

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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