

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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