

CHAPTER 6

DOI <https://doi.org/10.30525/978-9934-26-694-2-6>

SUBORDINATE NORMATIVE REGULATION OF PUBLIC RELATIONS

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INTRODUCTION

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

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

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

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

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

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

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

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

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

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

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

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

1. System and classification of subordinate normative-legal acts

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

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

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

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

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

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

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

Furthermore, the Rules of Procedure stipulate that resolutions of the Verkhovna Rada of Ukraine are adopted by a majority of votes of the People’s Deputies from its constitutional composition, except in cases provided for by the Constitution of Ukraine. Resolutions and other acts adopted by the Verkhovna Rada of Ukraine are signed and officially promulgated by the Chairperson of the Verkhovna Rada of Ukraine.

Accordingly, the law-making activity of the Parliament of Ukraine constitutes a form of activity of the legislative body associated with the creation of legal acts, as a result of which legal norms are established, amended, or repealed.

Decrees of the President of Ukraine containing rules of law. In accordance with Article 106 of the Constitution of Ukraine [34], the President of Ukraine issues decrees and orders. A significant role is assigned to decrees, as it is largely through them that the Head of State exercises his powers and elements of his legal status. At the present stage, the scope of legal regulation covered by decrees is very broad. As a rule, they are issued in cases

where gaps in the law exist. Orders are secondary in importance among the subordinate acts of the Head of State and are adopted on current or procedural matters. Acts of the President of Ukraine are published in official publications [36, p. 131].

Elaborating on the essence of acts of the President of Ukraine, O. Skakun [37, p. 480] notes that a Decree of the President of Ukraine is a subordinate legal act-document adopted on the basis of and in execution of the law on the most important issues of public and state life, with the aim of ensuring the effective implementation of the law. Among the key characteristics of this type of subordinate normative-legal act, the scholar highlights that it: is characterized by a multi-faceted and comprehensive regulation of social relations depending on the scope of the President's functions and powers; occupies a priority position in the hierarchy of subordinate normative acts; complies with the Constitution and other laws of the state; combines a single-person decision-making procedure with collegial preparation, prior consideration, certification, and responsibility for implementation; and is binding throughout the entire territory of the country.

According to Ya. Bernaziuk, a specific feature of the rule-making activity of the President of Ukraine is that, in comparison with the activities of the Verkhovna Rada of Ukraine and the Cabinet of Ministers of Ukraine, it is less characterized by the principles of collegiality, pluralism, and transparency. At the same time, the Head of State is not only obliged to adhere to the principles of rule-making in his own activity but must also, by means of his supervisory rule-making powers, ensure their observance by other subjects vested with public authority [6].

Resolutions of the Cabinet of Ministers of Ukraine containing rules of law. Article 117 of the Constitution of

Ukraine [34] authorizes the Cabinet of Ministers of Ukraine, within the limits of its competence, to issue resolutions and orders, which are binding. At the same time, Parts Two and Three of Article 49 of the Law of Ukraine “On the Cabinet of Ministers of Ukraine” [38] provide that acts of a normative nature are issued in the form of resolutions of the Cabinet of Ministers of Ukraine, whereas acts on organizational, administrative, and other current matters are issued in the form of orders.

Resolutions and orders of the Cabinet of Ministers of Ukraine are adopted at its meetings by voting, by a majority of votes of the official membership of the Cabinet of Ministers of Ukraine [38, Art. 51]. Resolutions of the Cabinet of Ministers of Ukraine, except those containing information with restricted access, enter into force on the day of their official publication, unless otherwise provided therein, but not earlier than the date of such publication [38, Art. 52].

According to O. Koroviak, the most significant role among all acts of the Cabinet of Ministers of Ukraine is played by its resolutions, by which regulations, statutes, procedures, rules, methodologies, and similar instruments are approved in cases where social relations require normative legal regulation [12, p. 257].

The normative-legal acts governing the rule-making activity of the Cabinet of Ministers of Ukraine include: the Rules of Procedure of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine of July 18, 2007 № 950 [39]; the Methodology for Conducting Regulatory Impact Analysis, approved by Resolution of the Cabinet of Ministers of Ukraine of March 11, 2004 № 308 [40]; the Rules for Drafting Acts of the Cabinet of Ministers of Ukraine, approved by Resolution of the Cabinet of Ministers of Ukraine

of September 6, 2005 № 870 [41]; and the Rules for Drafting Technical Regulations to be approved by the Cabinet of Ministers of Ukraine on the basis of European Union legislation, approved by Resolution of the Cabinet of Ministers of Ukraine of June 18, 2012 № 708 [42].

The aforementioned normative-legal acts establish procedural and substantive requirements for rule-making activity and prescribe: the types of acts issued by the Cabinet of Ministers of Ukraine; the procedure for drafting acts; the process of coordination and consultations on draft acts; the conduct of legal expertise of draft acts; the submission of draft acts for consideration; the adoption of acts; the procedure for official promulgation; and the introduction of amendments and supplements, among other matters.

Acts of the Cabinet of Ministers of Ukraine are included in the Unified State Register of Normative-Legal Acts of Ukraine. Official publication of resolutions of the Cabinet of Ministers of Ukraine is carried out in the newspaper “Uriadovyi Kurier” and the Official Bulletin of Ukraine, as well as in other official printed publications designated by law. In addition, acts of the Cabinet of Ministers of Ukraine are promulgated by being published on the official website of the Cabinet of Ministers of Ukraine.

Z. Pohorielova emphasizes the need for comprehensive reform of the rule-making activity of the Cabinet of Ministers of Ukraine [18, p. 81], arguing that its key components should include improving the quality of draft governmental normative acts submitted for consideration, enhancing monitoring of their implementation, refining the work of governmental committees, strengthening interaction between governmental bodies and the public in discussing and adopting subordinate normative acts, and

optimizing all stages of their drafting, expert review, consideration, adoption, and implementation.

Orders of Ministries Containing Rules of Law. Pursuant to Article 15 of the Law of Ukraine “On Central Executive Bodies” [43], a ministry, within the scope of its powers and on the basis and in execution of the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, and acts of the Cabinet of Ministers of Ukraine, issues orders signed by the Minister. Orders of a ministry issued within its competence are binding on central executive bodies, their territorial bodies, local state administrations, authorities of the Autonomous Republic of Crimea, local self-government bodies, enterprises, institutions and organizations of all forms of ownership, and citizens. Furthermore, where an order has a normative legal character, it is subject to state registration by the Ministry of Justice of Ukraine and inclusion in the Unified State Register of Normative-Legal Acts.

Acts of Other State Bodies Containing Rules of Law. According to Article 16 of the Law of Ukraine “On Central Executive Bodies” [43], central executive bodies are established to perform specific functions in implementing state policy as services, agencies, inspections, commissions, and bureaus.

A central executive body, within its powers and on the basis and in execution of the Constitution and laws of Ukraine, acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine adopted in accordance with the Constitution and laws of Ukraine, acts of the Cabinet of Ministers of Ukraine, and orders of ministries, issues organizational and administrative orders and

ensures and supervises their implementation [43, Art. 23]. Orders of central executive bodies are subject to mandatory disclosure in accordance with the Law of Ukraine “On Access to Public Information” [44].

Central executive bodies with special status include the Antimonopoly Committee of Ukraine, the State Property Fund of Ukraine, the National Commission for State Regulation of Energy and Public Utilities, the State Committee for Television and Radio Broadcasting of Ukraine, and the National Commission for State Regulation of Electronic Communications, Radio Frequency Spectrum, and Postal Services [43, Art. 24].

D. Baranenko [4, p. 73] identifies the main features of the rule-making activity of central executive bodies as a form of state activity implemented through the system of executive authorities, carried out in accordance with procedures established by current legislation, and resulting in new or improved subordinate normative-legal acts. The scholar distinguishes two components of such activity: the primary one (the creation of their own normative-legal acts – rule-making activity) and the auxiliary one (participation in the Government’s rule-making process, including the drafting of resolutions).

Scholars [15, p. 359] emphasize that rule-making by executive authorities has specific characteristics, including: a subordinate nature (issuance on the basis of and for the implementation of the Constitution and laws of Ukraine); special competence (issuance by bodies vested with specific powers, aimed at implementing and specifying acts of higher authorities); lower legal force compared to acts of higher state bodies; a focus primarily on matters of internal

significance for a given executive authority; and, in most cases, a derivative nature, meaning that such norms do not establish fundamentally new legal rules.

Acts of the Autonomous Republic of Crimea Containing Rules of Law. Pursuant to Part Two of Article 135 of the Constitution of Ukraine [34], normative– legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and decisions of the Council of Ministers of the Autonomous Republic of Crimea must not contradict the Constitution and laws of Ukraine and are adopted in accordance with, and for the implementation of, the Constitution of Ukraine, laws of Ukraine, and acts of the President of Ukraine and the Cabinet of Ministers of Ukraine. Under Part Three of Article 136 of the Constitution of Ukraine [34], the Verkhovna Rada of the Autonomous Republic of Crimea adopts decisions and resolutions within its competence that are binding within the Autonomous Republic of Crimea.

Orders of Heads of Local State Administrations and Orders of Heads of Structural Units Containing Rules of Law. According to Article 6 of the Law of Ukraine “On Local State Administrations” [45], for the implementation of the Constitution of Ukraine, laws of Ukraine, acts of the President of Ukraine, acts of the Cabinet of Ministers of Ukraine, ministries, and other central executive bodies that ensure normative legal regulation of their own and delegated powers, the head of a local state administration issues orders within his or her competence, while heads of structural subdivisions issue orders (instructions). Orders of heads of local state administrations adopted within their competence are binding within the relevant territory for

all authorities, enterprises, institutions, organizations, officials, and citizens.

Scholars note that “based on the content of Article 41 of the Law of Ukraine ‘On Local State Administrations,’ only acts of the local state administration itself –namely, orders of its head – may have a normative legal character. Structural subdivisions of the administration, whose heads issue orders, are not vested with such powers. Attention should also be paid to Article 43 of this Law, which provides for the power to repeal acts of local state administrations by the head of a higher-level state administration or by the President of Ukraine” [46, p. 44].

Acts of Local Self-Government Bodies Containing Rules of Law. Article 59 of the Law of Ukraine “On Local Self-Government in Ukraine” [47], which governs acts of local self-government bodies and officials, provides that a council, within its competence, adopts normative and other acts in the form of decisions; the executive committee of a village, settlement, city, or district-in-city council adopts decisions; and village, settlement, and city mayors, as well as heads of district-in-city, district, and regional councils, issue orders within their powers. The same Article establishes that normative-legal acts of local self-government bodies and officials enter into force from the date of their official promulgation, unless a later date is specified.

In peacetime, subordinate normative legal acts at the local level are adopted by local self-government bodies – city, settlement, and village councils. Under martial law, a leading role is played by acts of military administrations, which assume executive functions in conditions of threats to state sovereignty [1, p. 125].

We concur with the view of Ya. Romanov [2] that normative-legal acts of local self-government form part of the unified system of normative-legal acts of Ukraine and possess a subordinate character.

Subordinate normative-legal acts constitute a complex, multi-level system, ensuring the specification of legislative provisions and playing a crucial role in regulating social relations at the practical level. The systematization and clear classification of subordinate normative-legal acts are a necessary prerequisite for enhancing the effectiveness of legal regulation, ensuring the principle of legal certainty, and strengthening the rule of law in the activities of public authorities in Ukraine.

2. Specific features of the procedure for adoption, entry into force, and state registration of subordinate normative-legal acts in Ukraine

The study of the procedure for the adoption, entry into force, and state registration of subordinate normative-legal acts is of particular relevance, as it makes it possible to identify problematic aspects of legal regulation in this field and contributes to enhancing the effectiveness of the rule-making process. Of equal importance is the planning of the drafting of subordinate normative-legal acts, which constitutes an integral part of law-making and directly affects its efficiency, quality, and the implementation of normative-legal acts in Ukraine.

In order to ensure the simultaneous entry into force of laws and the subordinate normative-legal acts necessary for their implementation, the planning of the drafting of such acts is carried out with due regard to the legislative work plan of the Verkhovna

Rada of Ukraine for the relevant year. The specific features of planning law-making activities related to drafting subordinate normative-legal acts of the Verkhovna Rada of the Autonomous Republic of Crimea and representative bodies of local self-government are determined by the rules of procedure adopted in accordance with the Constitution of Ukraine and/or the law (and, in the Autonomous Republic of Crimea, also the Constitution of the Autonomous Republic of Crimea) [31, Art. 26].

As regards the procedure for the consideration of draft acts and the adoption (issuance) of subordinate normative-legal acts, certain procedures may be established by subordinate normative-legal acts adopted pursuant to law [31, Art. 46]. For example, the Rules of Procedure of the Cabinet of Ministers of Ukraine [39] determine the process for drafting resolutions and orders, inter-ministerial coordination, and time limits for submission and consideration.

A particularly important role is played by the institution of state registration of normative-legal acts, which is aimed at verifying their compliance with the Constitution and laws of Ukraine, preventing legal conflicts, and ensuring the unity of the legal system.

The features of state registration of subordinate regulatory legal acts are covered by a separate section VIII of the Law of Ukraine "On Law-Making Activity" [31], which contains two articles and defines the principles of state registration of subordinate regulatory legal acts (Article 53) and the procedure for conducting state registration of subordinate regulatory legal acts (Article 54).

State registration of regulatory legal acts of ministries and other executive bodies that are subjects of rule-making is carried out in accordance with the Decree of the President of Ukraine dated October 3, 1992 №. 493 "On State Registration of Regulatory Legal Acts of Ministries and Other Executive Bodies" [48], the

Regulations on State Registration of Regulatory legal acts of Ministries and other executive bodies, approved by the resolution of the Cabinet of Ministers of Ukraine dated December 28, 1992 № 731 [49] and other acts of legislation on state registration of regulatory legal acts.

State registration consists in conducting a legal (juridical) review of a normative-legal act for its compliance with: the Constitution and laws of Ukraine; the Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols; international treaties of Ukraine approved by the Verkhovna Rada of Ukraine; Ukraine's obligations in the field of European integration and European Union law (EU *acquis*); the case-law of the European Court of Human Rights; and the rules of legislative drafting technique [31].

The procedure for state registration is clearly defined in Article 54 of the Law of Ukraine "On Law-Making Activity" [31]. In particular, the law-making subject that adopted the act must submit it within three working days to the ministry responsible for the formation of state legal policy.

Legal (legal) examination of a regulatory legal act is carried out within 15 working days from the date of its receipt by the ministry that ensures the formation of state legal policy. If necessary (conducting an analysis of a regulatory legal act with the involvement of experts, studying a significant number of legislative acts, a large volume of a regulatory legal act (over 50 pages), other objective circumstances that make it impossible to conduct a legal (legal) examination of a regulatory legal act within 15 days from the date of its receipt), this period may be extended by the ministry that ensures the formation of state legal policy, but not more than for 10 working days, of

which the subject of law-making activity that sent the regulatory legal act for state registration is notified.

If a subordinate normative-legal acts submitted for state registration meets the requirements stipulated in Part One of Article 53 of this Law, the ministry responsible for the formation of state legal policy shall make a decision on its state registration within the period specified in Part Two of this Article and include it in the Unified State Register of Regulatory Legal Acts (Article 56 of the Law of Ukraine “On Law-Making Activities”) [31].

In case of non-compliance of a subordinate normative-legal acts submitted for state registration with the requirements stipulated in Part One of Article 53 of the Law of Ukraine “On Law-Making Activity” [31], the ministry ensuring the formation of state legal policy, within the period specified in Part Two of this Article, shall make a decision to refuse state registration and return it to the subject of law-making activity for revision, indicating an exhaustive list of grounds for refusal.

The procedure for conducting a legal (legal) examination of subordinate normative-legal acts, making a decision on their state registration or refusal to register them, and including them in the Unified State Register of Regulatory Legal Acts was approved by the Resolution of the Cabinet of Ministers of Ukraine dated December 10, 2024 №. 1537 [50], which will enter into force simultaneously with the entry into force of the Law of Ukraine “On Law-Making Activity”.

It should be noted that subordinate normative-legal acts that are not included in the Unified State Register of Legal Acts are invalid and are not subject to official publication. The procedure for the publication of regulatory legal acts is regulated by the Decree of the

President of Ukraine dated June 10, 1997 №. 503/97 “On the procedure for the official publication of regulatory legal acts and their entry into force” [51], according to paragraph 1 of which the official printed publications are the “Official Gazette of Ukraine” and the newspaper “Government Courier”.

It is also important to determine the moment of entry into force of subordinate normative-legal acts, because it is from this time that they acquire legal force and become mandatory.

3. Control and supervision over the legality of subordinate normative-legal acts

Control and supervision serve as the principal instruments for ensuring legality in the field of subordinate rulemaking. The increasing scope of subordinate regulation and the expansion of the powers of executive authorities underscore the relevance of studying control and supervision over the legality of subordinate normative-legal acts in Ukraine. The absence of effective control mechanisms may give rise to the risk of adopting acts that exceed the competence of public authorities or contradict the applicable legislation. Effective control over subordinate rulemaking is an essential prerequisite for ensuring legal certainty, transparency in the activities of public authorities, and the prevention of abuse of power.

It should be noted that, with the aim of improving the legal regulation of the activities of local self-government bodies, ensuring the transparency of their functioning, and establishing effective mechanisms of state supervision over the legality of acts adopted by them, Law of Ukraine № 4677-IX of 5 November 2025 [52] was

adopted. This Law shall enter into force twelve months after the termination or lifting of martial law in Ukraine.

In Ukraine, the system of control and supervision over the legality of subordinate normative-legal acts is multi-level and involves various actors. In particular, the Verkhovna Rada of Ukraine exercises control over the activities of executive authorities, including with regard to the issuance of subordinate acts. The President of Ukraine is empowered to suspend acts of the Cabinet of Ministers of Ukraine on the grounds of their non-compliance with the Constitution, with a simultaneous application to the Constitutional Court. The Cabinet of Ministers of Ukraine exercises control over the activities of ministries and other central executive bodies, in particular as regards the compliance of their normative acts with legislation.

Article 62 of the Law of Ukraine “On Law-Making Activity” [31] stipulates that, in cases provided for by the Constitution of Ukraine and/or law, a subordinate normative-legal act or a separate structural element thereof may be repealed by:

- 1) the President of Ukraine – a normative legal act of: a) the Council of Ministers of the Autonomous Republic of Crimea; b) the head of a local state administration;
- 2) the Cabinet of Ministers of Ukraine – a normative legal act of a ministry;
- 3) the head of a higher-level local state administration – an order of the head of a lower-level local state administration;
- 4) another subject of law-making activity – in cases and in accordance with the procedure determined by the Constitution of Ukraine.

It should be noted that a decision to repeal a subordinate normative-legal act or a separate structural element thereof must

specify the grounds for such repeal. In particular, the grounds for repealing a subordinate normative-legal act or a separate structural element thereof may include: non-compliance of the normative-legal act or its *отдельного* structural element with the Constitution of Ukraine and/or statute law; non-compliance of the normative-legal act or its separate structural element with normative-legal acts of higher legal force; other grounds as determined by the Constitution of Ukraine and/or statute law [31].

A repealed regulatory legal act shall cease to be valid from the date of entry into force of the regulatory legal act on its repeal. In the event of the repeal of a regulatory legal act or its separate structural element, the validity of the regulatory legal act or its separate structural element that was in force before the adoption (issue) of the repealed regulatory legal act shall not be automatically restored.

A subject of law-making activity whose normative-legal act has been repealed in whole or in part is obliged, within the limits of its competence, to adopt (issue) a normative-legal act regulating the social relations that arose during the period of validity of the repealed normative-legal act.

An extremely important development has been the enshrinement of the institution of legal monitoring in the Law of Ukraine “On Law-Making Activity” [31], as well as the determination of the possibility of its application to subordinate normative-legal acts.

The enshrinement of the institution of legal monitoring at the legislative level, in the view of A. Hryniak [46, pp. 220–221], “makes it possible to establish the legal foundations for systematic and comprehensive work of subjects of law-making activity aimed at observing, analysing and evaluating legislation in the course

of its implementation, with a view to its improvement and the forecasting of its development.”

We share the opinion of I. Onyshchuk that “through legal monitoring it is possible to address the principal task, which consists in assessing the quality and effectiveness of normative-legal acts, forecasting the legal regulation of social relations, and identifying specific legal, organisational, institutional and other measures necessary for its обеспечения” [53, p. 1].

It should be noted that the topical issues of legal monitoring as a component of law-making and law-application activity are addressed in the monograph “Legal Monitoring as a Component of Law-Making and Law-Application Activity” (2023), edited by O. O. Kot, A. B. Hryniak and N. V. Milovska [54]. The study identifies the objects and subjects of legal monitoring, the methodology for its implementation, the prospects for establishing a mechanism of judicial monitoring of legislative provisions based on the generalisation of judicial practice, as well as the specific features of implementing the results of legal monitoring.

Legal monitoring with regard to subordinate normative-legal acts, in accordance with Article 67 of the Law of Ukraine “On Law-Making Activity” [31], shall be carried out in accordance with the law and in the manner established by the Cabinet of Ministers of Ukraine. It should be noted that Resolution of the Cabinet of Ministers of Ukraine №. 574 of 17 May 2024 approved the Procedure for conducting legal monitoring of subordinate normative-legal acts [55], which shall enter into force simultaneously with the enactment of the Law of Ukraine “On Law-Making Activity”.

Contemporary practice of legal regulation of social relations raises acutely not only the issue of the place of subordinate acts within the

system of legislation, but also their correlation with other primary sources of law. Subordinate acts are hierarchically subordinated to general principles of law, international normative treaties, the case-law of the European Court of Human Rights, and the legal positions of the Supreme Court of Ukraine. Their relationship with domestic normative legal agreements is manifested in the priority accorded to the latter within the scope of the relations they regulate; however, this does not deprive subordinate acts of regulatory influence in analogous relations involving subjects who are not addressees of such normative legal agreements [7, p. 25].

As rightly observed by L. Bohachova [8, p. 25], subordinate rule-making constitutes a reliable instrument for the elaboration of legislative provisions through the regulation of social relations (not regulated by statute law), the specification and consolidation of the status of public authorities (and their officials), and the establishment of procedures for particular types of activity. Subordinate rule-making is generally perceived as an auxiliary means of legal regulation and is therefore assigned a secondary role in the creation of the normative foundation of the mechanism of legal regulation. However, its actual significance is closely linked to the assessment of the effectiveness of legal regulation. A statute does not operate to its full effect unless it is complemented by a high-quality subordinate act that provides it with concrete content.

Subordinate rule-making is conditioned by and inextricably linked to legislation. The technical and legal quality of subordinate acts depends on the quality of legislative acts. A subordinate act adopted for the implementation of a defective law diminishes the effectiveness of law. A subordinate act issued in contradiction to a law, even if intended to remedy its deficiencies or inaccuracies, is unlawful and, therefore, ineffective.

The legal determinacy of subordinate acts derives from the nature of normative-legal acts of higher legal force. Since social relations are regulated therein by rather generalised provisions, the result is legal abstractions which cannot always be effectively implemented in practice without further normative clarification.

The content of subordinate normative-legal acts takes into account the specific conditions governing the regulation of particular social relations, which are elaborated through various forms of development and specification of legislative provisions. The absence of any discrepancies or contradictions with statutory provisions is presupposed, as only a coherent and contradiction-free system of normative-legal acts can function as an effective regulator of social relations [20, p. 85].

4. Comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union

In the context of Ukraine's European integration course, particular importance is attached to the study of subordinate normative-legal acts as an essential instrument for the implementation of laws and for ensuring the effective functioning of public administration. The relevance of a comparative legal analysis of the regulation of subordinate rulemaking in the Member States of the European Union is determined by the need to harmonise Ukraine's national legislation with European standards.

In the ***Federal Republic of Germany*** (hereinafter – Germany), subordinate rule-making is governed by the Grundgesetz für die Bundesrepublik Deutschland [56]. Article 80 provides for the possibility of issuing normative acts by the Federal Government, a Federal Minister, or the governments of the Länder. At the

same time, the content, purpose and scope of the delegated powers must be determined by statute, and the legal basis must be expressly indicated in the act. Where a statute provides for the possibility of further delegation of powers, such delegation requires a normative act.

Taking into account other provisions of federal legislation, normative acts issued by the Federal Government or a Federal Minister concerning principles and charges for the use of postal and telecommunications services, principles for levying fees for the use of Federal Railways services, the construction and operation of railways, as well as normative acts based on federal statutes that require the consent of the Federal Council or are implemented by the Länder on behalf of the Federal Government or as matters within their own jurisdiction, are subject to the consent of the Federal Council [56].

Lilly Weidemann [21] provides an overview of administrative rule-making and planning in Germany, which are subordinated to the principles established by the Basic Law, in particular the rule of law (Rechtsstaatsprinzip).

In German law, as in general constitutional theory, the executive does not possess inherent legislative powers. The executive may exercise only those legislative powers which are either expressly delegated to it by the legislature or conferred upon it for a strictly limited purpose and as a transitional measure in accordance with the Basic Law [30].

The Basic Law of Germany expressly provides for the possibility of delegation, but does so in a manner that prevents the excessive expansion of executive competence. First and foremost, the legislature defines the subject-matter of delegation, that is, the spheres of social relations within which the Government is

authorised to issue subordinate normative-legal acts. This indicates that the executive cannot act arbitrarily, but is obliged to operate within strictly defined limits established by Parliament. Another important feature of the German model is the establishment of temporal limits for delegated acts. Such an approach ensures the temporary nature of delegation, as upon the expiry of the specified period the act ceases to have effect or requires renewed parliamentary approval. This prevents situations in which delegated powers effectively become permanent and supplant parliamentary law-making.

Furthermore, Germany has a robust system of oversight over the exercise of delegated legislation. Parliament supervises the scope and content of delegated powers, while the Federal Constitutional Court is empowered to review the conformity of delegated acts with the Basic Law. This dual system of control ensures that delegation does not become an instrument of usurpation of power, but remains an auxiliary mechanism to ensure the efficiency of public administration.

In sum, the German model demonstrates an effective balance between democratic principles and the practical needs of governance. It creates conditions for a prompt response to contemporary challenges while preserving the primacy of Parliament as the sole body authorised to exercise legislative power [11, pp. 60–61].

In the *Republic of Poland*, subordinate rule-making is defined by Articles 87–94 of the Konstytucja Rzeczypospolitej Polskiej [57], which establish the hierarchy of sources of law and provide for the issuance of normative acts (rozporządzenia) on the basis of statute.

Thus, pursuant to Article 92 of the Konstytucja Rzeczypospolitej Polskiej [57], normative acts shall be issued

by bodies specified in the Constitution on the basis of a detailed authorisation contained in a statute and for the purpose of its implementation. Such authorisation must specify the authority empowered to issue the normative act, the scope of matters to be regulated, and guidelines as to the content of the act. The authority empowered to issue a normative act may not delegate its powers to another body.

Article 93 of the *Konstytucja Rzeczypospolitej Polskiej* [57] provides that resolutions of the Council of Ministers, as well as orders of the Prime Minister and ministers, are of an internal character and shall apply only to organisational units subordinate to the issuing authority.

Local self-government bodies, within the limits of their competence, enact local legal acts applicable within the scope of their activities [57, Art. 94].

In Poland, the implementation of statutory provisions and the procedure for their application are regulated by the Resolution of the Prime Minister of 20 December 2002 on the “Principles of Legislative Technique” [58], which forms part of the process of drafting national legislation. Local self-government bodies also adopt normative-legal acts in accordance with this Resolution, which has a significant impact on the effectiveness of the legal system. The Principles of Legislative Technique include, inter alia, elements of the methodology for drafting and the method of editing draft regulations, resolutions, explanatory memoranda, and other normative-legal acts.

Maiia Pyvovar notes that in Poland responsibility for signing local acts depends on one’s role within local self-government. The chairperson or his/her deputy (vice-chairperson) is responsible for signing local acts. This differs from the executive body, represented

by the president or mayor, who does not participate in the voting process but is instead entrusted with the implementation of the relevant resolutions and decisions. This explanation clarifies the distribution of roles and responsibilities between the legislative and executive branches at the level of local self-government in Poland [17, p. 409].

V. I. Katylov considers that the Polish scholarly tradition emphasises the importance of constitutional limitations on delegated legislation, which makes it possible to combine the functional flexibility of law-making with guarantees of compliance with the principle of parliamentary supremacy. The scholar notes that “in European doctrine, the institution of delegated legislation is not construed as an alternative to parliamentary law-making, but as an auxiliary mechanism intended to ensure the effectiveness of governance while preserving the leading role of Parliament” [11, pp. 57–58].

In the **Czech Republic**, subordinate rule-making is governed by the Ústava České republiky [59] and the Legislativní pravidla vlády [60], which enshrine the principle of delegated rule-making, establish the requirement of specific statutory authorisation, and limit subordinate acts to the framework of statute.

Thus, Article 78 of the Ústava České republiky [59] provides that the Government is empowered to issue normative acts for the implementation of statutes and within their limits; such acts must be signed by the Prime Minister and the relevant member of the Government. Pursuant to Article 79 of the Ústava České republiky [59], ministries, other administrative authorities, and local self-government bodies may issue normative acts on the basis of and within the limits of statute, provided that they are authorised to do so by law.

The *Legislativní pravidla vlády* (Legislative Rules of the Government of the Czech Republic) [60] constitute a subordinate normative organisational act adopted by a government resolution, which regulates the techniques for the drafting and adoption of normative acts. In particular, it determines the subjects responsible for the preparation of normative acts (ministries and other central authorities), establishes the requirement of compliance with the Constitution and statutes, and affirms the principle of legality, according to which a subordinate act may be issued only on the basis of statutory authorisation.

In the ***Republic of Slovenia***, governmental normative activity is regulated by the *Ustava Republike Slovenije* [61] and the *Zakon o Vladi Republike Slovenije* [62]. Delegation is permitted only within clearly defined competences.

Pursuant to Article 153 of the *Ustava Republike Slovenije* [61], subordinate normative-legal acts and other general acts must comply with the Constitution and statutes. Individual acts and decisions of state authorities, local self-government bodies, and other holders of public authority must be based on statute or another legal act.

Article 160 of the *Ustava Republike Slovenije* [61] defines the powers of the Constitutional Court to review the conformity of subordinate acts with the Constitution and statutes.

Article 2 of the *Zakon o Vladi Republike Slovenije* [62] provides that the Government, in accordance with the Constitution, statutes, and other general acts of the National Assembly, determines, directs and coordinates the implementation of state policy. For this purpose, it issues normative acts and adopts other legal, political, economic, financial, organisational and other measures necessary to ensure

the development of the State and to regulate matters within the competence of the State.

Furthermore, the *Zakon o državni upravi* (Public Administration Act) [63] establishes the right of the state administration to issue normative acts, individual acts and internal acts on the basis of the Constitution, statutes, and other normative acts.

In accordance with Article 154 of the *Ustava Republike Slovenije* [61] and the legislation governing publication, a subordinate normative-legal act shall enter into force following its promulgation, as a general rule on the fifteenth day after publication, unless otherwise provided.

Judicial review of subordinate acts is exercised by the Constitutional Court on the basis of Article 160 of the Constitution [61], which empowers the Court to annul subordinate acts that are inconsistent with the Constitution or statutes, or to suspend their operation.

Analysing municipal legislation in the Czech Republic and the Slovak Republic, Paluš Igor and Sciskalová Marie [22] note that, in the Czech Republic, general legal norms are adopted by two municipal bodies (the assembly (municipal council) and the municipal council executive body), whereas in Slovakia by a single body (the municipal council). The legislative process for the adoption of municipal legislation in the Czech Republic is centralised through a methodological instruction prepared by the Ministry of the Interior of the Czech Republic, and compliance with it forms part of state supervision. In the Slovak Republic, the legislative process is regulated by the municipalities themselves, either through their own normative acts or in the form of internal regulatory instruments (principles, rules, directives), which reflect the

relevant provisions of the Act on Municipal Establishment. State supervision over municipal rule-making differs: in the Czech Republic it is more straightforward (carried out by public administration bodies, namely the Ministry of the Interior and regional authorities) and, due to the mandatory nature of control, arguably more effective; in Slovakia it is more complex in terms of the subjects exercising such supervision and, to some extent, less effective, as it is not mandatory.

Toma Birmontienė and Jolita Miliuvienė [23] note that, unlike other European states such as Italy, France, and Portugal, where the legislature may delegate to the government the power to adopt legal acts having the force of law, Lithuania does not recognize delegated legislation. This is a consequence of a distinct constitutional tradition shaped by the Constitutional Court with regard to the official constitutional doctrine. In interpreting any provisions enshrined in the Constitution, the Constitutional Court has repeatedly emphasized that the parliament may not confer upon the government or any other public authority the exercise of its own constitutional powers (Ruling of 13 December 2004, Case № 51/01-26/02-19/03-22/03-26/03-27/03; Ruling of 29 September 2015, Case № 19/2013). This prohibition must be observed in the adoption of both ordinary and extraordinary decisions.

In *Italy*, delegated acts are subject to parliamentary ratification, which prevents their transformation into an alternative form of legislation. Such an approach allows for a flexible response to societal challenges while preserving the supremacy of Parliament. The mandatory procedure of parliamentary ratification of delegated acts in Italy ensures a balance between the branches of government [11, p. 61].

In *France*, the use of delegated legislation is permitted only in specifically defined cases and according to strictly determined criteria, which renders this mechanism auxiliary rather than permanent. The French model is more restrictive: delegation is allowed only in exceptional circumstances and under clearly defined conditions. This makes it an auxiliary instrument rather than a regular legislative practice [11, p. 61].

V. Katylov notes that in the countries of Western and Central Europe (France, Germany, Italy and Poland), the institution of delegated legislation is regulated at the level of constitutions and special statutes, which clearly define its subject-matter, temporal limits, and procedures of control. The practice of foreign states provides a vivid example of combining the flexibility of public administration with guarantees of legal certainty and parliamentary oversight [11, p. 63].

In our view, the analysed experience of the Member States of the European Union demonstrates a variety of models for regulating subordinate rule-making, all of which are grounded in the principles of transparency, accountability, legal certainty, and effective judicial review. For Ukraine, it is of particular importance to adopt the best European practices concerning the procedures for the drafting, adoption, promulgation, and supervision of subordinate normative-legal acts. This would contribute to improving the quality of the law-making process, preventing legal uncertainty and abuse of power, and strengthening public trust in state institutions.

The conduct of a comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union is essential for the improvement of the national legal system, ensuring its alignment with European standards, and enhancing the effectiveness of legal regulation in Ukraine.

CONCLUSIONS

Ukraine's acquisition of the status of a candidate for membership of the European Union necessitates the further improvement of existing legislation, the harmonisation of national law with European Union law, and its adaptation to the key requirements of the development of a common European legal space.

The adoption of the Law of Ukraine "On Law-Making Activity" and its subsequent entry into force will undoubtedly contribute to the improvement of both the law-making process and law-application practice, as the quality of legislation – its coherence, completeness, logical consistency, and compliance with recognised international and European standards – directly depends on the proper organisation of law-making activity.

In this context, the study of problematic aspects of law-making activity in general, and subordinate rule-making in particular, acquires particular relevance. At present, both legal doctrine and practice recognise the important role of subordinate regulation in the creation and functioning of a coherent legal system in Ukraine. Subordinate normative-legal acts are acts adopted (issued) by subjects of law-making activity on the basis of and in pursuance of the Constitution of Ukraine, statutes, and international treaties in force for Ukraine, and are aimed at their implementation. Moreover, such acts contain legal norms characterised by a number of specific features and are issued exclusively by authorised public authorities in a prescribed form for the purpose of specifying and implementing statutory provisions. Accordingly, subordinate normative-legal acts occupy an important place within the system of normative regulation, as they ensure the implementation of statutes through detailed regulation of the full range of social relations.

The system of subordinate normative-legal acts in Ukraine is complex and multi-level in nature and is formed by a wide range of law-making subjects, including the Verkhovna Rada of Ukraine, the Cabinet of Ministers of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, ministries of the Autonomous Republic of Crimea, heads of local state administrations, and local self-government bodies. The legislative consolidation of their classification contributes to the structuring of the legal system; however, the absence of unified approaches in legal doctrine indicates the need for further theoretical elaboration.

A defining feature of subordinate normative-legal acts is their subordination to acts of higher legal force, which necessitates strict adherence to the principles of legality, hierarchy, and consistency. The effectiveness of subordinate regulation directly depends on the quality of the legislative framework on the basis of which such acts are adopted.

The procedure for the adoption, entry into force, and state registration of subordinate normative-legal acts constitutes an important element in ensuring their legality and effectiveness. The introduction of clear procedures for planning, legal review, and state registration contributes to improving the quality of rule-making, preventing legal conflicts, and ensuring the unity of the legal space. The institution of state registration and legal review promotes the adoption of lawful and high-quality normative-legal acts, ensuring their compliance with the Constitution of Ukraine, international obligations, and European Union law.

The system of control and supervision over subordinate normative-legal acts in Ukraine is multi-level and encompasses parliamentary, presidential, governmental, and judicial control.

At the same time, the effectiveness of this system largely depends on the proper functioning of mechanisms for repealing unlawful acts and on the implementation of legal monitoring. The enshrinement of the institution of legal monitoring in the Law of Ukraine “On Law-Making Activity” constitutes an important step towards improving the quality of legal regulation and enables a systematic assessment of the effectiveness of subordinate acts, the timely identification of deficiencies, and the improvement of the normative framework.

A comparative legal analysis of the regulation of subordinate rule-making in the Member States of the European Union demonstrates that, within the EU, subordinate rule-making is carried out on the basis of clear delegation of powers, limited competence of the executive, and effective parliamentary and judicial oversight. This ensures a balance between the flexibility of governance and adherence to the principle of the rule of law. European experience indicates the expediency of improving the Ukrainian model of subordinate rule-making by strengthening requirements for the quality of normative acts, enhancing the transparency of their adoption procedures, and developing effective mechanisms of control and accountability.

The further development of the institution of subordinate normative-legal acts in Ukraine should be directed towards their systematisation, the improvement of their legal quality, alignment with European Union law, and the обеспечение of the actual effectiveness of legal regulation in the context of European integration.

SUMMARY Subordinate normative-legal acts constitute an integral and system-forming element of the legal system of Ukraine,

ensuring the implementation of statutes, the specification of their provisions, and the effective regulation of social relations. The aim of this study is to provide a comprehensive examination of the theoretical and legal foundations and practical aspects of subordinate rule-making in Ukraine, to determine the place and role of subordinate normative-legal acts within the system of legislation, and to analyse their classification, procedures for adoption, entry into force and state registration, as well as the mechanisms of control and supervision over their legality. The methodological basis of the study comprises general scientific and special legal methods of research, which have ensured a comprehensive approach to the examination of the features of subordinate normative regulation of social relations, in particular the methods of analysis and synthesis, as well as the comparative legal method. The concept of a subordinate normative-legal act, as well as the characteristics and types of such acts as defined in the Law of Ukraine "On Law-Making Activity", have been analysed. The author analyses the specific features of planning law-making activity related to the drafting of subordinate normative-legal acts, the procedure for the consideration of draft acts and the adoption (issuance) of subordinate normative-legal acts, as well as the grounds for repealing a subordinate normative-legal act or any of its structural elements. Particular attention is paid to the features of state registration of subordinate normative-legal acts and the implementation of legal monitoring in respect thereof. The study focuses on the hierarchical subordination within the system of normative-legal acts of Ukraine and the place occupied by subordinate normative-legal acts within this system. It is established that both legal doctrine and practice recognise the significant role of subordinate regulation in the creation and functioning of a coherent legal system of the State. Emphasis is placed on the need to enhance

the quality and effectiveness of subordinate rule-making, as well as on the further reform and improvement of law-making activity in the context of the adoption of the Law of Ukraine “On Law-Making Activity”. It is concluded that, for Ukraine, it is essential to adopt best European practices concerning the procedures for the drafting, adoption, promulgation, and supervision of subordinate normative-legal acts. This will contribute to improving the quality of the rule-making process, preventing legal uncertainty and abuse of power, and strengthening public trust in state institutions.

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