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DOI <https://doi.org/10.24144/2788-6018.2021.04.4>**СУТНІСТЬ ТА ЮРИДИЧНА ПРИРОДА СИСТЕМАТИЗАЦІЇ ЗАКОНОДАВСТВА
THE ESSENCE AND LEGAL NATURE OF THE SYSTEMATIZATION OF LEGISLATION****Ivanchenko O.M.,***candidate of Legal Sciences (Ph.D in Law),
associate Professor of the Department of Theory of Law
National University "Odessa Law Academy"
ivanchenkoolga7277@gmail.com***Іванченко О.М. Сутність та юридична природа систематизації законодавства.**

В сучасних умовах накопичення протягом багатьох років великого обсягу нормативно-правового матеріалу, існування значного масиву нормативних актів, прийнятих у різний час, що діють в усіченому обсязі або застарілих, або фактично втратили чинність, систематизація законодавства особливо необхідна. У зв'язку з цим аналіз доктринального розуміння суті та юридичної природи систематизації права є актуальною. Сутність поняття систематизації заснована на науково-теоретичному уявленні про систему і практичному використанні системного підходу. У зв'язку з цим необхідно більш детально зупинитися на розгляді теорії системного підходу, а також на проблемі теорії системи права і системи законодавства. Системний підхід передбачає розкриття суті досліджуваного об'єкта через виявлення всього комплексу внутрішніх і зовнішніх зв'язків. В даний час системний підхід застосовується у вивченні всіх сфер соціальної та технічної діяльності і не є специфічним науковим інструментом правознавства. Однак, необхідно відзначити, що саме застосування системного підходу до дослідження права на різних рівнях збільшує можливості виявлення його змісту і форми, внутрішньої єдності і розмежування, взаємозв'язку і взаємодії частин, його складових. Тому, говорячи про систему права, необхідно мати на увазі, що внутрішня єдність, узгодженість, диференціація, характерні для всієї системи права, притаманні й її елементам. Теоретичне розуміння системи визначає сфери та напрями застосування системного підходу в науці і власне суті систематизації права. Теоретиками права не дається однозначного визначення поняття систематизації. До першої групи слід віднести судження авторів, що представляють систематизацію права в широкому сенсі його розуміння. Систематизацію права представники цієї групи класифікують як різновид юридичної практики. Об'єктом систематизації, орієнтованої на досягнення упорядкування та вдосконалення, в даному аспекті є всі правові акти різного типу. Другу групу складають прихильники більш вузького розуміння систематизації, що визначили її як різновид юридичної діяльності, об'єктами якої є нормативні правові акти. Систематизація правових актів в юридичній практиці є не тільки способом оптимізації законодавства, а й необхідним механізмом правового виховання, професійної підготовки юристів, а також правозастосовної практики. Постійною формою такої роботи є систематизація нормативних правових актів, під якою розуміється діяльність з упорядкування нормативних актів, приведення їх у впорядковану, узгоджену систему. Метою систематизації законодавства є приведення нормативно-правових актів, через їх впорядкування, в узгоджену систему, що найбільш об'єктивно відображає систему права. Діяльність щодо систематизації законодавства займає одне з основних місць у правовій політиці сучасної держави. У комплексі взаємопов'язаних проблем, які держава вирішує за допомогою політико-управлінської діяльності в правовій сфері життєдіяльності суспільства, пріоритетне місце займає законодавча політика, під якою розуміється державна діяльність, пов'язана з оформленням прийнятих політичних рішень у формі нормативних правових актів, оптимізацією процесу і техніки законотворення, оприлюдненням законів і підзаконних нормативних правових актів і їх систематизацією.

Ключові слова: система законодавства, систематизація законодавства, теорія систематизації, юридична техніка.

Ivanchenko O.M. The essence and legal nature of the systematization of legislation.

In modern conditions of accumulation over many years of a large amount of legal material, the existence of a significant array of regulations adopted at different times, in force or truncated, or actually expired, the systematization of legislation is especially necessary. In this regard, the analysis of the doctrinal understanding of the essence and legal nature of the systematization of law is relevant. The essence of the concept of systematization is based on scientific and theoretical ideas about the system and the practical use of a systems approach. In this regard, it is necessary to dwell in more detail on the theory of systems

approach, as well as on the problem of the theory of the legal system and the legal system. The systematic approach involves the disclosure of the essence of the object under study through the identification of the whole complex of internal and external connections. Currently, a systematic approach is used in the study of all spheres of social and technical activities and is not a specific scientific tool of jurisprudence. However, it should be noted that the application of a systematic approach to the study of law at different levels increases the ability to identify its content and form, internal unity and delimitation, the relationship and interaction of parts, its components. Therefore, speaking about the legal system, it should be borne in mind that the internal unity, coherence, differentiation, characteristic of the entire legal system, are inherent in its elements. In legal science, the concept of system has certain specifics. In the modern legal literature you can find different definitions of "legal system". Systematization of law - is a special kind of legal activity, practice, in its implementation is manifested as a permanent form of development and streamlining of the existing legal system. Systematization of legal acts in legal practice is not only a way to optimize legislation, but also a necessary mechanism for legal education, training of lawyers, as well as law enforcement practice. It should be emphasized that in the process of balanced, progressive development of society, systematization plays a priority role in lawmaking. Lawmaking cannot stop at a certain stage, but is constantly in dynamics, the development due to the dynamism of social ties, the emergence of new needs in public life that require legal regulation. The state and legal basis of modern civilized societies is characterized by the presence of a significant number of regulations adopted by the legislature and the executive. The process of normal evolution of social relations creates a need for constant updating and increasing legislation. Legislatures are actively adopting new laws and regulations. This leads to regular modifications of legal and legal systems. The use of an updated system of legislation involves work to streamline its elements. A constant form of such work is the systematization of normative legal acts, which means the activity of streamlining normative acts, bringing them into an orderly, coherent system. The purpose of systematization of legislation is to bring regulations, through their streamlining, in a coherent system that most objectively reflects the legal system. The activity of systematization of legislation occupies one of the main places in the legal policy of the modern state. In the complex of interrelated problems that the state solves through political and managerial activities in the legal sphere of society, the priority is legislative policy, which means government activities related to the design of political decisions in the form of regulations, process optimization and techniques of lawmaking, promulgation of laws and bylaws and their systematization.

Key words: theory of state and law, law systematization, technique of law-making, systematization theory, legal drafting methodology.

Formulation of the problem. The development of modern social relations requires their effective legal regulation. This necessitates the optimization of the process of reforming the system of legislation aimed at ensuring the implementation of the rule of law. Today there are no ideal laws that would immediately normalize all social processes. Modern life is a constant need for improvement, the search for something new, because there is constant development, there are new social relations that require legal regulation. Therefore, there is a need to ensure the effectiveness of legal regulation of existing social relations, to anticipate their further development. Thus, today it is important and important to study the phenomenon of systematization of legislation, as well as to ensure the effectiveness of the system of legislation that would meet the modern needs of legal regulation.

The state of research of the topic. Scholars-lawyers have repeatedly addressed the issues of theoretical understanding of the laws of the systematization of legislation. A significant contribution to the development of this problem was made by S.V. Bobrovnik, OL Boginich, VK Grishchuk, MI Kozyubra, A.M. Kolodiy, OL Копиленко, B.O. Kotyuk, VV Kopeychikov, MV Kravchuk, Yu.M. Oborotov, VF Опришко, П.М. Rabinovich, MV Цвік, O.O. Shevchenko, Yu.S. Shemshuchenko, ON Yarmysh and others. In his scientific works NM Onishchenko conducted a comprehensive analysis of the legal system as a special phenomenon of social reality. The author has created a holistic concept of development of the legal system, covering the whole complex of interaction of legal norms, institutions, relations, activities, consciousness and culture. The peculiarities of the interaction of a democratic, social and legal state and the legal system are highlighted. In this context, the relationship between the concepts and prospects of the legal system, the legal system and the legal system is considered [9]. Also a significant achievement in this direction is the research of OS Lysenkova, which presents a comprehensive structural and functional characteristics of the legislative system. The author reveals the peculiarities of the functioning of legislation as a highly organized multilevel system of interconnected elements, identifies these elements and characterizes the criteria for their selection. The paper also characterizes the systematization of legislation as an activity directly aimed at improving the system of legislation [6]. Scientific research AG Gritsianova is devoted to the analysis of modern tendencies of development of the legislation - systematization and unification. The author notes that the improvement of the regulatory framework is a complex process, a special place in which are sys-

tematization and unification, which make it possible to fully take into account the nature of legislation. The result of generalization of problematic issues is the formation of a holistic concept of the process of systematization and unification of regulations. They become the basis for the analysis of the entire system of legislation, the mechanism of legal regulation, the state and prospects of the legal system [15]. Thus, scientists have made a significant step in the study of patterns and features of the legal system. At the same time, the relevance of further scientific analysis of the main characteristics of the system of legislation, the state and ways to improve it is growing in modern conditions. Therefore, the study of the features and problems of the legal system is a need of today, which follows from the current level of legal knowledge, the needs of legislative activity and legal practice.

The aim of the article. The aim of this article is to analyze the concept of system and systematization of legislation, to clarify the features of the structure of the modern system of legislation. The system is considered as an integral set of interconnected elements, which has one or another kind of ordering in certain qualities and relationships in a relatively stable unity. This notion of the system of legislation best reveals its main characteristics, such as the set of components, the relationship and interaction of these components, which constitute a structural, organic integrity that comprehensively affects public relations. It is characteristic that such influence is mutual: after all, the more effective the system of legislation, the better regulated social relations and vice versa - the nature of public relations determines the nature of legislation, its social orientation. Thus, the reproduction of a holistic picture of the mechanism of functioning of legislation as a system will help optimize measures to improve it.

Presentation of the main material. In modern legal science, the category of legal system is one of the most common. The peculiarity of this concept is its use to denote certain sets, not the same in form and level of legal force of regulations adopted by various state bodies, officials, self-government organizations. It should be noted that there are several approaches to defining the term legislation. In some cases, they mean only a set of laws, ie regulations of higher legal force, in others - a set of all applicable regulations. Recently, there have been attempts to rethink the broad understanding of the law, which combines laws and bylaws, which significantly reduces the role of law, creates grounds for its replacement by administrative decisions, but this is not acceptable for the rule of law, which - increasing the role of law [9]. In this case, it is only a legal law that is the guarantor of the implementation and protection of fundamental rights and freedoms of man and citizen. That is, such a law, which is based on natural law, and the state through the legislative mechanism must ensure its implementation. There is no single approach to the issue of legislation in the legal literature, so it is important to clarify the essence of the concepts of legislation, system of legislation, structure of legislation [4].

In a fuller sense, the system of legislation can be defined as a form of law, a way to give legal meaning to the rule of law, a means of organizing and combining them into specific articles, regulations, regulations, institutions and branches of law [2]. As A. Vengerov notes: the system of legislation is organized according to various objective criteria, due to the needs of social regulation, society, a certain set of regulations, which is formed for the most effective use of legal norms [1]. That is, it is not just a set of regulations, but their differentiated system is based on the principles of subordination and coordination of its structural elements [9]. And the more complete and stable this system is, and the closer the relationship between its structural elements, the more effective the effectiveness of the legal mechanism that affects the formation and development of social relations in all spheres of life. That is, the general situation in the country, the level of economic and political development of the state significantly affects the stability of national legislation and its legal orientation. Even in the presence of a rich legal framework, an important argument is the effectiveness of legal regulation of existing social relations. That is, the actual implementation of legal requirements becomes important.

Therefore, it is not the number of legal acts that comes to the fore, but their ability to actually resolve a particular situation. Improving and streamlining legislation is a characteristic feature of the process of development of any civilized rule of law [13]. This should be an ongoing process aimed at improving, improving and optimizing the legal regulation of existing social relations. Analysis of current legislation shows that it is not just a set of regulations, but a system that has a multilevel and organized structure that operates simultaneously in the unity of the following structural entities: hierarchical (vertical), sectoral (horizontal) [7]. Speaking about the vertical structure of legislation, we mean the characteristics of legal acts depending on their legal force, ie it is determined by the hierarchy and competence of law-making bodies. This classification is based on the division of regulations into laws and regulations. It should be noted that the main place in the hierarchical structure of legislation is occupied by the Constitution and laws that establish the basic principles of legal regulation. They have the highest legal force and form the basis of all legislation [2]. The basis of the sectoral structure is defined by the subject of legal regulation, which is determined by specific social relations. In this context, there are such elements as normative-legal prescription, normative-legal act, institute of legislation, branch of legislation. The sectoral system of legislation is based on

two criteria: the system of law and the system of branches of public administration. Horizontal and hierarchical structures of legislation ensure internal coherence, legal unity and integrity of legislation.

Having considered the main characteristics of the system of legislation, we agree with the statements of P.M. Rabinovich that the system of legislation, its basic parameters are largely determined by the legal system. Therefore, improving the system of legislation is a prerequisite for knowledge and use of specific system-structural laws of law [11]. If we take as a basis such a feature of the legislation as its stability, the factor that has a positive effect on it, we can call the general situation in the country. That is, the construction of the system of legislation is determined by the objective conditions of socio-economic development of society [10]. According to world experience, the legal systems of continental European states (in contrast to the system of judicial precedents prevailing in the Anglo-American legal system and systems based on customs and religious and moral norms prevailing in Muslim or traditional law) are being built. on the principles and forms of regulation of normative legal acts issued by legislative and supreme executive bodies of the state. In general, we can identify the following trends in improving and developing the legal system: first, the need to ensure the rule of law in all spheres of society, its stability and intensification; secondly, the specialization of legislation with its various forms of manifestation: differentiation, specification, detail; thirdly, legal unification and accompanying processes - integration, generalization, universalization, publication of complex regulations. This is primarily due to the need to systematize legislation, ie the activities of state bodies aimed at streamlining and improving legislation, bringing it into a logical, internally consistent, coherent system [12]. Improving and streamlining legislation is a characteristic feature of the process of development of a civilized rule of law. After all, the implementation of systematization contributes to the liberation from contradictory norms, the elimination of outdated norms in the legislation, legal gaps. And this in turn increases the efficiency of the use of legislative acts, which in turn affects the effectiveness of the impact of legislation on public relations and the quality of their legal regulation.

Thus, the systematization of legislation is an effective tool that allows you to optimize the process of forming a quality legal framework that would meet the interests of civil society. Improving the structure of legislation is of great importance in modern conditions of intensification of legislative activity. Codes and other codified acts more fully regulate one or another sphere of public relations, promote better visibility of legislation, have a deeper tendency to the stability of legal requirements. Codification acts are intended to be the basis of legislative activity [12]. In the process of improving the system of legislation, the question arises about the unification of legislation. Unification in the process of systematization is the main link, as it serves as a basis for the current legislation by combining regulations in a certain order, without changing their content, as well as internal restructuring of acts, changing the content of the subject of legal regulation. Of particular interest to jurisprudence is the process of unification, when it is a technique of legal technique in the systematization of legislation and the development of uniform terminology of regulations.

As such, unification affects the style of legislation, the level of its effectiveness and internal structure. Thus, the effectiveness of legal regulation of social relations is achieved not only by strengthening the process of systematization, but also through the parallel intensive development of the trend of its unification. In this case, systematization and unification are two interdependent, restraining counterbalances in the system of internal state relations, which do not allow a one-sided approach and privilege of application. They permeate all spheres of public relations and reflect their diversity and dynamism, embody different levels of legal regulation. Thus, in modern conditions, the need to improve the structure of legislation becomes especially important. According to G. Shmelyov, the concept of legislative development should include the creation of such a system of legislation that would meet the modern needs of society and be characterized by such indicators as consistency, accuracy, certainty, stability, dynamism, visibility, etc. [14].

The condition for creating a perfect system of legislation is the knowledge of the objective laws of social development, which require legal regulation. The main means of forming and improving the system of legislation as a whole system is primarily legislative activity, which in parallel with the systematization will ensure the coherence and effectiveness of legislation, which in turn will affect the quality of legal regulation of public relations. Therefore, the role of the legislator is to create rules of law, based on the actual existing social relations, while anticipating and taking into account their further gradual development. E. Kozyubra notes that legal norms that underestimate or even ignore real living conditions do not stand the test of life. Legal norms cannot go beyond the social conditions that developed at a particular stage of the existing social order [8].

That is, the rules of law must fully satisfy the objectively justified interests of the subjects. And this, in turn, will help to avoid contradictions associated with a particular social relationship and will be as close as possible to the realities and needs of life. Otherwise, whatever the ideal norms, if they do not correspond to the level of development of a given society, they are doomed. Therefore, the improvement of the system of legislation is essentially a process aimed at ensuring the constant compliance of its elements, starting from the initial - regulatory requirements, the actual existing social relations [6]. All this creates a need

for significant intensification of measures to bring the legislation in line with the Constitution, ensuring its stability and effectiveness. World experience shows that countries in which the creation of civil society and the rule of law and the development of which is associated with the consistent solution of relevant tasks, constantly pay great attention to maintaining the current system of legislation in good condition. Therefore, the further development of legislation as a whole organic system requires a combination of such features as coherence, harmony, certainty, stability and dynamism of all its elements. There is no doubt that the law of any civilized state cannot function if it is not a system whose components are closely interconnected, harmonized and whose interaction is carefully regulated by a clear hierarchical structure. The legal foundation of this system is the Constitution as the Basic Law of the state [13]. The Constitution is the basis of the legal system and the legal system of our state. Accordingly, the legislation is developed on the basis of its principles and norms.

Conclusions. The constant development of economic, political, social and other relations requires the legislator to take into account these qualitative changes in legislative activity, which in turn gives rise to both individual legislation and entire areas of legislation. The process of harmonization of national legislation with international law and European Union law remains relevant and is to some extent a program for further development of the legal system. Today, international law has had a significant impact on the development of national legislation. This influence is exacerbated by the constitutional recognition of the priority of international law. Such a process requires taking into account the peculiarities and specifics of legislative activity, a scientific approach to solving current problems of legal regulation. It should be noted that the system of legislation is only to some extent the result of specific activities of the subject of norm-making, it is a kind of integrated characteristic of the political state of society, which has acquired the necessary stability, stability, certainty and can provide a certain normative order. The system of legislation is not formed only by the rapid production of regulations. Legislative work should be accompanied by complex, constant activities to implement the established norms, their correction on the basis of certain trends, social changes and so on. These and many other factors ultimately form a harmonized, holistic, viable, and well-designed institutional entity that can be called systemic legislation. Thus, the reform of existing legislation should be professional and meaningful, aimed at creating and ensuring an effective mechanism for legal regulation of all aspects of public life. Only such an approach will ensure the formation of law as the highest cultural value of society. And the legislation will be the only, effective and unified regulator of existing social relations, which in turn will ensure the effective implementation of the proclaimed principles of the rule of law and civil society.

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