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COMPETENCE OF ENTITIES IN ISSUING SUBORDINATE NORMATIVE LEGAL ACTS IN THE FIELD OF NUCLEAR ENERGY AND RADIATION SAFETY

Abstract. ***Purpose.*** The purpose of this article is to define the competence of entities responsible for issuing subordinate normative legal acts in the field of nuclear energy and radiation safety. ***Results.*** The article explores the competence of various entities in adopting subordinate normative legal acts within the scope of nuclear energy use and radiation safety. These acts are derivative in nature, as they are issued either on the basis of laws, higher-ranking subordinate legal acts (e.g., Presidential Decrees, Cabinet of Ministers' Resolutions, Ministry of Energy regulations), or in accordance with Ukraine's international obligations. It is emphasized that legal regulation in the field of nuclear energy is of strategic importance and requires particular clarity, systematicity, and consistency. The legal landscape in this field includes a wide array of acts–from laws of Ukraine to subordinate normative acts of executive bodies and specialized authorities. However, the diversity in legal status, degree of detail, and legal force of these acts necessitates a thorough analysis of law-making entities and their roles in law enforcement. The author identifies the following entities authorized to issue subordinate normative legal acts in the field of nuclear energy and radiation safety: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, the Ministry of Energy of Ukraine, and other government bodies (ministries, agencies, local state administrations) and local self-government bodies. ***Conclusions.*** The analysis of subordinate normative legal acts in the sphere of nuclear energy and radiation safety confirms their compliance with legislative norms, stability, and, simultaneously, responsiveness and regular updates in line with the real state of nuclear energy. However, attention is drawn to insufficient delineation of powers and competences among state authorities and management bodies, which results in duplication of legal provisions, adoption and implementation of essentially identical acts, and overlap in regulatory activities of ministries and agencies.

Key words: competence, subordinate normative legal acts, nuclear energy, radiation safety, entities.

1. Introduction

Ensuring nuclear and radiation safety is a key component of national policy in environmental protection, public health, and fulfillment of Ukraine's international obligations. Therefore, legal regulation in the field of nuclear energy not only holds strategic significance but also requires high levels of precision, systematicity, and consistency.

The legal framework in this area encompasses a wide range of acts–from laws of Ukraine to subordinate normative legal acts (SNLA) issued by executive and specialized bodies. The large volume of such acts, their varying legal status, detail level, and legal force necessitate an in-depth analysis of the entities involved in law-making and their role in the enforcement mechanism.

This issue is particularly relevant in the context of growing demands for environmental safety, the development of nuclear energy as a component of national energy independence, and the need to harmonize national legislation with international standards.

It is important to note that subordinate normative legal acts in the field of nuclear energy and radiation safety are derivative. Their subordinate nature stems from the fact that they are adopted either on the basis of laws, or on subordinate acts of higher legal force (e.g., Presidential Decrees, Cabinet of Ministers Resolutions, Ministry of Energy directives), or in accordance with Ukraine's international commitments.

The competence to issue subordinate normative legal acts is primarily vested in the highest state authorities: the Verkhovna

Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, as well as other state bodies (ministries, agencies, local state administrations) and local self-government bodies (Kudriavtsev, 2018). Therefore, establishing a clear system of law-making entities and their respective competences is a prerequisite for ensuring legal certainty, a coherent hierarchy of legal acts, and effective functioning of the law enforcement mechanism in the field of nuclear energy and radiation safety. This, in turn, contributes to enhancing the quality of legal regulation, avoiding legal conflicts and duplication of norms, and ensuring proper oversight of safety requirements in the use of nuclear technologies.

2. National Entities with Legislative Initiative in the Field of Nuclear Energy and Radiation Safety

According to Article 91 of the Constitution of Ukraine, the Verkhovna Rada of Ukraine (VRU), in addition to enacting laws, adopts resolutions and other acts by the majority of its constitutional composition (Constitution of Ukraine, 1996). In the sphere under consideration, the VRU primarily adopts procedural resolutions related to the approval, rejection, or return for revision of draft laws. For instance, among the acts regulating public relations in the field of nuclear energy is the **Resolution of the Verkhovna Rada of Ukraine "On the Results of Parliamentary Hearings 'Energy Policy of Ukraine'" dated June 22, 2000, No. 1826-III**, which instructed the Cabinet of Ministers of Ukraine, in cooperation with the VRU Committee on Fuel and Energy Complex, Nuclear Policy and Nuclear Safety, to define the macroeconomic conditions for the stabilization and development of Ukraine's fuel and energy complex and to develop the main principles and strategy for long-term energy policy. It also called for the accelerated development of specific laws, such as those on civil liability for nuclear damage and nuclear insurance; and on the physical protection of nuclear materials (NM), nuclear installations (NI), radioactive waste, and other sources of ionizing radiation (SIR) (Resolution of the Verkhovna Rada of Ukraine, 2000). It should be noted that such laws have now been adopted and are in effect.

The **President of Ukraine**, as a rule-making entity, is empowered to issue **decrees and directives** in the field of nuclear energy and radiation safety. According to Article 106 of the Constitution of Ukraine, such subordinate normative legal acts are mandatory throughout the territory of Ukraine (Constitution of Ukraine, 1996). For instance, **the Decree of the President of Ukraine "On the Establishment of the Chernobyl Center for Nuclear Safety, Radioactive Waste and Radioecology" dated April 26, 1996, No. 300/96**, established a center aimed at supporting the development of international scientific research on the elimination of consequences of nuclear and radiation accidents, decommissioning of nuclear facilities, and ecological rehabilitation of radiation-contaminated environments. Participating institutions include the Ministry of Energy of Ukraine, the Ministry for Emergencies and Protection of Population from the Consequences of the Chernobyl Catastrophe, the Ministry of Education and Science of Ukraine, the Ministry of Environmental Protection and Natural Resources of Ukraine, the Ministry of Health of Ukraine, the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU), the National Academy of Sciences of Ukraine, and other bodies and institutions (Kudriavtsev, 2018).

By **Decree of the President of Ukraine dated June 4, 2011, No. 403/2011**, the **State Nuclear Regulatory Inspectorate of Ukraine (SNRIU)** was designated as the main authority within the system of central executive bodies responsible for forming and implementing state policy on the safe use of nuclear energy. The Decree also approved the **Regulations on its operation**, outlining its principal functions. In 2014, the **Cabinet of Ministers of Ukraine adopted a new version of the Regulations** on the SNRIU (Resolution of the Cabinet of Ministers of Ukraine, 2014).

The SNRIU possesses significant authority in the normative regulation of the industry, particularly in the following areas:

1. It generalizes the practice of applying legislation within its jurisdiction, develops proposals for improvement, prepares drafts of legislative acts, Presidential decrees, and Cabinet resolutions, and submits them to the Cabinet for consideration;

2. It reviews draft laws and other legal acts submitted for its approval by ministries and other central executive authorities, and within its statutory powers, prepares conclusions and proposals regarding draft laws and other legal acts presented to the Cabinet or the Verkhovna Rada by other entities with the right of legislative initiative, including acts of the Verkhovna Rada of the Autonomous Republic of Crimea;

3. It develops national and other programs related to nuclear energy safety;

4. It establishes safety criteria and requirements that are mandatory during the use of nuclear energy. Based on these, the SNRIU approves:

– Nuclear and radiation safety norms and rules;

– Physical protection rules for nuclear installations, nuclear materials, radioactive waste, and other sources of ionizing radiation;

– Legal acts on the organization and maintenance of accounting and control of nuclear materials, the application of nuclear non-proliferation safeguards;

– Safety requirements and licensing conditions for activities involving nuclear energy (Resolution of the Cabinet of Ministers of Ukraine, 2014).

Notable examples include **Order No. 116 dated August 4, 2006**, which approved the *Rules for the Physical Protection of Nuclear Facilities and Nuclear Materials*; **Order No. 156 dated August 28, 2008**, which approved the *General Requirements for Physical Protection Systems of Nuclear Installations and Nuclear Materials*, and the *General Requirements for Physical Protection Systems for Nuclear Materials During Transportation*; and **Order No. 164 dated November 23, 2010**, which approved the *Requirements for the Use of Security Measures in the Physical Protection Systems of Nuclear Installations, Facilities for Handling Radioactive Waste, Other Sources of Ionizing Radiation, and Radioactive Materials*.

Equally significant for ensuring nuclear and radiation safety in Ukraine are several orders issued by the SNRIU in **2015**, including:

– **Joint Order No. 206/765 dated November 23, 2015** of the SNRIU and the Ministry of Health of Ukraine, which amended the *Requirements for Determining the Size and Boundaries of the Observation Zone of a Nuclear Power Plant*;

– **Order No. 148 dated August 13, 2015**, which approved the *Requirements and Conditions for Safety (Licensing Conditions) for Conducting Activities Related to the Production of Ionizing Radiation Sources*;

– **Order No. 140 dated July 22, 2015**, which approved the *Nuclear and Radiation Safety Requirements for Information and Control Systems Important to the Safety of Nuclear Power Plants* (Statement on the Policy of the State Nuclear Regulatory Committee of Ukraine in the Field of Ensuring the Safety and Security of the Use of Nuclear Energy, 2024).

In its regulatory activities, the **SNRIU actively incorporates best international practices**, particularly the safety standards of the **IAEA**, **WENRA**, and recommendations from the **United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR)** and the **International Commission on Radiological Protection (ICRP)**, as well as other international organizations (Statement on the Policy of the State Nuclear Regulatory Committee of Ukraine, 2024).

Additionally, **site-specific design basis threats** have been developed for all nuclear power plants in Ukraine, and the regulations of the **Interdepartmental Commission on the Protection of Especially Important Nuclear Power Facilities** have been revised (Kudriavtsev, 2018).

We concur with **L. Mohilevskyi**, who draws the following conclusion regarding the legal nature of Presidential decrees: they occupy a **priority position in the hierarchy of subordinate normative legal acts**; are characterized by **multifaceted and extensive regulation** depending on the scope of the President's functions and powers; are **universally binding** across the entire territory of Ukraine; **comply with the Constitution and laws of Ukraine**; and combine **a unilateral mode of adoption with a collegial process of preparation, preliminary review, certification, and responsibility for implementation** (Mohilevskyi, 2016).

The **CMU**, in accordance with **Article 113 of the Constitution of Ukraine**, operates based on the Constitution, laws of Ukraine, and decrees of the President. Pursuant to **Article 117** of the Constitution, it issues **binding resolutions and orders** (Constitution of Ukraine, 1996). According to **Article 49 of the Law of Ukraine "On the Cabinet of Ministers of Ukraine" dated February 27, 2014, No. 794-VII**, normative acts of the CMU are issued in the form of *resolutions*, while acts concerning organizational and operational matters are issued in the form of *orders*. Regulatory acts of the CMU that fall within the scope of the law are developed, considered, adopted, and published in compliance with the **Law of Ukraine "On the Principles of State Regulatory Policy in the Sphere of Economic Activity"**. CMU acts are signed by the **Prime Minister of Ukraine**.

By its **resolutions**, the CMU has approved, in line with Ukraine's international obligations, documents such as:

– the **State System of Accounting and Control of Nuclear Materials**;

– the **State Register of Ionizing Radiation Sources**;

– the **Procedure for Adoption of Norms, Rules, and Standards in Nuclear and Radiation Safety**; among others (Kudriavtsev, 2018).

Legal scholars have observed, and we agree, that **CMU acts complete the process of concretizing laws or Presidential decrees**. Thus, "...the legislative system acquires the necessary completeness, and legal norms attain specificity and formal clarity" (Vasyliev, 2009).

However, most subordinate normative legal acts (SNLAs) in the specified domain are adopted by the Ministry of Energy of Ukraine

and other subordinate agencies, particularly the State Nuclear Regulatory Inspectorate of Ukraine (SNRIU). Unfortunately, comparative analysis of regulatory documents issued by these authorities on similar matters reveals that they are often **duplicative**, especially regarding nuclear power plant safety enhancements, definition of safety criteria, requirements and conditions for nuclear energy use, safety expertise for nuclear installations and facilities for radioactive waste (RAW) management, and compliance with international treaty norms in this area (Manzhul, 2009).

Therefore, **SNLAs on nuclear and radiation safety are issued concerning matters falling within the competence of state authorities and regulatory bodies**. Their content allows for the following classification:

(a) Acts containing general provisions applicable across the entire nuclear energy sector, such as norms, rules, procedures, and standards designed to ensure nuclear and radiation safety in Ukraine (e.g., the **Resolution of the Cabinet of Ministers of Ukraine No. 824 of November 13, 2013**, *On Approval of the Procedure for State Supervision of Compliance with Nuclear and Radiation Safety Requirements*; the **Order of the State Nuclear Regulatory Committee of Ukraine No. 162 of November 19, 2007**, *On Approval of the General Safety Regulations for Nuclear Power Plants*).

(b) Acts regulating clearly defined sectors within nuclear energy, which may be categorized as those ensuring:

– Safety of nuclear installations (NI);

– Safety during transport of nuclear materials (NM);

– Safety in the management of radioactive waste (RAW);

– Physical protection of nuclear installations and nuclear materials;

– Emergency preparedness.

(c) Acts that define the **competence of structural units of authorized bodies**, their interactions, and the distribution of rights and responsibilities among them. Examples include:

– The **Order of the State Nuclear Regulatory Committee of Ukraine No. 241/05 of June 16, 2004**, *On Approval of the Protocol on Cooperation in the Field of Regulation of Nuclear Energy Safety between the Ministry of Environmental Protection of Ukraine and the State Nuclear Regulatory Committee of Ukraine*;

– The **Order No. 162 of October 16, 2006**, *On Approval of Requirements for the Periodicity and Content of Reports Submitted by Licensees in the Field of Nuclear Energy Use*;

– The **Order No. 51 of March 2, 2012**, *On Approval of Requirements for the Management System of the Operating Organization (Operator)*.

It should be noted that different classification schemes for such acts may be applied depending on the selected criterion.

Importantly, **SNLAs in the field of nuclear energy are systemic in nature**, adopted in close alignment with laws and other legal acts to reinforce their effect, address legal gaps, and improve regulatory mechanisms. For instance, legal regulation of **physical protection of nuclear installations, nuclear materials, radioactive waste, and other sources of ionizing radiation** is based on the **Law of Ukraine No. 2064-III of October 19, 2000**, *On Physical Protection of Nuclear Facilities, Nuclear Materials, Radioactive Waste, and Other Sources of Ionizing Radiation*, as well as accompanying Rules and Regulations.

The **national system for physical protection** of nuclear materials and facilities comprises a set of organizational and technical measures aimed at preventing unauthorized removal of NM and acts of nuclear terrorism.

SNLAs regulating specific public relations in nuclear energy may be issued either **individually by an authorized body** or **jointly by multiple top-level government authorities**. An example is the **Joint Order No. 87/211 of May 17, 2004** by the SNRIU and the Ministry for Emergencies and Protection of the Population from the Consequences of the Chernobyl Disaster, *On Approval of the Radiation Accident Response Plan*. This document is intended to ensure coordinated and timely response by management bodies, forces, and means of functional and territorial subsystems of the Unified State Civil Protection System in case of radiation threats or emergencies. It includes the development of emergency response plans for facilities engaged in activities involving radiation or nuclear technologies or the transportation of radioactive materials, a classification of radiation accidents, distribution of responsibilities at facilities, and the roles of the Ministry for Emergencies, the Ministry of Energy, the Ministry of Health, the SNRIU, and other legal directives (Kudriavtsev, 2018).

Other government bodies also adopt SNLAs regulating specific legal relations in the use of nuclear energy and radiation safety. For instance, **Order No. 241 of December 14, 2000**, by the **Ministry of Ecology and Natural Resources of Ukraine**, approved the *Rules for Ensuring the Safety of Nuclear Materials, Radioactive Waste, and Other Sources of Ionizing Radiation*. Furthermore, a **joint instruction approved by the Ministry of Defense of Ukraine and the Security Service of Ukraine (SBU) on January 13, 2014, No. 24/6**, *On the Procedure for Interaction*

between the State Emergency Service of Ukraine and the SBU in the Field of Emergency Prevention and Response, sets out coordination mechanisms in case of emergencies–particularly hazardous events at nuclear power plants or other nuclear facilities that may jeopardize nuclear safety, cause emergency shutdowns, or result in loss of control over nuclear materials.

Interaction between the **State Emergency Service of Ukraine (SESU)** and the **SBU** includes:

– Information exchange on threats or emergencies;

– Joint operational meetings between leadership of SESU and SBU across regions;

– Joint implementation of national and regional action plans;

– Command-staff and tactical-special exercises, joint training sessions, and other actions stipulated by current legislation.

The Instruction further outlines the main joint activities, organizational structure, and implementation procedures (Order of the Ministry of Defense of Ukraine and the Security Service of Ukraine, 2014).

According to the **Order of the Ministry of Internal Affairs of Ukraine No. 625 of July 3, 2014**, *On Approval of the Regulations on Military Units and Subdivisions for the Protection of Important State Facilities and Special Cargoes of the National Guard of Ukraine*, the designated military units and subdivisions are tasked with **guarding and defending nuclear installations (NI), nuclear materials (NM), radioactive waste (RAW), other sources of ionizing radiation (SIR) owned by the state, important government facilities, and special cargoes**.

Most subordinate normative legal acts (SNLAs) in the field of nuclear energy and radiation safety are harmonized with international regulatory documents (rules, standards, requirements, etc.). Unlike other fields, **international rules and standards in this domain are generally binding**. The most influential international organizations include the **International Atomic Energy Agency (IAEA)**, as a universal organization, and regional bodies such as the **European Atomic Energy Community (EURATOM)** and the **European Organization for Nuclear Research (CERN)**.

3. The Role of International Organizations in the Field of Nuclear Energy and Radiation Safety

The **IAEA** is an intergovernmental organization established under the auspices of the United Nations in 1956. According to its Statute, the IAEA aims to **promote the peaceful use of atomic energy and prevent its use for military purposes**. Analysis of its statutory functions shows the IAEA's main responsibilities include:

– Supporting the development and application of peaceful nuclear energy;

– Providing technical and material assistance to countries in need;

– Promoting nuclear research and the practical use of nuclear energy;

– Disseminating information across all aspects of nuclear technology;

– Training professionals in peaceful nuclear energy use.

The IAEA also enforces a **safeguards system to prevent nuclear proliferation**, ensuring its assistance (materials, technologies, or data) is not used for military ends. Other IAEA functions include the **development of nuclear safety plans**, **decommissioning of nuclear installations**, **radiation protection**, and peaceful uses of **isotopes in medicine, pharmacology, agriculture, and industry**, as well as **theoretical research in nuclear physics** (Statute of the International Atomic Energy Agency, 1999).

EURATOM, founded in 1958 by the original six members of the European Economic Community (France, West Germany, Italy, Belgium, the Netherlands, Luxembourg), is a **European atomic energy community** and a **treaty-based international organization**. It aims to **pool the resources of nuclear energy and coordinate national programs**, facilitate the peaceful use of nuclear energy, develop nuclear industries, ensure control over nuclear energy use, and conduct joint research (Kudriavtsev, 2018).

Since **2016**, Ukraine has been a member of **CERN**, the European Organization for Nuclear Research, which was established in 1952 and formally ratified in 1954 by 12 countries. It now includes **7,000 researchers of 80 nationalities from 500 scientific centers and institutes**. CERN's mission is to **avoid military use of nuclear research**, operate international laboratories for high-energy particle studies, and **publish and share the results of experimental and applied research** (Kozak, Kovalevskyi, Kutaini, 2007).

Member states of these organizations have adopted **key multilateral agreements in the field of nuclear and radiation safety**, including for NPPs. These international conventions include provisions comparable to IAEA safety standards and are **legally binding for signatories**. Despite their formal recommendatory status, **many countries treat such international documents as de facto binding** due to their importance in ensuring nuclear safety.

Significant IAEA documents include:

– **Fundamental Safety Principles**, which define the overarching safety goals and principles;

– **Safety Requirements**, a comprehensive set of enforceable requirements for protecting people and the environment;

– **Safety Guides**, which provide practical guidance on applying safety standards and regulatory requirements (Organismo internacional de energía atómica, 2009).

4. Conclusions

The study of subordinate normative legal acts in the field of nuclear energy and radiation safety demonstrates **their compliance with national legislation**, stability, and at the same time, responsiveness and continuous updating in accordance with the actual state of nuclear energy in Ukraine.

However, there remains **insufficient delineation of powers and competences among state authorities and administrative bodies**, particularly in the normative regulation of nuclear power plant operations. This leads to **duplication of regulations**, issuance and implementation of **virtually identical normative acts**, and **parallel law-making by ministries and agencies**, which undermines the coherence and effectiveness of nuclear legal governance.

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КЛАСИФІКАЦІЯ ПІДЗАКОННИХ АКТІВ ЯК ІНСТРУМЕНТ ПІДВИЩЕННЯ ЕФЕКТИВНОСТІ ПРАВОЗАСТОСУВАННЯ

Анотація. ***Мета.*** Аналіз критеріїв класифікації підзаконних нормативно-правових актів. ***Результати.*** У статті досліджується проблема ефективності застосування підзаконних нормативно-правових актів крізь призму їх класифікації. Автор наголошує, що систематизація та класифікація підзаконних актів відіграють ключову роль у забезпеченні цілісності правового регулювання, узгодженості між різними рівнями нормативного забезпечення та передбачуваності для суб'єктів правовідносин. Визначено, що відсутність чіткої класифікації може призводити до правової неви-

значеності, колізій і зниження авторитету права в цілому. Проаналізовано існуючі підходи до класифікації підзаконних актів за різними критеріями: за суб'єктом видання, за юридичною силою, за сферою дії, за функціональним призначенням. Запропоновано уточнення класифікаційної системи з урахуванням сучасних тенденцій нормотворчої діяльності та зростання ролі відомчих регуляторних актів. Аргументовано, що впровадження уніфікованого класифікаційного підходу сприятиме підвищенню якості правозастосування, полегшить орієнтування у правовому полі, а також дозволить ефективніше здійснювати правовий контроль та аналіз регуляторного впливу. ***Висновки.*** На підставі аналізу наукової літератури з проблематики класифікації підзаконних нормативно-правових актів автор приходить до висновку, що у вітчизняному науковому полі майже відсутні протиріччя щодо їх поділу за такими критеріями, як: 1) суб'єкти нормативної правотворчості; 2) юридична сила; 3) предмет регулювання; 4) час дії; 5) обсяг дії; 6) дія за колом осіб. Більшістю авторів визначаються локальні підзаконні нормативно-правові акти. Констатовано, що позитивним є виокремлення деякими науковцями таких критеріїв, як характер правотворчої компетенції (в межах власної компетенції та в порядку делегованих повноважень); порядок прийняття (виданні одноособово, прийнятті колегіально, спільно декількома органами). Автор резюмує, що нові підходи до класифікації підзаконних нормативно-правових актів є свідченням значного наукового інтересу учених до їх правозастосування та сприяє його ефективності. Проте необхідною є уніфікація класифікаційних критеріїв, чітке визначення у правовій науці того, за якими критеріями класифікація підзаконних нормативно-правових актів повинна здійснюватися.

Ключові слова: класифікація, підзаконні нормативно-правові акти, правозастосування.

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