

CHAPTER 5

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LAW IN THE NATIONAL LEGAL SYSTEM

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INTRODUCTION

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

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

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

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

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

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

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

Let us analyse this issue in more detail.

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

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

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

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

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

The academic literature proposes various classifications of legislative acts.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

2. Features of the legislative process in the parliamentary procedure

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3. Quality requirements for laws, considering European experience

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CONCLUSIONS

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

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

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

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

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

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

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

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

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

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

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