the system of sources of law. In national law, they manifest themselves in contradictions between the Constitution of Ukraine and laws, between laws and subordinate normative-legal acts, between acts of central executive authorities and acts of lower levels, as well as between acts of state authorities and local acts. Intersystemic conflicts are more complex, since they arise between norms of different origin – national, international, and European – and cannot always be resolved solely according to the classical scheme of a “higher” and a “lower” norm.

In legal theory, the resolution of conflicts is traditionally associated with three classical principles: *lex superior derogat legi inferiori*, *lex specialis derogat legi generali*, and *lex posterior derogat legi priori*. Their significance lies in the fact that they reflect three basic dimensions of the normative order: the hierarchy of sources of law, the differentiation of the subject matter of legal regulation, and the change of law over time. At the same time, in contemporary multi-level law, these principles cannot be perceived as mechanical and absolutely self-sufficient rules. Their application depends on the nature of the conflict, the structure of the legal system,

the relationship between sources of law, and the purposes of the particular regulatory regime [31, pp. 75–76; 25, pp. 134–136].

The principle *lex superior derogat legi inferiori* occupies a decisive place among these principles, since it is directly connected with the legal force of normative-legal acts and the hierarchical structure of the system of legislation. Its essence lies in the fact that a norm enshrined in an act of higher legal force prevails over a norm enshrined in an act of lower legal force [31, pp. 75–76]. S. Pohrebniak justifiably calls it the principal means of resolving hierarchical conflicts, since this principle follows from the constitutional enshrinement of the highest legal force of the Constitution of Ukraine and the subordination of all other normative-legal acts to it [35, p. 84].

In national law, the principle *lex superior* has not only technical-legal but also systemic significance. It ensures the internal coherence of the legal system, determines the limits of the rule-making competence of public authorities, and performs an interpretative function: in case of doubt, the law-applying authority should seek such an interpretation of the lower norm that preserves its conformity with an act of higher legal force. In this sense, the principle is not merely a rule for choosing a norm, but a structural requirement of the supremacy of the Constitution, the law, and the legality of public authority.

The normative significance of this principle was substantially strengthened by the Law of Ukraine “On Law-Making Activity”, which systematically defined the concept of legal force, enshrined the hierarchy of normative-legal acts, and directly linked the systemic coherence of legislation with the consistency of norms of different levels. Article 3 of this Law identifies systemic coherence as one of the fundamental principles of law-making activity; Article 19 defines

legal force as the basis of the hierarchical subordination of normative-legal acts; and Article 34 requires that the legal norms contained in a normative-legal act comply with acts of higher legal force and be coherent with acts of equal legal force. Thus, the Law of Ukraine “On Law-Making Activity” establishes not only mechanisms for resolving conflicts in the process of law application, but also preventive requirements for legal drafting activity [30, pp. 38–39].

It is particularly important that this Law legislatively distinguishes between two forms of conflict of legal norms: “contradiction” as a conflict between norms contained in normative-legal acts of equal legal force, and “non-conformity” as a conflict between norms of acts of different legal force. This approach makes it possible to define more precisely the nature of horizontal and vertical conflicts and to determine the appropriate mechanism for their resolution. In addition, Article 66 of the Law establishes a special rule governing the relationship between a code and a primary law: where a conflict is identified between a norm of a code and a norm of a primary law, the norm of the code has priority, unless otherwise provided by the code itself.

The principle *lex specialis derogat legi generali* is based on the relationship between general and special regulation. Its content lies in the fact that a special norm prevails over a general norm within the scope of social relations that constitutes its subject matter. At the same time, a special norm does not always repeal a general one; it often merely supplements, specifies, or limits the sphere of its operation [35, pp. 120–124]. In contemporary Ukrainian doctrine and judicial practice, the principle *lex specialis* is interpreted as an instrument for the rational delimitation of general and special legal regimes. Ya. Bernaziuk rightly emphasizes that a later general law does not automatically prevail over an earlier special one where the

special law regulates the relevant social relations in greater detail and was specifically aimed at regulating them [24, pp. 69–78].

The principle *lex posterior derogat legi priori* is connected with the temporal dimension of conflicts. Its underlying idea is that a newer norm expresses the later will of the competent legislator and therefore prevails over an earlier norm of the same level, unless otherwise follows from the relationship between their legal force or special nature [35, pp. 79–81]. At the same time, this principle is also not absolute: a later norm cannot displace an act of higher legal force, and a later general law does not always prevail over an earlier special norm. Thus, in real law application, the classical conflict-of-law principles interact with one another and require the establishment of priority between the hierarchical, substantive, and temporal criteria [24, pp. 69–78].

In this respect, the relationship between conflict-of-law principles and conflict-of-law norms is important. Conflict-of-law principles constitute a generalization of historically developed law-application practice, whereas conflict-of-law norms directly enshrined in legislation are binding on the law-applying authority. For this reason, in contemporary Ukrainian legislation, the normatively formulated rules of the Law of Ukraine “On Law-Making Activity”, in particular Articles 19, 34, and 66, are of special significance for resolving conflicts between levels of legal regulation.

One of the most complex types of multi-level legal conflicts is conflicts between national and international law. Here, not only norms of different origin come into collision, but also different mechanisms of their legitimation and operation. In Ukraine, the basic reference points for resolving such conflicts are established by Articles 8 and 9 of the Constitution of Ukraine. The Constitution of Ukraine has the highest legal force, while international treaties

in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine, form part of the national legislation of Ukraine. This approach is detailed in Article 19 of the Law of Ukraine “On International Treaties of Ukraine”, which provides that, where an international treaty establishes rules other than those contained in the relevant act of Ukrainian legislation, the rules of the international treaty shall apply.

At the same time, Article 19 of the Law of Ukraine “On Law-Making Activity” establishes the position of international treaties in force within the system of sources of law – below the Constitution of Ukraine, but above the acts specified in paragraphs 3–13 of part two of that Article. Thus, within the legal system of Ukraine, an international treaty is a component of national legislation with a defined position within the system of sources of law. This means that a subordinate normative-legal act cannot prevail over an international treaty, while a law must be interpreted and applied with due regard to the state’s international obligation, provided that such obligation has been properly incorporated into national legislation.

Conflicts between national law and European Union law constitute a special group of legal conflicts. Their specificity is determined by the fact that EU law functions as an autonomous supranational legal system that claims primacy within the limits of the competences transferred to the Union, while at the same time operating through national constitutional mechanisms of openness to integration. Therefore, in such conflicts, not only different norms collide, but also different models of legitimation: on the one hand, the logic of unity and effectiveness of EU law, and, on the other, the logic of the constitutional identity of the Member State [9, pp. 1255–1257].

The normative starting points of this problem are marked by Articles 2 and 4(2) of the Treaty on European Union. Article 2 TEU enshrines the foundational values of the Union – human dignity, freedom, democracy, equality, the rule of law, and respect for human rights – whereas Article 4(2) TEU obliges the Union to respect the national identities of the Member States, inherent in their fundamental political and constitutional structures. It is between these poles – the unity of the Union legal order and the constitutional distinctiveness of the states – that the contemporary conflictology of EU law unfolds.

In contemporary theory of primacy, there is an increasingly noticeable departure from its purely “structural” understanding. P. Eleftheriadis argues that the primacy of EU law is primarily an interpretative rather than a structural principle: what is at issue is not the ontological “destruction” of a national norm, but the constitutional recognition that, within the scope of obligations accepted by the state, EU law has priority in application [9, pp. 1283–1285]. At the same time, such a model does not eliminate conflict, since the highest courts of the Member States often recognize the primacy of EU law with reservations concerning constitutional identity or *ultra vires* review.

The comparative experience of EU Member States demonstrates different models for resolving such conflicts. The Italian model combines recognition of the primacy of EU law with the doctrine of *controlimiti*, according to which the primacy of Union law is limited by the fundamental principles of the constitutional order and inalienable human rights. The Austrian experience is more integration-friendly, but it also preserves the idea of the special status of basic constitutional principles. In Latvia, the priority of international and European law does not extend to the so-called

“core” of the Constitution, whereas in Cyprus, after the constitutional amendments of 2006, EU law was placed directly above the Constitution [11; 12]. By contrast, the Polish example, in particular the judgment of the Constitutional Tribunal in case K 3/21, demonstrates a confrontational scenario in which the very principle of the primacy of EU law is called into question [18].

Contemporary doctrine increasingly connects such conflicts not only with national constitutional identity, but also with the formation of the Union’s own constitutional identity. L. Spieker argues that EU primary law should no longer be understood as a set of formally equal norms: a substantive hierarchy is gradually emerging within it, at the apex of which stand the values of Article 2 TEU as the “constitutional core” of the Union [21, pp. 106–110]. Thus, conflicts between the national identity of a Member State and EU law are increasingly resolved through the relationship between Article 4(2) TEU and the values of Article 2 TEU, rather than merely through a mechanical reference to primacy or its denial.

For Ukraine, this has important theoretical and practical significance. Conflicts between national law and EU law should not be modelled either as ordinary internal hierarchical contradictions or as a simple variety of conflicts between national and international law. Their proper understanding requires the simultaneous consideration of the functional compulsory effect of EU law within the scope of obligations accepted for implementation, the constitutional framework of the national legal system, and the value-based core of the Union itself. For Ukraine, the practical significance of this lies in the need to develop a coordinated approach: at the level of law-making – through preliminary review of draft laws for compatibility with EU law; at the level of

judicial interpretation – through a conforming reading of national norms in the light of Union law; and at the level of constitutional theory – through a clear distinction between the protection of constitutional identity and its political instrumentalization to block integration obligations.

The practical dimension of resolving conflicts between levels of legal regulation is manifested primarily in the activities of the Constitutional Court of Ukraine and the Supreme Court. The Constitutional Court of Ukraine exercises constitutional review of normative-legal acts, decides on their conformity with the Constitution of Ukraine, and, through official interpretation, formulates guidelines for eliminating hierarchical contradictions within the legal system. The Supreme Court, in turn, implements mechanisms for resolving conflicts at the level of concrete law application, in particular where subordinate normative-legal acts narrow the content or scope of rights established by law, or where there is a need to harmonize national legislation with international human rights standards.

At the level of constitutional adjudication, the Decision of the Constitutional Court of Ukraine of 9 July 2002 № 15-rp/2002 in the case concerning pre-trial dispute resolution is illustrative. In that decision, the Court protected the constitutional guarantee of judicial protection from a restrictive interpretation. At the same time, today this decision should be applied with due regard to the current wording of Article 124 of the Constitution of Ukraine, which provides that a mandatory pre-trial procedure for dispute resolution may be established by law. The significance of this decision lies not in denying any mandatory pre-trial procedure as such, but in confirming that such procedures may not nullify a person's very right of access to a court.

Another example is the Decision of the Constitutional Court of Ukraine of 30 May 2001 № 7-rp/2001 in the case concerning the liability of legal entities, in which the Court, through official interpretation, eliminated normative inconsistency regarding the limits of administrative liability. In a similar logic, one should also consider the Decision of the Constitutional Court of Ukraine of 11 November 2008 № 25-rp/2008 in the case concerning land auctions, where the subject of review was the conformity of a resolution of the Cabinet of Ministers of Ukraine with the Constitution of Ukraine, that is, a classic vertical conflict between the constitutionally defined limits of subordinate regulation and an act of the Government.

The Supreme Court plays an important role in resolving conflicts between national and international law. At the official level, it proceeds from the position that national courts apply the Convention for the Protection of Human Rights and Fundamental Freedoms and the case law of the ECtHR as a source of law, and that final judgments of the ECtHR may constitute grounds for the review of national court decisions. The practical implementation of this approach is demonstrated by the activity of the Grand Chamber of the Supreme Court in reviewing cases following ECtHR judgments, in particular in cases where the ECtHR found that Ukraine had violated the Convention. This means that an ECtHR judgment is not an abstract external reference point, but a real procedural mechanism for eliminating the consequences of a conflict between national law application and the international standard of human rights protection.

A new stage in the development of this mechanism has been judicial dialogue with the ECtHR under Protocol № 16 to the Convention. The request of the Grand Chamber of the

Supreme Court to the ECtHR for an advisory opinion indicates a transition from the elimination of conflicts after a judgment of an international court to preventive judicial dialogue aimed at avoiding divergence between national law and the Convention standard even before the final resolution of a dispute.

Alongside conflict-of-law rules proper, the contemporary legal system requires preventive mechanisms aimed at avoiding contradictions already at the stage of preparation, adoption, and subsequent application of normative-legal acts. In this respect, the systematization of legislation, legal monitoring, and legal review acquire particular importance. They are united by a common function: ensuring the internal coherence of the normative body, identifying duplications, gaps, contradictions, and technical-legal defects before they turn into real difficulties in law application [30, pp. 38–39; 38, pp. 164–166].

The systematization of legislation occupies a central place among preventive means, since it ensures the systematization of normative-legal acts of different hierarchical levels, their coordination, and their integration into an internally coherent system. In contemporary doctrine, it is defined as law-making and/or technical-legal activity aimed at ordering legal provisions for the formation of an effective system of legislation [30, pp. 38–39]. At the same time, systematization is directed not only at the technical ordering of acts, but also at overcoming the multiplicity of legislation, eliminating duplications, contradictions, conflicts, and legal errors [38, pp. 166–168; 28, pp. 167–170].

Codification as a form of systematization plays a special role in this regard. Unlike incorporation, which primarily orders existing normative material, codification makes it possible not only to identify conflicts, but also to eliminate them by reworking

normative content, updating legal constructions, and removing outdated or duplicative provisions [28, pp. 167–170]. For contemporary Ukraine, this is of particular importance, since, in conditions of constant partial amendments to numerous laws and subordinate acts, it is precisely systematized law-making activity that makes it possible to combine legislative renewal with the minimization of new legal conflicts.

The second key preventive mechanism is legal monitoring. In contemporary Ukrainian publications, it is regarded as an independent technical-legal instrument for ensuring the quality and effectiveness of normative-legal acts. Legal monitoring encompasses observation, analysis, generalization, and assessment of legislation and the practice of its implementation, which makes it possible to identify duplications, conflicts, gaps, ambiguities, declarative and outdated norms, and to formulate proposals for improving legislation [27, pp. 95–104; 38, pp. 167–168]. In this sense, it ensures constant feedback between law-making, law application, and the actual state of regulation of social relations.

Legal monitoring should be carried out both at the stage of drafting laws and subordinate normative-legal acts and at the stage of law application. This approach is particularly important in the context of European integration, where the quality of national legislation is assessed not only by its formal validity, but also by its foreseeability, coherence, and suitability for the implementation of European standards. For this reason, legal monitoring is regarded as an instrument of European integration legal policy and as a component of law-making and law-application activity [26; 27].

The third preventive mechanism is the legal review of draft normative-legal acts. Its significance lies in the fact that it makes it possible to identify potential contradictions before an act enters

into force. Theoretical-legal studies emphasize that the purpose of review is to verify draft acts for conformity with the provisions of acts of higher legal force, coherence with other normative acts, and to identify contradictions, ambiguities, and technical-legal defects in the text [28, pp. 135–137].

Under contemporary conditions, the activity of the Ministry of Justice of Ukraine acquires particular importance, since its participation in the procedures of legal review and state registration of subordinate normative-legal acts has a system-forming character for the entire model of preventing legal conflicts. The preventive significance of this activity has been substantially strengthened by the Law of Ukraine “On Law-Making Activity”. Pursuant to Article 53 of this Law, state registration of a subordinate normative-legal act consists in conducting its legal review for conformity with the Constitution and laws of Ukraine, the Convention for the Protection of Human Rights and Fundamental Freedoms and the Protocols thereto, international treaties of Ukraine, Ukraine’s obligations in the field of European integration and European Union law, as well as the rules of legal drafting technique. In the event of non-compliance with these requirements, Article 54 provides for refusal of state registration and the return of the act to the law-making actor for revision.

CONCLUSIONS

The system of sources of law is the basis for the orderly functioning of the legal system, since it is through this system that the position, legal force, and limits of operation of normative-legal acts are determined. The hierarchy of sources of law ensures not only the formal arrangement of acts by levels, but also their substantive coherence, subordination to acts of higher legal

force, and the possibility of resolving contradictions between legal provisions.

The legal force of a normative-legal act is a key category that makes it possible to determine its position within the system of sources of law, its relationship with other acts, and the limits of its priority or subordination. It is not reducible merely to the validity of an act or to the fact of its adoption, but also encompasses the competence of the law-making actor, the procedure for adoption, the territorial limits of operation, and conformity with acts of a higher level. Therefore, legal force is not only a technical-legal characteristic of a normative-legal act, but also an important means of ensuring the integrity of legal regulation.

In the national law of Ukraine, the hierarchy of sources of law has a constitutionally determined basis. The Constitution of Ukraine occupies the highest position within the system of normative-legal acts and defines the limits for all other levels of legal regulation. The laws of Ukraine provide primary regulation of the most important social relations, whereas subordinate normative-legal acts are derivative in nature and are adopted on the basis and in implementation of acts of higher legal force. The adoption of the Law of Ukraine “On Law-Making Activity” was an important step towards the legislative ordering of this system, since it enshrined the concept of legal force, defined the hierarchy of normative-legal acts, and established requirements for their coherence.

International treaties in force, consent to the binding nature of which has been granted by the Verkhovna Rada of Ukraine, occupy a separate place within the system of sources of law of Ukraine. They form part of national legislation and have priority over acts of a lower level; however, they may not contradict the Constitution of Ukraine. This demonstrates the combination of the national and international

legal levels of regulation while preserving the supremacy of the Constitution as the foundation of the legal system.

European Union law substantially changes the traditional understanding of the hierarchy of sources of law, since it forms a supranational level of legal regulation. For Ukraine, EU law is significant not only as an external standard for legislative approximation, but also as a model of the multi-level structure of a normative order. In this context, European integration requires the systemic alignment of national legislation with the *acquis communautaire*, taking into account the constitutional foundations of the Ukrainian legal order.

The specific features of the contemporary system of sources of law give rise to legal conflicts. Such conflicts may arise between acts of different legal force, between general and special norms, between earlier and later adopted acts, as well as between the national, international, and European levels of legal regulation. Their resolution requires the correct determination of the nature of the contradiction and the application of appropriate conflict-of-law rules.

The classical principles for resolving conflicts remain important; however, in the contemporary legal system they cannot be applied in isolation or mechanically. Their use must take into account the legal force of the act, the subject matter of regulation, the limits of the competence of the law-making actor, the relationship between national and international law, and the influence of European legal standards.

At the same time, the effectiveness of the system of sources of law depends not only on means for resolving existing conflicts, but also on preventive mechanisms for avoiding them. The systematization of legislation, legal monitoring, and legal review of draft normative-legal acts should be regarded as necessary instruments for maintaining the internal coherence of legislation.

It is precisely these mechanisms that make it possible to identify in a timely manner duplications, gaps, contradictions, excesses of competence, and other deficiencies in normative regulation.

SUMMARY. Construction the system of sources of law and determining their hierarchy is one of the fundamental issues of contemporary legal theory, law-making, and law-enforcement practice. The purpose of this study is to clarify the theoretical and legal foundations of the hierarchy of sources of law, to define the legal force of normative-legal acts as the key criterion of their interrelationship, and to outline the main mechanisms for resolving conflicts between different levels of legal regulation. Addressing these research tasks determines the logic of the presentation: the systematization of doctrinal approaches to understanding the legal force of normative-legal acts; the analysis of levels of legal regulation in national, international, and European law; and the clarification of the nature of legal conflicts and the mechanisms for their prevention and resolution. The methodology of the study is based on general scientific and special legal methods of analysis and synthesis, induction and deduction, as well as the formal-legal, comparative-legal, systemic-structural, and hermeneutic methods, which are used to reveal the internal structure of the system of sources of law and to determine the relationship between acts of different legal force. The results of the study show that the system of sources of law is not a mechanical set of normative-legal acts, but an internally ordered multi-level structure in which each act occupies a defined position depending on its legal force, the competence of the law-making actor, the subject matter of regulation, territorial scope, and adoption procedure. Legal force is understood not only as the formal binding nature of an act, but also as its position within the hierarchy

of sources of law, its priority or subordination in relation to other acts, and its capacity to produce legal consequences. It is shown that, in Ukrainian law, the hierarchy of sources of law has both constitutional and legislative foundations. The Constitution of Ukraine has the highest legal force; laws provide primary regulation of the most important social relations; subordinate normative-legal acts are derivative in nature; and international treaties of Ukraine form a separate element of national legislation. Particular attention is paid to the Law of Ukraine “On Law-Making Activity”, which enshrined the concept of legal force, defined the hierarchy of normative-legal acts, and established requirements for their coherence. Practical implications. The results of the study may be used in law-making activity, legal monitoring, legal review of draft normative-legal acts, systematization of legislation, as well as in judicial practice when resolving conflicts between legal norms. Value / originality. The study substantiates an understanding of the hierarchy of sources of law not merely as the formal arrangement of normative-legal acts, but also as a functional mechanism for ensuring the coherence of legislation, legal certainty, stability of the legal order, and the rule of law in the context of Ukraine’s European integration.

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CHAPTER 4

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LEGAL NORM: CONCEPT, STRUCTURE, CLASSIFICATION, AND PLACE IN THE LEGAL SYSTEM AND LEGISLATION

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INTRODUCTION

The problem of defining the essence of a legal norm and its place within the structure of the legal system belongs to the circle of fundamental questions of general legal theory. It is precisely through the analysis of legal norms that the internal organisation of law, its systematic nature, and the mechanism of legal regulation of social relations are revealed. A legal norm acts as the fundamental (primary) element through which the entire legal system is formed, since it is the aggregate of legal norms that constitutes legal institutions, sub-branches and branches of law, which, in unity with other subsystems, form the coherent legal system of society. In this context, the study of the legal norm as the basic element of the legal system and legislation is of significant theoretical and practical importance.

The relevance of addressing this issue stems from the current transformative processes within the legal systems of states, in particular the processes of globalisation, European integration and the active development of international law. These processes objectively complicate the structure of legal regulation and require an in-depth theoretical examination of the fundamental categories of legal science.

Under such conditions, particular importance is attached to clarifying the essence of a legal norm, its characteristics, structure, types and place within the legal system and the legislative system.

At the same time, there is no complete consensus within legal science regarding the understanding of the concept of a legal norm, its internal structure, functional purpose and relationship with normative legal provisions. This is due to the fact that the legal norm, as one of the key categories of jurisprudence, has been studied within the framework of various theoretical and methodological approaches and concepts of legal understanding. It is for this reason that further scientific analysis of this category is a necessary prerequisite for deepening the theoretical foundations of jurisprudence.

In view of this, the aim of this study is to conduct a comprehensive theoretical analysis of the legal norm as a fundamental element of the legal system and legislation, and to clarify its essence, characteristics, structure and role in the mechanism of legal regulation of social relations. Achieving this objective involves examining the relationship between the legal system and the legislative system, summarising academic approaches to defining the legal norm, and analysing the main concepts of its structure and functional purpose within the legal system.

1. Concept and structure of the legal norm

In domestic legal scholarship, the issue of the legal norm has been explored in the works of many scholars. At the same time, the work of foreign researchers, who have proposed various conceptual approaches to understanding the structure and functioning of legal norms, is also of great importance for the development of modern legal theory.

One of the key characteristics of law as a social regulator is its systematic nature. Law does not exist in the form of isolated rules of conduct, but constitutes a complex, ordered system of interrelated elements. Within the structure of this system, the fundamental unit is the legal norm, which defines the model of proper conduct for the subjects of legal relations.

In legal scholarship, a legal norm is generally understood to be a universally binding rule of conduct established or authorised by the state and backed by the possibility of state coercion. Through legal norms, the state regulates and safeguards social relations by defining permissible, mandatory or prohibited patterns of behaviour.

The systemic nature of law is evident in the fact that legal norms do not function in isolation. They are grouped into legal institutions, which, in turn, form branches of law. The aggregate of branches of law constitutes the state's legal system. Thus, a legal norm acts as a kind of 'basic unit' of the legal system.

A similar approach can be observed in foreign legal scholarship. In particular, one of the most prominent representatives of legal positivism, Hans Kelsen, viewed law as a hierarchical system of norms, in which the validity of each norm is determined by its place within the structure of the legal order. In his work 'Pure Theory of Law', he noted that law should be regarded as a system of norms that regulate human behaviour and are in a relationship of subordination to one another [1, pp. 193–194].

According to Hans Kelsen's theory, every legal norm derives its legal force from the fact that it is based on another norm of a higher order. This results in a hierarchical structure of the legal order, at the apex of which lies the so-called basic norm

(Grundnorm), which serves as the logical prerequisite for the existence of the entire legal system [1, p. 198]. Thus, within the framework of normative theory, a legal norm is regarded not only as an element of legal regulation, but also as a fundamental component of the structure of the legal order.

The further development of the theoretical understanding of legal norms is linked to the works of representatives of analytical jurisprudence, in particular the British philosopher of law Herbert Lionel Adolphus Hart. In his famous work 'The Concept of Law', H. Hart proposed a concept of dividing rules into two interrelated groups that reflect the essence or foundation of law (the legal system) as such. Primary rules (rules of the first type) establish obligations, that is, they require one to do something or refrain from doing something regardless of the will of individuals. Rules of the second type (secondary rules) confer authority – public or private – that is, they confer official status and legal validity upon primary rules, create the possibility of introducing new rules of the first type, amending or repealing old rules, or establishing control over their enforcement (functioning) [2, pp. 79–80].

According to H. Hart, it is the combination of primary and secondary rules that enables the formation of a fully-fledged legal system. If a society is governed solely by primary rules of conduct, such a system is unstable and incapable of functioning effectively. Hence, there is a need for secondary rules, which ensure the functioning of the legal system. The rule of recognition plays a particular role in this structure, as it defines the criteria for the legal validity of legal norms. It is precisely thanks to this rule that legal practitioners can determine which norms belong to the legal system and which do not [2, pp. 94–96]. Thus, H. Hart's concept

allows us to view a legal norm not merely as a rule of conduct, but as a component of a complex normative structure comprising various types of rules.

The British philosopher of law Joseph Raz made a significant contribution to the development of modern theory of legal norms. In his work 'Practical Reason and Norms', he regarded legal norms as a specific type of grounds for action. According to J. Raz, a legal norm is a particular form of practical reasoning that determines how a person should act in a given situation. At the same time, legal norms have a so-called 'exclusive character', as they not only indicate a specific model of behaviour but also preclude the possibility of re-evaluating alternative courses of action [3, p. 144]. In other words, when a person acts in accordance with a legal norm, they do not need to reassess the appropriateness of a particular course of action each time. The legal norm already contains the relevant decision, which must be complied with.

In his subsequent studies, D. Raz emphasised that legal norms perform an important coordinating function, ensuring the consistency of behaviour among various subjects of social relations [3, pp. 15–152].

The Italian philosopher of law Norberto Bobbio developed a systematic approach to the analysis of legal norms. In his view, law should be regarded not as a collection of isolated rules, but as an ordered system of interrelated norms. N. Bobbio emphasised that the study of an individual legal norm makes sense only in the context of its interrelationships with other norms of the legal order. It is precisely these connections that form the structure of the legal system [4, p. 328].

Thus, in contemporary legal theory, there is a growing recognition that a legal norm should not be analysed in isolation, but within the context of the functioning of the legal system as a whole.

This is precisely why contemporary domestic legal scholarship most frequently asserts that 'A legal norm is a binding, established or sanctioned rule of conduct which is protected by the state and expresses the will and interests of the people, as determined by the material conditions of society, and actively influences social relations with a view to regulating them' [5, p. 61]. Or, 'A NORM OF LAW, a legal norm, is a formally binding rule of physical conduct which is of a general nature and is established or sanctioned by the state with the aim of regulating social relations and is ensured by appropriate state guarantees of its implementation' [6, p. 552].

At the same time, it should be noted immediately that the modern conception of a legal norm is the result of a long and complex examination of the latter in general legal theory, as well as in the theories of various branches of legal science; however, there is no reason to consider this process complete, as there is no consensus regarding the understanding of the concept of a legal norm, its structure, types, functions, etc. Moreover, the lack of consensus among legal scholars regarding the essence of the legal norm is entirely natural and is explained by the fact that the legal norm, being a fundamental category of law, has been studied within the framework of various schools (theories, concepts) of legal understanding. All these aspects, together with the ongoing process of updating the methodological foundations of national jurisprudence, must be taken into account when interpreting legal norms. In this regard, it seems appropriate to analyse the

main approaches to defining this category, having first taken as a criterion the generic concept underlying a particular definition of a legal norm:

1. Defining a legal norm as a rule of conduct. In the vast majority of works, a legal norm is viewed as a rule of conduct. This classical approach was dominant in pre-revolutionary and Soviet legal scholarship, and its status as such undoubtedly remains in contemporary general legal theory. Thus, proponents of this approach assert that a legal norm is a generally binding, formally defined rule of conduct established or sanctioned by the state (by the people, or another authorised entity) rule of conduct that ensures the state's regulatory influence on society by granting subjects certain rights and imposing obligations, which is protected and guaranteed by the state, including through the possibility of coercive influence [7, pp. 189–190].

This approach is also characteristic of the elaboration of the content of the concepts of sectoral legal norms. It is worth noting that within the framework of this approach, there are other research perspectives, the essence of which boils down to the fact that a legal norm is interpreted not through the established terminological expression 'rule of conduct', but solely by means of the term 'rule'. A legal norm is defined as a rule of a general nature, a generally binding rule (command), a rule regulating social relations, and a representative and binding rule [8, p. 239].

2. Defining a legal norm as a prescription. Proponents of this approach interpret a legal norm as a universally binding, formally defined prescription originating from the state and protected by it, expressed in the form of a rule of conduct or a foundational provision, which serves as a state regulator of social relations. Consequently, according to their position, a legal norm is an

authoritative prescription established by state bodies or officials, possessing such characteristics as normativity, formal definiteness and clarity [9, p. 366].

3. Defining the legal norm as a command. In the context of this approach, a legal norm is interpreted as a generally binding command, expressed in the form of a state-authoritative prescription and designed to regulate and protect social relations [5, p. 76].

4. Defining a legal norm as a model. According to proponents of this approach, a legal norm is a model of relations necessary for the existence of the state and society, which legal subjects ascertain and comply with in order to establish, preserve and protect the proper order and ensure the stable conduct of personal affairs.

5. Defining a legal norm simultaneously through two or more generic concepts. According to proponents of this approach, legal norms are universally binding, formally defined prescriptions and foundational standards that establish the measure of appropriate and permissible conduct for participants in regulated social relations, and serve as criteria for the lawfulness of such conduct.

Thus, summarising the above definitions, there is every reason to assert that in the vast majority of cases, a legal norm is defined as a binding, formally defined, coherent, logically complete rule of conduct of a general nature, corresponding to the degree of freedom, equality and justice recognised in society, established or sanctioned by the state or another authorised law-making body, guaranteed by them, and providing for the possibility of coercion, with the aim of regulating and protecting social relations.

Moreover, there is every reason to assert that a legal norm, as a fundamental category of legal science and practice, is characterised by a set of essential features that reflect its legal

nature, functional purpose and place within the legal system. It is precisely through this system of characteristics that the specificity of the legal norm as a distinct social regulator is revealed, distinguishing it from other social norms-moral, corporate, religious and others.

Some legal scholars include two or more characteristics in the list of features of a legal norm. In doing so, certain basic principles must be taken into account in order to avoid duplication and inconsistencies: firstly, the content of the same feature may be expressed using different verbal formulations; secondly, certain characteristics of legal norms may be complex, automatically encompassing other, more detailed features; thirdly, the system of essential characteristics of a legal norm must comprise a sufficient number of such characteristics to ensure the optimal identification of legal norms amongst other phenomena in the social and legal spheres.

The pluralism of views on the problem of defining the concept of a legal norm, analysed above, has led to the existence of different perspectives regarding the characteristics of the latter. In academic sources, the following are identified as the most common characteristics of a legal norm: a) general applicability; b) formal certainty; c) general nature; d) representative and binding nature; e) established or sanctioned by competent state or other authorised bodies and institutions; e) protected by all means of state or other influence, including coercion; f) general significance; g) systematic nature; h) an element of the legal system; i) abstract nature; j) authoritative nature; k) functionality; l) clarity, etc.

First and foremost, a legal norm is characterised by its general applicability, which means that it is binding on all persons to whom it applies. Unlike the provisions set out in individual

legal acts, a legal norm establishes rules of conduct that must be observed by an indefinite group of persons within the relevant sphere of social relations.

Closely linked to this feature is the general nature of a legal norm. It is aimed not at regulating a specific life situation, but at regulating typical, recurring social relations. This is precisely why a legal norm is abstract in nature, as it formulates a general model of conduct that can be applied to many specific cases.

An important feature of a legal norm is its formal definiteness, which means clear textual codification in legislative acts. Formal definiteness ensures the precision, unambiguity and stability of legal regulation, as well as the possibility of the correct application of legal norms in practice.

A key characteristic of a legal norm is its representative and binding nature, which manifests itself in the combination of rights and obligations of legal subjects. A legal norm not only establishes the possibilities for certain behaviour, but also defines the obligations of participants in social relations, ensuring a balance of interests between different legal subjects.

At the same time, a legal norm is characterised by its authoritative nature, as it expresses the will of the state or other authorised law-making bodies. It is through legal norms that the state exercises its administrative and regulatory functions, establishing universally binding rules of conduct within society.

An inherent feature of a legal norm is that it is established or sanctioned by competent state or other authorised bodies and institutions. This means that legal norms arise as a result of the law-making activities of the relevant entities and acquire an official character.

Another important feature of a legal norm is that it is protected by all means of state or other influence, including coercion. In the event of a breach of legal norms, the state applies sanctions provided for by law, which guarantees their effective enforcement.

One of the essential characteristics of a legal norm is its general significance, which lies in the fact that it expresses socially significant interests and values and is aimed at regulating social relations within a specific legal system.

Furthermore, a legal norm is characterised by its systematic nature, as it does not function in isolation but in interrelation with other legal norms. It is precisely this interaction between legal norms that ensures the internal coherence and integrity of the legal system. In this context, a legal norm acts as an element of the legal system from which legal institutions, sub-branches and branches of law are formed. The aggregate of such norms forms a structured hierarchical system of legal regulation.

An equally important feature of a legal norm is its functionality, which manifests itself in its ability to perform regulatory, protective, organisational, orientational, informational and other functions within the mechanism of legal influence on social relations.

Finally, a legal norm must be characterised by clarity, that is, by the comprehensibility and accessibility of its wording. The clarity and logical consistency of a legal norm are essential prerequisites for its effective application and correct interpretation.

Thus, taken together, these characteristics allow us to regard a legal norm as a specific type of social norm that is of a public-authoritative nature, is formally enshrined in the legal system, and ensures the regulation of social relations within the legal system.

The structure of a legal norm is its objectively determined, systematic, internal organisation, which involves its division into constituent elements (the hypothesis, the enjoinder and the sanction) and the interrelationships between them [10, pp. 233–239].

The hypothesis is that element of a legal norm which indicates the factual circumstances, the presence or absence of which determines the application of the rule of conduct provided for in the disposition. Depending on the number of factual circumstances, hypotheses are classified as: a) simple – involving a single factual circumstance, the presence or absence of which triggers the rule of conduct set out in the disposition; b) complex – involving several factual circumstances, the simultaneous presence or absence of which triggers the rule of conduct set out in the enacting clause; c) alternative – involving several factual circumstances, the presence or absence of at least one of which triggers the rule of conduct set out in the enacting clause.

The enacting clause is the central element of a legal provision, which sets out the actual rule of conduct (the rights and obligations acquired by the parties to social relations). Depending on how the rule of conduct is formulated, dispositions are classified as: a) simple – stating the rule of conduct but not detailing it; b) descriptive – stating and describing the essential features of the rule of conduct; c) referential – refers to another provision of the same legislative act for information on the rule of conduct and its characteristics; d) blanket – refers to a legal provision of another legislative act, or sometimes to other social norms, for familiarisation with the rule of conduct and its characteristics; e) mixed – combines various methods of setting out rules of conduct characteristic of other dispositions.

A sanction is an element of a legal provision that contains instructions regarding the legal consequences of a breach of the rule set out in the operative part, or the conditions specified in the hypothesis. Depending on the number of adverse consequences, sanctions are divided into: a) simple – involving a single adverse consequence; b) complex – involving the application of several adverse consequences simultaneously; c) alternative – involving several adverse consequences, one of which may be applied [11, pp. 124–130].

The lack of a definitive solution is also characteristic of the question of the structure of a legal norm. For this reason, it is appropriate to group the vast majority of researchers' views on the structure of a legal norm according to their similarities and to consider them within the framework of the following main concepts:

1. The three-element (three-part, three-link) concept of the structure of a legal norm is the classical (traditional) approach in legal scholarship and is supported by the vast majority of legal scholars. The main thrust of this concept boils down to the following: a) the ideal logical structure of a legal norm consists of three elements: the hypothesis, the disposition and the sanction, which, in their unity, embody the regulatory potential (the necessary and sufficient minimum of legal information) that must underpin the legal system; b) the structural elements of a legal norm are, in the vast majority of cases, contained in separate articles of one or even different legislative acts. However, a legal norm should not be equated with an article of a legislative act, since the structure of a norm can be derived through its 'logical' construction from articles of the same or even different acts; the structure of a legal norm as the 'logical interaction' of

the hypothesis, the disposition and the sanction can generally be represented by the linear formula: 'if – then – otherwise'.

2. The two-element (binary, two-part, binomial) concept of the structure of a legal norm has attracted a somewhat smaller number of supporters within legal scholarship. The essence of this concept lies in the fact that, firstly, the true logical structure of a legal norm consists of two elements (the hypothesis and the legal consequence); secondly, the two-part structure depends on the type of legal norm (the criterion for division is specialisation): regulatory ('primary') norms consist of a hypothesis and a disposition, whereas protective ('secondary') norms consist of a hypothesis and a sanction; thirdly, unlike the hypothesis, the disposition and sanction are not phenomena of different orders but are homogeneous; fourthly, the structure of a legal norm can be expressed by the logical conjunction: 'if – then'.

3. The compromise (dualistic) concept of the structure of a legal norm is the logical outcome of the development of arguments regarding the structure of a legal norm and the desire of researchers to reconcile the two approaches outlined above. This concept encompasses the views of various legal theorists and offers alternative solutions. The main idea of this concept boils down to the fact that a legal norm should be considered in two aspects: the logical norm and the prescriptive norm. Accordingly, the structure of a legal norm is interpreted as follows: a logical norm comprises three elements (hypothesis, disposition and sanction), whilst a prescriptive norm comprises two elements (hypothesis and disposition (sanction)). Only by simultaneously analysing the elements of the logical norm and the components of the prescriptive norm can a comprehensive analysis of the content of legal norms be ensured. This approach

has gained widespread support within the contemporary academic community.

Furthermore, within the framework of this concept, it is worth highlighting other research positions, according to which the following are distinguished: the potential and actual structures of a legal norm; the logical and real structures of a legal norm; the structure of a legal norm as a general, individual and specific category; the internal structure (external form) and external structure (internal form) of a legal norm; the structure of a legal norm in broad and narrow senses.

4. The concept of the structure of a legal norm with optional elements. Its essence lies in the fact that the structure of a legal norm contains both mandatory and optional components (the total number of elements is not taken into account).

At the same time, according to one group of scholars, the disposition is regarded as a mandatory element, whilst the hypothesis and the sanction are considered optional. According to the views of other legal scholars, it is the sanction that is regarded as an optional element. Proponents of the following approach resolve this issue somewhat differently: the disposition and sanction are the immanent (mandatory) elements of a legal norm. Furthermore, within this concept, an 'attributive' strand must be distinguished. In particular, only the sanction, or the hypothesis and the sanction, are considered attributes of a legal norm. Views on reducing the structural components of a legal norm are countered by a desire to expand them through optional parts. Thus, alongside the classic three elements, a fourth, optional element is identified – encouragement, incentive, etc. At the same time, according to the reasoning of some legal scholars, the structure of a legal norm consists of five elements: the enacting clause and the

sanction (mandatory), the hypothesis, an indication of the subject matter and the purpose (optional).

5. A broad (expanded) concept of the structure of a legal norm is found in the works of specialists who seek to identify more than the three traditional elements, each of which is mandatory. However, it is also emphasised that in every legal provision, a distinction must be made between: 1) the subject of the right; 2) the subject of the obligation; 3) the object of the right; 4) the object of the obligation; 5) a reference to the 'source of law'; 6) additional conditions: time, place and manner of action; 7) the addressee (destination) of legal actions.

In particular, within the framework of this concept, it is argued that in any legal norm, for it to be a truly effective regulator of social relations, the following provisions must be explicitly or implicitly defined and incorporated into the relevant elements of the legal norm: a) the sphere of social relations (the so-called 'hypothesis'); b) the parties involved; c) the content of the behavioural prescription itself (disposition); d) the consequences of breaching the disposition (sanction).

6. The variable (modification) concept of the structure of a legal norm involves rejecting a rigid, single-form structure of a legal norm, which, in the view of its proponents, may be composed of elements varying in quality and quantity depending on the specific conditions and needs of legal regulation. Proponents of this concept generally note that the number of elements of a cognitive legal norm depends on its functional and value-based significance within the mechanism of the law's operation and the corresponding manner of its textual expression.

7. The interdisciplinary concept of the structure of a legal norm – encompasses the approaches of scholars who seek

to resolve this issue by drawing on the epistemological potential and achievements of other social sciences: logic and sociology. Specifically, the thesis is put forward that, in logical terms, a legal norm is a normative-legal judgement in which there is a subject, a predicate and a specific logical connection, that is, the logical-semantic structure of a legal norm is formed by three elements: the addressee (subject of legal communication), the act (form) of behaviour, and the corresponding imperative operator [12, pp. 333–338].

2. Classification of legal norms. Specialised legal norms

When examining the classification of legal norms into specific types, it should first be noted that the types of legal norms constitute a classification of the entire body or the absolute majority of legal norms into specific groups (types) according to one criterion or another. It is worth noting that classification (French and English ‘classification’ derives from the Latin ‘classis’ – class and ‘facio’ – to make) is: 1. The act of classifying. 2. A system for dividing objects, phenomena or concepts into classes, groups, etc., according to common characteristics or properties. 3. A system for dividing objects (processes, phenomena) into classes (groups, etc.) according to defined characteristics, and to classify – to divide objects, phenomena or concepts into classes, groups, types, etc. according to common characteristics or properties; to group [13, p. 544].

It can therefore be argued that, in order to gain a fuller understanding of the legal nature of legal norms, they should be classified into specific categories according to relevant criteria. After all, only a logically sound, scientifically grounded classification

allows us to reflect the patterns of development of the objects being classified, to identify their interrelationships, and serves as the basis for generalised conclusions and proposals.

Since any classification is not only a means of systematisation but also a prerequisite for the scientific analysis of the object under study, it must be based on the most essential characteristics – classification criteria that are objective in nature and facilitate the organisation of the material in accordance with its internal connections.

It can therefore be argued that a scientifically sound classification of legal norms will contribute to: a clearer definition of the place of each type of legal norm within the country's legal system; an objective clarification of their place and role in the mechanism of legal regulation; the establishment of systematic links between their types, a genuine understanding of their essence and social purpose with a view to improving the process of their formation and actual implementation in social relations.

Taking all of the above into account, it can be argued that legal norms are divided into:

1. By legal force:

a) set out in laws, having the highest legal force and being universally binding; they regulate and protect the most important social relations;

b) set out in subordinate regulatory legal acts; these are adopted on the basis of the provisions set out in laws, in accordance with them and to ensure their implementation.

2. By functional orientation:

a) regulatory, which establish rights, obligations and prohibitions for legal subjects;

b) protective, which provide for means of legal liability for the abuse of rights, failure to fulfil obligations, and breaches of prohibitions established by regulatory legal norms;

c) specialised, which perform specialised functions in law aimed, on the one hand, at the subsidiary (auxiliary) regulation of social relations (external direction of action), and on the other hand – at ensuring and maintaining the unity (integrity, coherence) and uniformity (standardisation) of the operation of the legal regulation mechanism (internal direction of action).

3. Regulatory norms, by method of legal regulation (nature of the provisions):

a) permissive, providing for the possibility of performing acts, conferring certain rights on subjects;

b) obligatory, providing for the necessity of performing certain acts, imposing obligations on subjects;

c) prohibitive, indicating the necessity to refrain from performing certain acts, establishing prohibitions for legal subjects;

d) incentive-based, which grant legal subjects prescribed privileges and advantages in cases where they perform certain acts.

4. Protective norms, classified by the nature of the sanctions they contain:

a) restorative, i.e. aimed at restoring the social relations (status, condition) that have been violated, in particular (annulment of an unlawful act, declaration of an agreement as void, compensation for damages);

b) punitive, i.e. aimed at depriving the offender of certain benefits, imposing special obligations, and authoritatively condemning their unlawful conduct, in particular (imprisonment, a fine).

5. By subject matter of legal regulation (by branches of law):

a) constitutional law provisions;

b) administrative law provisions;

- c) civil law provisions;
 - d) criminal law provisions;
 - e) labour law provisions;
 - f) environmental law provisions and other branches of law.
6. By the manner of their origin and establishment:

a) customary – arise and become established gradually, in connection with the acquisition of social significance and the realisation that they are capable of regulating and protecting social relations. They become legal after being sanctioned by an authorised body and exist in the form of legal customs;

b) authoritative – arise and are established as a result of the authoritative actions of authorised entities (referendums, state bodies, local government bodies, etc.). They become legally binding upon their publication in accordance with the established procedure and exist in the form of legislative acts;

c) contractual – arise and are established as a result of an agreement between the very subjects of legal relations to whom they apply, and the reconciliation of their interests. They become legally binding upon their signing, registration, and the granting of consent to their binding nature, and exist in the form of collective, international and other treaties.

7. By the entities creating the law:

a) those created by the state (the legislative, executive and judicial branches of state power, the head of state, supervisory, law enforcement and other bodies);

c) those created by civil society (general assemblies, local referendums).

8. By the subject of law-making:

a) a national referendum;

b) international and regional bodies, organisations and associations;

- c) state authorities;
- d) local referendums;
- e) local self-government bodies;
- f) enterprises, institutions and business entities.

9. According to the manner in which the desired conduct of the parties is set out:

- a) mandatory, prescribing clearly defined actions, unambiguously establishing an exhaustive list and the content of the parties' rights, obligations and prohibitions, and permitting no deviations therefrom;
- b) dispositive, which establish certain rights and obligations of subjects but, with their consent, permit their supplementation, amendment or specification;
- c) recommendatory, which set out options for desirable but not mandatory conduct;
- d) incentive-based, which establish means of incentivising the performance of acts that are desirable or beneficial to the state and society.

10. By their place and role in the mechanism of legal regulation:

- a) substantive, which establish rules of conduct, i.e. the rights, obligations and prohibitions of legal subjects;
- b) procedural, which regulate the order, procedure, mechanisms, forms and methods of realising the rights, obligations and prohibitions established in substantive legal norms.

11. By the structure of law:

- a) public law – these are legal norms that regulate and protect social relations in the sphere of public affairs, their organisation, the very activity of the state as a public authority, all public institutions, the status and functioning of the state apparatus, administrative relations, the civil service, criminal prosecution and liability, etc. (criminal law, administrative law norms);

b) private law – these are legal norms that regulate and protect social relations in the sphere of private affairs, i.e. the regulation of the legal status of individuals and citizens, private property, free contractual relations, inheritance, etc. (civil law and family law norms).

12. By their effect within the mechanism of legal regulation:

a) regulatory norms are those which establish new, independent rules of conduct for legal subjects, directly aimed at regulating and protecting social relations;

b) norms of auxiliary action – these are those which provide for the repeal of previously applicable norms, their amendment, supplementation, extension, or declaration of validity.

13. By duration of effect:

a) permanent – their effect on social relations is not limited in time;

b) temporary – their effect on social relations is limited in time.

14. By territorial scope:

a) national – regulate and protect social relations throughout the entire territory of the state;

b) local – regulate and protect social relations within the territory of a separate national-political or administrative-territorial unit.

15. By degree of specificity:

a) fundamental, setting out the most general principles governing and protecting specific areas of social relations;

b) specific, elaborating on the principles of fundamental legal norms, regulating areas of social relations in a more specific and detailed manner on the basis of and in accordance with fundamental legal norms.

16. By scope of application:

a) general, provided for by the most general legislative acts (international treaties, constitutions), apply to all subjects of law falling within the sphere of social relations regulated and protected by them (natural persons, legal entities, social communities, public associations);

b) special, provided for by basic legislative acts (laws, decrees, resolutions), apply to a specific group (type) of legal subjects falling within the sphere of social relations regulated and protected by them (refugees, judges, civil servants, pensioners);

c) exclusive – in cases provided for by regulatory legal acts, these provisions exclude or annul the effect of other legal provisions in relation to certain subjects or groups thereof (the President, members of parliament, judges).

17. According to the degree of precision with which the structural elements of a legal norm are set out in the articles of a legislative act:

a) absolutely defined – legal norms that define absolutely clearly and precisely the conditions for their application, the rights, obligations and prohibitions imposed on the parties to the legal relationship arising therefrom, and the possible measures of legal liability in the event of their breach;

b) relatively defined – legal norms that do not contain a clear and precise list of the conditions for their implementation, the rights, obligations and prohibitions imposed on the parties to the legal relationships arising therefrom, possible measures of legal liability in the event of their breach, and which allow the parties implementing them to resolve the matter themselves, taking into account the specific circumstances;

c) alternative – legal norms that provide for several options regarding the conditions for their implementation, the rights, obligations and prohibitions imposed on the parties to the legal relationships arising therefrom, and the possible measures of legal liability in the event of their breach [12, pp. 333–338; 14, pp. 225–228].

It has already been noted that, according to their functional orientation, legal norms are classified as: a) regulatory; b) protective; c) specialised. Specialised legal norms ('norms of special application', 'special legal norms', 'norms concerning norms') – binding, formally defined, coherent, logically complete rules of conduct of a higher degree of generality, which correspond to the degree of freedom, equality and justice recognised in society, established, authorised and guaranteed by the state or another authorised law-making body for the purpose of subsidiary regulation of social relations and ensuring the unity and uniformity of legal regulation [15, p. 4].

Analysing this definition, it can be argued that the following should generally be included among the general characteristics, i.e. those inherent in specialised legal norms:

– they are volitional rules of conduct. In this regard, it must be noted that every legal norm is a rule of conduct that expresses the will of the law-making entities, including society, the people, and the state represented by state authorities. Moreover, will, as a psychological and social category, is a fundamental issue in jurisprudence, since it is precisely this – as a concrete, active form of consciousness – that is the 'creator' of law. Ideally, specialised legal norms should embody the social, group and individual will of citizens in their harmonious combination. At the same time, the will of the subjects of law-making, through its expression in legal norms, particularly specialised ones, serves as a powerful lever for their creative, progressive influence on social relations;

- correspond to the degree of freedom, equality and justice recognised by society. In this regard, the circumstance (requirement, criterion) that is essential and fundamental to the understanding of specialised legal norms is that the latter must necessarily be based on the level of morality attained by society, which characterises their spiritual and value-based dimension. Hence, the true legal nature of specialised legal norms is determined by the degree to which ‘eternal’ values – the ideals of freedom, equality and justice – are embodied in their content;

- are established (formulated) or sanctioned by the state or another authorised law-making body (the people, a local community, local government bodies) in a clearly defined manner. In a democratic society, a legal norm is adopted by a legitimate law-making body within the scope of its competence, in full accordance with a specific procedure. When creating a specialised norm, the law-making body must be guided by a profound understanding of legal reality, that is, the legal aspects of the existence of various social processes;

- are mandatory in nature, i.e. they are indisputable and unquestionable in terms of their implementation by all legal subjects, regardless of their subjective attitude; they require that one’s conduct be brought into line with the content of specialised legal norms, with no exceptions that would allow for non-compliance with the latter. Specialised legal norms, being objective, are addressed to everyone, ‘to any member of the union regardless of their consent’. One aspect of the binding nature of specialised legal norms lies in the potential to classify the conduct of individual legal subjects as unlawful and unjust if it contravenes these norms. The binding nature of specialised legal norms, as a defining feature, lays the foundations for the rule of law and legal order in the state – an institution that ensures and guarantees the effective operation of the law;

- are formally defined. The formally defined nature of specialised legal norms lies in the following: a) the unambiguous perception of their content by legal subjects, achieved through the precision and clarity of a specific linguistic form; b) their textual enshrinement in legislative acts or other sources of law (establishing specific legal force and scope of application in time, space and with regard to the circle of persons);

- they are guaranteed, that is to say, they require: the creation of a system of conditions and measures aimed at their proper implementation; the provision of appropriate conditions for their voluntary compliance; and the application of coercive measures against subjects who violate specialised legal norms;

- are legally coherent and logically self-contained; that is, each constitutes a logically self-contained and internally consistent rule of conduct (provision), the structural elements of which, united by a common meaning, form a unity and coherence. Specialised legal norms, as the primary element of the legal system, do not encompass other subsystems, but only structural parts. All components of the whole are logically interconnected, and removing a separate part from the internal structure, or fragmenting a legal norm, leads to the destruction of its integrity and the loss of its regulatory and protective potential [16, pp. 288–291].

The list of specific characteristics of specialised legal norms – that is, those that are unique to this type of legal norm or are most prominently expressed in it, as compared to regulatory and protective norms – should include the following:

- on the one hand, they are functionally directed towards the subsidiary (supporting) regulation of social relations (external direction of action), and on the other, on ensuring and maintaining the unity (integrity, coherence) and uniformity (standardisation)

of the operation of the legal regulatory mechanism (internal direction of action). On this basis, it can be argued that this type of legal norm does not possess direct regulatory and protective properties, but participates in legal regulation indirectly, forming, in conjunction with the main types of norms (regulatory and protective), a single regulatory framework; that is, specialised legal norms are subsidiary rules. At the same time, it is important to note that the term 'subsidiary' cannot be interpreted solely from the perspective of secondary importance or atypicality. The fact is that subsidiary legal norms are just as necessary as the main ones; moreover, the implementation of many main legal norms is simply impossible without subsidiary ones. At the same time, specialised legal norms are geared towards the integration and unification of legal means of regulation, which constitutes another aspect of their functional nature. Furthermore, in general terms, it should be noted that specialised legal norms enhance the normative properties of objective law with additional nuances and impetus; they lend it compositional completeness, universality, flexibility and dynamism;

- are characterised by a higher degree of generality compared to other legal norms. The highest level of normativity, as a characteristic of specialised legal norms, can be summarised as follows: a) the addressee is not specified (non-personalisation); b) they apply to an indefinite number of cases (non-exhaustiveness); c) they are aimed at regulating an extremely broad range of social relations; d) a comprehensive scope of application, i.e. they define the content of all other legal norms in an abstract, most concentrated form; e) their legal provisions are further developed logically in the fundamental norms of law;

- they are implemented indirectly, i.e. through functional links with fundamental (regulatory and protective) legal norms.

It should be noted, however, that in certain (exceptional) cases, specialised legal norms may also be implemented directly;

- represent the expression of normative generalisations in law, which confer a new quality upon the system and serve as an indicator of the level of its intellectual, 'constructive' content. Hence, the following requirement should become an important legal-technical rule: in the vast majority of cases, specialised legal norms must find their external (formal) expression at the beginning of a normative legal act, and provided that this is a codified act comprising a general and a specific part, then in its general part. It is evident that specialised legal norms constitute a smaller part of the overall volume of the legal system and, accordingly, of a specific legislative act. This is due to the fact that, in accordance with the general-systemic law of 'necessary diversity', for a system to exist, a small number of elements that differ from the majority are always required. Within the legal system, it is precisely the specialised legal norms that constitute this insignificant, yet necessary and important diversity for the system [17, pp. 285–287].

Specialised legal norms are characterised by a two-element structure. Every legal norm consists of two elements, including specialised ones, namely: the hypothesis and the disposition, since any legal provision, even the most specialised, in one way or another contains an indication of the conditions under which it operates and the corresponding consequences. In general, the hypothesis (from the Latin *hypothesis* – foundation, basis; opinion, theme; assumption) of a specialised legal norm determines, firstly, the category of legal subjects to whom the norm is addressed, and secondly, the circumstances (situation or conditions) under which it is applied and takes effect. It should be noted, however, that this element of the structure

of a specialised legal norm may be absent from the text. In such a case, it is implied that the specialised legal norm is addressed to all subjects of law under certain conditions that logically follow from the context (for example, 'always', 'in cases provided for by law'). In the disposition (from the Latin *dispositio* – arrangement, placement) of a specialised legal norm, the following are directly expressed: a) a specific normative provision; b) a specific state or situation. In the text of a legislative act, the enacting clause of a specialised legal norm begins and is formulated in prescriptive statements, using logical connectors such as 'it is prohibited', 'it is permitted', etc., and in descriptive statements – using connectors such as 'is', 'constitutes', etc.

For a full understanding of the essence of specialised legal norms, it is also important to note that one of the manifestations of the specialisation of individual phenomena within a society's legal system is the specialisation of legal norms, which allows for the expansion of the cognitive scope of the theory of legal norms, in particular the identification of specialised legal norms as an independent type of legal norm. Consequently, the essence of distinguishing specialised legal norms lies in the fact that there is a growing tendency within the law towards what might be described as a division of labour among norms, as a result of which certain norms and groups of norms are increasingly focused on performing specific, defined operations.

Specialisation must be regarded as one of the characteristics of legal norms, alongside their systematic nature, for this systematic nature is expressed in the fact that legal norms exist within complexes, associations, and as part of legal institutions and branches of law; and it is precisely because of the systematic nature of legal norms that such a characteristic as specialisation

exists – a distinctive functional division of legal norms. The specialisation of legal norms is a multifaceted, complex phenomenon that serves as an important means of enhancing the effectiveness of the law and the mechanism of legal regulation in various spheres of social life, and represents a significant potential reserve for strengthening the rule of law and legal order.

Thus, the specialisation of legal norms can be interpreted, on the one hand, as a consequence of a specific, or more precisely, functional differentiation of legal norms alongside other types of differentiation, in particular sectoral differentiation, and on the other hand, as a result of functional concentration, that is, a focus on the performance of specific functions by one type of legal norm or another. The specialisation of legal norms is an objective trend in the development of the legal system, reflecting an equally intensive process across various social spheres, aimed at taking into account the characteristics, specific features and multifaceted nature of social relations, the regulation of which is carried out by a functionally defined type of legal norm. The modern specialisation of legal norms has reached a high level of development and allows legal regulation to cover a wide range of different social relations, take account of their specific nature, and make them more orderly.

At the same time, it is essential to bear in mind that specialised legal norms, unlike regulatory and protective norms, are of an auxiliary nature. They do not serve as an independent normative basis for the establishment of legal relations. When regulating social relations, specialised legal norms are, as it were, attached to regulatory and protective norms, forming with them a single regulatory and protective mechanism. However, if we consider specialised norms from the perspective of the structure of law,

their functions within the legal system prove to be more significant. These legal norms are not only the result of the deep functional specialisation of law, but also a means by which the highly developed nature of the legal system is expressed, 'sustaining' its functioning at this level.

In view of this, it can be argued that the functions of specialised legal norms are relatively distinct areas of influence that these norms exert on social relations and the systemic properties of legal regulation; the need to fulfil these functions justifies the existence of specialised legal norms. The system of functions of specialised legal norms must include: informational, educational, transmissive, subsidiary-regulatory, subsidiary-protective, integrative, unifying and other functions. It is indisputable that specific types of specialised legal norms fulfil specific functions.

Given that domestic legal scholarship lacks a single, universally accepted view on the types of specialised legal norms, a comprehensive (broad) approach to their interpretation is most appropriate. It is precisely this comprehensive (broad) approach that allows us to assert that contemporary legal sources distinguish between the following types of specialised legal norms: 1) general norms (general provisions, fundamental norms, statutory norms); 2) definitional norms (definitional norms, norms of definition, norms of concept); 3) norms of principle (declaratory, constitutive); 4) norms of purpose (prognostic, determinative-constitutive, norms of objective); 5) declaratory norms (declaratory); 6) presumptive norms; 7) fictitious norms; 8) prejudicial norms; 9) time-bound norms (temporal); 10) operative norms (instrumental norms); 11) conflict-of-laws norms (arbitrary norms); 12) constructive norms (normative generalisations) [9, pp. 239–242].

Specialised legal norms are generally characterised by an indirect form of implementation, which varies depending on the specific type of such legal norm. Within the legal system of Ukraine, specialised legal norms play a system-forming, system-guiding and system-preserving role, as they counteract its imbalance and destructiveness, enabling it to function as a single, coherent and consolidated whole [18, p. 54].

3. The place and role of legal norms in the legal system and legislation

Since, in domestic scholarship, a legal norm is regarded as a fundamental (primary) element of the legal system and legislation, it would be appropriate, first and foremost, to define the concept of the legal system and legislation. Thus, ‘... the legal system is the objectively determined internal organisation of the law of a given society, consisting in the unity and coherence of all legal norms, and their distribution (differentiation) across branches, sub-branches and institutions’ [19, p. 221]. And ‘... the system of legislation is a system of normative-legal acts, primarily laws, which is the external form of existence of legal norms, a means of conferring upon them objectivity, certainty and generality. The legal system and the legislative system are related as content and form. This means that every element of the legal system is reflected in the legislative system” [20, p. 205].

The above demonstrates that, firstly, a legal norm is indeed a fundamental (primary) element of the legal system and the legislative system; secondly, within the legal system, a legal norm reflects the substance of conduct, whilst within the legislative system it reflects the form of its codification and external expression; and,

thirdly, it is precisely thanks to the unity of the content and form of a legal norm that it becomes an effective regulator and guardian of social relations.

Thus, within the legal system, legal norms function as substantive elements of legal regulation, forming legal institutions, sub-branches and branches of law, and defining the model of proper conduct for participants in social relations. Within the legislative system, these same legal norms find their external expression in legislative acts, through which their official codification, communication to the addressees, and the possibility of practical application are ensured.

It is in this context that the category of the legislative provision takes on particular significance. A normative legal provision is the textual form of expression of a legal norm in the articles, sections, paragraphs or sub-paragraphs of normative legal acts. Through normative legal provisions, legal norms are given a specific formal structure and become suitable for direct application in law-making and law-enforcement activities.

A legal provision is a normative, regulatory, binding, elementary, logically complete and minimal rule of conduct adopted by an authorised body, which is directly expressed in the text of a legal act and reflects the unity of the substance of the law and the form of its expression.

The characteristics of a legal provision are:

- normativity, i.e. generality and applicability to an indefinite group of subjects, their number and behaviour, its repeatability and the social relations arising therefrom;
- regulatory nature, i.e. the focus on regulating social relations by establishing (reproducing in the provisions of the legislative act) permissions, obligations and prohibitions;

- binding nature, i.e. the perception of the legal provision as an unconditional, authoritative directive for action, issued by an authorised entity and, whilst in force, must be recognised as not subject to discussion or assessment in terms of its expediency or rationality, as well as the provision of liability for its violation;

- adoption by an authorised body, i.e. one empowered to adopt a regulatory provision, within the limits of its competence, in full compliance with the established procedure and in accordance with the process for the drafting, discussion, adoption, entry into force, amendment and repeal of the regulatory provision;

- simplicity, meaning that a legal provision is always the simplest rule of conduct, one that does not incorporate elements of other rules of conduct;

- logical completeness, manifested in the establishment of a logically complete model of conduct that is understandable, sufficiently justified, objectively possible or necessary;

- minimalism of the rule of conduct is reflected in the fact that only a single (single-variant) normative rule can be termed a normative-legal provision, and the minimum textual unit expressing a normative-legal provision is a separate sentence of a normative act, including a part of a complex sentence;

- direct expression in the text of a normative legal act, meaning that a normative legal provision must be enshrined in an article of the normative legal act;

- the reflection of the unity of the content of the law and the form of its expression, i.e. the normative-legal provision is a reflection of the legal norm (the content of the law), but it is set out in the articles, paragraphs and sub-paragraphs of normative-legal acts (the form of the law) [21, pp. 130–131].

The systematic dissemination of the doctrine of the normative-legal prescription took place within the framework of the so-called compromise (dualistic) concept of the structure of the legal norm, which was discussed earlier. In this regard, it is worth recalling that the main idea of this concept boils down to the notion that a legal norm should be considered in two aspects: the logical norm and the prescriptive norm. The structure of a legal norm is interpreted accordingly: a logical norm comprises three elements (hypothesis, disposition and sanction), whilst a prescriptive norm comprises two elements (hypothesis and disposition, or hypothesis and sanction). Only by simultaneously characterising the elements of the logical norm and the components of the prescriptive norm can a comprehensive analysis of the content of legal norms be ensured. This approach has found broad support among the modern academic community.

In turn, the emergence of a compromise (dualistic) concept of the structure of a legal norm was driven, among other things, by the fact that the classical (three-element, traditional) theory of legal norms faced the need for modernisation to resolve the problem of the mismatch between the structure of a legal norm and the structural parts of an article in a normative-legal act. In view of this, proponents of the classical theory of legal norms introduced the concept of a 'legal prescription' into the conceptual apparatus of jurisprudence.

During the development of theoretical ideas regarding legal prescriptions, two main concepts for understanding this notion emerged. At the heart of the debate lies the question of whether a legal provision should be regarded as a structural component of the text of a legislative act or as a minimal legal command (stipulation). Proponents of the first view regard a legal provision as the fundamental element of the system of legislative acts, that is,

of the form of law. Supporters of the latter argue that a normative-legal provision is the primary link in the legal system, that is, its legal content.

In general, if we summarise the existing, sometimes contradictory and inconsistent, range of views found in doctrinal sources on this issue, we can conclude that, despite the significant diversity of opinions (the normative-legal provision is interpreted as the foundation of the system of normative-legal acts as a whole, part thereof, a normative-legal act, the legal system, one of the substructures of the legal system, legal systems, and the system of normative-legal acts simultaneously), the majority of scholars have expressed a single common idea: a normative-legal provision cannot be equated solely with the content or merely with the form of law.

It is also important to note that the classification by proponents of the 'modernised' classical concept of legal norms of the normative-legal provision within the system of normative-legal acts, and their simultaneous consideration of the legal norm as an abstract rule of conduct finding expression in specific normative-legal provisions, has only partially resolved the aforementioned problems. After all, under such conditions, the interpretation of a legal norm remains subjective – entirely dependent on the arbitrary considerations of legal subjects, who may interpret it in one way or another. Consequently, the legal norm recedes into the 'background', giving way to the normative-legal provision.

Clearly, the difficulty of classifying the normative-legal prescription as either the content or the form of law indicates only one thing – that the latter is the legal norm, the unity of the content of law and the form of its expression; an indivisible minimal element of objective law, as was also mentioned at the beginning of this section. It must be acknowledged that

a normative-legal prescription is a fundamental (primary) element of the legal system and the external expression of a legal norm, that is, it has a dual nature. For the reasons set out above, it is appropriate to accept as valid the conceptual approach according to which the minimal normative rule (provision, command, stipulation) of a normative-legal act or other formal legal source of law, capable of regulating social relations, should be classified as a legal norm. This approach corresponds to the position of those scholars who argue that the concept of a normative-legal prescription should not be contrasted with the concept of a legal norm, since a normative-legal prescription (norm-prescription) is itself a 'living' legal norm of a developed legal system characterised by a high degree of specialisation.

In this context, the academic community must accept that a legal norm must be associated exclusively with what is known as a prescriptive norm (a legal provision), and that the basis of the independent status of a legal provision is its stated content, that is, the legal norm; at the same time, these two elements are inseparable. It is precisely in this that the specific integrity of the relationship between the content and form of the legal norm and the normative-legal provision, in particular, and the legal system and the system of normative-legal acts, in general, is manifested.

In light of the above, I would like to emphasise once again that, firstly, each individual article (paragraph, sub-paragraph) of a normative-legal act, as a rule, contains one or more legal norms, but the latter, in the vast majority of cases, cannot be distributed among different articles or paragraphs of the normative act; secondly, the minimum textual unit for expressing a legal norm is a separate sentence of the legislative act, including

a part of a complex sentence; thirdly, the key feature for identifying a legal norm is the possibility of independently applying the legal provision expressed in a sentence, a separate part thereof, or a group of sentences of a legislative act, to regulate the actions of legal subjects.

It should also be noted that the theory of legal norms has seen particularly rapid development in contemporary legal scholarship in connection with the doctrine of specialised legal norms, specifically concerning legal norms of certain kinds or types, and atypical (non-standard) legal norms. It is precisely those legal scholars who regard a normative legal provision as a form of law – that is, who consider it a fundamental element of the system of normative legal acts – who argue that legal phenomena such as definitions, principles and a number of others should be interpreted through the category of the normative legal provision within the framework of the system of normative-legal acts. However, legal scholars' positions differ regarding their nature and types.

Thus, one group of scholars distinguishes regulatory legal provisions, which they divide into general provisions (principles, definitions, objectives and tasks) and specialised legal provisions (provisions on approval; provisions on the establishment of organisations, enterprises and institutions; explanatory provisions; instructions; provisions on the entry into force of legal acts; provisions setting time limits; provisions defining the scope of entities and their competences).

In addition, the following regulatory provisions, which form the mechanism for the self-preservation of legislation, are analysed: presumptions, fictions, prejudices, provisions permitting the application of analogy, and conflict-of-law provisions. It is argued that, on the basis of these provisions, processes of self-regulation

and self-governance take place within the system of legal acts, ensuring the functioning and interaction of legal provisions. Consequently, this group of scholars classifies the following as the main legal provisions: include: prescriptive principles, prescriptive definitions, prescriptive hypotheses, prescriptive dispositions, prescriptive sanctions, operative provisions, referential provisions, blanket provisions, dispositive provisions and imperative provisions, and state-authoritative provisions.

Another group of researchers specialising in legal norms asserts that, within the legal system, alongside norms, there exist atypical legal provisions or other normative generalisations. These are provisions of a 'non-standard' nature, as they lack certain properties, characteristics or features that are objectively inherent in the classical model of a legal norm. This atypical nature is expressed primarily in the fact that these provisions lack the traditional logical structure of a legal norm and contain few or none of its natural elements. Consequently, they appear structurally imperfect. Atypical legal provisions, in relation to legal norms and the content of the law as a whole, are of a subsidiary nature; they serve as circumstances that complement the entire structure of the law and bind all its elements into a single, coherent whole. Taken together, atypical regulatory provisions, just like legal norms, serve a regulatory purpose: on the one hand, they are driven by the need to optimise legal practice and enhance the effectiveness of legal regulation; on the other hand, they ensure a degree of consistency in the 'interconnection' of legal norms.

Given that atypical normative legal provisions are extremely numerous in nature and content and diverse in their purpose, this group of scholars proposes dividing them into three groups. The first

group comprises atypical provisions characterised by a high degree of normativity, namely: planning targets, recommendations, time limits and prejudices. The second group includes normative generalisations characterised by a certain degree of assumption: presumptions and fictions. The third group comprises normative provisions that serve as a kind of template: definitions and legal constructs.

Based on the above, it can be argued that the primary element of the system of normative-legal acts is not the article of a normative-legal act, but the normative legal provision. However, normative legal provisions are set out in the articles of normative-legal acts in various ways: for example, a single article of a normative- legal act may set out a single normative legal provision, which indicates that the rule of law, reflected in the normative legal provision, and the article of the normative- legal act coincide. However, the legislator or rule-maker may also set them out in a different manner, in particular by including several legal provisions within a single article of a legislative act.

An example of a single legal provision set out in a single article of a legislative act is Part One of Article 5 of the Constitution of Ukraine, which states that 'Ukraine is a republic'. A completely different structure is employed in Part One of Article 1 of the Constitution of Ukraine, which stipulates that 'Ukraine is a sovereign and independent, democratic, social and law-based state', since this article contains five legal provisions, namely: 'Ukraine is a sovereign state', 'Ukraine is an independent state', 'Ukraine is a democratic state', 'Ukraine is a social state', 'Ukraine is a state governed by the rule of law' [12, pp. 348–352].

Thus, a normative legal provision ensures the functioning of a legal norm within the legislative system, acting as the minimal textual unit of its normative enshrinement.

Consequently, the functioning of legal norms within the legal system and the legislative system manifests itself in their dual nature: on the one hand, a legal norm is a substantive element of the legal system, defining the model of legal regulation of social relations; on the other hand, through normative-legal prescriptions, it acquires external expression within the legislative system. It is precisely the unity of these aspects that ensures the effectiveness of legal regulation, the coherence of the legal system and the practical effectiveness of legal norms in the life of society.

CONCLUSIONS

The provisions of this chapter form the basis for the following conclusions:

1. Legal norms do not operate in isolation. They are grouped into legal institutions, which, in turn, form branches of law. A similar approach can be observed in foreign legal scholarship. In particular, in the works of Hans Kelsen, Herbert Lionel Adolphus Hart, Joseph Raz, Norberto Bobbio and others.

2. In modern legal theory, the primary approaches to defining a legal norm take as their criterion the generic concept underlying a particular definition of a legal norm. Consequently, a legal norm is regarded as: a rule of conduct; a prescription; a command; a model; simultaneously through two or more generic concepts.

3. In the vast majority of cases, it is stated that a legal norm is a binding, formally defined, coherent, logically complete rule of conduct of a general nature, corresponding to the degree of freedom, equality and justice recognised in society, established or sanctioned by the state or another authorised law-making body, guaranteed by them, providing for the possibility of coercion, with the aim of regulating and protecting social relations.

The most common characteristics of a legal norm include the following: a) general applicability; b) formal certainty; c) general nature; d) representative and binding nature; e) established or sanctioned by competent state or other authorised bodies and institutions; e) protected by all means of state or other influence, including coercion; f) general significance; g) systematic nature; h) element of the legal system; i) abstract nature; j) authoritative nature; k) functionality; l) clarity, etc.

4. The structure of a legal norm is the objectively determined, systematic, internal organisation of a legal norm, which involves its division into constituent elements (hypothesis, disposition and sanction) and the interrelationships between them. The hypothesis is an element of a legal norm that indicates the factual circumstances, the presence or absence of which determines the application of the rule of conduct set out in the disposition. Hypotheses are classified as: a) simple; b) complex; c) alternative. Disposition – the central element of a legal norm, which specifies the actual rule of conduct (the rights and obligations acquired by the subjects of social relations). Dispositions are classified as: a) simple; b) descriptive; c) referential; d) blanket; e) mixed. Sanction – an element of a legal norm that contains provisions regarding the legal consequences of a breach of the rule set out in the enacting clause, or the conditions specified in the hypothesis. Sanctions are divided into: a) simple; b) complex; c) alternative.

5. The vast majority of researchers' views on the structure of legal norms can be usefully grouped according to their similarities and examined within the framework of the following main concepts: a) three-element (three-part, three-link); b) two-element (two-part, two-link, binomial); c) compromise (dualistic);

d) with optional elements; e) broad (extended); f) variable (modifiable); g) interdisciplinary.

6. Types of legal norms refer to the classification of the entire body or the absolute majority of legal norms into specific groups (types) according to a particular criterion of classification. Legal norms are divided into specific types according to: 1) legal force; 2) functional orientation; 3) methods of legal regulation; 4) nature of sanctions; 5) subject matter of legal regulation; 6) method of origin and establishment; 7) the entities involved in law-making; 8) the entity responsible for law-making; 9) the manner of setting out the desired conduct of entities; 10) their place and role within the mechanism of legal regulation; 11) the structure of the law; 12) their effect within the mechanism of legal regulation; 13) their temporal effect; 14) the scope of territorial application; 15) the degree of specificity; 16) the effect on the range of subjects; 17) the degree of certainty in the formulation of the structural elements of a legal norm in the articles of a legislative act.

7. Specialised legal norms ('norms of special application', 'special legal norms', 'norms concerning norms') – binding, formally defined, coherent, logically complete rules of conduct of a higher degree of generality, which correspond to the degree of freedom, equality and justice recognised in society, established, authorised and guaranteed by the state or another authorised law-making body for the purpose of subsidiary regulation of social relations and ensuring the unity and uniformity of legal regulation.

The following should be included among the general characteristics inherent in specialised legal norms: a) they are voluntary rules of conduct; b) they correspond to the degree of freedom, equality and justice recognised in society; c) they are established (formulated) or sanctioned by the state or

another authorised law-making body; d) they are binding in nature; e) they are formally defined; f) they are guaranteed; g) they are legally coherent and logically complete. The list of specific characteristics of specialised legal norms should include the following: a) they are functionally oriented; b) they are characterised by a high degree of generality; c) they are implemented indirectly; d) they are an expression of normative generalisations in law.

8. The functions of specialised legal norms are relatively distinct areas of influence that these norms exert on social relations and the systemic properties of legal regulation; the need to fulfil these functions determines the necessity for the existence of specialised legal norms. The system of functions of specialised legal norms must include: informational, educational, transmissive, subsidiary-regulatory, subsidiary-protective, integrative, unifying and other functions.

9. Within the legal system, legal norms function as substantive elements of legal regulation, forming legal institutions, sub-branches and branches of law, and defining the model of proper conduct for participants in social relations. Within the legislative system, these same legal norms find their external expression in legislative acts, through which their official codification, communication to the addressees and the possibility of practical application are ensured. It is in this context that the category of the legislative provision takes on particular significance.

10. A normative legal provision is a normative, regulatory, binding, elementary, logically complete, minimal rule of conduct adopted by an authorised body, which is directly expressed in the text of a normative-legal act and reflects the unity of the substance of the law and the form of its expression.

The characteristics of a legal provision are: normativity; regulatory nature; binding force; adoption by an authorised body; simplicity; logical completeness; minimal requirements regarding conduct; direct expression in the text of the legal act; and the reflection of the unity between the substance of the law and the form of its expression.

SUMMARY. A legal norm is a fundamental category of legal science and a foundational (primary) element of the legal system, through which the normative regulation of social relations is carried out and the structure of the legal system is formed. This article examines the essence of the legal norm, its main characteristics, structure, classification and place within the legal system and legislation, and analyses the relationship between the legal norm and the normative legal provision as the form of its enshrinement in normative-legal acts. The aim of the study is a comprehensive theoretical and legal examination of the legal norm as the fundamental (primary) element of the legal system and legislation, and the identification of its characteristics, structure and role in the mechanism of legal regulation. The resolution of these research tasks determines the logic of the presentation of the material in the article, in particular: an examination of the concept of a legal norm and the characteristics of the structure of a legal norm and the main concepts of its structure; an analysis of approaches to the classification of legal norms; and an exploration of the place and role of legal norms within the legal system and legislation. The research methodology is based on the use of general scientific and specialised legal methods, in particular dialectical, functional, hermeneutic, synergistic, analysis and synthesis, induction and deduction, systemic, formal-legal and

comparative-legal methods, which has enabled the generalisation of scientific approaches to understanding the legal norm and its place within the legal system. It is concluded that a legal norm is characterised by such fundamental features as general applicability, formal certainty, authoritative nature, systematicity, general and abstract nature, enforcement by state coercion, and a focus on regulating social relations. It is substantiated that a legal norm constitutes the primary element of the legal system, from which legal institutions, sub-branches and branches of law are formed. It is also established that a normative legal provision is the textual form of expression of a legal norm in normative-legal acts and, at the same time, the minimal normative rule through which the legal regulation of social relations is realised. The practical implications of the study lie in deepening the theoretical foundations for understanding legal norms, which is of great importance for improving law-making activities, enhancing the quality of normative-legal acts and the effectiveness of legal regulation.

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CHAPTER 5

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LAW IN THE NATIONAL LEGAL SYSTEM

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INTRODUCTION

Ukraine's acquisition of full membership of the EU and NATO is a strategic objective of our state, the achievement of which is impossible without properly ensuring the irreversibility of the European and Euro-Atlantic course, as enshrined in the Constitution by amendments to the Basic Law of Ukraine [1].

Therefore, Ukraine's European integration is not only a strategic priority of its foreign policy, but also a fundamental pillar of the latest phase of state-building. In the context of the war and post-war reconstruction, Ukraine's European development trajectory must contribute to the comprehensive transformation and sustainable development of the entire national legal system.

Certainly, the implementation of Ukraine's European integration policy and the harmonisation of the national regulatory framework with international standards necessitate the modernisation of legal regulatory mechanisms, the optimisation of legislation and the ensuring of the effective application of the law.

In academic discourse, Ukraine's national legal system is understood as a coherent institutional complex comprising structural and functional elements – legal phenomena – ranging from legal consciousness and legal principles to legal technique and

the state of the rule of law. In other words, the legal system is “the law, taken in a holistic, conceptual, comprehensive and functional sense” [2, pp. 6–7].

Legislative acts are an integral component of the legal system, through which the functions of law are transformed at the relevant stage of social development.

The categorical aspect of the systematic study of legislative acts reflects the academic understanding of the essence of the concept of “law” and its connections with other legal categories, including acts across the entire legal system.

Let us analyse this issue in more detail.

1. The essence of the law and its connection with other legal acts

The term “law” is a sense-making centre in the legal interpretation of the concept of “legislative acts”. This concept is regarded as an established legal term that is widely used in legal doctrine and practice, in legal acts, and generally in legal matters and legal practice.

The Law of Ukraine “On law-making activity” [3] does not use the term ‘legislative acts’, but instead employs synonymous and distinct terms that refer to specific types and forms of legislative acts (law, code, etc.).

A similar legislative approach is evident in the Rules of Procedure of the Verkhovna Rada of Ukraine (the Rules of Procedure), where the term “legislative acts” is defined through their classification by type: “laws, codes, legislative frameworks, etc.” (Part Six of Article 90 of the Rules of Procedure [4]).

In academic circles, this term is also understood as a collective term that combines various groups of normative-legal acts having the force of law. It should be noted that, in linguistic terminology, the word “law” is a basic word, serving as the root for other words: “legislative”, “law-making”, “legislation”, “draft law”, so on.

The academic literature proposes various classifications of legislative acts.

Some scholars categorise these acts into three types: a) constitutional laws; b) ordinary laws; c) substitute legislative acts (“substitute” – replacement, surrogate), or “quasi-laws” [5, p. 43].

The main category of legislative acts consists of laws. According to the general legal understanding, a law is a normative-legal act of the highest legal force, adopted in accordance with established procedures by parliament or directly by the people, which regulates the most important social relations; it establishes stable foundations in various spheres of social relations, complies with generally recognized principles of law, forms the basis of Ukraine’s legal system and has the highest legal force within it [6, p. 7]; is characterized by its authority within the system of legislative acts, is of primary importance within that system, serves as the foundation for further law-making, and is legal in its content [7, p. 113].

The criteria for classifying laws are varied and largely reflect the doctrinal views of scholars. Thus, M. M. Voronov identifies the following types of laws: the Constitution (the Basic Law), constitutional laws, ordinary laws, emergency laws, and codes. The author rightly notes that the classification of legal acts of the legislative branch has not only theoretical but also practical

significance. After all, it is through the identification of the characteristics and properties of each type of act that the scope of legal regulation of specific social relations is determined, which prevents the arbitrary application of one type of act in place of another [6, p. 15].

G. I. Dutka offers a detailed academic classification of laws, proposing to distinguish, in particular: 1) by scope of regulation – general (codified, current) and special; 2) by duration – permanent, temporary, and emergency; 3) by the entities involved in law-making – those adopted by the people following a referendum and those adopted by the state's legislative body; 4) by structural form – codified and uncoded; 5) by sector – constitutional, civil, administrative, etc.; 6) by sphere of public life – laws in the sphere of economic regulation, in the sphere of political regulation, in the sphere of social regulation, in the sphere of military regulation, etc.; 7) by form – legislative foundations, codes, model laws; 8) by mechanism of legal regulation – laws of direct application (laws containing a reference in their text to the mechanism for their own implementation) and laws of indirect application (laws which require the adoption of additional acts for their own implementation); 9) by legal force – constitutions, constitutional laws, organic laws and ordinary laws [8, pp. 78–80].

The Law of Ukraine “On law-making activity” defines the concept of a “law”, according to which it is a normative-legal act adopted by the Verkhovna Rada of Ukraine and/or by a nationwide referendum in accordance with the procedure established by the Constitution of Ukraine and the law, which regulates the most important social relations (Art. 10), and also sets out the types of laws of Ukraine [3].

Depending on the entity that adopted them, laws can be grouped as follows:

- a) laws adopted (approved) by the Ukrainian people in a nationwide referendum (for example, laws amending Sections I, III and XIII of the Constitution of Ukraine);
- b) laws adopted by the Verkhovna Rada of Ukraine.

Laws adopted (approved) by the Ukrainian people in a nationwide referendum are acts of “legislative law-making by the Ukrainian people” [9, p. 41]. The Ukrainian people are the holders of constituent power; therefore, such laws constitute legal acts implementing the right to the expression of the people’s will. Decisions adopted by referendum formally give objective expression to the will of the people, ensuring the direct exercise of popular sovereignty. Accordingly, within the system of sources of constitutional law, such acts occupy a prominent place, as they legitimise fundamental legal provisions through the mechanism of direct democracy.

It is no coincidence that the Law of Ukraine “On law-making activity” [3] lists the Ukrainian people first among the subjects of law-making, thereby emphasising the pre-eminence of their status in the law-making process.

The criterion of legal force within the legislative framework of Ukraine’s system of normative-legal acts reflects the highest and superior degrees of this property of legal acts, that is, the degrees of legal force of a law.

The Constitution of Ukraine has the highest legal force (Article 8 of the Basic Law of Ukraine [10], Article 19 of the Law of Ukraine “On Law-Making Activity” [3]), which means its unquestionable primacy among legislative acts and, in general, within the system of normative-legal acts of Ukraine. In the legal

opinions of the Constitutional Court of Ukraine, this thesis is argued as follows:

“...The supremacy of constitutional norms extends to all spheres of state activity, including the legislative process” [11];

“The principle of the supremacy of the Constitution of Ukraine extends to the entire territory of Ukraine”, and “strict adherence by state authorities and local self-government bodies to the Constitution and laws of Ukraine is a guarantee of stability, the maintenance of public peace, and harmony within the state” [12];

“The direct effect of the provisions of the Constitution of Ukraine means that these provisions are applied directly. The laws of Ukraine and other regulatory legal acts may only develop constitutional provisions, not alter their content. The laws of Ukraine and other regulatory legal acts are applied only insofar as they do not contradict the Constitution of Ukraine” [13].

Thus, as M. G. Khaustova said, the Constitution of Ukraine stands at the pinnacle of all legislation, serves as the core of law-making, and is the main guiding principle in the organisation of legal regulation in the country [2, p. 39]. Moreover, as V. B. Kovalchuk emphasises, in a democratic state governed by the rule of law, the constitution is, first and foremost, an act of the constituent power of the people, which takes precedence over the so-called established powers, including, amongst others, the legislative power [14].

Laws amending the Constitution of Ukraine (“constitutional acts”, “constitutional laws”) have the same legal force as the Constitution of Ukraine. According to Ukrainian national legislation, such laws are divided into: laws amending Section I “General Principles”, Section III “Elections. Referendum”

and Section XIII “Amendments to the Constitution of Ukraine”, and laws amending other sections of the Constitution of Ukraine, apart from Sections I, III and XIII.

Laws that do not fall within the category of constitutional acts have a legal status that is subordinate to the Constitution of Ukraine and the constitutional laws of Ukraine, yet superior to all other legislative acts. In legal doctrine, such “other laws” are referred to as “ordinary” (or “current”) laws.

The laws within this group do not differ in terms of their legal force, since, as O. S. Prostybozhenko rightly noted, “national legislation does not provide for different levels of legal force among different laws” [15, p. 25].

At the same time, where conflicts arise between them, the laws are applied in accordance with conflict-of-laws principles and rules. In particular, in accordance with Article 66 of the Law of Ukraine “On law-making activity”, in the event of a conflict between normative-legal acts of equal legal force, priority in application is given to: 1) the provisions contained in the normative-legal acts of Ukraine’s special legislation (except where a conflict is found between a code and a primary law, in which case the provision contained in the code takes precedence, unless otherwise provided for by that code); 2) provisions contained in normative-legal acts that entered into force later [3].

The Law of Ukraine “On law-making activity” classifies the following types of laws according to their form: codes, primary laws, laws amending existing legislation, laws on international treaties, laws on ratification, and laws on approval (Art. 10) [3]. A code is recognised as the most common type of codification act, governing key areas of public life that require legal regulation [16, p. 17]. A codified law, as noted by A. E. Yarmola, is

the most requested form of codification act in modern conditions. A code allows for the generalisation and unification of a significant number of legal provisions, the establishment of foundations, and the coverage of the main parameters of a sector, institution or other systemic entity [17, p. 67].

The Code is defined in the Law of Ukraine “On law-making activity” as a law created through the systematisation of legal provisions, containing general principles on the basis of which it comprehensively regulates a homogeneous sphere of social relations, ensuring the stability of legal regulation (Art.11) [3].

This definition generally accurately reflects that a code is the result of systematisation (a process of law-making that is distinctive in both content and form).

However, given that systematisation can take various forms and be carried out in different ways, it is advisable to clarify the above definition by specifying the particular form of systematisation, which in this case is codification.

The category of “primary law” is not new to legal scholarship and is generally defined as a law that regulates a particular sphere of legal relations for the first time.

M. I. Legenkyi proposes that primary laws be understood as the fundamental primary acts of the legislative authority that regulate basic social relations, possess superior legal force and a normative character, and to which amendments may be made where necessary [18, p. 39]. At the same time, what distinguishes such a law from others is not so much its form, although it has its own characteristics (Part Four of Article 32 of the Law of Ukraine “On Law-Making Activity” [3]), but rather its law-making role and significance. Thus, the classification of laws into primary and secondary is based

on their functional purpose within the mechanism of legal regulation, rather than on formal characteristics.

Primary laws are the basic instruments of law-making, as they introduce legal norms for the first time and establish the fundamental regulation of social relations. The primary regulation of social relations, which entails the formulation (establishment) of new legal norms, is usually classified as one of the main functions or types of law-making. Thus, a primary law is the objectified result of primary law-making; it serves as the principal (main, fundamental) law in the relevant sphere of social relations and regulates them for the first time or in a new way. Instead, secondary legislation is of a derivative nature: its role is to amend the existing legal framework by introducing changes, additions, suspensions or repeals of acts, and to give legal effect to international treaties through the procedure of ratification or approval.

In view of the above, it is reasonable to detail the definition of a primary law as set out in the Law of Ukraine “On Law-Making Activity”. The current version of Article 12 of this Law defines a primary law as a law that systematically regulates a specific sphere of social relations [3].

However, the characteristic of “systematicity” is an inherent feature of legal regulation in general and is undoubtedly important in law-making. In other words, “systematicity is an objective characteristic of national legislation” [19, p. 3].

Therefore, this characteristic does not distinguish a law as primary. It would be more accurate to say that a primary law is a basic law that systematically regulates a specific sphere of social relations for the first time or in a new way.

Laws resulting from secondary legislation – that is, those that “alter the content of existing legal regulations governing certain

social relations” [20, p. 44] – serve other practical purposes: ensuring the systematic coherence of legal norms, resolving conflicts, and rectifying defects in legislative drafting.

Through the mechanism of amending legislation, duplication of regulatory material is minimised, terminology is adapted to contemporary realities, and the substantive content of regulatory provisions is adjusted.

A separate group of legislative acts is constituted by what are referred to in legal literature as “enabling” (“subsidiary”) laws. Based on the categories of laws set out in the Law of Ukraine “On Law-Making Activity” [3], this group includes: 1) laws on international treaties (by which the Verkhovna Rada of Ukraine grants consent to the binding nature of Ukraine’s international treaties, i. e. on ratification, approval, adoption, accession, and laws by which the denunciation of Ukraine’s international treaties), 2) laws on approval, and 3) laws on adoption.

The law is a self-regulating system with a clear internal structure, in which each structural component has specific functions. As a coherent phenomenon, the legal system is characterised by a combination of hierarchical and vertical structures, which ensure its internal balance. Therefore, the theoretical and methodological basis for the relationship between laws and other laws and subordinate legal acts (issued by the Cabinet of Ministers of Ukraine, the President of Ukraine, other state authorities and local self-government bodies) lies in the systematic nature of legislation. This characteristic is an external expression of the ontological essence of law, reflecting the interdependence and logical consistency of its norms.

In accordance with Part 1 of Article 9 of the Law of Ukraine “On Law-Making Activity”, the legislation of Ukraine is an interrelated and structured system of Ukrainian legislative acts and international treaties in force. Ukrainian legislation is structured from acts of higher legal force to acts of lower legal force, taking into account the principles of the constitutional order in Ukraine, the competence and territorial jurisdiction of the law-making body as defined by the Constitution of Ukraine and/or by law [3].

Thus, the relationship between a law and other legal acts entails the correspondence of regulatory legal acts within the vertical and horizontal structures of legislation. The first type of relationship – that is, the vertical one – reflects the presence or absence of hierarchical contradictions between acts, vertical legal conflicts, and defects in subordination relationships, whilst the second type of relationship – horizontal – reflects the interrelationships between the legislative system and the legal system, and the presence or absence of sectoral conflicts.

Let us look at the specifics of law-making in the parliamentary procedure.

2. Features of the legislative process in the parliamentary procedure

Laws adopted by the Verkhovna Rada of Ukraine, that is, through the parliamentary procedure, are the result of the Ukrainian parliament’s legislative function, which is often referred to as its “titular” function.

This function derives from the authority of the Ukrainian people, as enshrined in the Constitution of Ukraine [10] and the

Law of Ukraine “On Law-Making Activity” [3]. As Professor Jeffner Smith (Dalhousie University, Halifax, Canada) rightly emphasised, “the function of legislative bodies is simply to reflect and carry out the will of the people” and that “legislative bodies are merely a convenient substitute for the people” [21, p. 21]. The legislative function is not, in itself, elevated to an absolute by legislation as a function in which the omnipotence of parliament operates without limit. Although the Verkhovna Rada of Ukraine is constituted as the sole body of legislative power, parliament does not have a monopoly on law-making [22, p. 91].

Consequently, the exercise of the legislative function is not a manifestation of absolutism or unlimited parliamentary sovereignty, but rather a form of expression of the constitutional status of the Ukrainian parliament.

At the same time, the parliamentary procedure for enacting laws is an essential and legitimate mechanism for transforming political will into universally binding norms of the highest legal force. As the Constitutional Court of Ukraine has stated, adherence to the procedure for the consideration, adoption and entry into force of laws, as established by the Constitution of Ukraine, is one of the conditions for the legitimacy of the legislative process [23]. In Ukraine, the parliamentary procedure for enacting laws involves successive, interlinked stages of the legislative process, which ensure the progressive development and improvement of national legislation. The main requirements for the procedure for the consideration, adoption and entry into force of laws are laid down in the Constitution of Ukraine (Articles 84, 91, 93, 94 [10]).

The Constitution of Ukraine serves as the fundamental legal basis for the adoption of legislative acts, both in peacetime and

during periods of martial law. The legal principle that “Laws and other normative-legal acts shall be adopted on the basis of the Constitution of Ukraine and must comply with it” (the second sentence of the second paragraph of Article 8 of the Constitution of Ukraine [10]) applies in all cases and must be applied in strict accordance with the principle of the rule of law.

The procedural rules governing the legislative process are set out in the Rules of Procedure [4], which enshrine the constitutional and legal framework for all parliamentary procedures carried out by Ukraine’s sole legislative body – the Verkhovna Rada of Ukraine.

The legislative process begins with the drafting of a bill and its submission to the Verkhovna Rada of Ukraine. Under the Constitution of Ukraine and the Rules of Procedure, the right of legislative initiative is vested in the President of Ukraine, the Cabinet of Ministers of Ukraine and the People’s Deputies of Ukraine. The right of legislative initiative corresponds to the constitutional duty of parliament to consider submitted draft laws and amendments to them, as well as to adopt or reject them by means of a personal vote by the People’s Deputies of Ukraine.

Similarly, in all EU countries, the right to initiate legislation is vested in the government and members of parliament. Thus, in most European countries, the right to submit draft laws to parliament rests with the government as a collegial body (Austria, Bulgaria, Greece, Spain, Italy, Germany, Portugal, Romania, Slovakia, Slovenia, the Czech Republic). In some EU countries, the right to submit draft laws to parliament is vested in individual members of the government – the Prime Minister (France) or members of the government (Bulgaria) [24, p. 43].

It should be noted that at this stage of the legislative process, the principles of legislative separation apply, which prohibit

the simultaneous amendment of both ordinary laws and the Constitution of Ukraine, as well as the principle of direct amendment, which means that amendments are made exclusively to the “body” of the Constitution itself, and not to the interim acts that previously amended it.

These principles are enshrined in Part Six of Article 90 of the Rules of Procedure, according to which a bill proposing amendments to a law (or laws) may not be combined with amendments to the Constitution of Ukraine. A bill may provide for amendments only to the text of the primary legislative act (law, code, etc.), and not to the law amending that legislative act [4].

The submission of a bill is subject to a mandatory registration procedure at the Secretariat of the Verkhovna Rada of Ukraine on the day of submission; if submitted outside office hours, registration must take place no later than the following working day. The main registration requirement is that the bill must comply with the rules governing the preparation and submission of supporting documents.

Thus, in accordance with Article 91 of the Rules of Procedure, a bill is submitted for registration together with a draft resolution which it is proposed that the Verkhovna Rada of Ukraine adopt following its consideration, a list of the bill’s authors, a proposal regarding the candidate to act as rapporteur at the plenary sitting, and an explanatory note, which must contain:

- 1) a justification of the need to adopt the bill, its aims, objectives and main provisions, and its place within the legislative framework;

- 2) a justification of the expected socio-economic, legal and other consequences of the law’s application following its adoption;

3) other information necessary for the consideration of the draft law, including information on analytical materials from lobbying entities, where such materials are provided [4].

The principle of transparency in the first stage of the legislative process requires that all registered bills and accompanying documents be entered into a single automated system and published on the parliament's website.

The legislative process within parliamentary procedure includes the institution of preliminary consideration of draft laws. This process involves a multi-faceted analysis of the bill across the areas of responsibility of the relevant and specialised committees of the Verkhovna Rada of Ukraine and entails a comprehensive assessment of the draft bill against criteria such as sectoral relevance, budgetary balance, anti-corruption compliance and alignment with European integration.

Thus, the institution of preliminary review of draft laws is aimed at minimising legal, financial, corruption and other risks even before the draft law is included on the agenda of a parliamentary session.

This approach is also common in other countries. In particular, in EU countries, the quality of legislation is ensured through a mandatory prior assessment of its socio-economic impact; in other words, the legislative process is based on "evidence-based policy" rather than on ad hoc political expediency. The same applies in the United States, where, following registration in Congress, a bill is referred to the relevant committee and subcommittee for initial consideration. The main work focuses on public hearings and the "amendment reading" stage, which, depending on the complexity of the bill, lasts between one and two weeks. The rules of procedure strictly regulate the timelines: committee members can compel

a meeting to be convened after seven days of inaction, and the House of Representatives can demand the bill if it has been blocked for more than 30 days. This procedure ensures a balance between thorough expert scrutiny and preventing delays in the legislative process [25, p. 82].

Another important mechanism for preliminary oversight during the registration and drafting of bills is the procedure for returning a bill to the entity with the right of legislative initiative. Article 94 of the Rules of Procedure establishes an exhaustive list of legal grounds on which a bill may not be included on the agenda or considered at a plenary session, serving as a safeguard against legally flawed and unconstitutional legislative initiatives. Thus, according to this article, the reasons for returning a bill without including it on the agenda or considering it at a plenary session are:

- 1) an opinion from the committee responsible for constitutional law matters, stating that the bill contradicts the provisions of the Constitution of Ukraine, except in cases where it concerns amendments to the Constitution of Ukraine;

- 2) an opinion of the committee responsible for procedural matters, stating that the submitted bill was drafted and/or registered without complying with the requirements of the law, these Rules of Procedure, and the regulatory acts adopted in accordance therewith;

- 3) the absence of a financial and economic justification for the bill, if the main committee or the relevant temporary special commission deems it impossible to consider it without such a justification;

- 4) the existence of a bill adopted in the first reading to which the submitted draft is an alternative;

5) the rejection during the current session of the Verkhovna Rada of a bill whose provisions, either verbatim or in substance, duplicate the submitted bill [4].

Thus, the provisions of Article 94 of the Rules of Procedure serve as a “procedural filter” that minimizes the risks of political populism through the legislative process. The established restrictions cover constitutional compliance, adherence to technical and legal formal requirements, financial justification, and the prevention of duplication of legislative initiatives, and are necessary for the effective functioning of parliament, the optimization of the legislative process, and the improvement of the quality of national legislation.

The Rules of Procedure (Art. 102) stipulates those bills are generally considered by the Verkhovna Rada in accordance with a three-reading procedure:

- 1) first reading – discussion of the main principles, provisions, criteria and structure of the bill, and its adoption as a basis;
- 2) second reading – clause-by-clause discussion and adoption of the bill at second reading;
- 3) third reading – adoption of the bill, which requires further refinement and coordination, as a whole [4].

The implementation of the “three-reading” system ensures the coherence and quality of the future law, as the first reading focuses on the conceptual approval of the bill (adoption as a basis), the second involves a clause-by-clause review of each provision, and the final reading serves to reconcile and harmonise conflicting provisions before the law is finally adopted in its entirety.

The “three-reading” system is a classic standard for the democratic legislative process and is implemented in the United Kingdom, Germany, France, Canada and other countries, although each has its own procedural nuances.

The procedure for the consideration and adoption of bills by Parliament must be based on the principles set out in the Constitution of Ukraine; failure to comply with or disregard for these principles violates the democratic requirements governing the constitutional procedure for the consideration and adoption of bills, and also calls into question the legitimacy of the laws adopted. First and foremost, the constitutional legitimacy of the legislative process in Ukraine is determined by strict adherence to the principle of direct expression of will, which imposes on members of parliament the imperative duty to vote in person. This legal institution serves as a fundamental guarantee of representative democracy, under which the procedure for adopting legislative acts excludes the possibility of delegating powers or distancing the initiator of the legislative initiative from the decision-making process. Thus, the personalisation of a parliamentarian's responsibility during voting is a prerequisite for the legality of the adopted law and its compliance with the principle of the rule of law.

The stage of promulgation and entry into force of a law is governed by strict constitutional provisions. Under Article 94 of the Constitution of Ukraine [10], the Speaker of the Verkhovna Rada shall immediately forward a law adopted by Parliament and signed by the Speaker to the President of Ukraine, who is obliged to sign it or return it with a reasoned veto within 15 days. At the same time, the absence of a response from the Head of State within this period is interpreted as tacit consent, which necessitates the mandatory promulgation of the law. In the event of the law being re-adopted by a qualified majority (two-thirds of the votes) of the Parliament, the President of Ukraine is obliged to sign the law. Failure to fulfil this obligation delegates the right to the immediate promulgation of the

law under the signature of the Speaker of Parliament. As a general rule, a law comes into force ten days after its official publication, unless a different timeframe is specified directly in its final provisions.

Thus, the general legislative procedure in the Verkhovna Rada of Ukraine goes through the following main stages: 1) the submission of a bill by entities with the right to initiate legislation; 2) the registration of the bill; 3) preliminary consideration of draft laws in parliamentary committees; 4) inclusion of draft laws on the agenda of the session of the Verkhovna Rada of Ukraine; 5) consideration of the draft law under the three-reading procedure; 6) adoption of the bill by a roll-call vote at a plenary sitting of the Verkhovna Rada of Ukraine; 7) signing of the law by the President of Ukraine; 8) publication of the law and its entry into force.

A special procedure for adoption has been established for “emergency” laws.

The Law of Ukraine “On Law-Making Activity” [3] does not classify such laws as a separate category, although it does regulate the specific procedures for adopting legislative acts during a state of war or a state of emergency.

The specific aspect is that they are adopted without planning, drafting a concept for the bill, conducting an assessment of the impact on social relations, assessing the bill’s compliance with Ukraine’s obligations in the field of European integration and the EU acquis; or providing organisational and technical support for the preparation of the draft act and conducting public consultations.

Thus, the analysis has shown that the Ukrainian parliament, as the institution representing the people, ensures the democratic legitimacy of the laws it passes, since, through public debate on issues of public importance, it confers upon laws the status of a social consensus. The procedural framework governing the adoption of laws by parliament

ensures a clear phased legislative process, which minimises the risk of legislative errors and helps to ensure the appropriate quality of laws, primarily through the use of legal expertise.

In the context of European integration, the parliamentary procedure not only provides a foundation for the stability of the rule of law, but also becomes a key filter for adapting national legislation to the standards of the *acquis communautaire*, which place significant emphasis on the “quality of the law”.

However, under any circumstances, the legislative activity of the Ukrainian parliament must be guided by the protection and safeguarding of human and civil rights and freedoms, striking a reasonable balance between necessary constitutional restrictions and legal possibilities.

3. Quality requirements for laws, considering European experience

The quality of legislation is a fundamental prerequisite for the viability of any constitutional state, for even the most progressive reforms are doomed to failure if they are enshrined in contradictory or merely declaratory provisions. Today in Ukraine, the issue of legislative quality goes beyond the purely technical revision of texts; it has become a matter of national security and the success of European integration. The imperfection of legal provisions, their ambiguity, or their detachment from social realities create a breeding ground for corruption, legal nihilism, and other negative phenomena. Therefore, the transformation of the legislative framework must focus not only on the number of adopted acts but also on their compliance with standards of legal certainty and justice.

Ukraine's national legal system belongs to the Romano-Germanic legal family and is therefore undergoing reform, as A. A. Kudin, to EU values regarding the primacy of the rule of law, the priority of legitimate private interests over public ones, the fight against the vestiges of the past in public administration, and the incorporation of certain legal institutions of justice from Common Law. In other words, the main trends in the development of Ukraine's legal system are the recognition and primacy of the rule of law in law-making, respect for it in law enforcement, recognition of the primacy of human rights, ensuring the leading role of laws in the system of sources of law, the emergence of new branches of law to meet the needs of society, the introduction of European legal standards into the practice of law-making and law enforcement, and the raising of the status and role of civil society in legal regulation [26, pp. 71–72, 76].

These transformative processes highlight the issue of providing the necessary tools for law-making, where the quality of legislation – as the foundation of legal certainty and the stability of the national legal system – emerges as the key criterion for the success of any reforms in Ukraine.

Within the field of Ukrainian scholarship, the concept of “the quality of law” is studied as a multifaceted phenomenon.

For instance, A. A. Melnyk identifies the philosophical, sociological and legal dimensions of the quality of law. The philosophical level examines the problem of the quality of law through quality as a philosophical category with a long history of development from antiquity to the present day; the sociological level – through an understanding of quality in relation to the law's ability to correspond to economic and social realities, societal needs, the ability to regulate social relations in accordance

with the objectives set by the legislator; the legal level – from the perspective of the properties of the law, formal expression, and linguistic, structural, procedural, theoretical-legal and law-implementation dimensions [27, p. 2].

The European experience in ensuring the quality of legislation is essential for Ukraine in the context of its European integration. This requires Ukrainian legislators to have a thorough understanding of European legal doctrine and to achieve a high standard of legislative drafting, ensuring terminological consistency and systemic coherence between domestic legislation and EU law.

The *acquis communautaire* is based on the concept that the law must be accessible, predictable and formulated with sufficient precision.

Legislative drafting in European countries is characterised by a number of common features that ensure the effectiveness and quality of the legislative process: a clear division of powers, standardisation and harmonisation of legislation, transparency and public participation, legal expertise, and so on [28, pp. 60–61].

The modern methodology for evaluating law-making activities in European countries is based on a comprehensive review of the effectiveness of legislation using specialised indicators that make it possible to assess the quality of legal regulation through the prism of its socio-economic impact and compliance with good governance standards. Thus, for a comprehensive assessment of the quality of legislation in European countries, sophisticated tools are used, including the Legislative Quality Index (LQI) and the Regulatory Quality Indicators developed within the framework of the OECD and SIGMA programs. These indices enable a multidimensional analysis not only of the purely legal parameters of regulatory acts, but also of a broader range of

characteristics that shape the overall effectiveness of the regulatory system. In particular, the list of criteria includes the transparency and inclusivity of, the mandatory nature of regulatory impact assessments (RIA), the degree of implementation of European good governance standards, the level of trust and satisfaction among citizens, businesses, and other stakeholders, and adherence to the principles of stability and predictability of the legislative framework [29, p. 218].

However, the most important requirement for a high-quality law is its legal substance. A legitimate law embodies the ideas of freedom, equality, humanism, justice, and other values of natural law. The objectives of a legitimate law are defined by human rights, which simultaneously serve as the limits of public authority and its discretion. These limits cannot be exceeded by the authorities without risking a loss of legitimacy. However, for a law to acquire legal character, it must meet the requirements regarding its essence, content, and form. Thus, a legal law is one of the real dimensions of the rule of law and obliges the state to embody the ideas of natural law, to affirm and ensure human rights and freedoms, to implement the principles of equality and justice, and to restrict human rights and freedoms only in a constitutional manner and subject to the predictability of the application of legal norms [30, pp. 272–273]. All other requirements regarding the quality of a law – such as legal-technical, formal, and similar ones – are derived from the aforementioned. Even compliance with all such requirements, if the law's content is unlawful, negates the criterion of quality.

Thus, the “quality of a law” is a complex, multifaceted concept that goes beyond strictly formal aspects and encompasses not only the act's compliance with legal drafting principles but also its clarity of content, unambiguity, predictability, and effectiveness.

The fundamental criteria defining the “quality of the law” are accessibility (the ability of legal subjects to familiarize themselves with its content), predictability (clarity of wording that allows for the anticipation of the legal consequences of actions), and the presence of safeguards against arbitrary application (a clear definition of the powers of state bodies and the limits of their interference with individual rights). Ensuring these criteria embodies the principle of the rule of law and legal certainty [31, p. 63].

In this context, it is important to note the role of the conceptual framework for drafting the bill. The concept of the law contains the chosen approach to regulating social relations, the goals and objectives of legal regulation, a justification for the need to adopt the act, a description of the new rights and obligations of participants in social relations (changes in the rights and obligations of participants in social relations), as well as the projected socioeconomic and other consequences of its implementation.

The concept outlines an analysis of the relevant social relations and the state of their legal regulation; a justification of the necessity and grounds for drafting the bill; a definition of its purpose, subject matter of regulation, and main legal mechanisms for enforcement; the results of financial and economic calculations; an assessment of the compliance of the proposed legal regulation with Ukraine’s international legal obligations, namely bilateral and multilateral agreements, Ukraine’s international treaties in the field of European integration and EU law, as well as regarding accession to international organizations, the binding nature of which has been approved by the Verkhovna Rada of Ukraine, including, but not limited to, the provisions of the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols,

and the case law of the European Court of Human Rights; the results of public consultations (if conducted), etc.

Thus, the formulation of a law's concept lays the foundation for its future existence and its ability to function effectively over the long term, based on legal principles and in accordance with contemporary trends in the development of society and the state. Consequently, ensuring the conceptual quality of laws plays an extremely important role in Ukraine's legislative process. A well-conceived draft law prevents contradictions between legal acts, minimizes the risks of subjective interpretation of legal norms by law enforcement agencies and courts – a direct requirement of the rule of law – and determines not only the technical perfection of the text of the future law but also the viability of the legal norm in real-world social relations.

In the context of the quality of legislation and given the current situation in Ukraine, legislative acts adopted during martial law require particular attention. On the one hand, such laws are characterized by a particular concentration and consolidation of efforts by the state and civil society to minimize certain catastrophic consequences (in this case, russian aggression) for the economy, to sustain the healthcare system, strengthening the social protection system for military personnel and their families, simplifying licensing, registration, and other administrative procedures, and increasing criminal liability for relevant offenses. However, on the other hand, these laws necessarily have their legal limits. The point is that under martial law, the legal status and restrictions on the rights and freedoms of citizens, as well as the rights and legitimate interests of legal entities, must be determined in accordance with the Constitution of Ukraine and the law, and such constitutional rights as the inalienable right to life, liberty, and personal inviolability, the right to submit individual

or collective written appeals or to personally address state authorities, local self-government bodies, and the officials and civil servants of these bodies, the right to housing, the right to a fair trial, as well as a number of constitutional guarantees (equality, presumption of innocence, etc.) cannot be restricted on the basis of Article 64 of the Constitution of Ukraine [10].

The adoption of emergency laws is a temporary measure; however, the forced acceleration of this process significantly increases the risk of distorting the legislative process. An analysis of the body of laws and regulations adopted during the period of martial law in Ukraine reveals systemic flaws in legislative drafting and the substantive content of these acts. Examples of the latter include: disproportionate restrictions (exceeding the limits of necessity when restricting constitutional rights and freedoms), conflicts (contradictions arising between “emergency” provisions and the fundamental principles of legislation), and a lack of procedural transparency (expedited consideration of draft laws often leads to the disregard of stages of public discussion and expert review); legal uncertainty (the use of vague wording, which creates a basis for subjective interpretation and errors in law enforcement), etc.

Thus, to ensure the quality of laws during martial law, restrictions on fundamental human rights must strictly adhere to the principle of the rule of law and be reviewed for the legitimacy of the interference with human rights, in particular based on the following criteria: the existence of a legislative basis, a legitimate purpose for the restriction, and compliance with the requirement of necessity in a democratic society. To ensure legal certainty, comprehensive regulation of the legal regime of martial law is of particular importance, specifically: formalization of the procedures for its introduction, as well as the

spatial and temporal limits of its application; clear delineation of the powers of public authorities; and the statutory establishment of a specific list of rights and freedoms subject to restriction, etc. All of this requires impeccable legal drafting and procedural transparency.

CONCLUSIONS

Legislative acts are a multidimensional legal category that encompasses groups of normative-legal acts of various forms, titles, and functions within the legal regulatory framework, etc., which have the legal force of law (the Constitution, primary laws, codes, etc.). Such acts represent a functional aspect of Ukraine's national legal system; they can be compared to electrical conductors, albeit within the legal sphere.

The laws of Ukraine constitute the main category of legislative acts. Laws are acts of the highest legal force, adopted through parliamentary or other procedures, which regulate the most important social relations and establish the fundamental principles of legal regulation for various spheres of social relations.

From a functional perspective, laws ensure the development of the national legal system in accordance with the needs of society, contribute to the achievement of the goals of legal regulation, and promote the effectiveness of positive law.

The combination of the philosophical, sociological, and legal dimensions of the quality of a law ensures the creation of a legal act that complies with the principle of legal certainty and is an effective tool for social governance.

The study of laws within the national legal system inevitably leads to a discourse on law and legislation, within which the rule of law, as a fundamental principle, guides legislative activity toward the creation of high-quality and effective legal acts. As a legal

standard, the law is based on principles of integrity that reflect the leading humanistic concept of the 21st century: “Humanity is the highest value”. This concept embodies the values of justice, freedom, dignity, equality, tolerance, solidarity, responsibility, and security, which are so important for Ukraine in today’s context.

Ukraine’s successful European integration is linked to the implementation of European standards for the quality of legislation, which are based on the principles of legal certainty, accessibility, and terminological precision. Improving the methodology of modern law-making in accordance with European doctrine is a prerequisite for establishing a predictable legal order in Ukraine.

Ensuring the quality of laws under martial law requires the state to employ impeccable legal drafting techniques and strictly adhere to the principle of the rule of law, which is achieved through comprehensive regulatory frameworks governing procedures, limitations on executive powers, and mandatory monitoring of the constitutionality of restrictions on human rights.

SUMMARY. Ukraine’s European integration, as a strategic direction of our country’s foreign policy, requires – in the context of war and post-war reconstruction – the sustainable development of a national legal system harmonized with the highest European standards. Laws are an integral component of the national legal system through which the functions of law are realized. The purpose of this study is to conduct a theoretical and legal analysis of the essence, place, and role of laws within the national legal system, their relationship to other legal acts, an assessment of the parliamentary adoption procedure, and the identification of key requirements for the quality of laws. Methodology of the

study is based on general and specific scientific methods (analysis and synthesis, induction and deduction, systematic approach, comparison, classification, etc.) used in legal doctrine to research issues related to improving the law-making process and the quality of legislation. Results of the survey showed that the law serves as the central point of reference for the legal interpretation of legislative acts. Laws have a complex scientific classification based on the scope of regulation, duration of validity, legislative bodies, and other factors. A law exists in a systemic (vertical or horizontal) relationship with other legal acts. The relationship between them reveals the presence or absence of defects in subordination and sectoral conflicts. Laws adopted through parliamentary procedure are the product of the exercise of the legislative (i.e., “titular”) function of parliament. Practical implications. This study enables the transformation of abstract ideals of justice and freedom into practical criteria for assessing the constitutionality of a law. Value/originality. The scientific originality of this study is in rethinking the value of the law within the national legal system through its ability to guarantee Ukraine’s political, economic, social, and democratic stability. Preserving the humanistic principles of law through legislation, even under martial law, allows for the translation of theoretical requirements of the rule of law into practical criteria of legitimacy. Therefore, the primary requirement for the quality of a law is its character as a legal law – that is, one that reflects the values of justice, freedom, dignity, equality, tolerance, responsibility, security, and so on. The quality of laws under martial law is determined by the constitutionality of the restrictions on human rights that are applied and is measured by the criteria of the principle of the rule of law.

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CHAPTER 6

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SUBORDINATE NORMATIVE REGULATION OF PUBLIC RELATIONS

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INTRODUCTION

Subordinate normative-legal acts constitute an integral component of the national legal system of Ukraine. They play a key role in the mechanism of legal regulation and serve as an instrument for detailing and specifying the provisions of the Constitution of Ukraine, statutory laws, and international treaties. In legal doctrine, subordinate normative-legal acts are regarded as an independent and specific form of law-making activity of public authorities, which ensures the effective functioning of the legal system.

Moreover, subordinate normative-legal acts function as an important instrument for the implementation of public policy, specifying the strategic directions defined by statutes in the form of practical administrative decisions, procedures, standards, and rules. They also ensure the coherence of activities among various public authorities and establish a unified regulatory framework within the relevant spheres.

A well-founded position is expressed by O. Felyk, who notes that in the context of the continuous renewal of the legal system, the transformation of public administration, and the adaptation of national legislation to European standards, effective

subordinate law-making by the executive branch assumes particular importance [1, p. 119].

Y. Romanov likewise emphasizes the objective necessity of subordinate rule-making, observing that “the executive branch cannot function effectively in the absence of rule-making powers; the legislature is incapable of foreseeing and regulating the entire spectrum of diverse social relations requiring such regulation; subordinate normative acts are capable of responding to changes in the object of legal regulation significantly more promptly than statutory laws, etc.” [2].

Certain aspects of subordinate normative-legal acts have been examined by such Ukrainian scholars as: N. Atamanchuk [3]; D. Baranenko [4]; Yu. Bezusa [5]; Ya. Bernaziuk [6]; L. Bohachova [7; 8]; L. Horbunova [9]; Yu. Zahumenna [10]; V. Katylov [11]; O. Koroviyak [12]; I. Kutsenko [13]; L. Nikolenko, B. Derevianko [14]; V. Panasiuk, Yu. Baltsii, P. Synytsyn [15]; Ya. Petrunenko [16]; M. Pyvovar [17]; Z. Pohorielova [18]; Ya. Romanov [2]; O. Tomkina [19]; I. Shutak [20]; O. Felyk [1], and others.

Among foreign scholars whose works are devoted to issues of subordinate normative-legal acts are: Lilly Weidemann [21]; Igor Palúš, Marie Sciskalová [22]; Toma Birmontienė, Jolita Miliuvienė [23]; Ieva Miluna [24]; Joachim Englisch [25]; Liesbeth A. Campo [26]; Hermann Pünder [27]; Jana Janderová [28]; Nikoleta Yordanova, Asya Zhelyazkova [29]; M. Singh [30].

Despite the substantial body of scholarly work in this field, there remains a need for further research into problematic issues of law-making activity in Ukraine, particularly in light of the adoption on August 24, 2023, of the Law of Ukraine “On Law-Making Activity” № 3354-IX [31]. This Law establishes the legal and

organizational foundations of law-making activity, its principles and procedures, the participants in law-making, the rules of legislative drafting technique, the procedure for maintaining records of normative-legal acts, as well as the rules governing the operation of normative-legal acts, the elimination of gaps, the resolution of conflicts (collisions) in normative-legal acts, and the exercise of control over their implementation. The entry into force of Law № 3354-IX is scheduled to occur one year after the termination or cancellation of martial law in Ukraine, introduced by the Decree of the President of Ukraine “On the Introduction of Martial Law in Ukraine” [32].

At the same time, the need to strengthen the role of subordinate normative – legal acts as an effective instrument of public administration in the context of legislative reform in Ukraine and the digital transformation of governance processes determines the relevance of the selected chapter of this monographic study.

The present work constitutes a continuation and expansion of Chapter 10, “Subordinate normative-legal acts in the system of current legislation,” of the collected volume of scholarly papers “Systematization of Ukrainian legislation as an important component of law-making activity in the context of European integration” [33], taking into account a comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union.

Given that the European integration path chosen by Ukraine necessitates the adaptation of the national legal system to the requirements of the European Union, the alignment of normative-legal acts, and the harmonization of Ukrainian legislation with European Union law, this process also entails the proper structuring and ordering of the system of subordinate normative-legal acts.

1. System and classification of subordinate normative-legal acts

The study of the system and classification of subordinate normative-legal acts is due to the complexity and multi-level nature of the modern legal system in Ukraine, as well as the significant number of authorized bodies that adopt them.

A subordinate normative-legal act is defined as an act adopted (issued) by a subject of law-making activity on the basis of and in execution of the Constitution of Ukraine, statutory laws, and international treaties of Ukraine in force, and aimed at their implementation, in accordance with Article 17 of the Law of Ukraine “On Law-Making Activity” [31]. Subordinate normative-legal acts must, first and foremost, comply with the Constitution of Ukraine, statutory laws, international treaties of Ukraine in force, and subordinate normative-legal acts of higher legal force, and must also be consistent with one another. In addition, a subordinate normative-legal act is adopted (issued) in the form prescribed by the Constitution of Ukraine and/or by law. The determination by the Constitution of Ukraine and/or by law of the form of a subordinate normative-legal act does not constitute a delegation of legislative powers concerning the scope of social relations that may be regulated exclusively by statute.

It should be noted that Article 92 of the Constitution of Ukraine [34] clearly regulates which spheres of social relations are to be governed exclusively by the laws of Ukraine and which may be regulated by subordinate normative-legal acts. Thus, it can be concluded that the laws of Ukraine differ from subordinate normative-legal acts in terms of their legal force, subject matter of regulation and protection, the subjects authorized to adopt them, as well as the territorial scope of their validity.

It should be noted that Ukrainian scientists classified subordinate normative– legal acts according to various criteria, which indicates a significant scientific interest of scientists in their legal application. In particular, classifications have been carried out based on such criteria as the adopting authority, legal force, scope of application, form, and content, reflecting the complexity of their structure and their interrelation with other normative sources. At the same time, the absence of a unified approach to the classification of subordinate normative-legal acts has complicated their application, given rise to legal conflicts (collisions), and negatively affected the principle of legal certainty.

It should be emphasized that Article 9 of the Law of Ukraine “On Law-Making Activity” defines subordinate normative-legal acts as part of the legislation of Ukraine and classifies them as follows: resolutions of the Verkhovna Rada of Ukraine containing rules of law; decrees of the President of Ukraine containing rules of law; resolutions of the Cabinet of Ministers of Ukraine containing rules of law; orders of ministries containing rules of law; acts of other state authorities containing rules of law; resolutions of the Verkhovna Rada of the Autonomous Republic of Crimea, resolutions of the Council of Ministers of the Autonomous Republic of Crimea, and orders of ministries of the Autonomous Republic of Crimea containing rules of law; orders of heads of local state administrations and orders of heads of structural subdivisions of local state administrations containing rules of law; and acts of local self-government bodies containing rules of law [31].

Resolutions of the Verkhovna Rada of Ukraine containing rules of law are subordinate normative-legal acts adopted on the basis of and in execution of the Constitution and laws of Ukraine, and may be either normative or individual (administrative) in nature.

Clause 5 of Article 138 of the Law of Ukraine “On the Rules of Procedure of the Verkhovna Rada of Ukraine” [35] establishes that resolutions adopted by the Verkhovna Rada of Ukraine which contain provisions of a normative character enter into force on the day of their official promulgation, unless otherwise provided therein. Clause 2 of the same Article provides that resolutions of the Verkhovna Rada of Ukraine are adopted on specific matters for the purpose of exercising its constituent, organizational, supervisory, and other functions. Such resolutions enter into force on the day of their adoption, unless otherwise stipulated by the resolution itself. Thus, the Rules of Procedure of the Verkhovna Rada of Ukraine distinguish between normative legal resolutions and individual legal acts.

Furthermore, the Rules of Procedure stipulate that resolutions of the Verkhovna Rada of Ukraine are adopted by a majority of votes of the People’s Deputies from its constitutional composition, except in cases provided for by the Constitution of Ukraine. Resolutions and other acts adopted by the Verkhovna Rada of Ukraine are signed and officially promulgated by the Chairperson of the Verkhovna Rada of Ukraine.

Accordingly, the law-making activity of the Parliament of Ukraine constitutes a form of activity of the legislative body associated with the creation of legal acts, as a result of which legal norms are established, amended, or repealed.

Decrees of the President of Ukraine containing rules of law. In accordance with Article 106 of the Constitution of Ukraine [34], the President of Ukraine issues decrees and orders. A significant role is assigned to decrees, as it is largely through them that the Head of State exercises his powers and elements of his legal status. At the present stage, the scope of legal regulation covered by decrees is very broad. As a rule, they are issued in cases

where gaps in the law exist. Orders are secondary in importance among the subordinate acts of the Head of State and are adopted on current or procedural matters. Acts of the President of Ukraine are published in official publications [36, p. 131].

Elaborating on the essence of acts of the President of Ukraine, O. Skakun [37, p. 480] notes that a Decree of the President of Ukraine is a subordinate legal act-document adopted on the basis of and in execution of the law on the most important issues of public and state life, with the aim of ensuring the effective implementation of the law. Among the key characteristics of this type of subordinate normative-legal act, the scholar highlights that it: is characterized by a multi-faceted and comprehensive regulation of social relations depending on the scope of the President's functions and powers; occupies a priority position in the hierarchy of subordinate normative acts; complies with the Constitution and other laws of the state; combines a single-person decision-making procedure with collegial preparation, prior consideration, certification, and responsibility for implementation; and is binding throughout the entire territory of the country.

According to Ya. Bernaziuk, a specific feature of the rule-making activity of the President of Ukraine is that, in comparison with the activities of the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, it is less characterized by the principles of collegiality, pluralism, and transparency. At the same time, the Head of State is not only obliged to adhere to the principles of rule-making in his own activity but must also, by means of his supervisory rule-making powers, ensure their observance by other subjects vested with public authority [6].

Resolutions of the Cabinet of Ministers of Ukraine containing rules of law. Article 117 of the Constitution of

Ukraine [34] authorizes the Cabinet of Ministers of Ukraine, within the limits of its competence, to issue resolutions and orders, which are binding. At the same time, Parts Two and Three of Article 49 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” [38] provide that acts of a normative nature are issued in the form of resolutions of the Cabinet of Ministers of Ukraine, whereas acts on organizational, administrative, and other current matters are issued in the form of orders.

Resolutions and orders of the Cabinet of Ministers of Ukraine are adopted at its meetings by voting, by a majority of votes of the official membership of the Cabinet of Ministers of Ukraine [38, Art. 51]. Resolutions of the Cabinet of Ministers of Ukraine, except those containing information with restricted access, enter into force on the day of their official publication, unless otherwise provided therein, but not earlier than the date of such publication [38, Art. 52].

According to O. Koroviak, the most significant role among all acts of the Cabinet of Ministers of Ukraine is played by its resolutions, by which regulations, statutes, procedures, rules, methodologies, and similar instruments are approved in cases where social relations require normative legal regulation [12, p. 257].

The normative-legal acts governing the rule-making activity of the Cabinet of Ministers of Ukraine include: the Rules of Procedure of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine of July 18, 2007 № 950 [39]; the Methodology for Conducting Regulatory Impact Analysis, approved by Resolution of the Cabinet of Ministers of Ukraine of March 11, 2004 № 308 [40]; the Rules for Drafting Acts of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine

of September 6, 2005 № 870 [41]; and the Rules for Drafting Technical Regulations to be approved by the Cabinet of Ministers of Ukraine on the basis of European Union legislation, approved by Resolution of the Cabinet of Ministers of Ukraine of June 18, 2012 № 708 [42].

The aforementioned normative-legal acts establish procedural and substantive requirements for rule-making activity and prescribe: the types of acts issued by the Cabinet of Ministers of Ukraine; the procedure for drafting acts; the process of coordination and consultations on draft acts; the conduct of legal expertise of draft acts; the submission of draft acts for consideration; the adoption of acts; the procedure for official promulgation; and the introduction of amendments and supplements, among other matters.

Acts of the Cabinet of Ministers of Ukraine are included in the Unified State Register of Normative-Legal Acts of Ukraine. Official publication of resolutions of the Cabinet of Ministers of Ukraine is carried out in the newspaper “Uriadovyi Kurier” and the Official Bulletin of Ukraine, as well as in other official printed publications designated by law. In addition, acts of the Cabinet of Ministers of Ukraine are promulgated by being published on the official website of the Cabinet of Ministers of Ukraine.

Z. Pohorielova emphasizes the need for comprehensive reform of the rule-making activity of the Cabinet of Ministers of Ukraine [18, p. 81], arguing that its key components should include improving the quality of draft governmental normative acts submitted for consideration, enhancing monitoring of their implementation, refining the work of governmental committees, strengthening interaction between governmental bodies and the public in discussing and adopting subordinate normative acts, and

optimizing all stages of their drafting, expert review, consideration, adoption, and implementation.

Orders of Ministries Containing Rules of Law. Pursuant to Article 15 of the Law of Ukraine “On Central Executive Bodies” [43], a ministry, within the scope of its powers and on the basis and in execution of the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, and acts of the Cabinet of Ministers of Ukraine, issues orders signed by the Minister. Orders of a ministry issued within its competence are binding on central executive bodies, their territorial bodies, local state administrations, authorities of the Autonomous Republic of Crimea, local self-government bodies, enterprises, institutions and organizations of all forms of ownership, and citizens. Furthermore, where an order has a normative legal character, it is subject to state registration by the Ministry of Justice of Ukraine and inclusion in the Unified State Register of Normative-Legal Acts.

Acts of Other State Bodies Containing Rules of Law. According to Article 16 of the Law of Ukraine “On Central Executive Bodies” [43], central executive bodies are established to perform specific functions in implementing state policy as services, agencies, inspections, commissions, and bureaus.

A central executive body, within its powers and on the basis and in execution of the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, and orders of ministries, issues organizational and administrative orders and

ensures and supervises their implementation [43, Art. 23]. Orders of central executive bodies are subject to mandatory disclosure in accordance with the Law of Ukraine “On Access to Public Information” [44].

Central executive bodies with special status include the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the National Commission for State Regulation of Energy and Public Utilities, the State Committee for Television and Radio Broadcasting of Ukraine, and the National Commission for State Regulation of Electronic Communications, Radio Frequency Spectrum, and Postal Services [43, Art. 24].

D. Baranenko [4, p. 73] identifies the main features of the rule-making activity of central executive bodies as a form of state activity implemented through the system of executive authorities, carried out in accordance with procedures established by current legislation, and resulting in new or improved subordinate normative-legal acts. The scholar distinguishes two components of such activity: the primary one (the creation of their own normative-legal acts – rule-making activity) and the auxiliary one (participation in the Government’s rule-making process, including the drafting of resolutions).

Scholars [15, p. 359] emphasize that rule-making by executive authorities has specific characteristics, including: a subordinate nature (issuance on the basis of and for the implementation of the Constitution and laws of Ukraine); special competence (issuance by bodies vested with specific powers, aimed at implementing and specifying acts of higher authorities); lower legal force compared to acts of higher state bodies; a focus primarily on matters of internal

significance for a given executive authority; and, in most cases, a derivative nature, meaning that such norms do not establish fundamentally new legal rules.

Acts of the Autonomous Republic of Crimea Containing Rules of Law. Pursuant to Part Two of Article 135 of the Constitution of Ukraine [34], normative– legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and decisions of the Council of Ministers of the Autonomous Republic of Crimea must not contradict the Constitution and laws of Ukraine and are adopted in accordance with, and for the implementation of, the Constitution of Ukraine, laws of Ukraine, and acts of the President of Ukraine and the Cabinet of Ministers of Ukraine. Under Part Three of Article 136 of the Constitution of Ukraine [34], the Verkhovna Rada of the Autonomous Republic of Crimea adopts decisions and resolutions within its competence that are binding within the Autonomous Republic of Crimea.

Orders of Heads of Local State Administrations and Orders of Heads of Structural Units Containing Rules of Law. According to Article 6 of the Law of Ukraine “On Local State Administrations” [45], for the implementation of the Constitution of Ukraine, laws of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, ministries, and other central executive bodies that ensure normative legal regulation of their own and delegated powers, the head of a local state administration issues orders within his or her competence, while heads of structural subdivisions issue orders (instructions). Orders of heads of local state administrations adopted within their competence are binding within the relevant territory for

all authorities, enterprises, institutions, organizations, officials, and citizens.

Scholars note that “based on the content of Article 41 of the Law of Ukraine ‘On Local State Administrations,’ only acts of the local state administration itself –namely, orders of its head – may have a normative legal character. Structural subdivisions of the administration, whose heads issue orders, are not vested with such powers. Attention should also be paid to Article 43 of this Law, which provides for the power to repeal acts of local state administrations by the head of a higher-level state administration or by the President of Ukraine” [46, p. 44].

Acts of Local Self-Government Bodies Containing Rules of Law. Article 59 of the Law of Ukraine “On Local Self-Government in Ukraine” [47], which governs acts of local self-government bodies and officials, provides that a council, within its competence, adopts normative and other acts in the form of decisions; the executive committee of a village, settlement, city, or district-in-city council adopts decisions; and village, settlement, and city mayors, as well as heads of district-in-city, district, and regional councils, issue orders within their powers. The same Article establishes that normative-legal acts of local self-government bodies and officials enter into force from the date of their official promulgation, unless a later date is specified.

In peacetime, subordinate normative legal acts at the local level are adopted by local self-government bodies – city, settlement, and village councils. Under martial law, a leading role is played by acts of military administrations, which assume executive functions in conditions of threats to state sovereignty [1, p. 125].

We concur with the view of Ya. Romanov [2] that normative-legal acts of local self-government form part of the unified system of normative-legal acts of Ukraine and possess a subordinate character.

Subordinate normative-legal acts constitute a complex, multi-level system, ensuring the specification of legislative provisions and playing a crucial role in regulating social relations at the practical level. The systematization and clear classification of subordinate normative-legal acts are a necessary prerequisite for enhancing the effectiveness of legal regulation, ensuring the principle of legal certainty, and strengthening the rule of law in the activities of public authorities in Ukraine.

2. Specific features of the procedure for adoption, entry into force, and state registration of subordinate normative-legal acts in Ukraine

The study of the procedure for the adoption, entry into force, and state registration of subordinate normative-legal acts is of particular relevance, as it makes it possible to identify problematic aspects of legal regulation in this field and contributes to enhancing the effectiveness of the rule-making process. Of equal importance is the planning of the drafting of subordinate normative-legal acts, which constitutes an integral part of law-making and directly affects its efficiency, quality, and the implementation of normative-legal acts in Ukraine.

In order to ensure the simultaneous entry into force of laws and the subordinate normative-legal acts necessary for their implementation, the planning of the drafting of such acts is carried out with due regard to the legislative work plan of the Verkhovna

Rada of Ukraine for the relevant year. The specific features of planning law-making activities related to drafting subordinate normative-legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and representative bodies of local self-government are determined by the rules of procedure adopted in accordance with the Constitution of Ukraine and/or the law (and, in the Autonomous Republic of Crimea, also the Constitution of the Autonomous Republic of Crimea) [31, Art. 26].

As regards the procedure for the consideration of draft acts and the adoption (issuance) of subordinate normative-legal acts, certain procedures may be established by subordinate normative-legal acts adopted pursuant to law [31, Art. 46]. For example, the Rules of Procedure of the Cabinet of Ministers of Ukraine [39] determine the process for drafting resolutions and orders, inter-ministerial coordination, and time limits for submission and consideration.

A particularly important role is played by the institution of state registration of normative-legal acts, which is aimed at verifying their compliance with the Constitution and laws of Ukraine, preventing legal conflicts, and ensuring the unity of the legal system.

The features of state registration of subordinate regulatory legal acts are covered by a separate section VIII of the Law of Ukraine "On Law-Making Activity" [31], which contains two articles and defines the principles of state registration of subordinate regulatory legal acts (Article 53) and the procedure for conducting state registration of subordinate regulatory legal acts (Article 54).

State registration of regulatory legal acts of ministries and other executive bodies that are subjects of rule-making is carried out in accordance with the Decree of the President of Ukraine dated October 3, 1992 №. 493 "On State Registration of Regulatory Legal Acts of Ministries and Other Executive Bodies" [48], the

Regulations on State Registration of Regulatory legal acts of Ministries and other executive bodies, approved by the resolution of the Cabinet of Ministers of Ukraine dated December 28, 1992 № 731 [49] and other acts of legislation on state registration of regulatory legal acts.

State registration consists in conducting a legal (juridical) review of a normative-legal act for its compliance with: the Constitution and laws of Ukraine; the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; international treaties of Ukraine approved by the Verkhovna Rada of Ukraine; Ukraine's obligations in the field of European integration and European Union law (EU *acquis*); the case-law of the European Court of Human Rights; and the rules of legislative drafting technique [31].

The procedure for state registration is clearly defined in Article 54 of the Law of Ukraine "On Law-Making Activity" [31]. In particular, the law-making subject that adopted the act must submit it within three working days to the ministry responsible for the formation of state legal policy.

Legal (legal) examination of a regulatory legal act is carried out within 15 working days from the date of its receipt by the ministry that ensures the formation of state legal policy. If necessary (conducting an analysis of a regulatory legal act with the involvement of experts, studying a significant number of legislative acts, a large volume of a regulatory legal act (over 50 pages), other objective circumstances that make it impossible to conduct a legal (legal) examination of a regulatory legal act within 15 days from the date of its receipt), this period may be extended by the ministry that ensures the formation of state legal policy, but not more than for 10 working days, of

which the subject of law-making activity that sent the regulatory legal act for state registration is notified.

If a subordinate normative-legal acts submitted for state registration meets the requirements stipulated in Part One of Article 53 of this Law, the ministry responsible for the formation of state legal policy shall make a decision on its state registration within the period specified in Part Two of this Article and include it in the Unified State Register of Regulatory Legal Acts (Article 56 of the Law of Ukraine “On Law-Making Activities”) [31].

In case of non-compliance of a subordinate normative-legal acts submitted for state registration with the requirements stipulated in Part One of Article 53 of the Law of Ukraine “On Law-Making Activity” [31], the ministry ensuring the formation of state legal policy, within the period specified in Part Two of this Article, shall make a decision to refuse state registration and return it to the subject of law-making activity for revision, indicating an exhaustive list of grounds for refusal.

The procedure for conducting a legal (legal) examination of subordinate normative-legal acts, making a decision on their state registration or refusal to register them, and including them in the Unified State Register of Regulatory Legal Acts was approved by the Resolution of the Cabinet of Ministers of Ukraine dated December 10, 2024 №. 1537 [50], which will enter into force simultaneously with the entry into force of the Law of Ukraine “On Law-Making Activity”.

It should be noted that subordinate normative-legal acts that are not included in the Unified State Register of Legal Acts are invalid and are not subject to official publication. The procedure for the publication of regulatory legal acts is regulated by the Decree of the

President of Ukraine dated June 10, 1997 №. 503/97 “On the procedure for the official publication of regulatory legal acts and their entry into force” [51], according to paragraph 1 of which the official printed publications are the “Official Gazette of Ukraine” and the newspaper “Government Courier”.

It is also important to determine the moment of entry into force of subordinate normative-legal acts, because it is from this time that they acquire legal force and become mandatory.

3. Control and supervision over the legality of subordinate normative-legal acts

Control and supervision serve as the principal instruments for ensuring legality in the field of subordinate rulemaking. The increasing scope of subordinate regulation and the expansion of the powers of executive authorities underscore the relevance of studying control and supervision over the legality of subordinate normative-legal acts in Ukraine. The absence of effective control mechanisms may give rise to the risk of adopting acts that exceed the competence of public authorities or contradict the applicable legislation. Effective control over subordinate rulemaking is an essential prerequisite for ensuring legal certainty, transparency in the activities of public authorities, and the prevention of abuse of power.

It should be noted that, with the aim of improving the legal regulation of the activities of local self-government bodies, ensuring the transparency of their functioning, and establishing effective mechanisms of state supervision over the legality of acts adopted by them, Law of Ukraine № 4677-IX of 5 November 2025 [52] was

adopted. This Law shall enter into force twelve months after the termination or lifting of martial law in Ukraine.

In Ukraine, the system of control and supervision over the legality of subordinate normative-legal acts is multi-level and involves various actors. In particular, the Verkhovna Rada of Ukraine exercises control over the activities of executive authorities, including with regard to the issuance of subordinate acts. The President of Ukraine is empowered to suspend acts of the Cabinet of Ministers of Ukraine on the grounds of their non-compliance with the Constitution, with a simultaneous application to the Constitutional Court. The Cabinet of Ministers of Ukraine exercises control over the activities of ministries and other central executive bodies, in particular as regards the compliance of their normative acts with legislation.

Article 62 of the Law of Ukraine “On Law-Making Activity” [31] stipulates that, in cases provided for by the Constitution of Ukraine and/or law, a subordinate normative-legal act or a separate structural element thereof may be repealed by:

- 1) the President of Ukraine – a normative legal act of: a) the Council of Ministers of the Autonomous Republic of Crimea; b) the head of a local state administration;
- 2) the Cabinet of Ministers of Ukraine – a normative legal act of a ministry;
- 3) the head of a higher-level local state administration – an order of the head of a lower-level local state administration;
- 4) another subject of law-making activity – in cases and in accordance with the procedure determined by the Constitution of Ukraine.

It should be noted that a decision to repeal a subordinate normative-legal act or a separate structural element thereof must

specify the grounds for such repeal. In particular, the grounds for repealing a subordinate normative-legal act or a separate structural element thereof may include: non-compliance of the normative-legal act or its *отдельного* structural element with the Constitution of Ukraine and/or statute law; non-compliance of the normative-legal act or its separate structural element with normative-legal acts of higher legal force; other grounds as determined by the Constitution of Ukraine and/or statute law [31].

A repealed regulatory legal act shall cease to be valid from the date of entry into force of the regulatory legal act on its repeal. In the event of the repeal of a regulatory legal act or its separate structural element, the validity of the regulatory legal act or its separate structural element that was in force before the adoption (issue) of the repealed regulatory legal act shall not be automatically restored.

A subject of law-making activity whose normative-legal act has been repealed in whole or in part is obliged, within the limits of its competence, to adopt (issue) a normative-legal act regulating the social relations that arose during the period of validity of the repealed normative-legal act.

An extremely important development has been the enshrinement of the institution of legal monitoring in the Law of Ukraine “On Law-Making Activity” [31], as well as the determination of the possibility of its application to subordinate normative-legal acts.

The enshrinement of the institution of legal monitoring at the legislative level, in the view of A. Hryniak [46, pp. 220–221], “makes it possible to establish the legal foundations for systematic and comprehensive work of subjects of law-making activity aimed at observing, analysing and evaluating legislation in the course

of its implementation, with a view to its improvement and the forecasting of its development.”

We share the opinion of I. Onyshchuk that “through legal monitoring it is possible to address the principal task, which consists in assessing the quality and effectiveness of normative-legal acts, forecasting the legal regulation of social relations, and identifying specific legal, organisational, institutional and other measures necessary for its обеспечения” [53, p. 1].

It should be noted that the topical issues of legal monitoring as a component of law-making and law-application activity are addressed in the monograph “Legal Monitoring as a Component of Law-Making and Law-Application Activity” (2023), edited by O. O. Kot, A. B. Hryniak and N. V. Milovska [54]. The study identifies the objects and subjects of legal monitoring, the methodology for its implementation, the prospects for establishing a mechanism of judicial monitoring of legislative provisions based on the generalisation of judicial practice, as well as the specific features of implementing the results of legal monitoring.

Legal monitoring with regard to subordinate normative-legal acts, in accordance with Article 67 of the Law of Ukraine “On Law-Making Activity” [31], shall be carried out in accordance with the law and in the manner established by the Cabinet of Ministers of Ukraine. It should be noted that Resolution of the Cabinet of Ministers of Ukraine №. 574 of 17 May 2024 approved the Procedure for conducting legal monitoring of subordinate normative-legal acts [55], which shall enter into force simultaneously with the enactment of the Law of Ukraine “On Law-Making Activity”.

Contemporary practice of legal regulation of social relations raises acutely not only the issue of the place of subordinate acts within the

system of legislation, but also their correlation with other primary sources of law. Subordinate acts are hierarchically subordinated to general principles of law, international normative treaties, the case-law of the European Court of Human Rights, and the legal positions of the Supreme Court of Ukraine. Their relationship with domestic normative legal agreements is manifested in the priority accorded to the latter within the scope of the relations they regulate; however, this does not deprive subordinate acts of regulatory influence in analogous relations involving subjects who are not addressees of such normative legal agreements [7, p. 25].

As rightly observed by L. Bohachova [8, p. 25], subordinate rule-making constitutes a reliable instrument for the elaboration of legislative provisions through the regulation of social relations (not regulated by statute law), the specification and consolidation of the status of public authorities (and their officials), and the establishment of procedures for particular types of activity. Subordinate rule-making is generally perceived as an auxiliary means of legal regulation and is therefore assigned a secondary role in the creation of the normative foundation of the mechanism of legal regulation. However, its actual significance is closely linked to the assessment of the effectiveness of legal regulation. A statute does not operate to its full effect unless it is complemented by a high-quality subordinate act that provides it with concrete content.

Subordinate rule-making is conditioned by and inextricably linked to legislation. The technical and legal quality of subordinate acts depends on the quality of legislative acts. A subordinate act adopted for the implementation of a defective law diminishes the effectiveness of law. A subordinate act issued in contradiction to a law, even if intended to remedy its deficiencies or inaccuracies, is unlawful and, therefore, ineffective.

The legal determinacy of subordinate acts derives from the nature of normative-legal acts of higher legal force. Since social relations are regulated therein by rather generalised provisions, the result is legal abstractions which cannot always be effectively implemented in practice without further normative clarification.

The content of subordinate normative-legal acts takes into account the specific conditions governing the regulation of particular social relations, which are elaborated through various forms of development and specification of legislative provisions. The absence of any discrepancies or contradictions with statutory provisions is presupposed, as only a coherent and contradiction-free system of normative-legal acts can function as an effective regulator of social relations [20, p. 85].

4. Comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union

In the context of Ukraine's European integration course, particular importance is attached to the study of subordinate normative-legal acts as an essential instrument for the implementation of laws and for ensuring the effective functioning of public administration. The relevance of a comparative legal analysis of the regulation of subordinate rulemaking in the Member States of the European Union is determined by the need to harmonise Ukraine's national legislation with European standards.

In the ***Federal Republic of Germany*** (hereinafter – Germany), subordinate rule-making is governed by the Grundgesetz für die Bundesrepublik Deutschland [56]. Article 80 provides for the possibility of issuing normative acts by the Federal Government, a Federal Minister, or the governments of the Länder. At the

same time, the content, purpose and scope of the delegated powers must be determined by statute, and the legal basis must be expressly indicated in the act. Where a statute provides for the possibility of further delegation of powers, such delegation requires a normative act.

Taking into account other provisions of federal legislation, normative acts issued by the Federal Government or a Federal Minister concerning principles and charges for the use of postal and telecommunications services, principles for levying fees for the use of Federal Railways services, the construction and operation of railways, as well as normative acts based on federal statutes that require the consent of the Federal Council or are implemented by the Länder on behalf of the Federal Government or as matters within their own jurisdiction, are subject to the consent of the Federal Council [56].

Lilly Weidemann [21] provides an overview of administrative rule-making and planning in Germany, which are subordinated to the principles established by the Basic Law, in particular the rule of law (Rechtsstaatsprinzip).

In German law, as in general constitutional theory, the executive does not possess inherent legislative powers. The executive may exercise only those legislative powers which are either expressly delegated to it by the legislature or conferred upon it for a strictly limited purpose and as a transitional measure in accordance with the Basic Law [30].

The Basic Law of Germany expressly provides for the possibility of delegation, but does so in a manner that prevents the excessive expansion of executive competence. First and foremost, the legislature defines the subject-matter of delegation, that is, the spheres of social relations within which the Government is

authorised to issue subordinate normative-legal acts. This indicates that the executive cannot act arbitrarily, but is obliged to operate within strictly defined limits established by Parliament. Another important feature of the German model is the establishment of temporal limits for delegated acts. Such an approach ensures the temporary nature of delegation, as upon the expiry of the specified period the act ceases to have effect or requires renewed parliamentary approval. This prevents situations in which delegated powers effectively become permanent and supplant parliamentary law-making.

Furthermore, Germany has a robust system of oversight over the exercise of delegated legislation. Parliament supervises the scope and content of delegated powers, while the Federal Constitutional Court is empowered to review the conformity of delegated acts with the Basic Law. This dual system of control ensures that delegation does not become an instrument of usurpation of power, but remains an auxiliary mechanism to ensure the efficiency of public administration.

In sum, the German model demonstrates an effective balance between democratic principles and the practical needs of governance. It creates conditions for a prompt response to contemporary challenges while preserving the primacy of Parliament as the sole body authorised to exercise legislative power [11, pp. 60–61].

In the *Republic of Poland*, subordinate rule-making is defined by Articles 87–94 of the Konstytucja Rzeczypospolitej Polskiej [57], which establish the hierarchy of sources of law and provide for the issuance of normative acts (rozporządzenia) on the basis of statute.

Thus, pursuant to Article 92 of the Konstytucja Rzeczypospolitej Polskiej [57], normative acts shall be issued

by bodies specified in the Constitution on the basis of a detailed authorisation contained in a statute and for the purpose of its implementation. Such authorisation must specify the authority empowered to issue the normative act, the scope of matters to be regulated, and guidelines as to the content of the act. The authority empowered to issue a normative act may not delegate its powers to another body.

Article 93 of the *Konstytucja Rzeczypospolitej Polskiej* [57] provides that resolutions of the Council of Ministers, as well as orders of the Prime Minister and ministers, are of an internal character and shall apply only to organisational units subordinate to the issuing authority.

Local self-government bodies, within the limits of their competence, enact local legal acts applicable within the scope of their activities [57, Art. 94].

In Poland, the implementation of statutory provisions and the procedure for their application are regulated by the Resolution of the Prime Minister of 20 December 2002 on the “Principles of Legislative Technique” [58], which forms part of the process of drafting national legislation. Local self-government bodies also adopt normative-legal acts in accordance with this Resolution, which has a significant impact on the effectiveness of the legal system. The Principles of Legislative Technique include, inter alia, elements of the methodology for drafting and the method of editing draft regulations, resolutions, explanatory memoranda, and other normative-legal acts.

Maiia Pyvovar notes that in Poland responsibility for signing local acts depends on one’s role within local self-government. The chairperson or his/her deputy (vice-chairperson) is responsible for signing local acts. This differs from the executive body, represented

by the president or mayor, who does not participate in the voting process but is instead entrusted with the implementation of the relevant resolutions and decisions. This explanation clarifies the distribution of roles and responsibilities between the legislative and executive branches at the level of local self-government in Poland [17, p. 409].

V. I. Katylov considers that the Polish scholarly tradition emphasises the importance of constitutional limitations on delegated legislation, which makes it possible to combine the functional flexibility of law-making with guarantees of compliance with the principle of parliamentary supremacy. The scholar notes that “in European doctrine, the institution of delegated legislation is not construed as an alternative to parliamentary law-making, but as an auxiliary mechanism intended to ensure the effectiveness of governance while preserving the leading role of Parliament” [11, pp. 57–58].

In the **Czech Republic**, subordinate rule-making is governed by the Ústava České republiky [59] and the Legislativní pravidla vlády [60], which enshrine the principle of delegated rule-making, establish the requirement of specific statutory authorisation, and limit subordinate acts to the framework of statute.

Thus, Article 78 of the Ústava České republiky [59] provides that the Government is empowered to issue normative acts for the implementation of statutes and within their limits; such acts must be signed by the Prime Minister and the relevant member of the Government. Pursuant to Article 79 of the Ústava České republiky [59], ministries, other administrative authorities, and local self-government bodies may issue normative acts on the basis of and within the limits of statute, provided that they are authorised to do so by law.

The *Legislativní pravidla vlády* (Legislative Rules of the Government of the Czech Republic) [60] constitute a subordinate normative organisational act adopted by a government resolution, which regulates the techniques for the drafting and adoption of normative acts. In particular, it determines the subjects responsible for the preparation of normative acts (ministries and other central authorities), establishes the requirement of compliance with the Constitution and statutes, and affirms the principle of legality, according to which a subordinate act may be issued only on the basis of statutory authorisation.

In the ***Republic of Slovenia***, governmental normative activity is regulated by the *Ustava Republike Slovenije* [61] and the *Zakon o Vladi Republike Slovenije* [62]. Delegation is permitted only within clearly defined competences.

Pursuant to Article 153 of the *Ustava Republike Slovenije* [61], subordinate normative-legal acts and other general acts must comply with the Constitution and statutes. Individual acts and decisions of state authorities, local self-government bodies, and other holders of public authority must be based on statute or another legal act.

Article 160 of the *Ustava Republike Slovenije* [61] defines the powers of the Constitutional Court to review the conformity of subordinate acts with the Constitution and statutes.

Article 2 of the *Zakon o Vladi Republike Slovenije* [62] provides that the Government, in accordance with the Constitution, statutes, and other general acts of the National Assembly, determines, directs and coordinates the implementation of state policy. For this purpose, it issues normative acts and adopts other legal, political, economic, financial, organisational and other measures necessary to ensure

the development of the State and to regulate matters within the competence of the State.

Furthermore, the *Zakon o državni upravi* (Public Administration Act) [63] establishes the right of the state administration to issue normative acts, individual acts and internal acts on the basis of the Constitution, statutes, and other normative acts.

In accordance with Article 154 of the *Ustava Republike Slovenije* [61] and the legislation governing publication, a subordinate normative-legal act shall enter into force following its promulgation, as a general rule on the fifteenth day after publication, unless otherwise provided.

Judicial review of subordinate acts is exercised by the Constitutional Court on the basis of Article 160 of the Constitution [61], which empowers the Court to annul subordinate acts that are inconsistent with the Constitution or statutes, or to suspend their operation.

Analysing municipal legislation in the Czech Republic and the Slovak Republic, Paluš Igor and Sciskalová Marie [22] note that, in the Czech Republic, general legal norms are adopted by two municipal bodies (the assembly (municipal council) and the municipal council executive body), whereas in Slovakia by a single body (the municipal council). The legislative process for the adoption of municipal legislation in the Czech Republic is centralised through a methodological instruction prepared by the Ministry of the Interior of the Czech Republic, and compliance with it forms part of state supervision. In the Slovak Republic, the legislative process is regulated by the municipalities themselves, either through their own normative acts or in the form of internal regulatory instruments (principles, rules, directives), which reflect the

relevant provisions of the Act on Municipal Establishment. State supervision over municipal rule-making differs: in the Czech Republic it is more straightforward (carried out by public administration bodies, namely the Ministry of the Interior and regional authorities) and, due to the mandatory nature of control, arguably more effective; in Slovakia it is more complex in terms of the subjects exercising such supervision and, to some extent, less effective, as it is not mandatory.

Toma Birmontienė and Jolita Miliuvienė [23] note that, unlike other European states such as Italy, France, and Portugal, where the legislature may delegate to the government the power to adopt legal acts having the force of law, Lithuania does not recognize delegated legislation. This is a consequence of a distinct constitutional tradition shaped by the Constitutional Court with regard to the official constitutional doctrine. In interpreting any provisions enshrined in the Constitution, the Constitutional Court has repeatedly emphasized that the parliament may not confer upon the government or any other public authority the exercise of its own constitutional powers (Ruling of 13 December 2004, Case № 51/01-26/02-19/03-22/03-26/03-27/03; Ruling of 29 September 2015, Case № 19/2013). This prohibition must be observed in the adoption of both ordinary and extraordinary decisions.

In *Italy*, delegated acts are subject to parliamentary ratification, which prevents their transformation into an alternative form of legislation. Such an approach allows for a flexible response to societal challenges while preserving the supremacy of Parliament. The mandatory procedure of parliamentary ratification of delegated acts in Italy ensures a balance between the branches of government [11, p. 61].

In *France*, the use of delegated legislation is permitted only in specifically defined cases and according to strictly determined criteria, which renders this mechanism auxiliary rather than permanent. The French model is more restrictive: delegation is allowed only in exceptional circumstances and under clearly defined conditions. This makes it an auxiliary instrument rather than a regular legislative practice [11, p. 61].

V. Katylov notes that in the countries of Western and Central Europe (France, Germany, Italy and Poland), the institution of delegated legislation is regulated at the level of constitutions and special statutes, which clearly define its subject-matter, temporal limits, and procedures of control. The practice of foreign states provides a vivid example of combining the flexibility of public administration with guarantees of legal certainty and parliamentary oversight [11, p. 63].

In our view, the analysed experience of the Member States of the European Union demonstrates a variety of models for regulating subordinate rule-making, all of which are grounded in the principles of transparency, accountability, legal certainty, and effective judicial review. For Ukraine, it is of particular importance to adopt the best European practices concerning the procedures for the drafting, adoption, promulgation, and supervision of subordinate normative-legal acts. This would contribute to improving the quality of the law-making process, preventing legal uncertainty and abuse of power, and strengthening public trust in state institutions.

The conduct of a comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union is essential for the improvement of the national legal system, ensuring its alignment with European standards, and enhancing the effectiveness of legal regulation in Ukraine.

CONCLUSIONS

Ukraine's acquisition of the status of a candidate for membership of the European Union necessitates the further improvement of existing legislation, the harmonisation of national law with European Union law, and its adaptation to the key requirements of the development of a common European legal space.

The adoption of the Law of Ukraine "On Law-Making Activity" and its subsequent entry into force will undoubtedly contribute to the improvement of both the law-making process and law-application practice, as the quality of legislation – its coherence, completeness, logical consistency, and compliance with recognised international and European standards – directly depends on the proper organisation of law-making activity.

In this context, the study of problematic aspects of law-making activity in general, and subordinate rule-making in particular, acquires particular relevance. At present, both legal doctrine and practice recognise the important role of subordinate regulation in the creation and functioning of a coherent legal system in Ukraine. Subordinate normative-legal acts are acts adopted (issued) by subjects of law-making activity on the basis of and in pursuance of the Constitution of Ukraine, statutes, and international treaties in force for Ukraine, and are aimed at their implementation. Moreover, such acts contain legal norms characterised by a number of specific features and are issued exclusively by authorised public authorities in a prescribed form for the purpose of specifying and implementing statutory provisions. Accordingly, subordinate normative-legal acts occupy an important place within the system of normative regulation, as they ensure the implementation of statutes through detailed regulation of the full range of social relations.

The system of subordinate normative-legal acts in Ukraine is complex and multi-level in nature and is formed by a wide range of law-making subjects, including the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, ministries of the Autonomous Republic of Crimea, heads of local state administrations, and local self-government bodies. The legislative consolidation of their classification contributes to the structuring of the legal system; however, the absence of unified approaches in legal doctrine indicates the need for further theoretical elaboration.

A defining feature of subordinate normative-legal acts is their subordination to acts of higher legal force, which necessitates strict adherence to the principles of legality, hierarchy, and consistency. The effectiveness of subordinate regulation directly depends on the quality of the legislative framework on the basis of which such acts are adopted.

The procedure for the adoption, entry into force, and state registration of subordinate normative-legal acts constitutes an important element in ensuring their legality and effectiveness. The introduction of clear procedures for planning, legal review, and state registration contributes to improving the quality of rule-making, preventing legal conflicts, and ensuring the unity of the legal space. The institution of state registration and legal review promotes the adoption of lawful and high-quality normative-legal acts, ensuring their compliance with the Constitution of Ukraine, international obligations, and European Union law.

The system of control and supervision over subordinate normative-legal acts in Ukraine is multi-level and encompasses parliamentary, presidential, governmental, and judicial control.

At the same time, the effectiveness of this system largely depends on the proper functioning of mechanisms for repealing unlawful acts and on the implementation of legal monitoring. The enshrinement of the institution of legal monitoring in the Law of Ukraine “On Law-Making Activity” constitutes an important step towards improving the quality of legal regulation and enables a systematic assessment of the effectiveness of subordinate acts, the timely identification of deficiencies, and the improvement of the normative framework.

A comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union demonstrates that, within the EU, subordinate rule-making is carried out on the basis of clear delegation of powers, limited competence of the executive, and effective parliamentary and judicial oversight. This ensures a balance between the flexibility of governance and adherence to the principle of the rule of law. European experience indicates the expediency of improving the Ukrainian model of subordinate rule-making by strengthening requirements for the quality of normative acts, enhancing the transparency of their adoption procedures, and developing effective mechanisms of control and accountability.

The further development of the institution of subordinate normative-legal acts in Ukraine should be directed towards their systematisation, the improvement of their legal quality, alignment with European Union law, and the обеспечение of the actual effectiveness of legal regulation in the context of European integration.

SUMMARY Subordinate normative-legal acts constitute an integral and system-forming element of the legal system of Ukraine,

ensuring the implementation of statutes, the specification of their provisions, and the effective regulation of social relations. The aim of this study is to provide a comprehensive examination of the theoretical and legal foundations and practical aspects of subordinate rule-making in Ukraine, to determine the place and role of subordinate normative-legal acts within the system of legislation, and to analyse their classification, procedures for adoption, entry into force and state registration, as well as the mechanisms of control and supervision over their legality. The methodological basis of the study comprises general scientific and special legal methods of research, which have ensured a comprehensive approach to the examination of the features of subordinate normative regulation of social relations, in particular the methods of analysis and synthesis, as well as the comparative legal method. The concept of a subordinate normative-legal act, as well as the characteristics and types of such acts as defined in the Law of Ukraine "On Law-Making Activity", have been analysed. The author analyses the specific features of planning law-making activity related to the drafting of subordinate normative-legal acts, the procedure for the consideration of draft acts and the adoption (issuance) of subordinate normative-legal acts, as well as the grounds for repealing a subordinate normative-legal act or any of its structural elements. Particular attention is paid to the features of state registration of subordinate normative-legal acts and the implementation of legal monitoring in respect thereof. The study focuses on the hierarchical subordination within the system of normative-legal acts of Ukraine and the place occupied by subordinate normative-legal acts within this system. It is established that both legal doctrine and practice recognise the significant role of subordinate regulation in the creation and functioning of a coherent legal system of the State. Emphasis is placed on the need to enhance

the quality and effectiveness of subordinate rule-making, as well as on the further reform and improvement of law-making activity in the context of the adoption of the Law of Ukraine “On Law-Making Activity”. It is concluded that, for Ukraine, it is essential to adopt best European practices concerning the procedures for the drafting, adoption, promulgation, and supervision of subordinate normative-legal acts. This will contribute to improving the quality of the rule-making process, preventing legal uncertainty and abuse of power, and strengthening public trust in state institutions.

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SECTION III

FORMS OF THE SYSTEMATIZATION OF LEGISLATION

CHAPTER 7

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CODIFICATION PROCESSES IN THE SYSTEMATIZATION OF LEGISLATION

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INTRODUCTION

In the context of the quantitative increase in regulatory material, a pressing issue today is the systematization of Ukrainian legislation in order to ensure effective legal regulation of social relations, achieve internal unity of legal norms, and bring them into line with European Union law [1, p. 10]. The systematization of Ukrainian legislation is one of the important tasks of law-making activity, as defined by the Law of Ukraine “On Law-making Activity” dated August 24, 2023, № 3354-IX [2].

Legislation cannot function properly unless it is a mutually consistent system, the components of which are characterized by close interrelations and a hierarchical structure [3, p. 45]. Therefore, the systematization of legislation is an instrument for creating a harmonious, internally consistent system of

normative-legal acts, overcoming contradictions between legal norms, repealing or amending old normative-legal acts, replacing them with new ones in accordance with the needs of public life, ensuring the legal certainty of norms, which is the basis for their uniform application, thereby ensuring the stability of social relations. The level of legal security in the state also depends on the level of legal certainty, since vagueness, ambiguity, and inconsistency of legal norms lead to a decrease in the effectiveness of legal regulation [4, p. 58].

Codification of legislation is a key form of legal systematization, playing a fundamental role in ensuring the integrity, consistency, and effectiveness of a state's legal system. In modern conditions of rapid development of social relations, complication of legal regulation, the issue of systematization legislation acquires particular relevance. Codification, in particular, serves as an effective instrument for overcoming legal chaos and eliminating contradictions and gaps in the law.

The issues of law-making activity and systematization of the legislation of Ukraine in modern legal science and practice are quite relevant and require comprehensive study. This scientific direction was studied by such scientists as: L. Avramenko, V. Antonenko, O. Bandurka, S. Bobrovnyk, E. Getman, A. Gratsianov, V. Hryshchuk, O. Zaichuk, O. Ivanchenko, M. Kozyubra, A. Kolodiy, S. Komarov, N. Kuznetsova, N. Onishchenko, N. Parkhomenko, O. Petryshyn, E. Pogorelov, S. Pogrebniak, V. Ryndiuk, O. Rogach, O. Saynetsky, O. Skrypnyuk, R. Stefanchuk, M. Teplyuk, V. Tsvik, Yu. Shemshuchenko, O. Yushchik and others. Among foreign scientists whose works are devoted to codification issues are: Ahlborn Christiane, Aniceto Masferrer, Braun Alexandra, Danae Azaria, Devika Hovell, Eva Steiner, Gould Jonathan, Jean Louis

Bergel, Lewis Grossman, Marinella Baschiera, Olivia F. Robinson, Paula Giliker, Peter-Christian Müller-Graff, Randall Lesaffer, Raul Narits, Reinhard Zimmermann, Yifeng Chen and others. At the same time, despite significant scientific achievements, solving many problems related to the systematization and improvement of Ukrainian legislation for the purpose of proper legal regulation of social relations creates new challenges. The relevant issues require constant scientific rethinking and thorough analysis, as well as the development of unified conceptual principles for the ordering and systematization of legislation in the context of European integration processes in Ukraine.

1. Codification as a way to modernize legislation

A special role in the systematization of legislation, which provides for the performance of certain actions, in which normative-legal acts and their norms are arranged in such an order that their use is most convenient and appropriate [5, p. 39], is played by codification. Codification is one of the most complex and advanced forms of systematization, aimed at fundamentally revising current legislation through the preparation and adoption of a codified act [6, p. 84]. This involves the in-depth elaboration of current legislation, its substantive updating, and systematization. This process results in the creation of codified acts (codes) that have an internal logical structure, uniform regulatory principles, and a high level of legal technique.

Codification of legislation ensures the internal consistency, structure, and accessibility of legal norms. Given Ukraine's current development, taking into account European integration processes, the importance of codification is significantly increasing. It serves

not only as a technical and legal means of ordering regulatory material, but also as a tool for modernizing the law and bringing it into line with European standards.

Codification is a special form of systematization of normative-legal acts, consisting of the substantive processing and unification of normative material into a single coordinated act – a code, charter, or fundamentals of legislation [7, p. 37]. In legal theory, codification is considered as: a form of drafting legislation; a means of eliminating gaps and conflicts; an instrument for increasing legal certainty; a mechanism for modernizing the legal system; a way of harmonizing national legislation with international standards.

Codification as a form of systematization normative material should be applied only when there is a need for qualitative revision (conceptual updating), the unification into a single structure of a large array of acts defining the internal structure of the legal system, the vector of development of the national legal system of a particular state [8, p. 70]. This determinant distinguishes codification as a legal phenomenon from other forms and systematization of legislation. Thus, unlike incorporation or consolidation, codification is substantive in nature: it involves the elimination of outdated norms, the elimination of contradictions, filling in gaps and the formation of a unified logic of legal regulation. This is precisely why codification is the most effective way of ordering legislation [9, p. 289].

Scientists note that legislation appears as a holistic, organic, self-organizing system only when regulatory and legal acts begin to be considered in their interrelationships and hierarchy, as a certain ordered integrity, when it becomes possible to distinguish the existence of various types of connections between normative-legal acts. Legislation is a system that must possess such integrating

features as flexibility, harmony, and consistency of all elements. Moreover, there are coordination and subordination relationships between normative legal provisions. The former express spatial orderliness, the consistency of parts, and their horizontal interaction (for example, the connections between the norms of the General and Special Parts of the Code). Subordination relationships regulate the vertical consistency of the components of the legislative system, their interaction, manifested in the form of subordination (an example is, in particular, the relationship between the norms of the Constitution and current legislation) [10, p. 8].

According to Ye. A. Hetman, the codification of legislation should be understood as a form of systematization carried out by authorized government bodies in the process of law-making and subordinate norm-making, which results in the adoption of a new codification normative-legal act, both in form and content [11, p. 54]. That is, codification is a law-making method of ordering legal acts, which is manifested in the substantive coordination and revision of a certain group of legal norms related to a joint subject of regulation and logically consistent unification of them in a single normative act [12, p. 12]. In the process of codification, the current norms of law that have not lost their significance, and norms that have been created and introduce qualitative changes in the regulation of a certain area of social relations, are included in the created draft normative-legal act. At the same time, the combination of the systematization of legislation and its renewal in codification allows us to consider it as the most perfect, highest form of law-making.

Thus, as O. P. Sainetskyi notes, codification is characterized by a pronounced law-making nature and provides for the substantive revision (elimination of disagreements and contradictions, abolition of obsolete norms) of normative-legal acts that have

a common subject and method of legal regulation and the creation of a new systematized normative-legal act [13, p. 121]. At the same time, legal regulations that have stood the test of time and proven their viability in established social relations are organically included in the normative act created as a result of the codification of legislation. That is, the principle of continuity and renewal is implemented in the creation of codified acts. The result of codification is the improvement of both the form and content of legal material, which, as a result of significant transformations, acquires the characteristics of unity and consistency.

In European legal science, the problem of updating codes has been studied by many scientists. Thus, scientists note that codification is a characteristic feature of the continental legal family, since it allows for the creation of a logically holistic and systemic model of legal regulation [14; 15]. Eva Steiner links the systematic nature of law with the need for logical consistency of regulatory material. In her opinion, codification is a form of ensuring the internal unity of law and a necessary condition for the stability of judicial practice [16, p. 28; 17, p. 30]. In his work, Raul Narits notes that a modern state cannot function effectively without a structured and systemic legislative framework [18, p. 163].

Italian researcher Marinella Baschiera views codification as a necessary element of the rule of law and an important means of ensuring legal certainty. Scientists argue that the chaotic accumulation of regulations inevitably leads to legal uncertainty, while codification ensures the logical consistency of the legal system [19, p. 283].

German researcher Reinhard Zimmermann argues in his work that modern recodification must combine the stability of legal tradition with the ability of legislation to adapt to new social challenges. According to the scientist, successful modernization

of codes is possible only by preserving the systematic nature of the law while simultaneously taking into account contemporary societal development trends [20; 21, p. 95]. Aniceto Masferrer also notes that modern codification processes must ensure the ability of legislation to respond to social changes without disrupting its systemic unity [22].

In modern legal doctrine, codification is increasingly considered in connection with the processes of European integration and harmonization of legislation. Scientists note that in the context of the development of European Union law, codification ceases to be an exclusively intrastate phenomenon and becomes a tool of interstate legal integration. That is why modern codification processes in European states are inextricably linked with the implementation of the EU *acquis* [23, p. 41; 24, p. 35].

In the scientific legal literature, various considerations are expressed regarding the tasks of codification of legislation, which include: 1) providing a new quality to the body of legislation, which is achieved as a result of the system of legal acts acquiring a new state that is significantly different from the previous one; 2) increasing the social significance of the law (right) in the sphere of social relations, which consists in implementing a real and meaningful codification of legislation, which, through changes in qualitative indicators, affects the consciousness of subjects of legal relations, thereby expanding the boundaries of the accessibility of the legislative framework; 3) improving law enforcement practice, which is achieved as a result of reducing the number of errors during law enforcement; 4) increasing the integrative quality of domestic legislation, which is determined by the action of global integration processes [25, p. 140; 26, p. 228].

According to V. M. Tsvik and O. V. Petryshyn, the tasks of codifying normative-legal acts include: firstly, ensuring the unification of national legislation (national legislation must be brought into a single system by eliminating discrepancies and providing uniformity in the legal regulation of similar or close types of social relations); secondly, guaranteeing that each person knows his or her rights and responsibilities (this is ensured by providing free and prompt access to citizens to the entire body of national legislation) [27, p. 313].

Taking into account the above scientific positions, it appears that one of the main goals of codification is to ensure the systematicity of legislation, as it allows for the unification of disparate norms into a single, coherent system, significantly simplifying legislative navigation. It facilitates the formation of a clear hierarchy of legal norms and increases their accessibility.

Codification is no less important for improving the quality of legislation. During the codification process, current norms are critically analyzed, outdated provisions are identified, and gaps and contradictions are eliminated. This allows for the creation of more sophisticated legal regulations that meet modern socio-economic conditions. Thus, codification serves not only a systematizing function but also a updating one.

Codification also significantly impacts the effectiveness of law enforcement by reducing the risk of ambiguous interpretation of norms, promoting the uniformity of judicial practice, and strengthening the rule of law. Furthermore, the accessibility and comprehensibility of codified acts enhances the public's legal awareness and promotes better compliance with the law.

In the context of a rule-of-law state, codification also plays an important safeguarding role, facilitating the implementation of

the principles of legal certainty, predictability, and equality before the law. When legal norms are collected in a single act, clearly formulated, and logically linked, this reduces the potential for abuse and arbitrary interpretation, which, in turn, strengthens the protection of human rights and freedoms.

Furthermore, one of the objectives of the codification process of Ukrainian legislation is its harmonization with European Union law and international treaties, the binding nature of which has been granted by the Verkhovna Rada of Ukraine. Without this, such a systematization of regulatory provisions will be incomplete and will not meet the goals of generalizing and ordering legal norms.

Scientists also highlight certain principles of codification of legislation, namely: the systematic nature of legislative work; social conditioning and economic justification of legislative acts; the completeness of the normative-legal regulation of public relations; overcoming internal inconsistencies and contradictions in the legal system; the stability of legislation and the associated stability of legal regulation; the establishment of the rule of law, the constitutionality of laws and the legality of subordinate regulatory legal acts; ensuring technical and legal perfection, unification and terminological consistency of legislative acts [28, p. 35].

It is also important to note that the content of codification activity is revealed through its functions, among which scientists highlight: 1) improvement of the form of legislation through the search for optimal forms of codification acts, the development of classification properties of acts of a codification nature, which, in turn, makes it possible to determine the features of codification acts, explore ways of their improvement; 2) improvement of the content of legislation in order to eliminate gaps in legislation, disagreements between its individual norms, elimination of conflicts, duplications,

abolition of outdated regulatory and legal regulations, improvement of existing legal institutions; 3) stabilization of legislation, which is expressed in the consolidation in a codification act, as a result of codification, only stable norms designed for a sufficiently long period of time; 4) the fundamental function, which consists in the fact that in the course of codification work, normative prescriptions are developed that regulate an important, fairly wide sphere of social relations. In turn, the codification acts containing these prescriptions predetermine the hierarchy of acts in the relevant industry and become the normative basis for the creation of an intra-industry system [29, p. 9]. A somewhat different list of codification functions is given in the works of Ye. V. Pohorielov: law-making, fundamental, integrative, elimination of defects in legislation, generalizing, system-forming, stabilizing, optimizing [30, p. 6].

Thus, codification, as a form of systematization of legislation, performs a number of important functions for the development and proper functioning of the normative-legal framework governing social relations in a given area. Taking into account the theoretical developments proposed by representatives of the doctrine of law, it is possible to distinguish direct and indirect functions of the codification of legislation. Direct functions have a direct impact on the codification of legal norms, determining their transformation, and, consequently, the features of the normative regulation of social relations. The direct functions of the codification of legislation include: 1) the legal function, which consists in the fact that during the codification of legislation, legal regulations are updated, namely: the development of new legal norms, the removal of outdated regulatory prescriptions, and the modification of existing ones. That is, the codification of legislation is associated with the formation (creation) of law in its

objective meaning as a system of legal norms regulating a certain range of social relations; 2) a modernizing function, which consists of updating regulatory provisions during the codification process: archaic provisions are removed, existing ones are optimized by eliminating gaps, technical errors, etc., and new legal regulations are introduced. This function stems from the fact that social life is constantly changing, requiring regulatory provisions to be adapted to current realities, and therefore there is a need for continuous improvement of legal norms.

In turn, the indirect functions of legislative codification only indirectly influence the codification process. That is, they are not capable of ensuring the transformation of legal norms and, consequently, social relations. However, their action determines the improvement of the general state of legislation, its understanding by legal entities, and the forecasting of the development of legal regulation. Such functions include: 1) the stabilizing function, which consists in the fact that the process of codification streamlines legal norms and defines a clear hierarchical system of legal regulation of a certain range of social relations by legislative and by-laws; 2) the guiding function, which boils down to the fact that, as a result of codification, codified legal acts are introduced, which serve as leading normative documents in a certain area of social relations and predetermine both the further development of legislation at the subordinate level and the forecasting of the development of certain legal categories.

An important regulatory framework for codification in Ukraine is the Law of Ukraine “On Law-Making Activity” dated August 24, 2023, № 3354-IX [2]. This law enshrines approaches to the systematization of legislation and defines the place of the code within the system of normative-legal acts. Specifically, a code is

considered one of the main types of laws adopted for the purpose of comprehensive and systemic regulation of a homogeneous sphere of social relations. It has an internally consistent structure, a high level of legal technique, and a stable nature, which distinguishes it from other legislative acts.

The quality of a code is determined by its content. However, content is always embodied in a specific form, the perfection of which determines the simplicity and scope of the code, the logical placement of articles within chapters, the clarity of its wording, and, consequently, its quality and accessibility. Vague wording of code articles, the complexity of their construction, the lack of legal definitions of legal concepts, and other imperfections in the code's form are potential sources of violations of the law [31, p. 128].

As N. S. Kuznetsova notes, although the code is no different from other laws in terms of legal force, it cannot be ignored that codified regulations occupy a special place in the legislative system. First and foremost, the code plays a pivotal role in the system of sectoral legislation [32, pp. 15–16].

According to Article 11 of the Law of Ukraine “On Law-Making Activity” [2], a code is a law created by systematizing legal norms, containing general principles on the basis of which it comprehensively regulates a homogeneous sphere of social relations, ensuring the stability of legal regulation. It is important that when adopting laws that develop the provisions of a code in the relevant area, the fundamental principles of legal regulation of social relations established by the code must be observed.

Part three of Article 11 of the Law of Ukraine “On Law-Making Activity” stipulates that if a subject with the right of legislative initiative submits to the Verkhovna Rada of Ukraine a draft law regulating social relations differently from the code,

they must simultaneously submit a draft law amending the code. Such a draft law is considered by the Verkhovna Rada of Ukraine simultaneously with the corresponding draft law amending the code. In turn, if the draft code provides for the adoption of other laws or subordinate legal acts in pursuance of these laws, a list of such legal acts, defining their purposes, objectives, structure, and main provisions, is attached to the draft code.

Legislatively enshrining the status of a code is essential for ordering Ukraine's legal system. It establishes clear requirements for the content, structure, and procedure for adopting codified acts, thereby improving the quality of legislation. Furthermore, it helps avoid excessive fragmentation of legal regulation and ensures the consistency of rule-making.

Thus, codification of legislation is a form of ordering and systematization, inherently law-making, based on the creation of a unified, innovative, and harmonious legislative act by applying the results of previous forms of systematization and analyzing social relations, with the goal of establishing effective and efficient legislation that meets public needs.

The distinctive features of this form of legislative systematization are that it: 1) is implemented by special entities within the Ukrainian government; 2) is implemented in accordance with a procedure established by legal norms; 3) is of a state-authoritative nature; 4) results in the adoption of a normative legal act as a result of codification; 5) regulates a specific area of public relations. Codification is capable of ensuring the necessary level of ordering of regulatory provisions and allows for the resolution of pressing issues related to the improvement and enhancement of the effectiveness of current legislation. During the codification process, all regulatory documents on these issues are reviewed,

their status and compliance with the Constitution of Ukraine, international treaties of Ukraine, and the realities of contemporary socio-economic life are established. In the course of such activities, contradictions and gaps are eliminated, and uniform and clear rules of regulatory regulation are established.

2. Prospects for updating codified acts in Ukraine

The prospects for updating Ukraine's codified acts are a key issue in the current development of the national legal system. In the current context of European integration, the adaptation of legislation to the EU *acquis*, the digitalization of social relations, economic transformation, and the functioning of the state under martial law, the issue of updating codes goes beyond the purely technical modernization of regulatory material. It essentially involves the formation of a new model of Ukrainian legislation based on the principles of consistency, legal certainty, legal stability, and compliance with European standards of legal regulation.

Codified acts typically form the basis of a continental legal system. Codes ensure the internal consistency of legislation, the stability of legal regulation, and the uniformity of law enforcement practice. At the same time, the Ukrainian legal system has long been characterized by an excessive number of amendments to codes, fragmented legislation, and the accumulation of a significant number of regulatory contradictions. This has led to the gradual loss of consistency in many codified acts and has highlighted the need for their comprehensive updating. Therefore, the concept of “recodification” is increasingly used in legal doctrine and legislative practice, which means not simply making changes to the code, but its conceptual rethinking and structural updating.

The law-making process not only generates new normative-legal acts containing provisions that eliminate gaps in the legal regulation of social relations, ensuring their current legal regulation, but also introduces necessary amendments to existing acts, eliminating outdated mechanisms and contradictions between individual legal norms [33, pp. 48–49]. Thus, paragraph 4 of the Final Provisions of the Law of Ukraine “On Law-Making Activity” obliges the Cabinet of Ministers of Ukraine, within six months from the date of entry into force of this Law, to submit to the Verkhovna Rada of Ukraine proposals for the systematization of legal norms related to the subjects of regulation of the fundamental principles of Ukrainian legislation and decrees of the Cabinet of Ministers of Ukraine in force on the date of entry into force of the recodification of national legislation.

The term “recodification” is used to mean systemic, significant substantive and structural innovations of the current code (or group of codes and laws) [34, p. 28]. The implementation of recodification follows from the logic of the further transformation of society, in particular, the formation of an effective market economy as an integral component of civil society and the European integration orientation of all components of society.

A key step in the development of a modern policy for updating national legislation was the adoption of the Law of Ukraine “On Law-Making Activity” dated August 24, 2023, № 3354-IX [2], which enshrined the principles of systematicity, scientific support, and legal certainty as the foundation of law-making. For the first time, the law comprehensively defined requirements for the consistency of normative-legal acts and the need to ensure the integrity of legislation, creating the normative basis for the comprehensive updating of Ukraine's codified acts.

Particular importance for the prospects for updating Ukraine's codified acts is the National Program for the Adaptation of Ukrainian Legislation to European Union Law (EU *acquis*), approved by Resolution № 438 of the Cabinet of Ministers of Ukraine dated April 1, 2026 [35]. The Program defines a large-scale mechanism for harmonizing Ukrainian legislation with EU law and, in effect, provides for a comprehensive modernization of legislation in line with European standards, which is impossible without reforming the main codified acts. It is important to consider both the requirements of EU law and national legal tradition. Ukrainian legislation must not only formally implement the provisions of the EU *acquis* but also ensure their effective functioning within the national legal system.

The prospects for updating Ukraine's codified acts are directly linked to the processes of digitalization and technological transformation of society. Contemporary European research increasingly emphasizes the need to develop new models of legal regulation capable of taking into account the impact of digital technologies, artificial intelligence, and automated control systems on social relations. Indeed, Danae Azaria, in his study, draws attention to the transformation of the relationship between law and technology in modern society. In his view, the development of digital technologies requires a new approach to the structure of legislation and the mechanisms for its implementation [36, p. 177]. Braun Alexandra also notes that modern recodification must combine the stability of legal tradition with the law's ability to respond to new challenges [37, p. 206].

Today, the most large-scale area of recodification in Ukraine is the update of the Civil Code of Ukraine. Thus, this year the Verkhovna Rada of Ukraine adopted as a basis the draft Civil Code

of Ukraine (registration № 15150 dated April 9, 2026) [38], which is aimed at approximating national legislation to the legislation of the European Union, increasing the level of legal certainty, improving the mechanisms for regulating private legal relations, strengthening guarantees of favorable conditions for economic activity and the investment climate of the state. At the same time, one of the most important stages of the current modernization of private law legislation of Ukraine has become the repeal of the Commercial Code of Ukraine, the loss of effect of which is provided for by the Law of Ukraine “On the specifics of regulating the entrepreneurial activities of certain types of legal entities and their associations during the transition period” dated January 9, 2025 № 4196-IX [39].

It should be noted that most EU member states implement private law regulation through civil codes, without the existence of a separate commercial code. The European legal tradition is based on the principle of the unity of private law, according to which business relations are an integral part of civil law regulation. Therefore, the repeal of the Commercial Code of Ukraine should be considered an important step towards harmonizing Ukrainian legislation with the European legal tradition; an element of the recodification of civil legislation; a means of eliminating regulatory duplication; a mechanism for ensuring the consistency of private law; and an instrument for modernizing legislation in a market economy.

Contemporary societal developments, the practice of the European Court of Human Rights, the digitalization of private life, and the transformation of the institution of family highlight the need to update Ukrainian family law. Ukrainian society is increasingly confronted with new forms of cohabitation, issues regarding the legal status of children born through reproductive

technologies, problems of international family law, cross-border adoption, and the protection of children's rights under martial law.

The need to harmonize Ukrainian family law with European human rights standards is particularly important. The practice of the ECHR significantly influences the development of family law in European countries, and therefore Ukrainian legislation needs to be adapted to the modern understanding of the principles of the best interests of the child, equal parental rights, and the protection of privacy. The European trend toward strengthening the contractual foundations of family relations has a significant impact on the prospects for updating family law. Modern legal doctrine increasingly emphasizes the need to expand the autonomy of will of participants in family relations, particularly in the area of property rights of spouses.

An equally important area for updating codified legislation is labor legislation. The Labor Code of Ukraine, adopted back in 1971, clearly does not meet the current conditions of the market economy, the development of digital employment, remote work, or European labor rights standards. This is why a draft Labor Code of Ukraine has been actively developed in Ukraine in recent years.

Updating labor legislation has become especially urgent since the outbreak of a full-scale war, when mechanisms for labor organization, labor mobility, and state regulation of the labor market have significantly changed. Ukrainian labor legislation needs to be harmonized with European Union directives and International Labor Organization standards, and modernized to take into account the digitalization of production processes and the need to protect workers' rights in the digital environment.

No less pressing is the prospect of updating Ukraine's housing legislation to take into account current real

estate market conditions, private property, housing policy mechanisms, the protection of the rights of internally displaced persons, the digitalization of the housing and utilities sector, and European standards of housing rights. The modernization of land legislation, in turn, is driven by the need to adapt land legislation to the functioning of the land market, ensure guarantees of land ownership, mechanisms for protecting landowners' rights, state control over land turnover, digitalization of the land cadastre, transparency of land auctions, and the environmentally responsible use of land resources. Indeed, in modern conditions, land is viewed not only as an object of property rights but also as a component of the environment and an element of the state's environmental safety. Therefore, the prospects for updating national land legislation are increasingly aligned with the concept of sustainable development and the greening of land legislation.

The consequences of the war pose a serious challenge to land legislation. Large-scale pollution, the destruction of land resources, the problem of land demining, the restoration of agricultural production, and the protection of landowners' rights in the temporarily occupied territories require new legal regulation mechanisms. Academic literature is increasingly raising the need for a comprehensive modernization of land legislation, taking into account Ukraine's post-war reconstruction.

The prospects for updating Ukraine's tax legislation are also extremely important, primarily due to European integration processes, as Ukraine is obliged to harmonize its tax legislation with EU law. Current trends in the development of international tax law also have a significant impact on the prospects for updating tax legislation. Taxation mechanisms for digital platforms, virtual assets, cryptocurrencies, and transnational digital companies are

rapidly evolving worldwide. Ukrainian tax legislation is gradually being forced to adapt to new economic models.

Martial law and Ukraine's post-war economic transformation have a significant impact on the prospects for updating tax legislation. The state is forced to simultaneously fund defense, support business, stimulate investment, and fulfill international financial obligations. In this regard, the prospects for tax liberalization, stimulating an innovative economy, reforming the tax administration system, and digitalizing tax procedures are increasingly being discussed. Modern challenges related to war, international crime, cybercrime, terrorist threats, and digital technologies require conceptual and criminal legislation updates.

Thus, the prospects for updating Ukraine's codified acts encompass virtually all areas of public relations, which presupposes a comprehensive modernization of the entire Ukrainian legal system with the goal of creating modern, systemic, stable, and European-oriented legislation capable of effectively regulating public relations in the context of digital transformation, military challenges, and Ukraine's integration into the European Union. Therefore, the further development of codification processes is crucial for the formation of a modern legal regulation model based on the principles of systemicity, scientific validity, European integration, and technological adaptability, as well as ensuring the effective functioning of the rule of law.

3. Codification traditions of European states

Codification of legislation is one of the fundamental features of the continental legal tradition and one of the most important mechanisms for shaping the systemic nature of law in European

states. It was the European legal tradition that developed the classical model of codification as a method of systematically organizing legislation through the creation of internally consistent, structured, and comprehensive normative legal acts – codes.

In modern conditions, codification is not limited to the adoption of new codes. It is increasingly linked to processes of recodification, modernization of existing codes, harmonization of legislation with European Union law, digitalization of law, and ensuring legal certainty.

European integration has had a significant impact on modern codification processes. The European Commission actively utilizes various mechanisms for systematizing the EU *acquis* to ensure accessibility of law, transparency of legal regulation, and effective law enforcement [40].

European codification traditions have deep historical roots and are distinguished by a high level of theoretical understanding and practical implementation. It was in Europe that codification acquired its classical forms and became the basis for organizing legislation in most states of the continental legal system.

The historical origins of European codification are primarily linked to the reception of Roman law and the codification activities of Emperor Justinian. The 6th-century *Corpus Juris Civilis* became the first large-scale example of the systematization of legal material, which had a colossal influence on the subsequent development of European legal culture. It was the Roman tradition that laid the foundation for the idea of law as a logically ordered system, which later became the basis for modern European codes [41].

Modern European states employ various models of codification, but most are based on common principles: the systematic nature of legislation, the stability of legal regulation, the internal consistency

of normative material, and the accessibility of law for parties to legal relations. Codification in Europe is today seen not only as a technical means of systematizing legal acts, but also as a tool for modernizing the state and adapting law to new social, economic, and technological challenges.

The French legal system is one of the most influential models of modern codification. A distinctive feature of French codification is the gradual modernization of codes in response to the evolving needs of society. The Codification Commission (Commission supérieure de codification), which systematizes and revises legislation, plays a significant role in this process.

For example, the French Civil Code remains one of the most well-known codified acts in Europe, although it has undergone significant modernization over the course of its existence. The reform of French contract law in 2016 was particularly extensive, updating provisions on obligations, contracts, and evidence. This demonstrates a significant feature of European codification traditions: the combination of code stability with its ability to adapt to new social realities.

The French codification model, focused on the practicality, accessibility, and comprehensibility of the law, encompasses not only classical areas of law but also new areas of social relations. For example, the current French Environmental Code is an example of a comprehensive codification of environmental legislation, combining norms on environmental protection, natural resources, climate policy and environmental safety [42].

Germany has one of the most developed systems of codified legislation in Europe. A distinctive feature of the German model, based on the pandect system and providing for a clearly structured legal material, is its high level of consistency and legal technique.

Codification in Germany is carried out on the basis of scientific doctrine and careful preliminary preparation of bills. Federal ministries, scientific institutes, and the legal community play an important role in the process of updating codes [43].

The current German Civil Code (*Bürgerliches Gesetzbuch* – BGB) demonstrates one of the most effective models of stable, yet flexible, codification. Although the code has been in force since 1900, it has been repeatedly modernized in accordance with new social conditions without losing its consistency. The German recodification model is particularly useful for Ukraine in the process of modernizing the Civil Code of Ukraine. German approaches to the following are also important for Ukraine: the systematic nature of private law; the unity of civil law regulation; a clear distinction between private and public law; the role of legal doctrine in codification actions; the stability of codes; high standards of legal technique. The German codification tradition had a significant influence on the legal systems of Austria, Switzerland, Greece, Portugal and many countries of Central and Eastern Europe.

Italy occupies a special place in European codification traditions. Italy implemented the concept of the unity of private law by integrating civil and commercial law within a single Civil Code, which avoided duplication of regulatory material, ensured the unity of private law regulation, increased the consistency of legislation, and simplified law enforcement. Italy's experience in modernizing digital legislation is also important. The current Italian Digital Governance Code (*Codice dell'amministrazione digitale*) demonstrates the latest trend in European codification – the systematization of norms in the areas of digital legal relations, e-governance, and electronic identification [44, p. 238].

The Netherlands occupies a special place among modern codification models. The current Dutch Civil Code (*Burgerlijk Wetboek*) is considered one of the most modern civil codes in Europe. Its distinctive features include its modular structure and high level of adaptability. The Dutch model demonstrates that modern codification can be more flexible and oriented toward the continuous updating of legislation [45].

The Polish codification model is important for Ukraine, as Poland, after joining the EU, carried out extensive harmonization of its legislation in accordance with the European Union *acquis*. Polish experience demonstrates that European integration has a significant impact on the process of updating codes. EU law itself has become a key factor in the modernization of Polish civil, labor, and administrative legislation.

The experience of Scandinavian countries, particularly Sweden and Denmark, is equally valuable for Ukraine. Although Scandinavian countries are traditionally less focused on classical codification, they demonstrate effective models of functional legislation, high regulatory stability, minimized legislative duplication, simplified legal procedures, and the digitalization of public administration.

Thus, an important feature of European codification is its focus on the principles of legal certainty, predictability, and accessibility. Legislation must not only be systemic but also understandable to a wide range of subjects. This is why considerable attention is paid to legal technique, the structure of regulations, and the clarity of wording. European codification traditions also imply a balance between the stability and dynamism of the law. On the one hand, codes must be stable to ensure the predictability of legal regulation. On the other, they must be updated in response to changes in society.

In this context, a systematic approach to amendments plays an important role, preserving the internal logic of codified acts.

European Union law occupies a special place in the development of European codification traditions. Although the EU does not have classical codes in the traditional sense, it actively uses codification as a method of streamlining its legislation. In particular, secondary law (regulations and directives) is codified, which involves consolidating numerous amendments into a single, consolidated text. This ensures the clarity and accessibility of EU law, gradually bringing national legal systems closer together through legislative harmonization. Among the most well-known results of this work are the Principles of European Contract Law (PECL); the Draft Common Frame of Reference (DCFR); the Acquis Principles; and the Common European Sales Law proposals. These documents are not codes in the traditional sense, but they perform an important codifying function, as they establish the general principles of European private law and promote the unification of legal regulation in EU countries.

Reinhard Zimmermann notes in his works that modern codification in Europe can no longer be purely national, as legal development is increasingly determined by European integration. The European Union is effectively creating a new model of “supranational codification”, whereby law develops not through the creation of a single code, but through the gradual harmonization of national systems [21, p. 95].

The Court of Justice of the European Union plays a significant role in the development of EU codification traditions. Its practice ensures uniform interpretation of EU law and, in effect, fulfills a system-forming function in the European legal space. It is through judicial practice that consistency between national legal systems and supranational EU law is ensured.

Thus, the codification traditions of European states are characterized by a high level of consistency, stability, and, at the same time, the capacity for continuous renewal. European countries actively utilize mechanisms for recodification, harmonizing legislation with EU law, and adapting codes to new societal challenges. The experience of France, Germany, Italy, Poland, the Netherlands and other countries demonstrates that modern codification is not only a way of systematizing normative legal acts, but also an important tool for ensuring the effectiveness of the legal system, legal certainty and modernization of the state in the context of the modern development of European society.

For Ukraine, in the context of European integration and the adaptation of national law to the European Union *acquis*, the experience of those European states whose codification traditions better meet the needs of modernizing the Ukrainian legal system is of particular importance. This does not mean mechanically copying individual legislative models, but rather borrowing conceptual approaches to codification, legal technique, systematization of normative material, recodification, and ensuring legislative stability.

CONCLUSIONS

In the current context, systematization of Ukrainian legislation, oriented toward the needs of law enforcement practice and capable of addressing both prospective and current challenges in establishing proper legal order in the country, is an urgently needed measure on the path to European integration for Ukraine, whose experience during a large-scale war is unique. Effective legal regulation of social relations is impossible without further systematization of legislation, the effectiveness of which directly depends on the quality of the normative-legal acts comprising it.

Codified normative acts occupy a special place in the legislative system. Codification is capable of ensuring the necessary level of ordering of regulatory provisions and allows us to address pressing issues of improving and enhancing the effectiveness of current legislation. The process of codification involves a thorough revision of existing legal norms, eliminating inconsistencies, duplications, contradictions, and gaps in legal regulation, and repealing ineffective and outdated norms.

In the current context of the Ukrainian state, the issue of codification is particularly important due to Ukraine's European integration, the reform of law-making mechanisms, the need to ensure the rule of law, and the overcoming of excessive fragmentation in national legislation. Therefore, codification is now viewed not only as a technical and legal form of systematization regulatory material, but as a comprehensive mechanism for updating the legal system and bringing it into line with modern European standards.

In European countries, the impact of codification on the systematization of legislation is manifested primarily in ensuring legal certainty and predictability. Clearly structured codes facilitate law enforcement, reduce the risk of conflicts, and promote the uniformity of judicial practice. For Ukraine, adopting European codification practices means maintaining high standards of legal technique, ensuring the consistency of legislation and avoiding excessive fragmentation, and combining stability with dynamism in the legal regulation of social relations.

SUMMARY. In the context of Ukraine's current development, codification serves as a special form of systematization normative material, an instrument for modernizing the law and bringing it into line with European standards. The purpose of this study is to provide a comprehensive theoretical and legal justification for the specifics of

codification processes in systematization and modernizing Ukrainian legislation, the specifics of codification traditions in European countries, and the prospects for updating codified acts in Ukraine. The methodological basis of the study was general scientific and specifically legal methods of scientific cognition, which provided a comprehensive approach to the study of codification as a form of systematization of legislation, namely: the method of analysis and synthesis, and the comparative legal method. The authors established that the codification of legislation is a form of ordering and systematization endowed with a law-making nature and consists of the creation of a unified, innovative, and harmonious legislative act by applying the results of preliminary forms of systematization and an analysis of social relations, with the goal of establishing effective and efficient legislation that meets public needs. This article analyzes the prospects for updating Ukraine's codified acts, which entails a comprehensive modernization of the entire Ukrainian legal system with the goal of creating modern, systemic, stable, and European-oriented legislation capable of effectively regulating public relations in the context of digital transformation, military challenges, and Ukraine's integration into the European Union. It concludes that for Ukraine, the use of European codification experience, whose impact on the orderliness of legislation is manifested primarily in ensuring legal certainty and predictability, necessitates maintaining high standards of legal technique, ensuring the consistency of legislation and avoiding excessive fragmentation, and combining stability and dynamism in the legal regulation of public relations.

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CHAPTER 8

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INCORPORATION OF LEGISLATION AS A FORM OF THE SYSTEMATIZATION OF NORMATIVE-LEGAL ACTS

Bodiul Ye. M.

INTRODUCTION

Contemporary legislation develops under conditions of constant renewal, increasing complexity of legal regulation, and growing requirements for its accessibility, coherence, and practical suitability. The growing number of normative – legal acts, frequent amendments to them, the emergence of new spheres of legal regulation, and the active use of electronic legal resources necessitate the proper systematization of normative material. Under such conditions, the problem of systematization of legislation acquires not only technical-legal but also law-supporting significance.

A normative-legal act must not only be adopted by a competent actor and officially promulgated, but must also remain accessible for search, understanding, verification of validity, and practical application. The formal existence of an act in itself does not yet guarantee the real accessibility of law, especially where the original text of the act has been repeatedly amended, supplemented, partially repealed, or is applied in connection with other acts. In such cases, the user of law needs not only the official text, but also ordered, up-to-date, and clearly presented normative material.

The significance of incorporation is not limited to the creation of collections of normative-legal acts. Under contemporary conditions, it also includes the preparation of updated versions of acts, the formation of electronic legislative databases, the maintenance of registers, search functionality, the recording of amendments, the creation of reference tools, and the maintenance of normative material in an up-to-date state.

1. Concept, features, and types of legislation incorporation

One of the current problems of Ukraine's contemporary development is increasing the effectiveness of legislation as a key instrument of state influence on social relations. Law performs its regulatory function only if the normative material is internally coherent, accessible for perception, and suitable for practical application. At the same time, legislation does not exist as a homogeneous and static body of legal norms. It is formed over a long period of time by various law-making actors, encompasses a significant number of laws and subordinate normative-legal acts, has different legal force, different spheres of operation, and different forms of official promulgation.

The complexity of this problem is intensified by the significant volume of normative material in force. At the same time, the effectiveness of legislation is determined not only by the number of adopted normative-legal acts, but above all by their quality, coherence, and capacity to have a real impact on social relations. A single legislative act may contain provisions belonging to different branches of law, while acts adopted at different times and by different law-making actors often contain duplications, terminological discrepancies, outdated provisions, or conflicting

norms [24, p. 13]. As a result, not only law-making activity but also law application becomes more complicated, since it is increasingly difficult for the user of law to establish the current, complete, and systemically coherent content of legal regulation.

Under such conditions, forms of systematization of legislation aimed at identifying, systematically arranging, and properly presenting normative material acquire particular importance. One such means is the incorporation of legislation.

The concept of incorporation of legislation should be considered primarily within the classification of forms of systematization of legislation traditionally accepted in Ukrainian legal theory. At the same time, the contemporary development of electronic legal systems creates the need for a broader understanding of incorporation, not only as the printed consolidation of normative-legal acts into collections, but also as a method of ordered presentation of current normative material in electronic databases, registers, and updated versions of acts.

The need for a broader understanding of incorporation is consistent with contemporary trends in the development of Ukrainian legislation. The Law of Ukraine “On Law-Making Activity” of 24 August 2023 № 3354-IX includes among its subject matters, in particular, bringing normative-legal acts to the attention of the public, maintaining their records, the operation of normative-legal acts, eliminating gaps, and resolving conflicts in normative-legal acts. This indicates that contemporary law-making activity does not end with the adoption of a normative – legal act, but requires proper accounting, updating, systematic presentation, and ensuring the accessibility of normative material.

In this regard, the incorporation of legislation should be considered not as a secondary or purely auxiliary technical

operation, but as an important method of organizing normative material that ensures its suitability for perception, search, analysis, and practical application. The specific feature of incorporation is that it does not alter the content of legal regulation, but it significantly affects the external form in which legislation exists. It is through the form of presentation of normative material that law becomes accessible to the user or, conversely, difficult to use. Therefore, incorporation is important not only for law-making, but also for law application, legal education, scholarly analysis, and legal informatization.

In contemporary Ukrainian doctrine, the approach of V. Ryndiuk deserves attention. She links incorporation not so much with changing legislation itself as with the proper presentation of information about it. She emphasizes that, among the organizational and managerial prerequisites for the ordering of legislation, the availability of information about legislation is of considerable importance, and that the activity whose object is such information and its proper presentation is the recording and incorporation of legislation. This approach makes it possible to define more precisely the place of incorporation among other forms of work with normative material: it does not replace codification, consolidation, or revision, but creates the informational and organizational basis for carrying them out [33].

Etymologically, the word “incorporation” derives from the Latin *incorporare*, meaning “to unite into one body”, or from the French *incorporer* with the same meaning [35, p. 199]. In the legal sense, this term is traditionally used to denote the external systematization of normative-legal acts by combining them into collections, compilations, registers, or other systematized information arrays without changing their normative content. Where such activity is carried out on the basis

of normatively defined powers, it may include the technical insertion of already adopted amendments into the current text of an act, but without an independent revision of the content of the legal norm.

In this understanding, incorporation combines two interrelated aspects. On the one hand, it is a form of systematization of legislation, since it presupposes the systematization of normative-legal acts according to certain criteria. On the other hand, it has a clearly expressed informational and organizational character, since its immediate result is not a new normative-legal act, but an ordered body of legal information. For this reason, incorporation occupies an intermediate position between the mere recording of normative-legal acts and more complex forms of systematization of legislation, such as consolidation, revision, and codification.

In analyzing the legal nature of incorporation, it is appropriate to turn to its doctrinal definitions and properties, which reveal the purpose of incorporation, its specific features, and its relationship with other forms of systematization of legislation.

I. Usenko defines incorporation as the highest form of activity in ordering the publication of normative acts, whereby, through their external processing and systematic – chronological or subject-based – combination in a single collection or compilation, a comprehensive and complete presentation of normative legal material relating to a certain period of time or to a certain sphere of social life having independent significance is achieved [38, p. 10]. In this approach, emphasis is placed on the completeness of the presentation of normative material, its systematic arrangement, and its connection with a particular temporal or subject-matter criterion.

N. Koshil offers a somewhat different definition, viewing incorporation as the external systematization of normative-legal

acts by combining them into collections according to a systemic-subject or chronological principle without changing their content, as well as the preparation of updated versions of normative-legal acts [28, p. 66]. This approach is particularly important for the contemporary understanding of incorporation, since it makes it possible to encompass not only classical collections of acts, but also the preparation of current versions of normative-legal acts taking into account the amendments made to them.

N. Onishchenko defines incorporation as an independent form of systematization of normative-legal acts with features inherent only to it [31]. O. Hirnyk also speaks of incorporation as a form of systematization where normative- legal acts of a certain level are fully or partially combined into collections or codes created for broad use in a defined manner [23, p. 235]. These approaches emphasize the independent place of incorporation within the system of legal-technical methods of ordering legislation.

I. Borshchevskiy, using the philosophical categories of “form” and “method”, proposes defining incorporation as a form of systematization of legislation carried out by competent state bodies, their officials, and other actors through the external processing and combination of normative-legal acts into collections or compilations in a certain order without changing their content [22, p. 19]. This definition has several important aspects. First, it indicates the range of actors that may carry out incorporation, which provides grounds for distinguishing official, semi-official, and unofficial incorporation. Second, it emphasizes the external character of the processing of normative-legal acts, that is, the absence of any independent change to their normative content. Third, the use of the concepts “collection” and “compilation” makes it possible to cover both thematic

selections of acts and broader systematized bodies of legislation. At the same time, for characterizing the results of thematic or sectoral incorporation, the concept of “collection” is more precise, whereas the concept of “compilation of legislation” is more appropriate for broader systematized bodies of normative-legal acts.

At the same time, narrower definitions are also found in the literature. Thus, O. Zaichuk characterizes the incorporation of legislation as the external systematization of legislation carried out outside the law-making process, within which control texts of normative-legal acts of a certain level are fully or partially combined into collections in chronological or systemic-subject order without changing their content [37, p. 407]. This definition is valuable because it emphasizes the external character of incorporation and the unchanged content of acts. At the same time, the assertion that incorporation is carried out exclusively outside the law-making process requires clarification. Indeed, incorporation as such is not law-making, since it does not create new legal norms. However, in functional terms, it may be connected with the law-making process as its preparatory or informational-analytical stage, in particular where it is carried out prior to the consolidation, revision, or codification of legislation.

Through incorporation, the form of presentation of normative-legal acts may undergo significant changes. In collections of normative-legal acts in force, their texts are presented together with official amendments and supplements. At the same time, provisions that have lost force may either not be reproduced in the main text or may be marked with appropriate editorial notes indicating the official details of the acts by which the relevant amendments were introduced. In this way, the user receives not only the text of the

act, but also information about its validity, amendments, and the current state of legal regulation.

N. Zhelezniak emphasizes that the incorporation of legislation consists in the complete or partial combination of normative-legal acts of a certain level in alphabetical, chronological, or systemic-subject order into various kinds of collections in order to provide interested persons with the texts of the relevant normative acts together with all their official amendments and supplements [25, p. 142]. In this definition, the indication that users are provided with the texts of acts together with official amendments and supplements is especially important, since this feature brings traditional incorporation closer to contemporary electronic updated versions of legislation.

At the same time, I. Shutak and I. Onyshchuk identify two main purposes of incorporation: maintaining the system of legal documents in an up-to-date state and providing a wide range of persons with access to the texts of laws and other normative-legal acts [39, p. 47]. In this context, it is appropriate to broaden the list of purposes of incorporation by also including a research purpose. Changes in social relations do not always require the immediate creation of new legal norms, but they always require an analysis of the existing normative material, its completeness, coherence, and capacity to ensure proper legal regulation. The incorporation of legislation may serve as a basis for such analysis, since it makes it possible to trace the interconnections between different legal norms, identify gaps, duplications, and conflicts, and assess how changes in individual normative provisions affect the structure of the relevant legal institution or branch of legislation.

Incorporation also has educational significance. Educational collections of legislation, thematic selections of acts, and electronic databases of normative materials help students, postgraduate students, scholars, and practitioners master the structure of the relevant branch of legislation and understand the logic of legal regulation. It also performs a legal-educational function, since the accessible and systematized presentation of normative material contributes to raising the level of legal culture among the population.

Given the dynamics of contemporary legislation, the ability of incorporation to ensure prompt familiarization with new amendments becomes particularly important. In a legal system where normative-legal acts are frequently amended, it is important for the user to have access not only to the original text of an act, but also to its current version as of a particular date. For this reason, incorporation collections, electronic databases, updated versions, and other forms of ordered presentation of legislation are an important instrument for the practical implementation of law.

Another way to better understand incorporation is to analyze its characteristic features. Since incorporation is one of the forms of systematization, it possesses the general features of systematicity, orderliness, consistency, and purposefulness. At the same time, it also has special features that distinguish it from codification, consolidation, and revision of legislation.

The general features of incorporation include systematicity, integrative character, law-centredness, and procedural character. Systematicity means that incorporation must establish a certain sequence of elements, ensure their interconnection, and subordinate them to the chosen criterion. A compilation of all normative-legal acts relating to a particular sphere, without logical ordering and without taking into account their substantive

connections, cannot be regarded as full-fledged incorporation. Incorporation must facilitate the use of normative-legal acts for achieving defined purposes; therefore, an unsystematic collection is not an appropriate result of incorporation activity.

The integrative character of incorporation lies in the fact that it is carried out according to a certain criterion that unites normative material into a coherent body. Such a criterion may be the subject matter of legal regulation, a branch of legislation, a legal institution, the issuing actor, the date of adoption, legal force, territorial scope of operation, or the practical needs of the user. It is precisely this integrative character that ensures the internal connection between the acts included in the incorporation body.

Law-centredness means that, regardless of the purpose of incorporation, its object remains normative material. Incorporation may be carried out for educational, scholarly, informational, or practical purposes; however, its legal nature is determined by the fact that it works with normative-legal acts or other legally significant texts. Even in the case of unofficial incorporation, its legal character is preserved, since it is aimed at ordering legal material.

The procedural character of incorporation means that it is not a one-time action, but encompasses a certain sequence of operations: defining the purpose, choosing the criterion, selecting acts, verifying their validity, arranging the material, editorial and technical formatting, preparing reference tools, and, where necessary, subsequent updating. The process of incorporation itself may be lengthy and recurring, especially where electronic legislative databases or other dynamic forms of maintaining normative material in an up-to-date state are concerned.

The special features of incorporation include formalization, variability, dispositivity, and preservation of the normative content

of acts. Formalization means that the result of incorporation must have an external form – a collection, compilation, register, electronic database, reference array, or another method of structured presentation of legislation. At the same time, such a form does not necessarily have to meet all the requirements applicable to a normative-legal act, since the result of incorporation is not a new act of law-making.

The variability of incorporation lies in the possibility of carrying it out according to different criteria and in different forms. It may be official, semi-official, or unofficial; complete or partial; chronological, subject-based, actor-based, or mixed; printed, electronic, or hybrid; current, retrospective, or historical. Such variability makes it possible to adapt incorporation to different practical needs.

The dispositivity of incorporation is manifested in the fact that the actor carrying it out has a certain freedom to choose the criteria, structure, scope, and method of presenting the material. Of course, in the case of official incorporation, such freedom may be limited by law or by an act of an authorized body. Nevertheless, even in that case, the actor carrying out incorporation makes a number of methodological and technical-legal decisions concerning the method of grouping acts, the system of indexes, notes, references, and reference tools.

Preservation of normative content is the main special feature of incorporation. It means that the actor carrying out incorporation has no right independently to change the content of legal norms, repeal provisions in force, create new prescriptions, or resolve conflicts by changing the text of an act. Such an actor may only reproduce the current text, include officially adopted amendments in it, indicate the loss of force of particular provisions, and make reference notes, but may not change the normative effect of the act.

It is precisely this feature that makes it possible to distinguish incorporation from other forms of systematization of legislation. Incorporation differs from the recording of legislation in that it not only records the fact of an act's existence, its details, the date of adoption, entry into force, or loss of force, but also presents the text of the act itself or its updated version in an ordered form. Recording creates the informational basis for incorporation, but does not replace it.

Incorporation differs from consolidation in terms of its object, purpose, and result. In incorporation, normative-legal acts are grouped for ease of use, but retain their independence. In consolidation, norms or acts regulating related social relations may be combined into one enlarged normative-legal act. Thus, the result of incorporation is a collection, register, electronic body, or updated version, whereas the result of consolidation is a new single act that replaces or absorbs the previously dispersed material.

Incorporation differs even more significantly from codification. Codification involves deep substantive processing of normative material, revision of legal institutions, elimination of outdated norms, formulation of new prescriptions, and adoption of a new codified act. Incorporation, by contrast, does not change the content of legislation and does not have a law-making essence. It may be a permanent or periodic activity aimed at maintaining normative material in an ordered state, whereas codification is carried out when there is an objective need for substantive renewal of the relevant branch or institution of legislation.

When examining the essence of incorporation, particular attention should be paid to its types. Legal literature traditionally identifies several classifications of incorporation depending on the legal status of the result, the method of arranging the material, the

scope of coverage, the form of the medium, temporal orientation, and the level of textual processing.

Depending on the legal significance of the result, official, semi-official, and unofficial incorporation are distinguished. Official incorporation is carried out on behalf of a competent state body or upon its instruction. Its result is an official collection, compilation, register, or electronic resource to which official status has been granted. Such a result may be used in law-making and law-application activity as an authoritative source of information on legislation in force. In certain legal orders, official reprints, updated versions, or consolidated texts may have evidentiary significance regarding the content of law in force [26].

Semi-official incorporation has an intermediate character. It may be carried out on the instruction of, or with the participation of, a state body, but its result does not acquire the status of an official source of promulgation of legislation. Such collections or electronic bodies may be useful for the practical activity of public authorities, institutions, enterprises, educational establishments, or professional communities; however, they do not replace the officially promulgated text of a normative-legal act [37].

Unofficial incorporation is carried out by research institutions, educational establishments, publishing houses, civil society organizations, professional associations, or individual specialists. Its result has a reference, educational, scholarly, or practical-informational character. Unofficial collections of legislation may be convenient for users, but they do not have independent legal significance and cannot replace the officially promulgated text of a normative-legal act. At the same time, unofficial incorporation often plays an important role in legal education and scholarly research, since it makes it possible to group normative material

according to academic courses, research problems, or practical needs [26].

According to the method of arranging normative material, incorporation may be chronological, subject-based, actor-based, or mixed. Chronological incorporation is the simplest form, since it involves arranging normative-legal acts in the sequence of their adoption, signing, official promulgation, or entry into force. Its advantage lies in the simplicity and objectivity of the criterion. At the same time, such incorporation is not always sufficient for practical use, since it does not reveal the internal connections between acts regulating the same sphere of social relations.

Subject-based incorporation is more complex and practically significant. It involves grouping normative-legal acts according to the subject matter of legal regulation, the sphere of social relations, the branch of legislation, or a particular legal institution. It is precisely subject-based incorporation that allows the user quickly to identify the range of acts regulating a particular issue, to see the relationship between laws and subordinate acts, and to identify duplications, gaps, or contradictions. Therefore, it is of particular importance as a preparatory stage for subsequent consolidation or codification [21, p. 102; 30].

Actor-based incorporation is carried out depending on which body or other law-making actor issued the relevant normative-legal acts. It is appropriate, for example, when ordering acts of parliament, the government, ministries, central executive bodies, or local self-government bodies. This form of incorporation makes it possible to trace the rule-making activity of a particular actor, establish its scope, dynamics, subject-matter directions, and relationship with acts of other bodies [34, p. 210].

Mixed incorporation combines several criteria simultaneously. For example, within a subject-based group, acts may be arranged according to legal force, and within each level – in chronological order. Alternatively, acts may first be grouped according to the issuing actor and then according to the subject matter of regulation. Mixed incorporation is the most flexible and often the most convenient for practical use; however, it requires a clearly defined methodology in order to avoid arbitrariness and inconsistency.

According to the legal force of normative-legal acts, incorporation may be structured on the basis of a hierarchical criterion: acts of higher legal force are placed first, followed by acts of lower legal force. This approach is particularly important for subject-based or sectoral incorporation, since it makes it possible to show the relationship between constitutional, legislative, and subordinate provisions within a particular sphere of legal regulation. Within one level of legal force, additional criteria may be applied – chronological, actor-based, or subject-based.

According to the duration of its implementation, incorporation may be current, periodic, or one-time. Current incorporation is carried out continuously and involves the prompt updating of the normative body in accordance with new acts and amendments. Periodic incorporation is carried out at certain intervals, for example monthly, quarterly, or annually. One-time incorporation is carried out within the framework of a specific task and covers normative material for a defined period or on a defined topic.

According to the scope of the material covered, complete, sectoral, intersectoral, institutional, and thematic incorporation are distinguished. Complete incorporation is aimed at covering the broadest possible body of legislation. Under contemporary conditions, its practical analogue may be official electronic

registers or legislative databases that claim to reflect the entirety of normative material in force. Sectoral incorporation covers normative-legal acts of a particular branch of legislation, for example civil, administrative, financial, labour, or environmental legislation. Intersectoral incorporation concerns spheres regulated by acts belonging to different branches, such as entrepreneurship, digitalization, public procurement, consumer protection, or state financial control.

Institutional incorporation focuses on normative material regulating a particular legal institution, for example ownership, contract, legal liability, administrative procedure, civil service, or local self-government. Thematic incorporation is formed in accordance with a specific practical need of the user: for example, a collection of acts on martial law, European integration, healthcare, education, construction, social protection, or the recovery of Ukraine.

According to temporal orientation, it is appropriate to distinguish current, retrospective, and historical incorporation. Current incorporation covers normative– legal acts in force or their updated versions. Its main purpose is to ensure practical access to the law in force at a particular moment. Retrospective incorporation reproduces the state of legislation as of a particular date or during a particular period. It is important for judicial practice, legal analysis, determining the temporal operation of law, and studying the legal regulation of past relations. Historical incorporation covers acts that have lost force but remain significant for scholarship, education, legal history, or comparative legal research.

According to the form of the medium, incorporation may be printed, electronic, or hybrid. Printed incorporation was historically the main form of incorporation collections. Its advantage was the stability of the text, while its disadvantage was

the difficulty of prompt updating. Electronic incorporation makes it possible rapidly to update the texts of acts, conduct searches, create hyperlinks, display the history of amendments, and provide broad access to legislation. Hybrid incorporation combines printed and electronic forms, for example where an official collection is published in printed form while an electronic database of updated texts is maintained at the same time.

According to the level of textual processing, incorporation of original texts and incorporation of updated versions may be distinguished. The former involves reproducing normative-legal acts in the form in which they were adopted or officially published. The latter involves incorporating into the text all subsequent amendments and supplements, enabling the user to work with the current version of the act. In contemporary legal circulation, it is precisely the incorporation of updated versions that has the greatest practical significance, since it is directly connected with the accessibility of law and legal certainty.

Incorporation as a process encompasses several interrelated stages. At the first stage, the purpose of incorporation, its actor, the scope of normative material, temporal limits, criteria for selecting acts, and the expected result are determined. At the second stage, the structure of the future collection, register, or electronic database is formed: sections, subsections, the order of arranging acts, the system of references, and reference tools are determined. At the third stage, normative-legal acts are selected, their validity is verified, versions are established, acts that have lost force in whole or in part are identified, as are acts that have introduced amendments to the relevant normative material. At the fourth stage, the actual arrangement of acts takes place, together with their editorial and technical processing, the preparation of notes,

indexes, tables of contents, lists, and additional reference materials. At the fifth stage, the incorporation body is updated, where current or electronic incorporation is concerned.

Compliance with the technical-legal rules of incorporation is of particular importance. First, normative acts must be selected in accordance with a clearly defined subject matter or other criterion. Second, the reliability of the texts included in the incorporation body must be ensured. Third, the content of normative-legal acts must be preserved without the introduction of unauthorized changes. Fourth, the official details of acts, the sources of their promulgation, the date of entry into force, the date of loss of force, or the date of amendment must be indicated. Fifth, when updated versions are prepared, the acts by which the relevant amendments were introduced must be clearly recorded. Sixth, the structure of the result of incorporation must be logical, consistent, and suitable for practical use.

On the basis of the analysis of scholarly approaches, it may be concluded that incorporation of legislation is a form of external systematization of normative-legal acts characterized by their ordered combination, arrangement, or reproduction according to certain criteria and rules without changing their normative content. Its result may be a collection, compilation, register, electronic database, updated version of a normative-legal act, or another ordered information body.

Incorporation of legislation belongs to the relatively less complex forms of systematization, but at the same time it plays an important role as a basic and initial element of work with normative material. It creates the prerequisites for the subsequent revision, consolidation, or codification of legislation, since it makes it possible to identify the state of the normative body in force, its

structure, gaps, duplications, conflicts, and outdated provisions. Through incorporation, it becomes possible not only to use legislation more conveniently, but also to assess its quality from scholarly and practical perspectives.

It is important that incorporation of legislation be carried out in accordance with clearly defined criteria and rules that ensure its quality, reliability, and distinction from other forms of systematization. Incorporation collections, registers, or electronic databases should not substitute for consolidation or codification. Their purpose is to ensure the ordered, complete, up-to-date, and accessible presentation of normative material.

Under contemporary conditions, given technological progress and the development of electronic legal systems, incorporation is gradually transforming from a predominantly printed form of systematization into a dynamic digital form of presenting legislation. Not only the informational function, but also the qualitative-organizational function of incorporation comes to the fore. It contributes to the clarification of legal concepts, the identification of gaps and conflicts, the preparation of material for further systematization of legislation, and the accessibility of law.

2. The role of incorporation in ensuring the accessibility of law

The role of incorporation of legislation is not exhausted by its significance as one of the forms of systematization of normative-legal acts. Under contemporary conditions, it acquires broader constitutional-legal and law-supporting significance, since it is directly connected with ensuring the accessibility of law. If a normative-legal act formally exists, but its text in force is difficult to find, it is difficult to establish its current version,

or it is impossible to trace the amendments introduced into it over a long period of time, such law is only formally promulgated, but is not always genuinely accessible to the user.

The accessibility of law is one of the prerequisites for the operation of the principle of the rule of law. Law cannot effectively regulate a person's conduct if that person has no real possibility of becoming aware of the content of the legal norms that determine their rights, duties, prohibitions, or legal liability. For this reason, the accessibility of legislation should be considered not merely as a technical requirement for the promulgation of normative-legal acts, but as an important guarantee of legal certainty, foreseeability of legal regulation, and trust in the state [6].

In Ukrainian legislation, this idea has direct normative consolidation. Pursuant to Article 57 of the Constitution of Ukraine, everyone is guaranteed the right to know their rights and duties; laws and other normative-legal acts that determine the rights and duties of citizens must be brought to the attention of the population in the manner prescribed by law, and acts that have not been brought to the attention of the population in such a manner are invalid. Thus, the constitutional requirement to bring acts to the attention of the population is a minimum condition for the legal operation of the relevant acts; however, under contemporary conditions it should be interpreted more broadly – as a requirement to ensure real access to the current, comprehensible, and up-to-date text of law.

The Law of Ukraine “On Law-Making Activity” also confirms that the accessibility of normative material is a component of the contemporary law-making process. The subject matter of regulation of this Law includes, in particular, bringing normative-legal acts to the attention of the population, their entry into force, maintaining

records of normative-legal acts, their operation, eliminating gaps, and resolving conflicts. This approach indicates that contemporary legislation is not limited merely to the adoption of a normative-legal act, but requires proper informational support, recording, updating, and systematic presentation.

It is precisely here that the special role of incorporation becomes apparent. The formal publication of a normative-legal act is necessary for its entry into force and for ensuring that it is officially brought to the attention of the population. However, formal publication does not always solve the problem of the accessibility of law in a real sense. If the original text of an act has been repeatedly amended, supplemented, partially repealed, or has entered into force in stages, it is not sufficient for the user to have only the original version. The user needs an up-to-date, systematically ordered text that makes it possible to establish the content of legal regulation at a particular point in time.

In this respect, it is appropriate to distinguish between formally promulgated law and genuinely accessible law. Formally promulgated law exists when an act has been published in an official source in the manner prescribed by law. Genuinely accessible law presupposes that the user can, without excessive effort, find the relevant act, establish its validity, see all amendments made to it, understand the version in force on a particular date, and trace the connection of that act with other normative-legal acts. It is incorporation that performs the function of transition from formal promulgation to the real accessibility of law.

The role of incorporation in ensuring the accessibility of law consists, above all, in overcoming the fragmentation of legislation. In a legal system where normative-legal acts are frequently amended, the original text of an act gradually loses its ability

independently to reflect the current state of legal regulation. It may contain provisions that have been amended or repealed; individual articles may enter into force at different times; and certain norms may apply only to particular legal relations or territories. Without incorporation processing, the user is forced independently to reconstruct the current text of the act by comparing the original version with all subsequent amendments. For a professional lawyer, this is a complex task, while for an ordinary citizen it is often practically impossible [10].

For this reason, incorporation of updated versions of normative-legal acts acquires particular importance. It allows the user to work not with scattered amending acts, but with a single text in which those amendments have already been taken into account. Such a text does not create new law and does not replace the original normative-legal act, but it makes the law in force visible and suitable for practical use. In this sense, incorporation performs an updating function: it maintains normative material in a state that corresponds to the current content of legal regulation [10].

Incorporation also performs a navigational function. Legislation is a complex body of texts that are interconnected. A normative-legal act often contains references to other acts, is amended by acts of different legal force, and is applied together with subordinate acts, judicial practice, explanations, or administrative procedures. If these connections are not reflected in a convenient system, the user sees only a separate text, but does not understand its place within the broader normative context. Incorporation, especially electronic incorporation, makes it possible to create indexes, hyperlinks, tables of amendments, subject headings, classifiers, and other instruments of legal navigation.

The third function of incorporation is an explanatory function. It does not consist in replacing the normative text

with a popularized retelling, but in providing the user with the necessary information about the origin, amendments, validity, and structure of the act. Editorial notes, annotations, indications of loss of force, information on the entry into force of individual provisions, tables of amendments, and references to the acts by which amendments were introduced help to explain why the text of the act has precisely its current form. In this sense, incorporation does not simplify law by changing its content, but makes it more comprehensible through proper informational support.

The fourth function of incorporation is an evidentiary-reference function. It manifests itself where an incorporated or revised text acquires a special legal status – official, reliable, or capable of being used as evidence of the content of law in force. Not every incorporation has such status. In many countries, electronic consolidated texts have only an informational character and do not replace official publication. However, the development of electronic legislation is gradually raising the question of granting official or evidentiary significance to certain types of updated texts.

The fifth function of incorporation is a democratic function. It lies in the fact that access to law should not be a privilege of professional lawyers or state bodies. If a law is addressed to society, citizens, entrepreneurs, organizations, local self-government bodies, and other actors, then those actors must have a real opportunity to become acquainted with the legal regulation in force. Incorporation contributes to the democratization of access to law, since it reduces a person's dependence on intermediaries, specialized legal databases, or complex professional skills required to reconstruct the current version of an act.

At the same time, the accessibility of law cannot be reduced merely to the simplicity of the language of a normative-legal

act. Clear language is an important but insufficient condition of accessibility. A law may be written in relatively clear language, but remain difficult to access if its provisions are dispersed among several acts, if its numerous amendments are not incorporated into the current text, if the user cannot see the date on which certain provisions entered into force, or if information on the loss of force of individual norms is absent. Therefore, the accessibility of law is a function not only of the quality of legal drafting, but also of the institutional manner in which normative material is presented.

In the digital age, the criteria for the accessibility of law become significantly more complex. A contemporary legal information system must ensure not only access to the text of a normative-legal act, but also the completeness of coverage of legislation in force, the currency of the version, free or at least broadly available online access, a comprehensible search system, metadata, stable references, a history of amendments, and links between acts. An important element of such a system is the possibility of establishing the version of an act that was in force on a particular date [10].

The availability of information about the version of a normative-legal act as of a particular date is of special importance for judicial practice, retrospective legal analysis, criminal proceedings, tax disputes, contractual relations, and any situations in which it is necessary to establish which exact text of a norm was in force in the past. Without this possibility, even the current text of an act does not always ensure proper legal certainty, since legal significance may attach not only to the version currently in force, but also to the version that operated at a specific historical moment.

Thus, contemporary incorporation can no longer be understood merely as a printed collection of acts in force. It is being transformed into a digital infrastructure of access to law, which

must ensure currency, completeness, searchability, navigation, a history of amendments, authentication, intertextual links, and the possibility of establishing the version of an act as of a particular date. This is the fundamental difference between contemporary electronic incorporation and classical incorporation collections.

At the same time, incorporation has its own limits. It works effectively with textual amendments: the replacement of words, the deletion of articles, the addition of new provisions, changes in the names of bodies, or the updating of references. More complex, however, are cases where amendments are non-textual in nature or arise from provisions on entry into force, transitional norms, time-limited provisions, references to other acts, or judicial interpretation. In such cases, a consolidated text alone is insufficient. Additional instruments are required: commencement tables, version histories, annotations, indexes of amendments, links to judicial practice, references to subordinate acts, and other elements of a legal information system.

This is also of considerable importance for the Ukrainian legal system. If incorporation is presented merely as the mechanical insertion of amendments into the text of an act, it may create the illusion of the full accessibility of law. In reality, the accessibility of law is achieved not only through an up-to-date text, but through a comprehensive information system that makes it possible to verify the validity of an act, its version as of a particular date, the source of an amendment, the time of entry into force, its connection with other acts, and the limits of application of the relevant norm.

Separate attention should be paid to the relationship between incorporation and the principle of separation of powers. If the updated or revised text of an act is prepared not by parliament itself or by another law-making actor, but by a special editorial

body, a ministry, a law reform commission, or the administrator of an electronic database, the question arises as to the limits of such editorial intervention. Incorporation must not turn into hidden law-making. Editorial actions are permissible only insofar as they do not alter the normative content of the act and do not substitute for the will of the actor that adopted the relevant normative-legal act.

Therefore, incorporation should be as useful as possible for the user, but it must remain fundamentally derivative of the authentic normative text. It may ensure updating, navigation, reference tools, indications of amendments, version history, and a convenient presentation of law in force; however, it cannot independently alter the normative content of an act or resolve conflicts by editorially rewriting legal norms.

In this sense, incorporation should be regarded as one of the key technical-legal guarantees of the accessibility of law, legal certainty, and effective law application. It ensures the connection between an officially promulgated normative – legal act and a person's real possibility of establishing the content of the legal regulation in force. Therefore, under contemporary conditions, incorporation acquires not only reference-informational significance, but also broader law-supporting significance.

3. European practices of forming collections of legislation

After clarifying the concept, features, and types of incorporation of legislation, as well as determining its role in ensuring the accessibility of law, it is appropriate to turn to the European experience of forming collections of legislation. European practices make it possible to see that contemporary incorporation is no longer limited to the classical combination of normative-legal

acts into printed collections. It increasingly takes the form of an electronic system for presenting legislation in force, combining official publication of acts, their recording, updating, consolidation, subject-matter classification, search, history of amendments, and verification of the validity of a legal text.

In this context, the very concept of a “collection of legislation” in contemporary European legal orders has a broader meaning than a traditional corpus or collection of acts. It encompasses not only the texts of normative-legal acts, but also the system of their official or informational presentation, the links between the original text and subsequent amendments, versions as of a particular date, information on entry into force, loss of force, territorial scope, sources of publication, and other elements of legal information. Thus, what is at issue is not merely a collection of texts, but an integrated infrastructure of access to law in force.

European experience shows that a contemporary state usually uses several interconnected resources for presenting legislation. The first level consists of official gazettes or journals in which normative-legal acts are officially promulgated and with which their legal validity is connected. The second level is formed by collections or databases of consolidated legislation, in which the original texts of acts are presented taking into account the amendments made to them. The third level consists of electronic databases that provide search, navigation, classification, access to the history of amendments, metadata, and related documents. It is precisely the combination of these levels that forms the contemporary model of electronic incorporation of legislation.

In European legal practice, phenomena functionally close to the Ukrainian concept of “incorporation of legislation” are denoted by different terms: revised legislation, revised acts, consolidated texts,

textes consolidés, geltende Fassung, teksty jednolite. They are not fully identical to the Ukrainian doctrinal category of incorporation, but they share a common functional basis: to provide the user with an ordered, up-to-date, and practically usable text of law in force without independently creating new legal norms. Therefore, in analyzing European experience, it is important to proceed not from the literal translation of terms, but from the functional similarity of the relevant legal instruments.

At the level of the European Union, the EUR-Lex system plays an important role in forming an accessible collection of legal acts. It provides free access to EU law in all official languages of the Union and covers the Official Journal of the European Union, the founding treaties, regulations, directives, decisions, consolidated legislation, preparatory documents, case law, international agreements, and other public documents. The significance of EUR-Lex lies not only in the publication of the texts of acts, but also in the creation of a system of links between them, which makes it possible to trace the life cycle of a legal document, its amendments, language versions, related acts, and other relevant materials [5].

Consolidated texts in European Union law perform the function of an incorporated presentation of normative material. They combine the original act with subsequent amendments in a single text and thereby facilitate the use of legal regulation in force. Although such consolidated versions are primarily of reference value and do not replace officially published acts, their practical role is extremely important. They enable the user to work not with scattered amending acts, but with a single updated text.

The European Legislation Identifier – ELI – has separate significance. This instrument is aimed at unifying approaches to the identification, description, and technical presentation of legislation

in the digital environment. Its purpose is to ensure that legal information at the level of the EU, Member States, and regions is described through stable web identifiers, structured metadata, and machine-readable formats. This facilitates search, access, reuse, and interconnection of legal information. In this respect, ELI shows that a contemporary collection of legislation must be not only textual, but also technologically structured [8].

One of the most developed models of electronic presentation of legislation is the British model. In the United Kingdom, the relevant function is performed by the legislation.gov.uk system, maintained by The National Archives. It is based on a distinction between the original text of an act – as enacted – and its revised text – revised legislation. Revised legislation is presented taking into account amendments made by subsequent acts, while the editorial process is accompanied by special notes concerning textual amendments, modifications, commencement, territorial extent, and other effects on the act [9].

The British model is illustrative because it demonstrates the transition from the historical institution of the revised statute book to a digital form of up-to-date legislation. The user is able to see both the original text of an act and its revised version, as well as to trace which provisions were amended, when they entered into force, and by which acts the relevant amendments were introduced. This provides grounds for considering the British system as an example of official electronic incorporation of the current text of an act.

The British technique of annotations is of particular significance. It makes it possible to distinguish textual amendments, non-textual modifications, information on commencement, territorial extent, and editorial explanations. As a result, the user receives not only the current text of an act, but also instruments for verifying how

it was formed. This approach is important for legal certainty, since it makes it possible to see not only the result of incorporation, but also the path by which that result was obtained [3].

The Irish model is particularly valuable for analyzing the incorporation of legislation. It demonstrates a combination of several instruments of access to law in force. The electronic Irish Statute Book provides access to the original texts of acts; Revised Acts present current texts of acts taking into account amendments made to them; the Legislation Directory makes it possible to trace the history of amendments, commencement, and subordinate acts adopted for the implementation of the relevant law; and the Classified List of In-Force Legislation provides subject-matter navigation through acts in force [10].

The advantage of the Irish model lies in the fact that it presents incorporation not as a single result, but as a complex of interconnected information tools. The user receives not only the current text of an act, but also the opportunity to verify its origin, amendments, temporal limits of operation, links with other acts, and position within the subject-matter structure of legislation. For Ukraine, this experience is particularly useful, since it demonstrates that the accessibility of law is ensured not by one electronic register, but by a coordinated system of original texts, updated versions, directories of amendments, and subject-matter classification.

At the same time, the Irish experience also demonstrates the limits of incorporation. A current text can fully reflect the content of law only where amendments are predominantly textual in nature and can be correctly incorporated into the principal act. Where, however, amendments are non-textual, connected with conditional commencement, transitional provisions, complex references, or

numerous subordinate acts, a revised text alone is insufficient. In such cases, additional instruments are required – tables of amendments, commencement directories, subject-matter classifiers, editorial notes, and other elements of a legal information system.

The French model represents the continental approach to forming collections of legislation. The official Légifrance portal plays a key role in this model. The French system includes, in particular, codes, laws, and regulations in consolidated form in the LEGI database, as well as the texts of acts as they were published in the *Journal officiel* in the JORF database. This division is important for distinguishing authentic official publication from the incorporated, that is, updated, text of an act [13].

The French experience shows a combination of the codification tradition and contemporary electronic incorporation. Codification ensures deeper structural systematization of a particular sphere of law, whereas electronic consolidated texts make it possible to work promptly with current versions of acts. This is especially important because even codified legislation is constantly amended and requires regular updating. Thus, incorporation is not opposed to codification, but complements it as an instrument for maintaining the up-to-date state of both codified and non-codified normative material.

The German model demonstrates a clear distinction between the official promulgation of an act and access to its current version. The *Gesetze im Internet* system provides free online access to a significant part of Germany's federal legislation in force. At the same time, the texts published in the Federal Law Gazette remain official [14].

This approach is important for the theory of incorporation because it shows the possibility of the coexistence of two levels of legal information: the official authentic text and the convenient

current text for the user. The first ensures legal authenticity, while the second ensures practical accessibility. Such a model is useful for Ukraine, since it makes it possible to avoid conflating the official publication of a normative legal act with its informational or reference presentation in the version in force.

A similar logic can be observed in Austria. The Rechtsinformationssystem des Bundes – RIS – is a free public database of Austrian legislation. It covers the authentic version of the Federal Law Gazette, consolidated federal law, and other categories of legal information. Consolidated federal law is presented as the original act with all subsequent amendments in a single text; however, such documents are primarily informational in nature [11].

The Austrian experience is useful because different types of legal information are combined within one electronic resource: official publication, consolidated presentation of law in force, search mechanisms, and access to different categories of acts. This indicates that contemporary electronic incorporation can be multifunctional, but at the same time it requires a clear indication of the legal status of each text.

The Polish model is important for Ukraine given the proximity of legal traditions and the parliamentary nature of the relevant electronic database. In Poland, an important role is played by the Internetowy System Aktów Prawnych – ISAP – available from the website of the Sejm. This system presents the texts of legal acts published in Dziennik Ustaw or Monitor Polski, together with bibliographic data. The database contains both original and consolidated texts of acts [1].

The specific feature of the Polish model lies in the clear distinction between the informational and legally authentic levels. The legitimate source of law is acts published in official

publications, whereas electronic versions in ISAP are informational in nature. Nevertheless, the practical role of ISAP is significant, since the system collects, orders, updates, and presents normative-legal acts in a user-friendly form. Thus, the Polish model demonstrates a variant of parliamentary electronic incorporation that does not replace official publication, but substantially facilitates access to legislation in force.

The experience of Estonia is particularly illustrative. The Riigi Teataja system functions simultaneously as the official online publication of the Republic of Estonia and as a database of the state information system. It publishes not only the original texts of acts, but also official consolidated texts of laws, acts of the President, governmental and ministerial acts, acts of local self-government bodies, and other documents. Consolidated texts are prepared on the basis of the original text and contain all amendments made to it [12; 18].

The Estonian model is one of the closest to official electronic incorporation. Its specific feature lies in the fact that the user receives not only the original act, but also an officially prepared version in force. The system makes it possible to view versions in force on a particular date, move between previous and subsequent versions, see related versions of the act, and verify the authenticity of published documents. This demonstrates that incorporation may be not only a method of consolidating text, but also a full-fledged mechanism for ensuring legal certainty.

The Portuguese model is also useful for comparison. The electronic Official Gazette, *Diário da República Eletrónico*, functions as a public online service with free and universal access. It provides the possibility to view, print, save, and search acts published in the Official Gazette. In addition to the texts of acts themselves, the service contains tools for viewing consolidated

legislative texts, although such consolidated texts do not have independent legal force [15].

The Portuguese experience clearly illustrates the distinction between the authentic publication of an act and its incorporated presentation for the user. The official source ensures the legal authenticity of the original promulgation, while the consolidated text performs a reference and practical function. This model makes it possible not to conflate the law-making and informational-reference levels: the incorporated text facilitates the use of law, but does not replace the act officially published in the prescribed manner.

The Slovenian experience is also of interest. Slovenia has a legal information system, and the legislative database of the National Assembly contains, in particular, officially consolidated texts of laws published in the official gazette, as well as unofficially consolidated texts. This model shows the coexistence of official and unofficial incorporation within one legal information space [17].

The Slovenian example is important for distinguishing between different levels of incorporation. An officially consolidated text has a higher level of legal trust and is the result of formalized work by a competent actor, whereas unofficial consolidation primarily performs a reference function. Both instruments may be useful for the user, but their legal significance is not the same. Therefore, in any national model of access to legislation, it is important clearly to indicate the status of each text: original, current, officially consolidated, unofficially consolidated, informational, or reference.

The Slovak experience is useful for comparison as well. The Slov-Lex portal combines two information systems: eZbierka, which provides access to official consolidated electronic texts of legislation and other normative documents,

and eLegislativa, which is used as a system for managing the stages of the legislative process [16; 19]. This model shows that a contemporary electronic legislative system may cover not only the publication of acts in force, but also the organization of the legislative process, the preparation of text, its subsequent consolidation, and its delivery to the user.

The N-Lex system has separate significance, as it provides access to the legislation of EU Member States through links with official national databases. It does not replace national sources of law, but performs an important navigational function, allowing the user to move to official or semi-official national resources [2; 7]. This reveals another feature of the European approach: the formation not of a single centralized database of all national legislation in Europe, but of a network of interconnected national systems of access to law.

A generalization of the practices discussed above makes it possible to identify several main models for forming collections of legislation in Europe. The first may be conditionally defined as the informational model. It consists in the fact that an electronic database presents updated or consolidated texts of normative-legal acts, but such texts do not have independent legal force and perform primarily a reference function. This approach is characteristic of Germany, Austria, Poland, and Portugal.

The second model has an administrative-incorporation character. It presupposes that a specially authorized body prepares and maintains updated texts of acts with incorporated amendments in order to facilitate access to law in force. An example is the Irish system of Revised Acts, which is combined with other instruments of access to legislation – directories of amendments, classifiers of legislation in force, and information on commencement.

The third model may be characterized as official electronic incorporation. It presupposes that the system of official publication simultaneously provides access to officially prepared consolidated texts of acts. This approach is most clearly manifested in Estonia, where the official electronic publication combines the functions of promulgation, updating, preserving the history of amendments, and presenting the version of an act in force.

The fourth model may be defined as the codification-consolidation model. It is characteristic primarily of France, where the accessibility of legislation is ensured not only through updated texts of individual acts, but also through a system of codes, consolidated texts, and official electronic access to legislation. In such a model, incorporation complements codification by ensuring that already ordered normative material is maintained in an up-to-date state.

The fifth model may be conditionally called the integrated electronic-legislative model. Its feature is the combination of access to legislation in force with electronic support for the legislative process, the preparation of texts, their promulgation, consolidation, and subsequent updating. This approach can be observed, in particular, in the Slovak Slov-Lex system. It demonstrates that incorporation may be connected not only with the result of law-making, but also with the organization of the entire cycle of movement of a normative text – from preparation to official promulgation and updating.

European practices make it possible to identify several common patterns. First, no developed system of access to legislation is limited solely to the original text of an act. Almost everywhere, alongside texts published in their original version, there are consolidated or revised current texts. Second, the current text is almost always accompanied by navigational tools: annotations,

timelines, directories of amendments, classifiers, subject headings, codes, or metadata systems. Third, the legal force of updated texts differs significantly: from an official revised version to purely informational material.

It is precisely the difference in the legal status of the updated text that determines the limits of permissible editorial powers. If a consolidated text has only informational significance, it cannot substitute for the officially published act. If, however, it is granted official or evidentiary status, legislation must clearly define the actor responsible for its preparation, updating procedures, permissible editorial actions, methods for recording amendments, and responsibility for the reliability of the text. Otherwise, incorporation may lose its technical-legal nature and turn into a hidden form of changing normative content.

Thus, the European experience of forming collections of legislation shows that contemporary incorporation is no longer merely a technique for bringing acts together into printed collections. It is being transformed into a complex digital system for organizing normative material, which ensures access to the original text, the version in force, the history of amendments, related acts, metadata, and the version as of a particular date. For Ukraine, this experience is of considerable importance in the context of developing official electronic legislative resources, improving the recording of normative-legal acts, ensuring legal certainty, and forming a high-quality digital infrastructure of access to law.

CONCLUSIONS

The conducted study provides grounds to assert that the incorporation of legislation is not an auxiliary technical operation,

but an independent form of systematization of normative material that is of substantial importance for the proper functioning of the legal system. Its essence lies in the external, editorial-technical, and informational systematization of normative-legal acts without changing their normative content. It is precisely this feature that distinguishes incorporation from law-making, codification, consolidation, and revision of legislation, while not diminishing its significance for ensuring the quality of legal regulation.

Incorporation serves as a necessary prerequisite for a systemic understanding of legislation. It makes it possible to transform a dispersed, historically layered, and often repeatedly amended normative body into an ordered set of acts suitable for search, analysis, application, and further scholarly processing. In this sense, incorporation performs not only a reference-informational function, but also a methodological function, since it creates the basis for legal monitoring, the identification of gaps, duplications, conflicts, outdated provisions, and the preparation of further consolidation or codification of legislation.

The contemporary understanding of incorporation cannot be limited to the traditional view of it as the combination of normative-legal acts into printed collections. The development of electronic legal systems, official registers, databases, updated versions of acts, and digital instruments of access to law has substantially broadened the content of this form of systematization. Incorporation is gradually being transformed from a classical form of external systematization of acts into a dynamic digital infrastructure for presenting law in force.

Incorporation acquires particular significance in connection with the problem of the accessibility of law. The formal promulgation of a normative-legal act is a necessary condition of its

validity; however, by itself it does not always ensure a person's real possibility of establishing the content of legal regulation in force. In a legal system where acts are frequently amended, supplemented, partially repealed, or enter into force in stages, the user needs not only the original text, but also an updated version, the history of amendments, information on validity, and links with other normative-legal acts.

In this context, incorporation is one of the key means of moving from formally promulgated law to genuinely accessible law. It ensures the updating of normative material, navigation within a complex body of acts, explanation of the origin and nature of amendments, and the possibility of establishing the version of an act that was in force on a particular date. Through this, incorporation is directly connected with legal certainty, the foreseeability of legal regulation, the effectiveness of law application, and trust in the state.

At the same time, incorporation has its own limits. It cannot substitute for law-making and should not turn into a hidden method of changing the normative content of an act. Its task is not to correct legislation by editorially rewriting norms, but to reproduce reliably the normative material in force, record the amendments made, and ensure convenient access to it. Therefore, any official or semi-official incorporation requires a clear definition of the actor carrying it out, the limits of editorial powers, the legal status of the incorporated text, and the rules for its updating.

European experience confirms that contemporary collections of legislation are no longer merely printed or formally ordered bodies of acts. They function as complex electronic systems combining official publication, consolidated texts, updated versions, histories of amendments, metadata, classifiers, search tools, editorial

notes, and the possibility of establishing the state of legislation as of a particular date. At the same time, European models differ substantially in terms of the legal status of consolidated texts: from purely informational significance to official or evidentiary status.

For Ukraine, what is especially important is not the mechanical borrowing of a particular foreign model, but the thoughtful use of the most effective elements of European experience. This concerns, above all, a clear distinction between the authentic official text and the updated version, ensuring open electronic access to legislation in force, creating a reliable metadata system, recording the history of amendments, introducing editorial notes, enabling the viewing of the version of an act as of a particular date, and defining the legal status of incorporated texts.

SUMMARY. The incorporation of legislation is one of the important forms of ordering normative material, ensuring the external systematization of normative-legal acts without changing their normative content. The purpose of this study is to clarify the theoretical and legal foundations of the incorporation of legislation, to define its concept, features, and types, to reveal the role of incorporation in ensuring the accessibility of law, and to generalize European practices of forming collections of legislation. Addressing these research tasks determines the logic of the presentation: the analysis of doctrinal approaches to understanding the incorporation of legislation; the characterization of its general and special features; the classification of types of incorporation; the clarification of the significance of incorporation for the real accessibility of law; and the study of European models of the electronic presentation of legislation in force. The methodology of the study is based on general scientific and special legal methods of analysis and

synthesis, induction and deduction, as well as the formal-legal, comparative-legal, systemic-structural, functional, and hermeneutic methods, which are used to reveal the legal nature of incorporation, its relationship with the recording, consolidation, revision, and codification of legislation, and to assess foreign experience in forming collections of legislation. The results of the study show that the incorporation of legislation is not a mechanical collection of normative-legal acts, but an independent form of external systematization aimed at the ordered combination, arrangement, or reproduction of normative material according to certain criteria without changing its content. It is established that incorporation orders normative-legal acts and ensures their proper presentation to the user. It is substantiated that the main feature of incorporation is the preservation of the normative content of an act, since the actor carrying out incorporation does not create new legal norms, does not alter the will of the law-making actor, and does not resolve conflicts by independently editing legal provisions. It is shown that incorporation is important for ensuring the accessibility of law, since it makes it possible to move from a formally promulgated normative-legal act to a genuinely accessible legal text suitable for search, reading, verification of validity, and practical application. It is clarified that contemporary incorporation performs updating, navigational, explanatory, evidentiary-reference, and democratic functions, while its significance is increasing under conditions of the digitalization of legislation. Particular attention is paid to the Law of Ukraine “On Law-Making Activity”, which brings to the fore the issues of bringing normative-legal acts to the attention of the population, maintaining records of such acts, the operation of acts, the elimination of gaps, and the resolution of conflicts. On the basis of European experience, it is shown that contemporary

collections of legislation increasingly function as electronic legal systems combining official publication, consolidated texts, updated versions of acts, histories of amendments, metadata, classifiers, search tools, and the possibility of establishing the version of an act as of a particular date. Practical implications. The results of the study may be used in law-making activity, legal monitoring, maintaining records of normative-legal acts, preparing updated versions of legislation, improving official electronic legal resources, legal education, scholarly research, and law-application practice. Value / originality. The study substantiates an understanding of the incorporation of legislation not only as a traditional form of external systematization of acts into collections, but also as a contemporary instrument for ensuring the accessibility of law, legal certainty, and the digital organization of normative material, which is of particular importance for the further development of Ukrainian legislation with due regard to European practices of forming collections of legislation.

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CHAPTER 9

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CONSOLIDATION OF NORMATIVE-LEGAL ACTS: CONCEPT, CORRELATION, EXPERIENCE OF APPLICATION IN EUROPEAN COUNTRIES

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INTRODUCTION

The development of law-making in Ukraine is quite rapid, which requires the theory of law to develop and improve modern forms of systematization of regulatory-legal acts, and this is possible in the event of intensification of innovative ideas of Ukrainian scientists. Scientists have repeatedly noted that the existing forms of systematization in the theory of law and their definitions do not always correspond to its practical realities. One of such forms of systematization of regulatory-legal acts is consolidation.

The analysis of doctrinal sources on the theory of law from the middle of the 19th century, conducted within the framework of this study, demonstrated that the recognition of consolidation as a form of systematization occurred in the 90s of the 20th centuries. Until then, the forms of systematization of regulatory legal acts were mainly recognized as incorporation and codification [1, p. 3–9]. In this regard, E. Getman notes that in the legal literature of the past, much attention was paid to systematization, in particular, accounting, incorporation and

codification, but consolidation was almost not the subject of scientific research [2, p. 24]. This is confirmed by other scientific sources in which scientists did not mention consolidation at all when highlighting different types of systematization of regulatory legal acts.

From a theoretical point of view, the study of consolidation as a form of systematization of regulatory legal acts is important for the development of the doctrinal concept of law-making and law enforcement. From an applied point of view, its significance is determined by the need to systematize regulatory legal acts and create practical foundations for the continuation of such activities.

Certain works on the consolidation of regulatory legal acts belong to Yu. Bezusiy, D. Bilinsky, S. Bobrovnyk, I. Bondarenko, R. Gavrylyuk, E. Getman, A. Gratsianov, S. Gusarev, P. Yevgrafof, T. Yefymenko, O. Zaychuk, A. Kolodiy, N. Koshil, T. Kurus, O. Lysenkova, L. Luts, O. Lutsenko, A. Mashkov, S. Melenko, N. Onishchenko, N. Parkhomenko, O. Petryshyn, E. Pogorelov, P. Rabinovych, O. Rogach, I. Shutak, O. Yushchuk, whose works and publications became the basis for this study and encourage further legal research on the problems of the specified topic.

The Law of Ukraine “On Law-Making Activity” dated August 24, 2023 № 3354-IX establishes new requirements for the law-making process and systematization of regulatory legal acts [3]. This emphasizes the relevance of further scientific research in this area and requires further development of the theoretical and practical principles of consolidation as a form of systematization of regulatory legal acts.

1. The concept and essence of consolidation

Starting the analysis of the concept of consolidation of regulatory legal acts, it is worth noting that there are many positions on its understanding in legal sources. The diversity of opinions indicates the intensification of scientific research in this area, however, many questions regarding its essence, the process of implementation, features, goals and results of such activities remain unresolved.

The term “consolidation” (from the Latin *consolidatio*) means “to unite, to join together” – this is a form of systematization of legislation through the consolidation into a single regulatory legal act of several acts that regulate a certain sphere of social relations without changing their content. This is the external processing of regulatory material – its arrangement by branches of law, in chronological order or by other formal features [4, p. 42].

The six-volume Legal Encyclopedia notes that “CONSOLIDATION” – (Late Latin *consolidatio*, from Latin *con...* – a prefix meaning unification, commonality, compatibility, and *solidatio* – strengthening, strengthening) – 1) One of the ways of systematizing legislation, in the process of which several acts are combined into one document. The new act completely replaces the combined ones, since it is newly adopted by the competent law-making body. The peculiarity of consolidation is that the content of the legal regulation of social relations does not change. All regulatory provisions of previously adopted acts are combined into a new one without changes. As a rule, their editorial correction is carried out: contradictions, repetitions, etc. are eliminated [5, pp. 268–269]. In legal science, it is aptly stated that “This is a form of systematization, in the process of which dozens, and sometimes hundreds of regulatory acts on the

same issue are combined into one consolidated act. Such an act is approved by the legislative body as a new, independent source of law, and the old separate acts are recognized as having lost force” [6, p. 410]. T. Kurus states that “... consolidation is the unification of several acts or their components into a single regulatory act” [7, p. 31].

Ye. Getman emphasizes that “... consolidation is one of the ways of systematizing legislation, in the process of which several acts are combined into one document. A new act adopted in the process of consolidation completely replaces the combined ones, since it is newly adopted by the legislative body” [2, p. 24].

L. Dobrobog understands consolidation as a form of systematization that involves combining several regulatory legal acts operating in one sphere of social relations into a single regulatory legal act, as a rule, without changing their content [8, p. 367]. It is further noted that consolidation is a type of law-making by state bodies, according to which the content of legal regulation does not change. Current regulatory provisions are combined without changes into a new regulatory legal act, only a certain editing is carried out [8, p. 367–368]. In turn, Kharkiv lawyers note that “Consolidation is the consolidation of several acts regulating a certain sphere of social relations into a single regulatory legal act without changing their content” [9, p. 320]. According to S. Melenko, consolidation is “...an independent logical-epistemological and hierarchical type of systematization of regulatory legal acts, which consists in organizing regulatory legal material by object, subject, subject and method of legal regulation, which, in turn, forms a certain system of legal norms that can be combined according to institutional and sectoral characteristics” [10, p. 6].

All of the above indicates that consolidation is gaining the status of one of the priority areas of systematization of regulatory legal acts. In this regard, S. Melenko rightly emphasizes consolidation as one of the important factors for the formation and development of legal norms (in particular, dispositions, hypotheses, sanctions), legal institutions (since the consolidation process involves the creation of a centre around which norms regulating a certain sphere of homogeneous social relations are united), as well as branches of law (since the creation of branches is possible only through the necessary consolidation work) [10, pp. 6–7].

So, during the preparation of a consolidated act, all norms of previous acts are arranged in a certain logical sequence, a general structure of the future act is created. The regulations are edited and externally processed to ensure a single style and unified terminology. Contradictions and repetitions are eliminated, outdated terminology is updated, and norms with similar content are combined into one paragraph or article.

In contrast to the above, V. Opryshko calls consolidation a type of incorporation [11, p. 5]. We believe this approach is quite controversial, since incorporation is limited to placing regulatory legal acts in a certain order without changing their content. Unlike incorporation, consolidation is official in nature, carried out by relevant state bodies, has features of law-making, and is a more complex type of systematization. For example, during consolidation, it is possible to process the content of regulatory legal acts in order to identify and eliminate contradictions, gaps, and discrepancies between existing legal provisions, but without creating new norms. At the same time, regulatory legal acts that are combined into one consolidated act do not lose their individual legal force, which is a feature of incorporation.

Elaborating on the above, K. Volynka emphasizes that over time, each legal system accumulates a significant number of regulatory acts with the same subject matter, which sometimes reaches dozens and hundreds. Such acts are often duplicated or even contain contradictions. This creates a need to eliminate the multiplicity of regulatory acts by consolidating them and creating peculiar “blocks” of legislation. One of the options for overcoming this multiplicity is consolidation, which involves the preparation and adoption of consolidated regulatory acts by combining norms from different acts on the same issue. During consolidation, several regulatory acts on the same topic merge into one complex act, which is approved by the law-making body as a new, independent source of law, as a result of which the previously separate acts lose their legal force. This new consolidated act does not change the content of legal regulation and does not make any changes to the current legislation. During the preparation of a consolidated act, only editorial correction is carried out, which includes the unification of the style of presentation and terminology [12, p. 151].

O. Babkina defines consolidation as a form of systematization of regulatory legal acts, which consists in the preparation and adoption of consolidated regulatory legal acts by combining norms from separate acts issued on one issue [13, p. 101]. V. Kyrychenko and O. Kurakin, interpreting the consolidation of regulatory legal acts, note that this is one of the types of systematization, which involves the creation of a new consolidated act on the basis of several regulatory legal acts on the same type of issue. In this act, regulatory provisions are placed in a logical order after editorial processing, but without changing the content. During the preparation of a consolidated act, a full editing is carried out, contradictions and repetitions are eliminated, but the new act

does not make changes to the content of legal regulation or to the current legislation. Consolidation is used where codification is not possible, and is often used to streamline regulations in the areas of taxation, administrative liability, and others [14, pp. 146–147].

In our opinion, due to the frankly insufficient understanding of consolidation, it is necessary to more clearly indicate its features. Therefore, we recognize that L. Luts has quite successfully characterized the features of consolidation, namely: regulatory and legal provisions are combined according to the subject of regulation; the combination occurs in one consolidated act; the provisions retain their original form, recorded in the current sources of law; the process of such a combination has both elements of incorporation and codification; regulatory and legal provisions from existing sources of law are placed in a certain order in the general structure of the new act; external editing and correction of the text is carried out to ensure a uniform style; unified terminology is used; duplications and contradictions are eliminated, and outdated terminology is updated [15, p. 235].

O. Zaychuk and N. Onishchenko pointed out the following features of consolidation:

- is a special direction (variety) of law-making activity, the content of which is to streamline the form of legislation (only the form of legislation changes, but the content of the legislation does not change). This is the main difference that distinguishes the consolidation of regulatory legal acts from codification, as a result of which both the form and content of the legislation change;
- combines into a single, generalized regulatory legal act numerous regulatory acts that regulate the same issues of legal regulation and have the same legal force;

- the result of consolidation is the adoption of a new, enlarged consolidated regulatory legal act. From the moment it enters into force, the old separate regulatory legal acts that were integrated into the new act are recognized as having lost their force;
- during consolidation, the content of the legal regulation of social relations does not change, that is, no new legal norms appear in the current legislation. The changes made are of a technical and legal nature. In the process of preparing a consolidated act, all the norms of previous acts are organized in a certain logical sequence and the general structure of the future document is developed. Normative acts are included in the structure of the consolidated act in the form of separate sections, chapters, articles and paragraphs. A certain editorial correction of regulatory and legal provisions is carried out with the aim of ensuring that they all acquire stylistic unity and unification of terminology. Contradictions, repetitions, unjustified verbiage are eliminated, outdated terminology is corrected, norms that are close in content are combined into one article, paragraph, etc. [6, pp. 409–411].

M. Zvik names almost similar features of consolidation:

- 1) consolidation is always an official form of systematization, carried out exclusively within the framework of normative activity;
- 2) as a result of consolidation, no new legal norms arise, and only editorial editing of the texts of regulatory legal acts is possible;
- 3) the result of consolidation is the publication of a new regulatory legal act; 4) with the entry into force of the consolidated act, the previous acts that were part of it lose their legal force [9, p. 320].

Taking into account the above-mentioned basic approaches to the definition of consolidation, its characteristic features can be distinguished:

1) systematicity. Consolidation of regulatory legal acts is part of the system of forms of systematization and is used when the use of other forms is inappropriate or when consolidation is the most effective method of systematization. In particular, the use of consolidation is due to the need to reduce the total number of regulatory legal acts and harmonize them with each other, but without changing the legal regulation;

2) independent nature. Despite numerous common features with other forms of systematization, consolidation has a number of features that allow it to be considered as an independent form of systematization. This not only makes it possible to distinguish consolidation as a type of systematization at the general theoretical level, but also to use it to systematize regulatory legal acts separately from other forms;

3) dualism. Consolidation is not only a form of systematization of regulatory legal acts, it is also characterized by features of law-making activity, since as a result of it a new regulatory legal act is created, and the acts combined in it lose their legal force;

4) conservatism. The new regulatory legal act that arises as a result of consolidation does not change the legal regulation of social relations. The content of the norms changes only at the level of editorial editing, that is, through their coordination with each other, the transfer of prescriptions, grouping by subject orientation and unification of terminology;

5) uniformity. A new regulatory act is formulated using a single terminology, style of presentation, eliminating duplication and conflicts that existed before consolidation. As a result, the new act becomes a separate, integral regulatory act, which has its own logical structure and establishes relationships between norms. Based on this, the consolidation of regulatory acts can be defined

as a kind of systematization. Such a form of systematization is not a mechanical compilation of current regulatory acts into a collection, but a certain type of law-making. The result of such law-making is a new consolidated act that preserves legal regulation in the same forms as the acts that it unites, that is, it does not provide for changes in current regulatory acts.

In essence, the consolidation of regulatory legal acts is not a type of law-making activity. It can be considered law-making only in form, because in terms of content it does not establish, change or abolish any norms. This emphasizes its dual nature. Yes, consolidation belongs to external forms of systematization that do not affect the content of the norms of legal regulation. However, unlike incorporation, it is a more complex form of systematization and occupies an intermediate place between incorporation and codification. At the same time, it is focused exclusively on the formal restructuring of legislation, the elimination of conflicts and duplication of legal norms. In legal doctrinal sources it is noted that during consolidation all consolidated regulatory legal acts are combined without changes or undergo only editorial processing. However, it is difficult to agree with this. During consolidation, along with the unification of regulatory legal acts, there is an exclusion of any regulatory provisions that have not only formally but also actually lost their meaning, as well as changes and adoption of new legal norms.

In doctrinal sources, examples of consolidation are the approval and official publication of a regulatory legal act in the current version with amendments and additions [16, pp. 9–10]. Agreeing with this, we believe that this idea should be developed further. It is proposed to give the consolidated text of the regulatory legal act with amendments and additions official status, legitimize

it as a “new edition” and publish it on the official Internet portal of legal information.

Based on the above, we can formulate a definition of consolidation as a form of systematization of regulatory legal acts. This is not just a combination of various regulatory legal acts into a single act, but also a combination of changes and additions made to the regulatory legal act and presented in the current version of this act. Such application of consolidation should become an everyday practice of systematization of regulatory legal acts.

In this regard, there is every reason to believe that consolidation is a systemic, independent, dualistic form of systematization of regulatory legal acts, which consists in combining regulatory legal acts that regulate similar legal relations into a single act that does not change the legal regulation of social relations, provides for changes only at the level of editorial editing, that is, through their coordination with each other, transfer of provisions, grouping by subject matter and unification of terminology, the result of which is the creation of a new regulatory legal act that has its own logical structure and establishes relationships between norms.

Exploring the essence of consolidation, I would like to emphasize that “ESSENTIAL, -a, -e. Which constitutes the very essence, the content of something; important, significant // in the meaning of the noun essential, substantial. That which constitutes the very essence, the content of something. // Which has great, special significance” [17, p. 1218].

Based on the above, it can be stated with complete confidence that the essence of consolidation is seen in the fact that it: does not change the essence of legal regulation and does not introduce changes or innovations to the current legislation; occurs without changing the regulatory content of the acts; the content of legal

relations does not change; regulatory provisions are placed in a logical order after editorial processing; some editing and external processing of regulatory and legal acts takes place in order to ensure a single style of presentation and the use of unified terminology; new legal norms are not introduced; changes in the texts of regulatory and legal acts are possible only at the level of editorial editing; it is assumed that there will be no modification of regulatory acts, the changes relate only to minor editorial processing of texts, removal of contradictions and repetitions from them, etc.

The technical and legal procedure for consolidating regulatory and legal material is as follows:

1) determining the volume of material. It is assumed to determine the volume of regulatory and legal documents that are subject to consolidation;

2) analysis of documents. Each document or part of it is carefully analysed as an object of consolidation;

3) content analysis. The content of parts of documents is studied to identify elements that can be attributed to other branches of law and included in other collections of regulatory legal acts;

4) classification. A decision is made about which branch of law a specific regulatory act or part of it should be attributed to;

5) inclusion in the collection. It is determined which part of the regulatory legal act will be included in the consolidated collection of regulatory legal acts;

6) hierarchical placement. The place of the document or its part in the hierarchical structure of the consolidated collection is determined;

7) elimination of duplication. A search is carried out for repetitions of hypotheses, dispositions and sanctions in the

articles of the regulatory legal act and other documents subject to consolidation processing;

8) exclusion of irrelevant materials. Regulatory material that has lost its validity is identified and excluded from the consolidated collection.

In addition, the following consolidation rules can be distinguished:

1) identity of the subject of legal regulation. The consolidated regulatory legal acts must have an identical subject of legal regulation;

2) consistency of legal norms in the new regulatory legal act;

3) use of uniform terminology. When combining different regulatory legal acts, it is necessary to achieve the use of a single conceptual apparatus;

4) building the systematicity of a new regulatory legal act, the coherence of legal norms.

2. The correlation of consolidation with other forms of systematization of normative-legal acts

First of all, I would like to note that the problem of systematization of regulatory legal acts occupies an important place in the theory of law, law-making and law-enforcement practice, since the effectiveness of legal regulation largely depends on the level of systematicity, coherence and structuring of the regulatory legal mass. In general, systematization is ordering, compilation, selection in a certain order (of any material); compilation [18].

It makes sense to emphasize that the systematization of normative-legal acts is a broader concept than the systematization of regulatory and legal acts. Systematization encompasses a set

of various organizational, technical, legal and law-making measures aimed at ensuring the proper structure of regulatory and legal acts, eliminating duplication and contradictions between regulatory and legal acts, as well as increasing their accessibility and ease of use. Within this process, systematization is one of the main tools, which is implemented through various forms of processing regulatory material. It is in this system that consolidation occupies an intermediate place between simple forms of systematization of legislation and more complex law-making processes.

At the same time, I would like to emphasize that in the modern conditions of development of the legal system of Ukraine, characterized by a significant volume of regulatory and legal acts, their multi-level and fragmented nature, various forms of systematization of normative-legal acts acquire particular importance. Such forms in scientific sources traditionally include accounting of regulatory legal acts, incorporation, consolidation and codification. In this context, it is important to clarify the relationship of consolidation with other forms of organizing regulatory legal acts, which allows us to more clearly determine its place in the system of law-making activity.

Investigating the relationship of consolidation with other forms of organizing regulatory legal acts, I would like to note, first of all, that in legal sources the thesis is expressed about the inexpediency of isolating consolidation as an independent type of systematization. As V. Ryndyuk notes, the problem is that when studying the concepts of consolidation and codification of legislation, scientists do not clearly define the differences between these areas of law-making activity. At the same time, such a difference becomes clearly understandable if we consider the legislation that is the object of consolidation and codification as a way of existence of legal norms in regulatory legal acts. At the

same time, regulatory legal acts have their own content and form. Legal norms constitute the content of legislation, and regulatory legal acts – its form [4].

That is why it can be argued that the content of the consolidation of regulatory legal acts consists in developing a single consolidated regulatory legal act by combining separate regulatory legal acts that have the same subject of legal regulation without making changes to their content. The content of the codification of regulatory legal acts consists in developing a single systematized codified regulatory legal act by combining separate regulatory legal acts that have the same subject of legal regulation with a change in their content.

The concept of codification of regulatory legal acts in legal sources is considered as a form of systematization carried out by authorized state authorities in the process of law-making activity. In general, it is worth stating that “CODIFICATION (late Latin *codificatio*, from Latin *codex*, originally – trunk, stump; waxed writing board, book and ...*ficatio*, from *fakio* – I do) is a way of organizing legislation, ensuring its systematicity and coherence; one of the forms of systematization of legislation, in the process of which the process of the created act includes current norms and new norms that introduce changes in the regulation of a certain sphere of social relations” [19, pp. 139–140].

So, codification is a method of systematization, in which the systemic normative regulation of a given type of social relations is ensured by issuing a single, legally and logically complete, internally coordinated normative act, reflecting the content and legal specifics of a structurally separate link in the legal system. That is, such processing of regulatory legal acts is carried out that to some extent changes their structure (harmonizes, eliminates contradictions,

unites, etc.). The result of codification is a new regulatory legal act (code, legal framework, statute, regulation, instruction, etc.).

At the same time, when determining the features of codification of regulatory legal acts, it is indicated that in the process of codification, the norms of regulatory legal acts are changed, cancelled or supplemented; gaps are eliminated, as well as discrepancies and contradictions between regulatory acts and their norms. Codification brings significant innovations to the regulation of social relations, acting as a certain form of reforming regulatory legal acts. Based on the above, there are grounds to argue that its comparison with codification is of particular importance for understanding the relationship between consolidation and other forms of regulation of legislation. Codification is the most complex form of regulation of legislation, which involves a deep processing of regulatory material, the creation of new legal norms and the formation of a systemic regulatory act that establishes a new model of legal regulation of a certain sphere of social relations. The result of codification is usually the adoption of a code or other comprehensive regulatory act, which replaces a significant number of previous acts and forms a holistic system of legal institutions.

Compared to codification, consolidation is much more limited in nature. It does not provide for a significant reform of legal regulation and is not aimed at creating a new system of legal norms. Its main task is to combine disparate regulatory acts into a single structured document while preserving their substantive basis. That is why consolidation is often considered an intermediate form of regulatory legislation, which combines certain features of incorporation and codification.

When studying the relationship between consolidation and incorporation, it is important to emphasize that

“INCORPORATION (Late Latin incorporation – inclusion in the composition) – the unification of regulatory legal acts into collections or collections, their arrangement in a certain order without changing the content. The result of incorporation is the external processing of the current legislation. The most characteristic features of incorporation: 1) during processing, regulatory legal acts are combined in alphabetical, chronological, subject order, which makes their external order possible; 2) the content of regulatory legal acts included in the incorporation collections or collections of legislation does not change; 3) incorporation is carried out by a systematizing body (for example, the Ministry of Justice of Ukraine), which is not authorized to change, cancel or establish legal norms. It can only show in the collection the changes or additions made by the law-making body. Incorporation can be official and unofficial” [19, pp. 690–691].

So, unlike incorporation, when consolidating regulatory legal acts, some editing and external processing of regulatory legal acts still takes place in order to ensure a single style of presentation and the use of unified terminology, changes in the texts of regulatory legal acts are possible only at the level of editorial editing, the changes concern only minor editorial (not as significant as during codification) processing of texts, removal of contradictions and repetitions from them, etc.

That is, the content of incorporation consists in the systematic compilation of current regulatory legal acts into collections or other information resources without changing their legal content. Incorporation is aimed primarily at facilitating the use of regulatory legal acts and ensuring their accessibility for law enforcement agencies, individuals and legal entities. However, within the

framework of incorporation, the texts of regulatory legal acts are reproduced without significant editorial processing, and their unification is mainly of a reference and informational nature.

Against this background, consolidation is characterized by a more complex level of processing of regulatory material. It involves the unification of several interconnected regulatory legal acts or their individual provisions into a single regulatory act with editorial processing of the text. In the process of consolidation, repetitions are eliminated, the terminology is agreed upon, the structure of the regulatory act is clarified, and outdated or duplicate provisions are eliminated. At the same time, consolidation, unlike codification, does not involve a fundamental update of the content of legal regulation, but is aimed primarily at streamlining existing legal norms.

The most elementary form of regulation of regulatory legal acts is the accounting of regulatory legal acts. Part one of Article 55 of the Law of Ukraine “On Law-Making Activity” dated August 24, 2023 № 3354-IX provides that the accounting of regulatory legal acts is carried out: 1) by the subject of law-making activity; 2) by the ministry that ensures the formation of state legal policy. The subject of law-making activity keeps records of the regulatory legal acts adopted (issued) by it, ensures the storage of their originals, and the ministry that ensures the formation of state legal policy carries out state accounting of regulatory legal acts adopted by the subjects of law-making activity by including them in the Unified State Register of Regulatory Legal Acts. In the meantime, part one of Article 56 of the aforementioned Law of Ukraine regulates that “The Unified State Register of Regulatory and Legal Acts is a state information and communication system that ensures the collection, accumulation, registration, accounting and storage of regulatory and legal acts” [3].

Thus, the essence of accounting for regulatory and legal acts is to record, register and store information about adopted regulatory acts in order to ensure the possibility of their prompt search and use. Accounting for regulatory and legal acts does not involve changing the text of the acts or their substantive processing, but is exclusively of an information and organizational nature. In this aspect, consolidation differs significantly from accounting, since it involves a more in-depth processing of regulatory material, which includes combining several regulatory and legal acts into a single generalized act and editorial coordination of their provisions.

Thus, the relationship of consolidation with other forms of regulation of legislation can be characterized by the degree of processing of regulatory material. If the accounting of regulatory legal acts is exclusively informational in nature, incorporation involves a systematic compilation of acts without changing their content, and codification is aimed at a deep update of legal regulation, then consolidation occupies an intermediate place between these forms. It combines the editorial processing of regulatory acts with their unification into a single regulatory document, which allows eliminating excessive fragmentation of regulatory legal acts and increasing its systematicity.

In conclusion, it should be stated that consolidation is an important tool for systematization of normative-legal acts, which allows optimizing the structure of the regulatory and legal mass without radically reforming the content of legal regulation. Its use contributes to increasing the logical coherence of regulatory and legal acts, eliminating duplication of legal norms and ensuring greater convenience of law enforcement. That is why consolidation is considered in modern legal doctrine as an effective mechanism for systematization of normative-legal acts, which can act as both

an independent form of systematization of normative-legal acts and a preparatory stage for further codification processes.

3. Experience of applying consolidation in European countries and its use in Ukraine

Today, consolidation of regulatory and legal acts is practically not used in Ukraine, and accordingly, there are very few examples of consolidation of regulatory and legal acts in legal practice. At the same time, the practice of consolidating regulatory and legal acts is widespread in many countries. The experience of applying consolidation in Great Britain, Italy and France is interesting in this regard.

The British legal system is a classic example of “uncodified” legal systems. Over the centuries, the English legislature has adopted a multitude of statutes. For example, in British law, you can still find acts of parliament adopted in the 14th–15th centuries, which are still used in judicial practice. The systematization of British law is still carried out through consolidation, that is, the unification of legislative provisions on a certain issue into one act [10, pp. 11–12]. The process of consolidation itself in Great Britain began in the 16th century. The first consolidating act, according to British scholars, is the Labor Act of 1562.

At the beginning of the 19th century, in Great Britain, in order to streamline regulatory legal acts, consolidated acts began to be issued, which included legal norms from previously adopted parliamentary acts, systematized by institutional affiliation. For example, such acts included the Family Relations Act of 1857, the Partnership Act of 1890, the Sale of Goods Act of 1893, and others [10, pp. 11–12].

In 1965, the Law Commission was established, which, according to the law on it, is responsible for reforming and systematizing regulatory legal acts, including, in particular, codifying legislation, eliminating contradictions, and reducing the number of laws by consolidation [9, p. 565]. The chairman and members of the commission are appointed by the Lord Chancellor. Previously, these issues were dealt with by some non-governmental structures, and later by a council under Parliament. However, work on systematizing legislation was not carried out on a permanent basis. Today, consolidation is handled by the Joint Committee on Consolidation Bills in the Parliament of Great Britain [10, pp. 11–12].

Here are some interesting facts: between 1856 and 1908, 34 repealing bills were passed (mostly Statute Law Revision Bills); between 1909 and 1952, only 3 such bills were passed. As for the work of the Law Commission, over the 58 years of its existence (from 1965 to 2023), 20 repealing bills were prepared and passed [20].

Thus, consolidation in British law refers to the unification of a number of existing acts of parliament on the same issue into a single act without amending the law, although sometimes they may contain minor corrections and improvements [21].

In British law, a consolidated legal act is recognized as a regulatory act that combines a number of laws previously issued by Parliament on a certain subject of legal regulation, and the norms within the consolidated acts are also systematized by subject (systematic arrangement). According to the general rule, consolidated acts combine only a part of the laws relating to a certain subject [10, pp. 11–12]. The main purpose of issuing consolidated acts is to reduce the number of current laws. When issuing a consolidated law, those laws that were fully or partially

absorbed by it are repealed. Therefore, the text of the consolidated law always includes a table of repealed acts in connection with the consolidation, which is part of the law itself.

Despite its long history, consolidation in the United Kingdom faces many problems. For a long time, the most controversial issue was the question of the limits of consolidation, that is, the admissibility of including new legislative provisions in the consolidated act. Since consolidating acts consist of provisions already approved by Parliament and undergo a simplified procedure for consideration, the addition of new provisions to such acts could violate the principle of parliamentary supremacy. This principle provides that no change to existing legislation can be adopted without careful examination in Parliament [10, pp. 11–12].

Therefore, British legislators were forced to make adjustments to outdated laws, which led to the emergence of three types of consolidated acts:

- 1) purely consolidated acts (pure consolidation), which directly combine legislative provisions;
- 2) consolidated acts adopted under the Consolidation Act 1949 (hereinafter referred to as the 1949 Act) [22].
- 3) consolidated acts adopted in accordance with the proposals of the Law Commission [10, pp. 11–12].

The main difference between the consolidated acts adopted on the basis of the 1949 Act and those created on the basis of the Law Commission's proposals lies in the degree of changes made to existing legislation. The 1949 Act allows for amendments and minor improvements aimed at removing ambiguities and contradictory provisions, bringing outdated provisions into line with modern practice and deleting unnecessary or incorrect provisions that are not of material importance.

The 1949 Act, by establishing a special procedure for the passage of consolidated acts, essentially divides them into “pure” consolidation provisions and provisions containing new legislative provisions, which are recorded in a memorandum from the Lord Chancellor explaining their purpose [22]. Such bills are considered by a Joint Committee, which decides which proposals to include in the bill and reports on this to the Speaker of the House of Commons and the Lord Chancellor. If they agree with the decision of the Joint Committee, the bill is recognized as a consolidated law with additions and amendments.

The 1949 Act states that the amendments made by consolidated statutes after their passage have the force of law. Although the 1949 Act allowed for the possibility of amendments being made by a consolidated law, it did so very cautiously, stipulating that these changes should not be so significant as to necessitate the adoption of a separate law.

The limits of consolidation were expanded by the British Parliament in 1967 in connection with the adoption of the Law Commission's proposals during the passage of the laws on sea shellfish fisheries. The new practice was fixed by standing orders of the Houses, and in this procedure of passage a consolidated act is called an act aimed at consolidating separate provisions on a particular subject with some amendments recommended by the Law Commission. The memorandum in this case is replaced by an order containing recommendations for amending existing laws [10, pp. 11–12].

If the proposals contained in the consolidated act introduce, in the opinion of parliamentarians, too significant changes to the existing legislation, then after the second reading, not a joint

committee, but an ad hoc expert committee is created. Such draft laws are closer to ordinary public acts.

Since in practice a consolidated bill combines the features of all types of consolidation, it, as a rule, belongs to the third type of consolidated acts and is passed as a consolidated act proposed by the Law Commission. At the same time, a consolidated bill developed by the Law Commission may be passed according to the procedure provided for by the 1949 Act. Thus, in fact, the only criterion for distinguishing types of consolidated acts is the expediency of a particular procedure for passing the bill.

So, in British law, the understanding of consolidation is similar to Ukrainian. However, the practice of applying consolidation differs in the variety of examples. Consolidation is differentiated into several types, which differ in the degree of changes made to the regulatory material when combining several acts. This factor is the main one when choosing the procedure for passing a consolidated bill.

Summarizing the above, there is every reason to assert that the most illustrative example of the application of consolidation among European countries is Great Britain. Its legal system is traditionally characterized as uncoded, which does not mean the absence of regulation of regulatory legal acts, but, on the contrary, determines the special role of consolidation as one of the main means of systematizing regulatory material. British legislation was formed over many centuries, as a result of which it preserved acts adopted in different historical eras, including very ancient parliamentary statutes. Such historical multi-layeredness of regulatory legal acts necessitated the unification of disparate regulatory provisions into more compact and coherent acts.

In the British law-making tradition, consolidation is understood as the unification of several existing parliamentary acts relating

to one issue into one regulatory act without significantly changing their content. This is its key feature: consolidation is not designed to create fundamentally new legal regulation, but is aimed at reducing the already existing regulatory material to a single, structurally coherent text. However, in the process of such work, certain editorial, terminological and technical clarifications are allowed, necessary to eliminate contradictions, repetitions, outdated formulations and to ensure the internal consistency of the act.

The historical development of consolidation in Great Britain shows that it is not a new phenomenon. Its origins can be traced back to the 16th century, and later it gradually established itself as an important tool of parliamentary practice. Consolidation gained particular development in the 19th century, when a significant number of consolidated acts appeared, dedicated to individual institutions and areas of legal regulation. This was due not only to the quantitative growth of legislation, but also to the need to make it more accessible to courts, authorities, practicing lawyers and citizens. An important stage in the institutionalization of consolidation in Great Britain was the creation of special bodies that were responsible for the systematization of legislation. The activities of the Law Commission were especially significant in this process. Its task was not only the general reform of legislation, but also the elimination of its excessive fragmentation by preparing consolidated bills. A specialized mechanism for considering such acts was also formed in the parliamentary structure, which ensured the stability and procedural certainty of consolidation activities.

The British experience is also particularly important because it demonstrates the internal differentiation of consolidation itself. In the law-making practice of this state, different types of consolidated acts have been formed depending on how permissible changes in

the content of the consolidated regulatory material are recognized. At one pole is the so-called “pure” consolidation, which is limited to the mechanical and logical consolidation of existing norms into a single text. At the other – consolidation, which allows for minor changes aimed at eliminating obvious flaws in legislative technique, archaic formulations or internal contradictions. This approach indicates that the British model of consolidation is sufficiently flexible and adapted to the practical needs of legal regulation.

However, in Great Britain the question of the limits of consolidation has long remained debatable. This is explained by the fact that consolidated acts undergo a simplified parliamentary procedure, and therefore the introduction of significant novelties into them could create a risk of actually bypassing the ordinary legislative procedure. This leads to one of the fundamental features of the British approach: the greater the degree of interference with the content of the legal material, the less the relevant act can be considered as purely consolidated and the more complete the parliamentary procedure should be applied to its adoption. Thus, the British experience clearly demonstrates the close connection between the nature of consolidation and the procedural guarantees of the legislative process.

Interesting in this regard is the experience of applying consolidation in the process of systematizing regulatory and legal material in Italy. In Italian legislation, in addition to codified regulatory sources, there are consolidated texts of legislative acts (unified laws). In the process of consolidation, regulatory provisions that have already been officially published and entered into legal force are subject to consolidation. Consolidation of legislation is carried out in the following two forms.

In the first case, the consolidation of regulatory acts is carried out without any changes to the essence of the norms themselves,

but with corrections of a technical nature (introduction of a single numbering, change in the numbering of laws, etc.). This type of consolidation of a large amount of regulatory material into a single act is carried out at the initiative of the government or interested ministries without prior or subsequent sanction of the parliament. This method of systematization is more reminiscent of incorporation, but in the process of its implementation, techniques inherent in consolidation are used, in particular, the provisions form a new act, but at the same time the text of the new source is not sanctioned by the legislative body.

In the second case, when combining regulatory acts into a single act, only some, partial changes are made to them. Consolidated laws of this type are also prepared on the initiative of the government or interested ministries, but require mandatory parliamentary approval. In this case, the use of consolidation is evident, although codification techniques are already partially being used. In particular, the introduction of some partial changes attracts attention.

By adopting consolidated texts, official systematization is carried out in those areas of legislation that are difficult or not amenable to codification. Such acts are issued rarely and relate mainly to the sphere of administrative legislation in Italy [10, p. 11].

In this country, in accordance with Article 99 of the Constitution, the National Council for the Economy and Labor was established, which includes, in the manner established by law, experts and representatives of various categories of production, taking into account their quantitative and qualitative characteristics. It is an advisory body to the Chambers and the Government on issues and powers defined by law. The National Council for the Economy and Labor has the right of legislative initiative and may participate in the development of legislation on

economic and social issues in accordance with the principles and within the limits defined by law [23]. With its help, a thorough analysis of regulatory legal acts, including consolidated ones, is carried out, which makes it possible to avoid legal defects and improve the quality of regulatory legal material as a whole.

Summarizing the above, it can be stated that the Italian legal system, along with codified acts, has developed a special tool – the so-called unified texts of laws, or consolidated texts. They are an important form of official regulation of legislation, especially in those areas where full-scale codification is difficult, excessively burdensome or simply impractical. That is why the Italian experience is of particular importance for understanding flexible models of consolidation.

In Italian practice, consolidation is carried out in two main forms. The first of them involves the unification of regulatory provisions without changing their essence, but with the necessary technical adjustments – unification of numbering, ordering of the structure, elimination of formal discrepancies. By its nature, this form is close to incorporation, but does not amount to it, since the result is the creation of a new integral text that functions as an independent source of orientation in legislation.

The second form of Italian consolidation allows for certain partial changes to the regulatory material. This is not a deep reform of the content of legal regulation, but limited clarifications that contribute to better coherence and suitability of the act for practical application. That is why this form is already to a certain extent approaching codification techniques. However, even in this case, consolidation does not lose its specificity, since its main task remains not to create a new model of legal regulation, but to streamline the already existing regulatory material.

An essential feature of the Italian experience is also that consolidation is often used in areas of administrative legislation. This is natural, because administrative legislation itself is usually characterized by significant fragmentation, a large number of special acts and a high rate of change. Under such conditions, consolidation turns out to be a more practical means than full-fledged codification. It allows you to quickly combine disparate provisions into a single text and thus ensure a more adequate level of accessibility and orderliness of legislation.

Consolidation is clearly manifested in French law. In France, systematisers, developing methods for codification, singled out such a principle of codification as “constancy of law”, which is understood as nothing more than a transitional stage from the consolidation of regulatory material to its codification. That is, the principle of “constancy of law” can to a certain extent be understood as consolidation, which, first of all, is the primary stage of codification of legislation.

French systematisers point out that it is precisely the observance of this principle that allows the creation and adoption of codes during their consideration, providing the initiators of the reform of the regulatory and legal material with a clear, orderly and effective textual basis. This is nothing more than consolidated collections of legislation, which include regulatory and legal acts that regulate social relations and are placed in a certain orderly sequence. Consolidation, thus, contributes to the process of improving the content of the texts of codified acts.

When carrying out codification according to the specified principle, the systematiser initially makes a number of changes so that the text becomes clearer and, at the same time, corresponds to the previous logical and legal content. Obsolete, unused words,

expressions and concepts that do not meet the requirements of modern legislative techniques are replaced with analogues that correspond to current legislation and modern language. In fact, these collections of legal norms are not codified legal acts, but consolidated collections of regulatory legal provisions.

So, in France, codification is carried out on the basis of consolidation. A feature of consolidation on the example of France is that it contains some features of codification and incorporation. A consolidated collection is a regulatory legal act that brings it closer to codification. If there is no possibility or need for codification, consolidation is used. In this case, it acts as an effective means of combining similar regulatory material, reducing the number of acts and improving legal regulation.

Interpreting the above, it makes sense to argue that, unlike the British system, the French legal tradition is more characterized by an orientation towards codification. However, it is in this context that the significance of consolidation is particularly evident, since it often serves as a preparatory or intermediate stage in the codification process. French experience shows that the effective creation of codified acts largely depends on the prior ordering of the existing regulatory framework, and consolidation is such systematization.

In French legal doctrine, the principle of the so-called “constancy of law” is of great importance. Its content is that during the systematization of legislation, the orderliness and clarity of the current regulatory material must first be ensured without radically changing its content, and only after that is it possible to move on to deeper reformation and codification renewal. In this sense, consolidation appears not as an auxiliary technical operation, but as an important stage in the formation of an orderly regulatory environment, on the basis of which further codification can be

carried out. The French model demonstrates that consolidation can have a dual meaning. On the one hand, it performs the function of combining scattered regulatory material into single thematically ordered texts. On the other hand, it creates a qualitatively new textual basis for further legislative work. In the process of consolidation, not only the unification of norms is carried out, but also the editorial cleaning of the text: archaisms, duplications, structural defects, terminological inconsistencies are eliminated. As a result, a state of regulatory material is formed in which it becomes suitable for the next stage – codification.

So, the peculiarity of the French approach is that consolidation here closely approaches codification, without merging with it completely. It contains certain features of incorporation, since it reduces existing acts into an orderly set, but at the same time has certain signs of codification, because it involves an editorial rethinking of the text and the preparation of a structurally new regulatory body. This is where its intermediate legal nature is manifested.

The practice of applying consolidation in European countries is of considerable scientific and applied interest in the context of studying forms of systematization regulatory legal acts. This is due to the fact that in most European countries the development of regulatory legal acts was accompanied by a constant complication of the regulatory mass, an increase in the number of acts, their stratification over time, multiple changes and additions, which objectively created the need for special means of bringing regulatory legal acts to a more orderly, logically consistent and convenient for application state. One of such means was consolidation.

In the general theoretical aspect, the experience of European countries convinces that consolidation is most often used not as

a self-sufficient and isolated form of law-making activity, but as a tool that occupies an intermediate place between incorporation and codification. That is why in European practice consolidation often combines the features of different forms of systematization of regulatory legal acts: on the one hand, it provides a technical and legal unification of regulatory material, and on the other – it can perform a preparatory function for further deeper updating of regulatory legal acts. This approach allows us to consider consolidation not only as a technical method of systematization, but also as an important element of legal policy aimed at maintaining the integrity of legal regulation.

The practice of consolidation has acquired particular importance in those legal systems where, over a long historical period, a large number of regulatory acts on the same subject of legal regulation have accumulated. Under such conditions, without proper regulation of regulatory legal acts, numerous problems arise: duplication of regulatory provisions, conflicts between norms, excessive bulkiness of legal material, difficulty in establishing the current wording of the act and a decrease in the overall level of legal certainty. That is why European legal systems have developed various models of consolidation, which, despite national characteristics, have a common goal-reducing regulatory plurality without radically reforming the content of legal regulation.

In the broader European context, it should be emphasized that the practice of consolidation is not limited to the experience of individual states. The pan-European trend is that consolidation is increasingly used as a way to maintain legislation in a state suitable for practical application in conditions of constant change. This is especially true in those areas where the regulatory body develops through numerous amendments to basic acts, rather than through

the adoption of new codes or primary laws. Under such conditions, consolidation performs a stabilizing function: it avoids excessive textual dispersion of legislation and ensures its more holistic perception.

Summarizing the experience of Great Britain, France and Italy, we can conclude that in European countries consolidation is used in several interrelated dimensions. First of all, it acts as a form of reducing regulatory plurality by combining acts on one subject of legal regulation. At the same time, it performs the function of textual updating of legislation by eliminating repetitions, inaccuracies and outdated formulations. In addition, in a number of legal systems it is a preparatory stage of codification, creating a logically ordered basis for it. It is this multifunctionality that determines the sustained interest in consolidation in European legislative practice.

For Ukraine, the significance of this experience is obvious. Despite the fact that consolidation in its pure form has not yet gained due distribution in national law-making practice, European approaches demonstrate its significant potential as a tool for ordering legislation. First of all, it is about the possibility of using consolidation in those areas where the legislation is characterized by high dynamics of changes, a plurality of special acts and the absence of a single structured regulatory body. In such cases, consolidation could become an important means not only of technical regulation, but also of increasing the efficiency of legal regulation as a whole.

Thus, the practice of applying consolidation in European countries indicates that this tool has a stable place in the system of forms of regulation of legislation. European experience demonstrates that consolidation is especially effective where it is necessary to

combine the preservation of the substantive continuity of legal regulation with the simultaneous elimination of fragmentation and cumbersomeness of regulatory material. That is why it acts as an important mechanism for rationalizing regulatory acts, ensuring their structural integrity, accessibility, internal consistency and readiness for further development. In view of this, consolidation should be considered not as a peripheral type of systematization, but as a promising direction for improving modern legal policy.

Analysis of the practice of applying consolidation in European countries indicates its important role in ensuring the consistency, coherence and accessibility of regulatory legal acts. In the current conditions of development of the legal system of Ukraine, the issue of ordering the regulatory legal body is becoming particularly relevant, which is due to the significant volume of legislation, the high dynamics of its changes, as well as the fragmentation of legal regulation in many areas of public relations. In this context, the experience of European states in the field of applying consolidation can be useful for improving the mechanisms of systematization of Ukrainian legislation.

First of all, it should be noted that the modern system of regulatory legal acts of Ukraine is characterized by a significant number of laws and subordinate regulatory legal acts adopted in different periods of the state's development, as well as a large number of amendments and additions to basic regulatory legal acts. As a result, individual regulatory legal acts often have a complex structure, a significant number of amendments and reference norms, which complicates the establishment of their current wording and negatively affects the effectiveness of law enforcement. Under such conditions, consolidation can be an effective tool for systematization of normative-legal acts, which allows combining

disparate regulatory provisions into single structured acts without radically reforming the content of legal regulation.

The use of consolidation in the law-making activity of Ukraine could contribute to solving several important tasks. First, it allows reducing the excessive number of regulatory legal acts regulating homogeneous social relations. Second, consolidation helps eliminate duplication and contradictions between individual regulatory provisions, which often arise as a result of multiple changes in legislation. Third, it provides a more convenient structure of regulatory material, which facilitates its application by state authorities, courts and other subjects of legal relations.

European experience shows that consolidation can be used in various forms depending on the objectives of legal policy. In particular, in the legal systems of Great Britain and Italy, consolidation is used to combine a large number of acts regulating homogeneous issues into one generalized regulatory act. In France, it often acts as a preparatory stage before the codification of legislation. This approach shows that consolidation can perform not only a technical, but also a strategic function in the process of legislative development.

For Ukraine, the use of consolidation is especially relevant in those areas where legislation is characterized by significant fragmentation. This primarily concerns administrative, financial, social, information, environmental tax and other areas of law and legislation, where a significant number of regulatory and legal acts have been adopted over a long period of time, which often duplicate or partially repeat each other. In such cases, consolidation could ensure the creation of more compact and logically structured regulatory acts.

An important area of application of European experience is also the institutional support of the process of consolidation of regulatory legal acts. In many European countries, this activity is carried out by specialized bodies or commissions that analyse the current legislation and prepare proposals for its systematization. For Ukraine, it could be advisable to create or designate a special body or unit responsible for systematic work on the consolidation of regulatory legal acts. Such functions can be assigned to the relevant structures in the field of law-making activity or to specialized scientific and expert institutions.

In addition, an important condition for the effective application of consolidation is the proper regulatory consolidation of its procedures. In modern Ukrainian law and legislation, the mechanisms for systematizing regulatory and legal acts are not yet fully regulated, which complicates the implementation of such forms of systematizing regulatory and legal acts as consolidation. Therefore, an important step could be to establish at the legislative level the general principles, procedures and criteria for consolidating regulatory and legal acts.

At the same time, it should be taken into account that consolidation cannot completely replace other forms of systematizing legislation, in particular codification. Its main purpose is to streamline the current regulatory material without significantly changing the content of legal regulation. That is why it can act as an effective intermediate stage in the process of further reforming legislation. In this aspect, the use of consolidation can contribute to the preparation of regulatory material for larger-scale codification reforms.

Thus, the European experience of applying the consolidation of regulatory legal acts indicates the significant potential of this tool

for improving law-making and law enforcement. For Ukraine, the introduction of elements of such a practice can be an important step towards increasing the consistency of regulatory legal acts, eliminating its excessive fragmentation and ensuring greater legal certainty. In the future, this will contribute to the formation of a more coherent and effective system of legislation that meets the modern requirements of the development of the state and the legal system.

CONCLUSIONS

The provisions of this section are the basis for formulating the following conclusions:

1. Consolidation is a systemic, independent, dualistic form of systematization of regulatory legal acts, which consists in combining regulatory legal acts that regulate the same type of legal relations into a single act that does not change the legal regulation of social relations, provides for changes only at the level of editorial editing, that is, through their coordination with each other, transfer of regulations, grouping by subject orientation and unification of terminology, the result of which is the creation of a new regulatory legal act that has its own logical structure and establishes relationships between norms.

2. The essence of consolidation is seen in the fact that it: does not change the essence of legal regulation and does not introduce changes or innovations to the current legislation; occurs without changing the regulatory content of the acts; the content of legal relations does not change; regulatory provisions are placed in a logical order after editorial processing; there is a certain editing and external processing of regulatory legal acts in order to ensure a single style of presentation and the use of unified terminology; new legal norms are not introduced; changes

in the texts of regulatory legal acts are possible only at the level of editorial editing; it is assumed that there will be no modification of regulatory acts, the changes concern only minor editorial processing of texts, removal of contradictions and repetitions from them, etc.

3. The relationship of consolidation with other forms of regulation of legislation can be characterized by the degree of processing of regulatory material. If the accounting of regulatory legal acts is exclusively informational in nature, incorporation involves a systematic compilation of acts without changing their content, and codification is aimed at a deep update of legal regulation, then consolidation occupies an intermediate place between these forms. It combines the editorial processing of regulatory acts with their unification into a single regulatory document, which allows eliminating excessive fragmentation of regulatory legal acts and increasing its systematicity.

4. In British law, the understanding of consolidation is similar to that in Ukrainian law. However, the practice of applying consolidation differs in the variety of examples. Consolidation is differentiated into several types, which differ in the degree of changes made to the regulatory material when combining several acts. In the British law-making tradition, consolidation is understood as the unification of several existing parliamentary acts relating to one issue into one regulatory act without a significant change in their content.

5. In Italian legislation, in the process of consolidation, regulatory provisions that have already been officially published and entered into legal force are subject to consolidation. In Italian practice, consolidation is carried out in two main forms. The first of these involves the unification of regulatory provisions

without changing their essence, but with the necessary technical adjustments – unification of numbering, ordering of the structure, elimination of formal discrepancies. By its nature, this form is close to incorporation, but does not amount to it, since the result is the creation of a new integral text that functions as an independent source of orientation in the legislation. The second form of Italian consolidation allows for certain partial changes to the regulatory material. This is not about a deep reform of the content of legal regulation, but about limited clarifications that contribute to better coherence and suitability of the act for practical application.

6. In France, systematisers, developing methods for codification, singled out such a principle of codification as “constancy of law”, which is understood as nothing more than a transitional stage from the consolidation of regulatory material to its codification. That is, the principle of “constancy of law” can to a certain extent be understood as consolidation, which, first of all, is the primary stage of codification of legislation.

7. The practice of applying consolidation in European countries is of considerable scientific and applied interest in the context of studying forms of regulation of regulatory legal acts. The experience of European countries convinces that consolidation is most often used not as a self-sufficient and isolated form of law-making activity, but as a tool that occupies an intermediate place between incorporation and codification.

8. For Ukraine, the importance of European experience is obvious. Despite the fact that consolidation in its pure form has not yet gained due distribution in national law-making practice, European approaches demonstrate its significant potential as a tool for systematization of legislation. First of all, we are talking about the possibility of using consolidation in those areas where

legislation is characterized by high dynamics of changes, a plurality of special acts and the absence of a single structured regulatory body. In such cases, consolidation could become an important means not only of technical ordering, but also of increasing the efficiency of legal regulation in general.

9. The use of consolidation in the law-making activity of Ukraine could contribute to solving several important tasks. First, it allows you to reduce the excessive number of regulatory acts regulating homogeneous social relations. Second, consolidation helps eliminate duplication and contradictions between individual regulatory provisions, which often arise as a result of multiple changes in legislation. Thirdly, it provides a more convenient structure of regulatory material, which facilitates its application by state authorities, courts and other subjects of legal relations.

SUMMARY. The section argues that consolidation should not be considered as a secondary or purely technical type of systematization. Its meaning is much broader. First, it ensures the updating of legislation without radical intervention in its content. Second, it increases the level of legal certainty, as it allows establishing the current state of regulatory regulation in a single text. Third, it creates the prerequisites for further reform of legislation, including through codification. Fourth, it contributes to the improvement of legislative technique and the overall quality of regulatory material. The purpose of the study is to identify the concept and essence of consolidation, to study the relationship of consolidation with other forms of regulation of regulatory legal acts, the experience of applying consolidation in European countries and the possibility of its use in Ukraine. The solution of the specified research goal determined the logic of presenting

the material and formulating research tasks. According to which the following were studied: concept, features, essence, technical and legal procedure, rules of consolidation; understanding of the regulation and systematization of regulatory legal acts, clarification of the relationship of consolidation with other forms of regulation of regulatory legal acts (codification, incorporation, accounting); experience of applying consolidation in Great Britain, Italy and France and the possibility of its use in the legal system of Ukraine. The research methodology is based on a complex combination of methodological principles, philosophical and worldview approaches and methods. In particular, methodological principles: pluralism; comprehensiveness; systematicity; historicism; objectivity; determinism. Philosophical and worldview approaches; systemic; anthropological; comparative; functional. Methods (general scientific: dialectical, hermeneutic, synergistic, generalization, grouping, analysis, system-structural); (special: statistical, modelling, prognostic); (properly legal: comparative legal, historical and legal). It is thanks to the use of a comprehensive methodology that it was possible not only to consider the concept, its correlation with other formats of systematization, the experience of applying consolidation in European countries, but also the possibilities of its use in Ukraine, in connection with which the conclusions, proposals and recommendations aimed at its improvement were formulated. It is concluded that consolidation is a systemic, independent, dualistic form of systematization of regulatory legal acts, which consists in combining regulatory legal acts that regulate similar legal relations into a single act that does not change the legal regulation of social relations, provides for changes only at the level of editorial editing, that is, through their coordination with each other,

transfer of provisions, grouping by subject focus and unification of terminology, the result of which is the creation of a new regulatory legal act that has its own logical structure and establishes relationships between norms.

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SECTION IV

EUROPEAN AND INTERNATIONAL LEGAL FACTORS OF THE SYSTEMATIZATION OF UKRAINIAN LEGISLATION

CHAPTER 10

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THE INFLUENCE OF EUROPEAN LEGAL STANDARDS ON THE SYSTEMATIZATION AND DEVELOPMENT OF UKRAINIAN LEGISLATION

Melnyk Ya. Ya.

INTRODUCTION

European integration is conditioned by the process of adaptation of legal standards. The European Union, being a legal system in its historical formation, has developed effective mechanisms and rules to ensure the development of other legal systems, implementing best practices in observing and implementing human rights, individual social groups on an economic basis, has developed clear and consistent rules for doing business, supporting vulnerable groups, migration policy, creating a security zone, the rule of law and fairness in justice.

The lack of standards in law-making creates, first of all, ineffective conditions for legislative activity, with numerous gaps and non-compliance with the European integration course on the way to Ukraine's accession to the European Union. After all, any legal uncertainty in the rule-making sphere leads to an imbalance in the legal system, improper legal regulation, which, ultimately, condemns human rights to fiction, and human life and its meaning to depreciation.

European legal standards, by their legal nature, have the potential to create an impact, to provide an "implementation model" for the formation and development of legislation for Ukraine, which has begun the procedure for joining the European Union.

Under such circumstances, the study of the problems of the influence of European legal standards on the development and regulation of Ukrainian legislation poses a number of unique tasks that would provide an answer to what effective and basic principles of legislation in European countries were involved in the creation of the European Union, when other members joined the European Union, as well as the question of the tools by which effective adaptation and harmonization of Ukrainian legislation with EU law is possible.

Therefore, it becomes necessary to directly investigate the problems of the prospects for the development of Ukrainian legislation, taking into account European experience; the problems of international legal factors in the transformation of national legislation of Ukraine; the problems of determining the place of international treaties in the legal system of Ukraine; as well as the problems of implementing international legal norms into national legislation.

It is precisely raising issues in this way, in our belief, that will create an effective basis for the development and systematization of Ukrainian legislation on the path to European integration.

1. Basic principles of legislative development in European countries

Any principles of law, being the fundamental principles of legal regulation, in one way or another affect the architecture of the structure and operation of the system of norms and rules, in certain transformational circumstances, in particular, they pave the way for legal regulation from general to specific.

The influence of European legal standards on the development and regulation of Ukrainian legislation, first of all, requires clarification (actually, understanding) of the principles of legislation construction in European countries. After all, clarifying the models of construction of the European system of legislation in European countries will provide an opportunity to recreate the foundations of the law-making process, contribute to understanding the processes and stages of construction of European legislation, determine the reasons and needs for construction, and predict the development and regulation of Ukrainian legislation in the European integration process in particular.

It seems that to get answers to these questions, it is necessary to gradually reveal the key aspects that form the institutions of “legislation”, “legal influence”, “legal technique”, “norm-making”, “European integration processes”, etc.

In legal theory, issues of legal influence are quite rightly singled out, which, if not primary, is at least functionally required for the legal regulation of certain relations, in particular, those related to integration, regulation of legislation, etc.

Thus, V. S. Kovalsky notes that legal influence on social relations, legal events, state bodies and public associations, to which the

fulfillment of legal requirements is addressed, includes forms, methods and paths of influence. Doctrinally, the forms of influence include the informational and value-orientation influence of law; the cultural influence of law on the legal mentality of citizens, which is a mixed form of influence (this is a simultaneous influence on mass consciousness) of legal information, the orientational influence of information about law, the value influence on the legal mentality which is always stronger in the presence of relevant legal stereotypes) [13, p. 8]. And the ways of influencing law occur through such formats of ensuring influence as compliance with the law, fulfillment of the requirements of the law, the use of requirements, which occurs through the legal roles of citizens in relations between the state and state institutions [13, p. 8]. At the same time, the ways of influencing the law are regarded in legal doctrine as the development of permanent multi-vector channels of communication and behavior of citizens and public institutions regarding the implementation of legal requirements, instructions, guidelines, etc. [13, p. 8].

Considering the doctrinal developments on the issue of “legal influence”, it becomes necessary to pay attention to a narrower aspect of its functional capacity, namely in the institutional context of the European Union and its rule-making activities.

Thus, the educational literature notes that the creation of the European Union with its special system of legal norms was due to the development of economic, political and legal integration on the European continent [12, p. 19]. It is obvious that these conditions became the basis and were the foundations for the formation of certain principles of the European Union as an institution.

In particular, it is believed that the principles of the functioning of the EU are based on the principles of European governance and the principles of administrative law of European

states [14, p. 58]. In educational literature, the basic principles of the functioning of the EU include: (a) the principle of respect for fundamental human rights; (b) the principle of single legal personality; (c) the principle of subsidiarity; (d) the principle of proportionality; (e) the principle of sincere cooperation; (f) the principle of institutional balance [14, p. 59].

Therefore, even under such circumstances, in our opinion, the significant role of the influence of principles on the further formation of the regulatory framework and institutional capacity of the European Union as an institution becomes clear.

Despite this, it should be borne in mind that each EU country, during its creation, went through the process of building legislation and adapting it to the principles of the EU's functioning in special, unique conditions.

Therefore, research into the principles of legislation in European countries requires, first of all, a broader analysis of the theoretical developments of the normative technique and norm-making. In our opinion, this is due to the fact that any construction of legislation, despite economic and social prerequisites, is outlined by a legal form that focuses on the legal and methodological construction of the theory of norm-making, normative technique. These theoretical and legal institutions in legal doctrine are quite developed, they are constantly used in practice both in Ukraine and abroad. In particular, it is obvious that they were also used in the construction of EU legislation. It is in this aspect that the primary foundations of legislation in European countries at the stage of the creation of the EU should be sought. It is this normative segment of the study that creates an opportunity to approach the problems of the influence of European legal standards on the development and regulation of Ukrainian legislation more closely.

Here, it should be borne in mind that legal constructions as means of law-making technique today perform two main functions: constructive-pragmatic (structuring existing and future legal phenomena); norm-forming (formation of normative-legal provisions). Legal constructions are means of forming precisely norm-forming provisions (regulatory, protective, protective), which express the content of legal norms and act as forms of their reflection in the text of laws [8, p. 135]. Therefore, the issue of legal constructions is not only relevant as tools to the norm-making technique, but also directly to the formation of legislation of a particular legal space in the state, interstate formations.

In the course of studying the principles of forming EU legislation as an interstate entity, and, in fact, public law, attention should also be paid to the peculiarities of legal structures in this area.

Thus, in public law they are determined by its subject, which is power (vertical) relations and the imperative method of legal regulation. The main legal constructs of public law are the construct of power relations, the construct of law enforcement acts, the construct of procedural forms, the construct of the components of the relevant offenses, the construct of protective relations, using which the legislator in the relevant regulatory legal provisions fully and in detail determines the content of each of the elements of these constructs [8, p. 136]. In view of this, such a legal construct and fundamental basis is the Treaty establishing the European Community (Treaty establishing the European Economic Community) of 17.02.86 (hereinafter referred to as the EU Treaty) [7]. The EU Treaty focused on the need for legislative development of such key areas as: citizenship of the Union; community policy; customs union; agriculture; free movement of people, services and capital; freedom of entrepreneurial

activity, etc. [7]. The tasks defined by the EU Treaty became the basis for rule-making activity, in which the “rule-making technology” became a doctrinal tool.

Subjectively, the legal encyclopedia notes that “normative technology” is primarily a system of rules for applying methods and means of creating, constructing and adjusting regulatory legal provisions at the relevant stages of the norm-setting process [3, p. 352]. Here, it is worth bearing in mind that the international legal literature notes that the functioning of the norm-setting process begins with the study of the need for legal regulation; knowledge of international relations that must be regulated by the rules of law. The second stage is the creation of a legal norm. It is this activity that is regulated by international law through the establishment of relevant law-making procedures that regulate the procedure for adopting a legal act containing the rules of law [3, p. 354].

It would not be superfluous to add from a theoretical and legal point of view that the process of normative drafting cannot be arbitrary and subjective, since it is based on the rules established by law and the tradition of normative drafting. However, if the state deviates from the principle of legitimacy, or develops such a draft law, it cannot effectively regulate social relations, the consequence of which is that the state power weakens its own powers and reduces public trust [20, p. 13].

Moreover, in the legal literature, both the tools that make up the technique and technological rules are characterized differently, and their specific weight is different. After all, here, rules that concern the external design of documents, rules that concern the content and structure of acts, rules and techniques for presenting legal documents; requisite requirements (external design rules),

substantive and structural rules, language and logical requirements; cognitive-legal, normative-structural, logical, documentary-technical, procedural rules; rules for achieving social adequacy (substantive), rules for ensuring the logic of law, structural, etc. [3, p. 357]. For example, at the stage of project preparation, substantive rules are more in demand, and at the second stage, both substantive and formal rules [3, p. 358].

In view of this, it should be noted that the legal technique of amending EU law acts is very similar to the legal technique of the EU Member States and most European countries [25, p. 45]. Basically, the legal doctrine proposes to distinguish such options as: (a) repeal, (b) amendments, (c) codification, (d) adoption in a new version, (e) consolidation. The method of amending the act is further specified in the title of the act or in its text (for example, a consolidated version of the regulation, a new version of the directive, etc.). The rules for applying recasting or the procedure for revising the act are set out in the 2001 interdepartmental agreement [25, p. 45]. Legislative acts may be repealed by adopting new regulatory legal acts, in particular if it is necessary to establish higher standards or regulate so many new aspects that a simple amendment to the relevant regulatory legal act will not be enough [25, p. 46]. Amending an EU legislative act is one of the most common legal techniques in the legal system of the Union, as well as in any national legal system. Amending an act (regulation/directive) is carried out by changing certain provisions of the original act and/or by adding new ones [25, p. 46]. And codification, as the process of combining a legal act (or several related acts) and all amendments to it (them) into a single new act. According to researchers, it combines the original act and all subsequent amendments without any further

substantial changes to the text. Therefore, it is believed that codification should contribute to further legal clarity by reducing the number of acts. Ultimately, consolidation of an act means combining the provisions of the original act and all subsequent amendments into a single text to make it more readable, but consolidation does not make any changes to the original act. Consolidation creates a purely declarative version of the existing legislation, but not a new regulatory act. It is an unofficial document that has no legal force. The consolidated version does not receive a new CELEX number (numbers in the official database of EU acts EUR Lex) [33; 25, p. 46].

Thus, it is important to keep in mind that the legal doctrine of the legal technique of law-making, although methodologically identical in its goals and means, has its own characteristics and differences from the formation of domestic legislation with legislation, for example, at the EU level.

It would not be superfluous in this context to refer to the regulatory and legal tools developed and operating within the framework of the Ukrainian national legal order for the implementation of rule-making activities. This is the Law of Ukraine “On Law-Making Activities” dated August 24, 2023 № 3354-IX (hereinafter referred to as Law № 3354-IX dated August 24, 2023) [30].

Thus, Article 9 of Law № 3354-IX of August 24, 2023 stipulates that “... the legislation of Ukraine is an interconnected and orderly system of regulatory legal acts of Ukraine and current international treaties ...” [30]. Also, this article of Law № 3354-IX of August 24, 2023 regulates that the Legislation of Ukraine is structured from acts of higher legal force to acts of lower legal force (Article 19 of Law № 3354-IX of August 24, 2023) taking into account:

(1) the principles of the constitutional system in Ukraine; (2) the competence and territorial jurisdiction of the subject of law-making activity, determined by the Constitution of Ukraine and (or) by law; (3) other features determined by the Constitution of Ukraine and (or) by law [30].

At the same time, it is noted that the legislation of Ukraine includes: (1) the Constitution of Ukraine – the Fundamental Law of Ukraine; (2) laws; (3) subordinate regulatory legal acts: (a) resolutions of the Verkhovna Rada of Ukraine containing legal norms; (b) decrees of the President of Ukraine containing legal norms; (c) resolutions of the Cabinet of Ministers of Ukraine containing legal norms; (d) orders of ministries containing legal norms; (e) acts of other state bodies containing legal norms; (f) resolutions of the Verkhovna Rada of the Autonomous Republic of Crimea, resolutions of the Council of Ministers of the Autonomous Republic of Crimea, orders of ministries of the Autonomous Republic of Crimea containing legal norms; (g) orders of heads of local state administrations (taking into account the features specified in Article 7 of this Law), orders of heads of structural units of local state administrations containing legal norms; (h) acts of local self-government bodies containing legal norms, taking into account the features defined in Article 7 of Law № 3354-IX of August 24, 2023 [30]. In view of this, it is not difficult to find in this norm the basis for the structure of the national legal order system according to the hierarchical level of the normative-source base of the functioning of the legislative system.

Law № 3354-IX of August 24, 2023, in Article 9, also stipulates that current international treaties, the consent to which has been granted by the Verkhovna Rada of Ukraine, are part of the legislation of Ukraine. And other current international

treaties of Ukraine are also part of the national legislation of Ukraine [30]. And such a normative aspect fully corresponds not only to the constitutional norm, but also has the property of stating the result of the law-making process between the legal orders of Ukraine and the EU.

According to Article 10 of the Treaty on European Union and the Treaty on the Functioning of the European Union with the Protocols and Declarations (hereinafter referred to as the EU Treaty), it is determined that "... the functioning of the Union is based on the principle of representative democracy..." [15]. It seems that it is this principle that provides the opportunity to carry out law-making activities, and therefore, to join the system of forming EU legislation.

At the same time, Article 11 of the Treaty on European Union states that "... the institutions shall, by appropriate means, enable citizens and representative associations to make their views known in all areas of Union activity and to exchange views publicly. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society. The European Commission shall consult widely with interested parties in order to ensure the consistency and transparency of the Union's activities. At least one million citizens, nationals of a significant number of Member States, may propose to the European Commission, within the framework of its powers, any appropriate proposal on matters on which, in their opinion, a legal act of the Union should be adopted in order to implement the Treaties. ..." [15]. Thus, it is obvious that such a "proposal" reflects the initiation of changes to EU legislation, the procedure of the regulatory and technical approach to law-making, its procedures at EU level. In addition, part 2 of Article 15 of the Treaty on

European Union (Chapter II) is also considered important, which stipulates that when considering and voting on draft legislative acts, the European Parliament, as well as the Council, shall hold their meetings in public [15], thereby consolidating the perfection of the procedure for creating EU legislation.

Thus, it is worth noting that indeed, as noted in the scientific literature, an autonomous system of regulation of social relations was created within the European Union, which differs from the classical systems of national and international law. The multi-level structure of this integration association has determined the flexibility and diversity of ways of forming legal norms, as well as the means of their expression and fixation, that is, the sources of law [14, p. 44].

Despite this, according to L.A. Luts, the principles of law are formed by law-making subjects (or other subjects authorized to do so), have a highly abstract and general nature and are fixed in the sources of law or other legal acts due to declarative legal prescriptions. Therefore, the scientist writes, an element of the principles of law cannot be neither requirements, nor criteria, nor other principles, but only a declarative legal prescription, which must be filled with content. And therefore the principle of legal certainty, although initially formed by the ECHR, is becoming increasingly in demand both in the context of the functioning of interstate legal systems and national ones. And therefore it requires a more generalized understanding, as well as clarification of its possibilities in national legal systems and correlation with the principle of legality [16, p. 26]. And such an approach is justified in view of the following.

Thus, today, the sources of EU law can be classified according to many criteria: (1) by the method of formation: (a) primary (main); (b) secondary (derivative) [14, p. 46]. Primary

sources include acts concluded directly by the Member States and the European Union as the constituent authority of the specified integration entity. They have higher legal force and their legal validity cannot be challenged in the Court of Justice of the EU [14, p. 46]. Secondary sources are adopted by the EU institutions on the basis of primary ones and, accordingly, must comply with them [14, p. 46]. In turn, secondary sources are divided into: (a) legislative; (b) non-legislative [14, pp. 46–48].

Therefore, this construction of the system of legislation (sources of law) indicates that it is worth paying more attention to the issue of legal influence.

In particular, according to V.S. Shilingov, “legal influence” is essentially the action of law aimed at a wide range of social relations, consciousness and behavior of people. It consists in: (a) awareness and further reflection in ideas, views and ideas of the need to regulate these relations and further modeling on their basis of samples of proper (desirable or permissible) behavior of participants in these relations; (b) specific actions of subjects aimed at realizing their interests and satisfying their needs. It follows that law has not only a legal impact on social relations, but also simultaneously acts on them as psychological, ideological, informational, value-orienting and motivational factors [31, p. 61]. Analyzing the concept of “legal influence” proposed by this researcher, at first glance, such an element as “action of law” attracts attention. We believe that the inclusion of this element is completely justified, because if we are talking about the fact that “influence” is exerted on something, that is, on a certain object, and in our case, such an object is the current legislation of Ukraine (broad approach), then it is obvious to indicate this as well.

In the dictionary of the Ukrainian language, the word “action” is defined as “... work, activity, the implementation of something...”, or as “... a set of factors of what not to be...”; or as “... influence on someone, what not to be...”, “... a set and development of events... (defined as literary – Ya.M.)”, or as “... performance of some rite...” [28, p. 263]. Thus, the word “action” is understood as “influence”.

Instead, the word “influence” in the Ukrainian dictionary is defined as “an action that a certain person or object or phenomenon exhibits in relation to another person or object”. Also, this word is used to denote “the power of power or authority” [27, p. 313, 312]. So, as it becomes obvious, the words “action” and “influence” can be related as synonyms and, in essence, characterize their activity as authoritative, as having the power of power, and what is especially objective is that these processes are aimed at a specific object (you). In the problem we are considering, the influence on the object is the influence of one source of law (international treaty) on another object (or rather the object – Y.M.) – law, legislation, regulatory legal acts and everything that encompasses its activity as a certain consequence. That is, the rule of law, legal regime, etc.

According to the encyclopedic reference, a “legal instrument” is a tool used for effective legal regulation and with the help of which the interests of legal subjects are satisfied and the achievement of socially significant results and useful goals is ensured [3, p. 906].

In essence, if “legal influence” is a certain process, then legal means are those instruments in the legal constructions of international treaties that are capable of ensuring the achievement of “socially significant results, useful goals”. This is, in our opinion, the yardstick for assessing the impact of international

treaties on the national legislation of Ukraine. Moreover, one should be aware that both in such instruments and in the occurrence of the result – “socially significant consequences”, the axiology of establishing contractual relations between the states-parties to the treaty is reflected.

Legal influence as an active activity on a certain object and process may contain such or be deprived of such an opportunity under objective circumstances.

In particular, the signs of direct legal influence are based on the following fundamental correlates, which are:

(a) establishment/presence/ of rights and obligations as a result of the conclusion of an international treaty. After all, it is precisely by virtue of the obligations assumed that the parties to the treaty are legally able to act in a certain legal manner, to refrain from certain activities/behavior; have the opportunity to act, to bear certain inconveniences (forbearance as a component of a legal obligation); have the opportunity to carry out active or passive behavior; have the opportunity to raise the issue of restoring the violation of the law, which is determined by the international treaty, have the opportunity to request the application of sanctions against the party that has not fulfilled the obligation, etc.;

(b) formation of lawful and obedient behavior in a certain aspect of the substantive characteristics of the international treaty;

(c) formation of legal order and the corresponding legal regime for the implementation/compliance with the terms of the treaty;

(d) presence of specific legal mechanisms for ensuring and regulatory regulation of national legal order;

(e) the occurrence of legal consequences – the transformation of the legal order and legal relations, legal awareness and legal culture in external relations between the subjects of the states-parties to the treaty;

(f) the occurrence of influence which is expressed in the way of transformation of internal relations between such subjects: “state – citizen”, “state – society/civil society”;

(g) legal influence is possible due to certain legal instruments, which are means and methods of influencing relations between states-parties to the treaty;

(h) legal influence is always endowed with the power and hierarchy of one legal act over another;

(i) legal influence is always aimed at a certain object, which in the case of international treaties is the current national legislation;

(j) legal influence, having the ability to act on national legislation, has a security level, because it makes its adjustments to the legal, social and national security of the state.

The sign of the absence of legal impact is associated with obstacles arising from

(a) the Fundamental Law – the Constitution of Ukraine, in the event that an international treaty contradicts it;

(b) the absence of ratification of an international treaty by a party to the treaty; etc.;

(c) an ineffective mechanism for the implementation (implementation) of an international treaty;

(d) objective problems of a social, economic, military or any other nature that cause legal consequences regarding the legal ability to fulfill the terms of an international treaty; etc.

The concept of “legal impact of international treaties on the national legislation of Ukraine” should be understood as the effect of acts of direct legal implementation on national legislation in a certain legal manner and through certain legal instruments, due to which legally significant legal consequences arise for legislation, legal regime and law and order.

The spheres of legal impact of international treaties on the national legislation of Ukraine should include the sectors of national security and the social sphere, economy, implementation of law, etc.

The instruments of legal influence of international treaties on the national legislation of Ukraine are the terms of the treaty in the form of obligations.

Forms of influence of the action of international treaties on the national legislation of Ukraine can be in the stages of a transitional period, immediate influence; by means of reverse action (retroactive form).

Consequences of the legal influence of international treaties on the national legislation of Ukraine are the creation of positive changes in the legal system of Ukraine as a result of the transformation of national legislation in accordance with international standards, based on best practices and experience [18, pp. 244–245].

2. Harmonization of Ukrainian legislation with European Union law

As is known, European integration is a dynamic, continuous process of development of national legislation in the direction of political, social and financial and economic transformations based on established standards for ensuring peace, security, and resource balance within the framework of a “single territory”. In this process, one of the main tasks is to harmonize the provisions of national legislation with the provisions of EU law. In this context, an important aspect is understanding the basic concepts of the EU legal system [25].

On April 1, 2026, the Cabinet of Ministers of Ukraine approved the National Program for Adaptation of Ukrainian

Legislation to the Law of the European Union (EU *acquis*) № 438, which is contained on 1091 pages (hereinafter referred to as the Program) [21]. Together with the List, a list of resolutions of the Cabinet of Ministers of Ukraine that have lost their validity was approved [22].

This Program contains fundamental clusters that reflect the idea of the Treaty on European Union. In particular, these include:

“Cluster 1 “Fundamentals of the EU accession process” – Chapter 5 “Public procurement”; Chapter 18 “Statistics”; Chapter 32 “Financial control”” [21];

“Cluster 2 “Internal market” – Chapter 1 “Free movement of goods”; Chapter 2 “Freedom of movement of workers”; Chapter 3 “Freedom of establishment and provision of services”; Chapter 6 “Company law”; Chapter 7 “Intellectual property law”; Chapter 8 “Competition policy”; Chapter 9 “Financial services”; Chapter 28 “Consumer protection and health protection”; ” [21].

“Cluster 3 “Competitiveness and inclusive growth” – Chapter 10 “Digital transformation and media”; Chapter 16 “Taxation”; Chapter 17 “Economic and monetary policy”; Chapter 19 “Social policy and employment”; Chapter 20 “Enterprise and industrial policy”; Chapter 25 “Science and research”; Chapter 26 “Education and culture”; Chapter 29 “Customs union”” [21].

“Cluster 4 “Green agenda and sustainable connectivity” – Chapter 14 “Transport”; Chapter 15 “Energy”; Chapter 21 “Trans-European networks”; Chapter 27 “Environment and climate change” [21].

“Cluster 5 “Resources, agriculture and cohesion policy” – Chapter 11 “Agriculture and rural development”; Chapter 12 “Food safety, veterinary and phytosanitary policy”; Chapter 13 “Fisheries and aquaculture”; Chapter 22 “Regional Policy and

Coordination of Structural Instruments”; Chapter 33 “Financial and Budgetary Provisions” [21].

“Cluster 6 “External Relations” – Chapter 30 “External Relations”; Chapter 31 “Foreign, Security and Defence Policy” [21].

The Methodology for verifying compliance with EU legislation and drawing up tables of conformity defines the basis for approximating Ukrainian legislation to EU legislation (hereinafter referred to as the Methodology). In particular, the Association Agreement not only requires technical amendments to national legislation, but also obliges Ukraine to ensure the implementation of newly adopted legal norms. This implies an objective need to create new institutions or expand the powers of the existing state apparatus. It is also obvious that significant budgetary expenditures may be required for the approximation of legislation. All this explains why the Association Agreement and/or related documents set such deadlines. Ukrainian state authorities do not have the right to change these deadlines unilaterally. They are binding as agreed during the negotiation process. An extension can be agreed directly with representatives of the European Union within the framework of joint institutions of Ukraine and the EU operating under the Association Agreement. This should also be taken into account by the person verifying compliance. The Methodology also notes that the drafters of the Association Agreement agreed that the lists of EU legislative acts that Ukraine is obliged to comply with may be adjusted in light of changes in EU legislation. However, it is worth noting that even when the Association Agreement itself is not amended, in most cases nothing prevents Ukrainian lawmakers from voluntarily approximating to new EU legislation. Decisions should be based on a thorough comparative analysis

of both the existing EU secondary legislation (as required by the Association Agreement) and recently adopted EU legal acts [19, pp. 2–3].

The Methodology also notes that before starting the compliance check, a number of preparatory steps must be taken, namely: (a) prepare a list of relevant EU regulatory legal acts, policy documents and case law; (b) prepare a list of relevant Ukrainian regulatory legal acts and draft laws, program documents, including, if available, draft by-laws supplementing the draft laws; (c) check whether the correspondence table and related documents (including a certificate of conformity) meet the requirements of Ukrainian legislation [19, p. 15].

Investigating the problems of harmonization of legislation in the process of negotiations on Ukraine's accession to the European Union, T.O. Pikulya comes to the conclusion that one of the main requirements for harmonization is the need to ensure transparency and consistency in making changes to the legislation, which will avoid legal conflicts and ensure its consistency with EU law. Also, the conclusions note that it is also important to take into account the national characteristics of the legal system of Ukraine, which will ensure its effective functioning in the conditions of integration. At the same time, according to T. O. Pikulya, successful harmonization of legislation will contribute to increasing legal security, economic development, attracting foreign investment and strengthening democratic institutions in Ukraine. At the same time, it is an important prerequisite for further progress in the process of European integration and Ukraine's obtaining full membership in the EU. All this gave reason to believe that the harmonization of legislation is not only an instrument of legal integration, but also an important factor in the socio-economic development of

the country, contributing to its stability and prosperity in the conditions of the European community. The results of this process will have a significant impact on the future of Ukraine, ensuring its worthy place among European states [24, p. 476].

It would not be superfluous to note that the legal doctrine states that the process of harmonization should begin with bringing the norms of the constitution into line with international and European values [3, p. 59]. Moreover, it is noted that the process of harmonization of legislation occurs in several stages: (1) preliminary and (2) full harmonization. For example, preliminary “harmonization” is the initial stage of legal integration, carried out without formal accession to the EU (this process is also called “anticipatory harmonization”). It involves harmonizing domestic general legal terminology with European values, standards and principles in order to approximate Ukrainian legislation to that of the European Union. In contrast, full harmonization occurs after accession to the EU and is implemented within the framework of the European Union [3, p. 59].

Analyzing the term “harmonization”, N. M. Biryukova comes to the following conclusion, arguing that it should be understood not as an individually determined path of Ukraine to the European Union, but as a unilateral process of approximation of Ukrainian legislation to European standards [2, p. 383].

Issues of harmonization are also addressed in the publication of practicing lawyers (O. Zagnitko and Yu. Korchev), who believe that “... harmonization of legislation has a number of advantages for Ukraine even before accession. It contributes to its economic development, because it corrects systemic errors in the organization of markets, since the EU is Ukraine’s largest

trading partner. Therefore, harmonization of legislation will allow Ukrainian business to more quickly bring its activities into line with European standards, which in the future will contribute to greater competitiveness in the European market. In other words, business entities will feel at home in the European Union even before the final merger of Ukrainian markets with the EU. ...” [9].

For example, according to O.M. Rome, the harmonization of EU labor law norms aims to ensure a holistic and uniform legal regulation of labor relations that are formed on the territory of each of the member states. Moreover, according to the researcher, the member states are not deprived of the right to choose the most optimal model of legal regulation of such relations to prevent unfair economic advantages that may result from ignoring the fundamental requirements established at the level of community law [26, p. 480].

At the same time, as noted in the encyclopedic reference, the harmonization of Ukrainian and EU legislation requires Ukraine to develop and adopt relevant regulatory legal acts, join and ratify international agreements, conventions, treaties, create appropriate procedures, organizational, institutional and legal mechanisms to ensure the harmonization process. The means of harmonization are model bills, international treaties, resolutions of international bodies and organizations, etc. It is also important that harmonization covers not only secondary EU law, but also primary law and case law of the Court of Justice of the EU, which constitute the legal system of the European Union – the *acquis communautaire* [3, p. 59].

Instead, S.M. Derevyanko, taking up the study of the ratification of the Lisbon Treaty, taking into account the

experience of Europe for Ukraine, comes to the following conclusions, noting that "... the principle in the future accession of Ukraine to the EU will be not only the assimilation of European standards and values, but also the need to protect and preserve national statehood, identity in the conditions of globalization. In the desire to adapt Ukrainian legislation to European legislation today, it is unacceptable to uncritically borrow the principles, norms and values of Western European civilization, which ignore the legal heritage, culture and mentality of Ukraine..." [6, p. 189].

E.R. Akhmedova, studying the problems of European integration processes in the Republic of Turkey through the prism of historical and legal research, in terms of harmonization of legislation with the EU, comes to one of the following conclusions, namely, stating that "... an important direction in the historical process of forming legal foundations and legal support for the actions of the Republic of Turkey regarding European integration has been the legal support of integration activities in the field of economy, primarily regarding entry into the Customs Union of the European Union. Within the framework of Decision 1/95 of the Association Council, the Republic of Turkey implemented an important process of harmonizing the country's foreign trade policy in accordance with the requirements of the European Union. A functioning market economy, price liberalization, bringing the customs legislation of the Republic of Turkey into line with European norms, macroeconomic stability, a developed financial sector, etc. are the factors that characterize the current state of the economy of the Republic of Turkey..." [1, p. 224].

3. Prospects for the development of Ukrainian legislation taking into account European experience

Any “prospects for the development of legislation” functionally reflect the predictive function of law.

Researchers of the theory of law have a predictive function of law with legal forecasting that allows, based on the study of the dynamics of the legal sphere, to determine the implementation of the provisions of current legislation, trends in the activities of state and public institutions, patterns of development of lawful and unlawful behavior of citizens, individual, group and public legal consciousness, as well as to provide scientifically substantiated conclusions regarding possible options for the development of the legal situation, positive and negative consequences of the implementation of planned measures, the introduction of relevant regulations and standards [23, p. 69].

In clarifying the prospects for the development of Ukrainian legislation taking into account European experience, such questions are fundamental.

Thus, K. M. Gurtova, investigating the problems of adapting Ukrainian legislation to EU legislation, comes to the conclusion that the prospects for further research lie in developing means of improving the adaptation of Ukrainian legislation to EU legislation. This especially concerns the issue of the social value of law and its prestige in society, the effectiveness of the mechanism for the implementation and protection of human rights and freedoms [5, p. 168].

G.E. Vorobyova, studying the experience of the Republic of Greece as a result of the process of harmonization of national law with the law of the European Union, comes to the conclusion

that the experience of harmonization of national legislation of the Republic of Greece with the standards of EU law lies in the following factors, namely: firstly, the systematic stage of harmonization that was achieved by Greece is the result of the rational use of objective factors and the result of the targeted activities of the government of the state; secondly, despite certain problems of inconsistency of the current national legislation of Greece and EU law, it can be argued that the former is under the influence of the latter. This is also proven by the provision of the Constitution of Greece of 1975 (§ 2 Art. 28), which allows the use of constitutional powers by international organizations, as well as the limitation of national sovereignty under certain conditions. In addition, according to the case law of Greece, the application of generally recognized norms of international and European law does not require their incorporation by law; thirdly, the application of “selective harmonization”, which was used in the practice of the EEC by means of mutual recognition, until the provisions of EEC law in a particular area were adopted, played a significant role at the initial stage of the approximation of Greek law to the norms of European Community law; fourthly, in general, for Greece, the effective application of the norms of EU law in domestic law is of particular importance in the sense that this important factor contributed to the transformation of the country into a state of the European model and its entry into the legal space of the European Union [4, p. 162].

K. Ya. Sjokh analyzes the experience of Poland in implementing the norms of European Union law. The researcher notes that for more effective work, we suggest considering the experience of Poland in adapting national legislation to EU law. According to the researcher, the main role in coordinating the process of

Polish European integration was played by the Directorate of the Committee for European Integration (hereinafter referred to as the Committee), accountable to the Prime Minister of Poland. The main task of the Committee is to coordinate the process of adapting Polish law to EU law in accordance with the EU *acquis* [29, p. 31]. The Committee exercised control over the entire process of adapting Polish legislative acts to EU law and supervises the implementation of the norm into national legislation through the relevant departments [29, p. 31].

V.M. Zavadsky notes that the most important components of the integration of the Baltic countries into the EU are the adaptation of legislation. The directions of this process, as we see, cover almost the entire legal field. At the time of accession to the EU, the Baltic countries had to adapt a large part of the entire complex of *acquis communautaire*. During this time, fundamental changes affected the economic, social and political spheres of life of the countries. In economic terms, the countries had to adapt to new conditions created by the introduction of pan-European trade, financial and customs legislation. Under such circumstances, the country's market opened up for unhindered access to more competitive goods from the EU, but Latvia, Lithuania and Estonia were also able to promote their products to European markets. The country's adaptation of social, visa and labor legislation to the legal *acquis* opens up more opportunities for employment in EU countries, simplifies travel in Europe, and provides significant prospects for education. Reforming the legislation in the field of transport and energy has allowed this region to be included in a single European network of trade. Of course, the process of adapting the entire legal *acquis* of the European Union in the Baltic States will last

for more than one year [10, p. 17]. According to N. Zaletok and E. Chornomorets, Slovenia's integration into the EU in the archival sector is complex. In particular, in their opinion, it takes place both at the regulatory level (involvement in the formation of the archival strategy and the development of EU regulations, adaptation of national legislation to EU norms) and at the practical level (implementation of EU legal norms in the practical activities of state archives, participation in international archival projects of the EU) [11, p. 98].

A scientist specializing in social security law (L. Yu. Malyuga), studying the theoretical and legal foundations of the adaptation of Ukrainian social legislation to the legislation of the European Union, proves that in Ukraine a policy is purposefully implemented to reduce the number of regulatory legal acts through consolidation, while in the Republic of Poland the number of regulatory legal acts of social legislation is much greater. At the same time, the content of the regulatory legal acts of the social legislation of Ukraine and Poland is very close, which complicates the further improvement of Ukrainian legislation based on Polish experience [17, p. 315].

At the same time, the scientist suggests including the following advantages of Ukrainian social legislation in comparison with Polish social legislation: (1) provision of a greater number of guarantees of social security of the population in the norms of the Constitution of Ukraine in comparison with the Constitution of the Republic of Poland; (2) in Ukraine, the number of regulatory legal acts of social legislation is gradually decreasing, including through consolidation, while in Poland social legislation constitutes a too large-scale system of regulatory legal acts. At the same time, as for the advantages of Polish social legislation over Ukrainian,

according to L. Yu. Malyuga, they are as follows: (1) social guarantees established in the Constitution are more likely to be implemented in reality, while not all social guarantees of the Constitution of Ukraine are implemented in practice; (2) Polish legislation is characterized by a more advanced system of using the funds of the Polish Social Insurance Fund [17, p. 319].

Instead, it is worth paying attention to a slightly different aspect. In particular, the above-mentioned idealized statements by the scientist are refuted in view of the National Program for the Adaptation of Ukrainian Legislation to the Law of the European Union (the EU *acquis*), which the Government praised on April 1, 2026. In Cluster 3, in Section 19 “Social Policy and Employment”, it is noted that the National Program in the field of social policy and employment has defined 30 goals, of which: 25 are of a transposition nature and provide for the implementation of 451 of 52 acts of European Union law (the EU *acquis*), 5 are of an institutional nature [21]. Moreover, within the framework of paragraph 2 of Section 19 of Cluster 3 “Overview of the current state of implementation of the European Union *acquis*” attention is drawn to the so-called European Pillar of Social Rights, which states that

Today, Ukrainian legislation is partially aligned with the European Pillar of Social Rights. In particular, the following was adopted: (1) By Order № 439 of May 2, 2025, the State Strategy for Ensuring Equal Rights and Opportunities for Women and Men for the Period Until 2030; (2) By Order № 815 of September 15, 2023, the National Strategy for Overcoming the Gender Pay Gap for the Period Until 2030; (3) Order № 866 of 28 July 2021 on the Strategy for Promoting the Realization of the Rights and Opportunities of Persons Belonging to the Roma National

Minority in Ukrainian Society for the Period Until 2030; (4) Order № 821 of 30 August 2021 on the Strategy for the Recovery, Sustainable Development and Digital Transformation of Small and Medium-Sized Enterprises for the Period Until 2027; (5) Order № 92 of 7 January 2026 on the Employment Strategy for the Population 2030 [21].

The National Adaptation Programme also notes that Ukraine has a low level of preparation regarding institutional aspects of occupational safety and health. Ukraine plans to align its national legislation with the EU Strategic Framework on Safety and Health at Work [21].

Ukrainian legislation is partially harmonized with the EU acquis regarding specific risks, in particular chemical, biological and physical agents [21].

In the area of combating discrimination, key challenges that need to be addressed include limited public awareness of available protection measures against discrimination, as well as insufficient funding for the activities of the Ukrainian Parliament Commissioner for Human Rights, who is responsible for monitoring compliance with the principle of non-discrimination at the national level [21].

The fight against corruption in the sphere of social policy and employment also requires adaptation. In particular, the National Program notes that Ukraine has introduced measures to combat corruption in the sphere of social policy and employment, which cover a wide range of areas – from the creation of an institutional strategic framework to digitalization and simplification of regulation [21].

In contrast, L. Yu. Malyuga quite rightly draws attention to the experience of Switzerland as a perspective for the development of

Ukrainian legislation. In particular, in Switzerland, – the scientist notes, – at the first stage of its development: (1) Switzerland was one of the first to introduce unemployment insurance, employee health insurance, optional and mandatory pension funds; (2) in Switzerland, in individual cities and cantons, as well as at the federal level, legislative acts regulating social security of the population were adopted in the late 19th – early 20th centuries; (3) at the same time, due to the development of direct democracy, which is implemented through the institution of referendum, all these systems were, in fact, almost immediately abolished [17, p. 329].

According to I. M. Yavorska, the issues that remained unresolved include: (a) the insignificant terms established by the legislation for bringing the company's documents into compliance with the requirements of the legislation; (b) frequent changes in the legislation regulating the circulation of securities, primarily regarding the registration of ownership of securities; (c) the need to adopt by-laws of the National Securities and Stock Market Commission to implement the relevant provisions of the laws; (d) in some cases excessive regulation by the state of those provisions or institutions that could be regulated within the company, since the trend in the development of modern EU corporate law is to grant companies the right to independently regulate the above issues [32, p. 191].

O. Zagnitko, Y. Korchev come to the conclusion in their reasoning that for negotiations, Ukraine must support and meet at least the Copenhagen criteria established by the European Council in Copenhagen in 1993, according to which a candidate country must have: (a) stability of institutions guaranteeing democracy, the rule of law, human rights and respect for minority rights;

(b) a functioning market economy and the ability to cope with competitive pressure and market forces within the EU; (c) the ability to assume the obligations associated with membership, in particular the ability to effectively implement the rules, standards and policies that make up the EU *acquis*, as well as compliance with the objectives of political, economic and monetary union. Thus, scholars and practitioners also note that these criteria were established by a declaration in 1993, a year later than the criteria for membership in the Maastricht Treaty [11].

CONCLUSIONS

The influence of European legal standards on the development and regulation of Ukrainian legislation occurs through the basic principles of building legislation in European countries.

The foundation of the European integration model of the process of adapting legislation is primarily the doctrinal provisions of norm-setting, norm-drafting and law-making activities.

When building EU legislation, the participants in the EU Treaty took into account the economic, social, customs and other components, which became the basis for influencing the formation of the EU legislative system, reflected the specific nature of the legislative system different from the internal national system. Such a model affected the accession to the EU and other members. At the same time, the chronology of the legal structure of the structure and adaptation of legislation of European integration processes, in particular regarding Ukraine's accession to the EU, was determined in the same way through the Agreement/Treaty, and not through a supranational legislative imperative. Moreover, the main characteristic of the Association Agreement was also based, as in the EU Treaty, on the relevant clusters. In Ukraine,

such clusters were reflected in such documents as the Association Agreement with the EU, and later, in the National Program for the Adaptation of Ukrainian Legislation to the Law of the European Union (the EU *acquis*).

The harmonization of Ukrainian legislation with the law of the European Union also affected cultural and ideological features. They created not only a regulatory and legal basis, but also influenced the understanding of the culture of law, the methodology of knowledge of law, the creation of a fundamentally new approach to the law-making process in Ukraine, etc.

All this provided an opportunity to clarify at the national level the sought-after model for building a European system of legislation in European countries. Following this, this provided an opportunity to recreate the main factors of influence on the law-making process in specific areas of law, contributed to the understanding of the processes and stages of building European legislation, focused attention on the reasons and needs for building, forecasting and developing and, most importantly, systematization of Ukrainian legislation in the European integration process in particular.

The study found that systematization of Ukrainian legislation is a need to determine the prospects for the development of Ukrainian legislation, taking into account European experience, in order to achieve a completed stage of harmonization of Ukrainian legislation with EU law. It should also be noted that each EU country, upon entering the sphere of EU law, went through the process of building legislation and adapting it to the principles of the functioning of the EU in special, unique conditions, and Ukraine, during the adaptation, is also characterized by peculiar issues of systematization of legislation, where one of its parts was significantly developed, and other parts (fragments).

SUMMARY. The influence of European legal standards on the development and regulation of Ukrainian legislation occurs through the basic principles of legislation in European countries, the process of harmonizing Ukrainian legislation with European Union law. The final stage of regulating Ukrainian legislation is to determine the prospects for the development of Ukrainian legislation taking into account European experience. The purpose of the study is the need to clarify the legal nature of the formation of legislation in European countries in order to obtain a model for the stage of regulating Ukrainian legislation in European integration conditions. The research methodology is based on the methods of comparative law regarding the analysis and synthesis of norms, institutions, institutions of the formation of EU legislation and Ukrainian legislation, as well as general legal methods of legal regulation – imperative, dispositive, historical, recommendatory, incentive, etc. It is concluded that the influence of European legal standards on the development and regulation of Ukrainian legislation occurs through the basic principles of legislation in European countries, where the process of harmonizing Ukrainian legislation with European Union law provided an opportunity to clarify the model of building a European system of legislation in European countries. This made it possible to recreate the main factors influencing the law-making process in specific areas of law, contributed to understanding the processes and stages of building European legislation, focused attention on the reasons and needs for building, forecasting and developing and, most importantly, systematization of Ukrainian legislation in the European integration process in particular. The study found that systematization of Ukrainian legislation is the need to determine the prospects for the development of Ukrainian legislation taking into account European experience in order to achieve a completed stage of harmonization of Ukrainian legislation with EU law.

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CHAPTER 11

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INTERNATIONAL LEGAL FACTORS OF THE TRANSFORMATION OF NATIONAL LEGISLATION

Melnyk Ya. Ya., Perevertun O. V.

INTRODUCTION

The alignment of Ukrainian legislation with the law of the European Union during implementation creates conditions for the need to transform national legislation. It is obvious that any transformation of a phenomenon, including in the midst of the phenomenon of law, entails a corresponding burden on changing the current system, initiating a new stage, a new form of relations, in fact, a new model of their functioning.

Thus, if we are talking about the implementation of international regulatory legal acts into the national legislation of Ukraine, then there is a need to review the role and place of such sources (forms) of law as international treaties in the national legal system. The impact of international treaties that they can have on the system of national legislation is mediated not only by the purpose of such influence, but also by the procedure and ability, as well as by functional tools, means and methods to ensure such influence qualitatively and effectively.

Under such circumstances, fundamental questions arise regarding the need to study the processes of the influence of international treaties on the transformation of national legislation. Following this, there is a need to analyze and monitor existing international treaties

in Ukraine, legal monitoring of their effectiveness, research into doctrinal explorations of the transformation of national legislation, as well as the influence of legal doctrine on the regulation of the system of national legislation of Ukraine.

Thus, with such a statement of the problem, there is a need to study the processes related to the implementation of international legal norms into national legislation.

1. The place of international treaties in the legal system of Ukraine^{1*}

The legal system of Ukraine reflects not only the embodiment of legal ideas, rules, customs, interests and legal norms formalized in national legislation, but also determines the place of each source of law in the legal system according to the hierarchy, relationship with sectoral legislation, the method of influencing legal relations, the formation of the legal regime for their regulation.

Under such circumstances, the need to clarify the place of international treaties in the legal system of Ukraine becomes obvious, in order to also determine the issues of hierarchy, relationship with national legislation, methods of influencing legal relations, legal order, etc.

The legal encyclopedia notes that the influence of international law on national law consists in: (a) the issuance of certain norms of national law (when a national implementing regulatory legal act is adopted); (b) change of certain norms of national law

^{1*} Melnyk Ya.Ya (2024). Vplyv mizhnarodnykh dohovoriv na natsionalne zakonodavstvo Ukrainy [The influence of international treaties on the national legislation of Ukraine]. *Systematyzatsiia zakonodavstva Ukrainy yak vazhlyva skladova pravotvorchoi diialnosti v konteksti yevropeiskoi intehtratsii* [Systematization of the legislation of Ukraine as an important component of law-making activity in the context of European integration]: collection of scientific works / edited by O. O. Kot, A. B. Hryniak, N. V. Milovska. Kyiv : Alerta, 224–245.

(for example, when a state changes its legislation before concluding an international treaty, if it or its draft contradicts the current legislation, in order to ensure compliance of domestic legislation with such a treaty) abolition of certain norms of national law (in connection with the conclusion of an international treaty, the norms of law existing in the country, which otherwise regulate the same social relations, cease to be valid, however, again with the consent of the state) [2, p. 171].

At the same time, within the European Union, a special system of regulation of social relations was created, which significantly differs from the classical systems of national and international law. The heterogeneity and multi-level structure of this integration association determined the flexibility and diversity of methods of forming legal norms, as well as the means of their expression and fixation, that is, the sources of law [12, p. 49].

Analyzing the educational literature, it would seem to draw attention to the fact that the sources of primary law of the EU are its founding treaties, which were consolidated on the basis of the TEC and the TFEU. Today, these are the Maastricht Treaty, the Amsterdam Treaty, the Nice Treaty, and the Lisbon Treaty. The educational literature also notes that the founding treaties include the treaties that have been revised: the Treaty on the European Coal and Steel Community; the Treaty establishing the European Economic Community; (EU Treaty), Treaty establishing the European Atomic Energy Community of 1957 (Euratom Treaty). Primary sources also include treaties on the accession of member states to the EU: Belgium, Bulgaria, Greece, Denmark, Estonia, Ireland, Spain, Italy, Cyprus, Latvia, Lithuania, Luxembourg, Malta, Netherlands, Germany, Poland, Portugal, Romania, Slovakia, Slovenia, Hungary, Finland, France, Croatia, Czech Republic, Sweden [12, pp. 49–50].

Also, legal educational literature draws attention to the fact that one source of primary EU law is its international treaties of the EU, which is related to the role of the community in the international arena. In this way, the community can conclude international treaties and agreements with countries that are not part of it, as well as with other international organizations. These agreements cover a wide range of relations – from cooperation in the field of trade, industry, technical and scientific cooperation to trade agreements on individual goods. Along with the growth of economic power and trade activity of the EU member states, the number of international treaties concluded by the community with countries that are not part of this organization has increased significantly in recent years. On this basis, legal literature suggests distinguishing two main types of international treaties between the European Union and countries that are not part of it. Association agreements establish a special type of relationship between the EU and other countries, which is not limited to trade alone and also includes close economic cooperation and financial assistance [12, pp. 50–51].

It is significant that the legal doctrine of the European Union law distinguishes between two different types of association agreements. In particular, these are agreements that establish special relations between individual EU member states and countries that are not part of it; and also, these are agreements whose purpose is to prepare for accession to the EU or the creation of a Customs Union. At the same time, it is believed that the main reason for concluding association agreements of the first type is the existence of close economic, historical and political ties between EU member states and other states. The latter include, as an example, those that constitute ties between France,

Italy and their former colonies. Moreover, the introduction within the community of a single tariff system without preferences could complicate the development of trade relations with such countries. In view of this, special agreements were concluded designed to limit the effect of some provisions on free trade in relation to such countries [12, p. 50].

The association can also play the role of a preparatory stage for joining the EU. It can serve as a preliminary stage of the accession process, during which a country that has expressed a desire to join the EU can work on transforming its own economy in accordance with community standards. Ukraine is also on this path, with which the “Association Agreement” was signed in 2014 [12, pp. 50–51].

The civilized level of international contractual relations lies in the ability not only to regulate its relations through such an instrument as an international treaty, but also when such a treaty affects relations between states, as a result of which positive and negative consequences may arise. In essence, here we can preliminarily assume the thesis that “legal regulation” is equal to the thesis of “influence”, because in the absence of legal regulation, the question of the influence of law on relations may not even be raised.

At the same time, it is obvious that we are not only talking about the relationships between subjects of international law, but also about the “relationships” of legal systems and legal orders, which should have a certain consequence for legal regimes.

In international law, it has become established that the “law of international treaties” is primarily a set of international legal norms that determine the procedure for concluding, conditions for the validity, action and termination of international treaties by subjects of international law. Moreover, the international treaty itself is one

of the most common means in international law for its subjects to consolidate their mutual rights and obligations [17, p. 20].

Therefore, it becomes obvious that such a procedural property of international treaties affects the international legal factors of the transformation of national legislation. It determines, as a result of such a result, the place of international treaties in the national legal system.

Diving into a deeper analysis of the problems of an international treaty and its impact on the regulation of national legislation, the entry into European integration processes and the transformation of the legal system, it is advisable to pay attention to the international treaty as a source of law, its features as a legal institution.

Thus, E. O. Zverev notes that an international treaty as a source of national law has the features of an ordinary private law treaty and a status that is commensurate, and in many states even higher than the status of the law. According to the researcher, this is an important source of law, since it allows states not to stand aside from international life, stimulating them to improve their own legal systems, in order to comply with international standards. International treaties must work. For this, they must be applied by state bodies, understood and applied by citizens [7, p. 43]. The fact that an international treaty in legal doctrine is identified by certain features indicates that these features, as identifying correlates, can be characterized as being active, or, conversely, be passive and play a methodological role in the legal construction of an international treaty, influencing the transformation of the legal system by globalizing the legal space. In simple words, by analogy with a contract in civil law, these are precisely those certain factors that constitute the subject of legal regulation of contractual relations in the contract, uniting primarily regulatory and legal regulation into a single system.

The scientific literature notes that most states have special legislation that determines the powers of state bodies and officials regarding the conclusion, execution and termination of international treaties. Thus, in Ukraine, the laws of Ukraine “On International Treaties of Ukraine” (2004) and “On Succession of Ukraine” (1991) have been adopted [17, p. 22]. It is also appropriate to pay attention to the constitutional norm that determines the foundations of legal regulation of international treaties.

Thus, Article 9 of the Fundamental Law stipulates that “valid international treaties, the consent to be bound by which has been granted by the Verkhovna Rada of Ukraine, are part of the national legislation of Ukraine, and the conclusion of international treaties that contradict the Constitution of Ukraine is possible only after making appropriate amendments to it” [10]. In the commented edition of the Constitution of Ukraine, formed on the basis of comments from excerpts from decisions of the Constitutional Court of Ukraine on the official interpretation of articles, there is no commentary on Article 9 of the Constitution of Ukraine [11, p. 37].

The Law of Ukraine “On International Treaties of Ukraine” in Article 1 defines a list of basic concepts, among which the legislator defined: “international treaty of Ukraine”, “conclusion of an international treaty of Ukraine”, “authority”, “signature”, “ratification, approval, acceptance, accession”, “statement”, “reservation”, “international organization”, “party”, “depository”, “termination of action”, “suspension of action” [18]. However, the concepts of “influence”, “legal influence” are not defined, neither in modern legal encyclopedias, nor in legislation and judicial practice, but nevertheless it follows from the strength of the source of law, when such is introduced into the hierarchy of sources.

However, researchers in the field of law widely use the concept of “influence” in the course of doctrinal developments, operating with it in relation to certain circumstances and facts. This means that the rather loose and multi-vector use of the term influence in relation to essentially one direction of “legislation” does not give us a clear idea for application in the course of studying international treaties [15, pp. 224–245], although it is obvious that the terminology itself “... “authority”, ... “reservation”, “international organization”, ... “termination of action”, “suspension of action”... ” are correlates that determine the directions and processes of influence. This is, so to speak, a narrow view of the problem.

However, in a broader sense, it is worth bearing in mind that treaties and agreements are legally enforceable acts, as acts of legal subjects who have legal knowledge adopted in an officially recognized (documentary) form. Instead, the theory of law also distinguishes such types of legal acts as regulatory legal acts (aimed at establishing, changing or abolishing legal norms) and legal interpretative acts (aimed at clarifying legal norms) [19, pp. 236, 237]. This means that the issue of the legal impact of such legal acts as international treaties has an additional impact on another specific group of legal acts such as: (a) regulatory legal acts; (b) law enforcement acts; and, (c) legal interpretative acts [15, pp. 224–245].

According to national legislation, in accordance with Part 2 of Article 9 of the Law of Ukraine “On International Treaties of Ukraine”, it is determined that “... international treaties of Ukraine are subject to ratification:

(a) political (on friendship, mutual assistance and cooperation, neutrality), territorial and those relating to state borders, delimitation of the exclusive (maritime) economic zone and continental shelf of Ukraine, peaceful;

(b) relating to the rights, freedoms and obligations of man and citizen;

(c) general economic (on economic and scientific and technical cooperation), on general financial issues, on issues of granting loans and economic assistance by Ukraine to foreign states and international organizations, as well as on receipt by Ukraine from foreign states and international financial organizations of loans not provided for by the State Budget of Ukraine;

(d) on Ukraine's participation in interstate unions and other interstate associations (organizations), collective security systems;

(e) on military assistance and the sending of units of the Armed Forces of Ukraine to other states or the admission of units of the armed forces of foreign states to the territory of Ukraine, the conditions for the temporary stay of foreign military formations in Ukraine;

(f) concerning issues of the transfer of historical and cultural values of the Ukrainian people, as well as objects of state property rights of Ukraine;

(g) the implementation of which entails changes in the laws of Ukraine or the adoption of new laws of Ukraine;

(h) other international treaties, the ratification of which is provided for by an international treaty or the law of Ukraine ..." [18].

Such a list, which is specified in Part 2 of Article 9 of Law № 1906-IV of June 29, 2004, in our opinion, gives grounds to distinguish / differentiate / areas of legal influence by economic spheres, branches of law, etc. This idea is explained by the legal grounds for the ratification of international treaties of Ukraine, which is determined by the powers of the parties to the international treaty in which Ukraine participates [15, pp. 224–245].

In monographic studies, attention is drawn to the fact that international treaties enter into force in the manner and within the time period stipulated by the treaty itself. It is believed that this is one of the most important procedural issues, on which the moment from which the rights and obligations of the parties to the treaty arise depends. As for validity, an international treaty is valid if it has acquired and retains legal force in accordance with the conditions specified in it [17, p. 38]. This is where the peculiarities of the effect of international treaties should be considered. At the same time, in scientific studies of the effect of treaties it is noted that the nature of the treaty determines the limits of its effect, which are: the territory of a certain state or the territory of several states (international treaty, federal treaty). The effect of a regulatory and legal treaty extends to the subjects of its adoption, as well as other subjects, as provided for by the terms of the treaty [5, p. 186]. It is the targeting, the property of spreading “its norm” to specific parties, to the participants in the agreement, that constitutes the corresponding legal entity, so to speak, which is converted into “influence”, and, in fact, into the main element of any agreement – obligations.

Referring to Article 14 of the Vienna Convention regarding the fact that ratification as a traditional way of consenting to the binding nature of the agreement is mandatory only when it is provided for by the states that have signed the agreement, some scholars (V. Tymoshenko, S. Dryomov, A. Tymoshenko) note that there is no general presumption in favor of ratification. After all, everything depends on how the states-parties to the agreement are defined. Therefore, in their opinion, an international agreement concluded in a simplified form has the same legal force as an agreement concluded in writing, that is, with subsequent

ratification. Therefore, there is no material difference between them [21, pp. 185–186].

The legal doctrine of international law states that for many international legal norms and institutions of international treaty law, their implementation is generally possible only if there are corresponding norms in national law [17, p. 22].

D. P. Martynovsky proves that international legal standards have a significant positive impact on the national legislation of the states parties to international treaties, on the one hand, harmonizing their national constitutional law with international law, and on the other hand, increasing and improving the mandatory level of national constitutional law in the context of its compliance with modern regulatory requirements of international law [13, p. 77]. V. A. Malyga and V. M. Repetsky believe that international treaties as a legal category have much in common in the interpretation of its legal nature and substantive content through the prism of international public, international private and national (domestic) law. They are united by the guideline defined by the Vienna Convention on the Law of International Treaties of 1969. At the same time, the Law “On Private International Law” establishes additional restrictive requirements for an international treaty that regulate relations with a foreign element (mandatory ratification) [14, p. 510]. Also, researchers prove that “... in public international law, the scope of international treaties includes, first of all, international interstate legal relations that have a political orientation, that embody the interests of states and are based on their sovereignty. Accordingly, international treaties as sources of private international law contain norms that will be applied in the future to private law relations involving individuals and

legal entities. For treaties that regulate relations with a foreign element, the main ones are economic, financial and other issues that directly affect the interests of such entities. It should be noted that the codification and unification of international law norms ensures the appropriate international legal order in the specified areas, providing legal relations with stability, logic, predictability by confirming existing norms and creating new norms that determine the substantive content of an international treaty. All international treaties are public by their nature (even if they act as sources of private law), since they are concluded by states that guarantee their implementation. At the same time, the presence of unified conflict rules in international treaties directly indicates that such a treaty is a source of private international law ..." [14, p. 510].

V. Trotska believes that "... the influence of international treaties on the development of national legislation is manifested in the need to create a single international legal space, which includes Ukraine, in order to establish common approaches to regulating relations in the field of copyright and related rights. International treaty unification in the field of copyright and related rights has features that are manifested in: (1) the development and observance by the participating states of uniform principles in the field of copyright and related rights; (2) the establishment in the legislation of states of uniform approaches to the implementation of protection of rights to objects of copyright and related rights; (3) the establishment of uniform rules of conduct defined in an international treaty, binding on its participating states; 4) the introduction of uniform mechanisms for the protection of rights in the event of violation of copyright and related rights..." [22, p. 25]. One should agree with such conclusions.

N. V. Atamanova, studying the problems of the role and significance of international treaties in the national legal system of Ukraine, comes to the conclusion that the role and significance of international treaties of Ukraine in the system of its national law have not yet been clearly defined. After all, the Constitution of Ukraine does not establish the primacy of the norms of international treaties over the norms of national law, recognizing some of the norms of international treaties (i.e. those whose consent to be bound by the Verkhovna Rada of Ukraine has been given) as part of national legislation. At the same time, the scientist notes, the priority given to the norms of international treaties over the norms of Ukrainian national law established in Article 19 of the Law “On International Treaties of Ukraine” and the norms of other laws of Ukraine cannot be clearly considered as applying to all legislation of Ukraine. That is why it would be more expedient to provide for the norm currently established in Part 2 of Article 19 of this Law in the Constitution of Ukraine itself, and not at the level of the law. The scientist also proves that in the process of law implementation, no contradiction between constitutional provisions and norms of an international treaty is permissible. Therefore, it is worth conducting a mandatory procedure for constitutional examination of all draft international treaties, since for each country there is an unambiguous constitutional imperative that all laws and other legal acts, in particular of an international legal nature, applied within the national territory, nevertheless do not contradict the Basic Law of a particular country [12, p. 12].

At the podium of young scientists, attention was paid to the “place of international treaties in the legal system of Ukraine”. In particular, international treaties of Ukraine for the legal regulation of the administrative activities of the police of Ukraine occupy a special place in the system of

regulatory and legal regulation of the administrative activities of the police. This, according to the researcher, is due to the fact that such acts are endowed with almost the highest legal force [6, p. 76]. K. A. Ragulina, studying the legal impact of international treaties, proves that international treaties and national legislation of Ukraine interact in two forms: (1) international treaties influence the creation and content of regulatory and legal acts of Ukraine; (2) international treaties recognized by our state have the ability to have direct effect, can be directly applied in the relevant internal relations [20, p. 36]. D. V. Hrytsayenko believes that "...the country's legal system is gradually developing in the direction of humanization and human-centrism, a noticeable tendency to refuse unfounded accession to new international treaties may indicate a pragmatic approach of the Ukrainian state. It is noted that in conditions of economic and social difficulties, the implementation of international obligations in the field of human rights often turns out to be overwhelming for Ukraine. The importance of properly assessing the state's capabilities to fulfill international obligations is emphasized, as well as the need to form a strategy that would include not only the signing of new treaties, but also the development of appropriate mechanisms for their implementation ..." [4, p. 116].

2. Implementation of international legal norms into national legislation

Implementation, as a certain process of states to implement the obligations undertaken with the introduction of international standards into national legislation, focuses attention on the needs of studying not only international legal norms, but also

the process itself, the powers of state bodies, its features. Thus, O. M. Ivanchenko, studying the problems of classification and structure of norms of international and national law, draws attention to certain features. In particular, the scientist proves that, unlike norms of international law, national norms differ significantly in legal force. They are arranged in a hierarchy in the same sequence as the regulatory legal acts in which they are contained. From this point of view, national norms are differentiated in the form of norms that have higher legal force (contained in the constitution), ordinary national law, act of the head of state, by-law, court decision, etc. The norms of both international and national law in the most general form can be defined as formally defined rules that regulate social relations that are the subject of these branches. In this case, formal certainty means a distinctive feature of international legal norms, which consists in the special clarity and certainty of concepts and structures. An important feature of international legal norms compared to national norms is that most of them are not universally binding, because a group of states cannot create norms for other countries [8, p. 108].

It is believed that the prerequisite for the implementation of international human rights standards is the constitutional consolidation of the provision on the inclusion of an international treaty, other sources of international human rights standards in the national legislation (national law or national legal system) [2, p. 172]. And this approach is methodologically correct and justified. Which explains the issue of compliance with the sovereignty of legal orders, the interconnection of legal systems, as well as the powers to transform a system that adapts to another legal order.

The textbook on international law states that “...the implementation of international law is a purposeful organizational and legal activity of states, which is carried out individually, collectively or within international organizations for the purpose of timely, comprehensive and full implementation of the obligations assumed by them in accordance with international law. In the case of the implementation of international legal norms at the national level, additional domestic measures are required to transform the goals set forth in the norms of international law into real actions of legal entities and citizens under state jurisdiction. National law is the main instrument for the implementation of the norms of international law...” [3, p. 18]. The implementation of the norms of international law occurs through the reception of the rules of international treaties by national law [3, p. 19].

In the study conducted by D. P. Martynovsky devoted to the study of the role of the phenomenology of international legal standards in the constitutional law of Ukraine, their significance and influence on its formation, development and improvement, the formation and development of the constitutional and legal status of a person and a citizen. International legal standards in the constitutional law of Ukraine. The author of the study in one of the sections comes to conclusions that relate to the problems of international norms and norm-setting. In particular, the scientist believes that international legal standards are the result of the efforts of the international community of states to optimize and unify the phenomenology of international norm-design and norm-setting for the purpose of uniform normative regulation of the most important issues of international cooperation – by first enshrining them in international multilateral agreements of a contractual nature as norms of international law, and then

borrowing them by national legal systems, in particular systems of national constitutional legislation [13, p. 75]. According to D. P. Martynovsky, the features of international legal standards that identify them within the framework of international public law and the constitutional law of member states of the international community are: (a) the definition of their legal nature as norms of international law, which in turn determines the corresponding model of legal behavior of states and other subjects of national constitutional law; (b) their formalization as norms of an international treaty and granting them the property of obligation for the implementation by all signatory states (participants) of such treaties; (c) granting a specific state a free choice of means of implementing the provisions of international legal standards into the system of national constitutional legislation; (d) the formation of a management and rule-making paradigm, according to which the adoption of new international legal standards is consistent with the complex of current international norms in the relevant field; e) the definition that the content of the standards is, firstly, a compromise between the subjects authorized to adopt them, and secondly, they establish a minimum level of obligations for the signatory states, which must be reproduced in their national legislation; (f) the content of the standards is a compromise between the subjects authorized to adopt them, therefore they establish a minimum level of requirements for the constitutional legislation of different states [13, p. 76]. “International legal standards”, not identifying it with the concept of “international legal norms”, based on the fact that not all international legal standards are international legal norms, although the latter can be international legal standards. At the same time, international legal norms are mandatory and have a contractual

nature, while international legal standards are often doctrinal developments [13, p. 77].

N. V. Kaminska and V. I. Boyko prove that the dynamics of the system of international legal regulation, international law-making and law enforcement, as well as active changes in the system of their object-subject characteristics, the spread of new phenomena and processes, including digital tools used both in peacetime and during armed conflicts, give grounds to argue about the expediency of modernizing the forms of implementation of international law, the ways of its interaction with national and supranational law [9, p. 162]. However, according to these researchers, it is on this path that there are both achievements or certain developments, and at the same time significant problems, shortcomings, etc. First of all, these are problems of a general theoretical or conceptual nature, associated with the lack of unified approaches to understanding the concept, nature and substantive features of the phenomenon of implementation. Such unification is absent in doctrinal sources, as well as in international law and national regulatory legal acts. In particular, the analysis allows us to distinguish the most widespread use of the concepts of implementation of international law, implementation of norms and principles of international law, implementation of international law or international obligations, implementation of international legal standards, etc. The basic category of implementation itself has various meanings, narrow and broad senses, and the substantive and spatial features and properties are differentiated [9, p. 162].

Within the framework of the problems outlined above of harmonizing the legislation of Ukraine with the law of the European Union as a necessary component of its systematization, it is possible to state that harmonization is a process not of

a local, but of a global and regional nature, which causes the normalization and balancing of the norms of national law with EU law. By systematizing national legislation to EU law, the addressees of rights receive legal guarantees, and the state receives a legal order that meets EU standards. Systematization as a process leads to corresponding legal consequences that determine the operation of effective legislation, strengthen the influence of legal and social culture and awareness of holders of rights, freedoms and interests.

When systematizing, one should focus on the hierarchical relationship of norms so that they are effective. The hierarchy should be based primarily on the priority area of the need for urgent changes (due to war; Covid, etc.); on the area of the priority of legal acts; on the sectoral area; on the area of social requests, etc. It is under such circumstances that we believe that the harmonization of legislation will be carried out effectively, and its consequence – systematization, will also have an effective effect on law/national legislation. In fact, taking into account hierarchy and consistency is the key to European integration success.

It should be stated objectively that the systematization of Ukrainian legislation to EU law should be divided into certain stages: before accession to the EU, after Ukraine's accession to the EU. Systematization as a process “works” with legal systems, as a result of which they are transformed and modified.

At the same time, unresolved or/actually those that will require solution/ are problems that pose risks to ensuring social security [16, pp. 69–70].

Some researchers believe that among the following relevant areas of scientific research and discussions, it is proposed to single out the national model of implementation of international law, national policy and strategy for the implementation of international

law, its individual branches; a thorough study of foreign experience in implementing the norms and principles of international law into national legislation, monitoring national legislation for its compliance with the norms and principles of international law, individual branches and institutions; modernization of the regulatory, legal and organizational and institutional framework for implementation, information and educational activities, legal culture and legal awareness in this context; increasing the efficiency of law enforcement practice, judicial activism, etc. [9, p. 163].

CONCLUSIONS

The study found that international legal factors for the transformation of national legislation are possible due to the synergy of national and international legal orders, two or more legal systems. European integration processes cause the transformation of the national legal system due to the action between the legal systems of international association agreements. These documents embody the synchronization of legal ideas, rules, customs, interests and legal norms formed by the European Community.

International treaties occupy a special place in the legal system in terms of hierarchy, relationship with sectoral legislation, method of influencing legal relations, formation of the legal regime of their regulation, obligations of subjects/parties to the agreement.

The modern level of international contractual relations is characterized by the ability to regulate sectorally and procedurally, to attribute implementations, to determine the main required segments of adaptation in the national legal system, to influence relations between states.

International treaties have the fundamental property of influencing the transformation of national legislation.

Diving into a deeper analysis of the problems of an international treaty and its impact on the regulation of national legislation at the entrance of European integration processes and the transformation of the legal system, it is advisable to pay attention to the international treaty as a source of law, its features as a legal institution. In particular, the targeting of the binding requirements of an international treaty indicates the property of spreading “its norm” to specific parties to the treaty, as participants in the treaty, and thereby constitutes the formation of the corresponding legal personality of the parties to the treaty. That is, the composition, which is converted into a binding effect, as a natural property and function of an international treaty.

International treaties, as acts of expression of the will of states to implement legislation, express the will to observe the sovereignty of legal orders in a particular sector, reflect the close interrelationship of legal systems, as well as the powers to transform them, which is adapted to another hierarchically higher legal order of a perfect legal system.

SUMMARY. The conducted study examines the international legal factors of the transformation of national legislation. It was found that international treaties occupy a special place in the legal system of Ukraine, because some of them lay the foundation for the implementation of international legal norms into national legislation, transforming the latter. The purpose of the study is to reveal the international legal factors of the transformation of national legislation in the European integration period, to clarify the place of individual international treaties in the legal system of Ukraine. The research methodology is based on the methods of comparative law regarding the analysis and synthesis of the processes of transformation of

national legislation and the legal system, the implementation of international legal norms into national legislation, etc., thanks to general legal methods of legal regulation – imperative, dispositive, historical, recommendatory, incentive, etc. The conclusion is made that the transformation of national legislation is possible due to the synergy of national and international legal orders, two or more legal systems. European integration processes cause the transformation of the national legal system due to the effect of international association agreements between legal systems. These documents embody the synchronization of legal ideas, rules, customs, interests and legal norms formed by the European Community.

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