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CLASSIFICATION OF SUBLEGAL ACTS AS A TOOL FOR ENHANCING THE EFFECTIVENESS OF LAW ENFORCEMENT

Abstract. Purpose. To analyse the criteria for the classification of sublegal normative legal acts.

Results. This article explores the issue of the effectiveness of applying sublegal normative legal acts through the lens of their classification. The author emphasizes that the systematization and classification of sublegal acts play a crucial role in ensuring the coherence of legal regulation, consistency among different levels of normative provisions, and predictability for legal subjects. It is noted that the absence of clear classification criteria may lead to legal uncertainty, normative conflicts, and a general decline in the authority of law. The article examines existing approaches to the classification of sublegal acts based on various criteria: the issuing authority, legal force, scope of application, and functional purpose. A refinement of the classification system is proposed, taking into account current legislative trends and the increasing significance of departmental regulatory acts. The author argues that the implementation of a unified classification approach would improve the quality of law enforcement, facilitate navigation within the legal framework, and allow for more effective legal oversight and regulatory impact assessment.

Conclusions. Based on the analysis of academic literature on the classification of sublegal normative legal acts, the author concludes that there is little disagreement in the Ukrainian scholarly discourse regarding their division according to the following criteria: (1) subjects of legal rulemaking; (2) legal force; (3) subject of regulation; (4) duration; (5) territorial scope; and (6) scope of applicability in terms of subjects. Most authors identify local sublegal normative legal acts. It is noted that the inclusion of additional classification criteria by some scholars—such as the nature of normative competence (within own authority or based on delegated powers) and the procedure of adoption (issued individually, adopted collegially, or jointly by several bodies)—is a positive development. The author concludes that new approaches to the classification of sublegal normative legal acts reflect growing scholarly interest in their application and contribute to its effectiveness. However, there remains a need to unify classification criteria and clearly define in legal science which criteria should be used for the classification of sublegal normative legal acts.

Key words: classification, sublegal normative legal acts, law enforcement.

1. Introduction

The classification of sublegal normative legal acts (NLAs) is essential for understanding their legal force and consequences, their significance for the regulation of social relations, and their legal impact, as well as for ensuring effective law enforcement. The necessity of their classification is emphasized in academic literature as follows: the continuous development of social relations leads to the emergence of new types of sublegal acts and necessitates determining their place in the overall system of legal documents; the establishment, reorganization, and dissolution of state and local self-government bodies authorized to issue sublegal NLAs requires scholarly analysis to improve or eliminate shortcomings; and the emergence of new digital information carriers also necessitates a clear delineation of such acts (Vylehzhanina, 2011).

The classification of sublegal NLAs allows for:

1. clearly defining the place of each norm within the legal system;
2. characterizing their functions and role in the system of legal regulation;
3. identifying the boundaries of the state's regulatory influence on society;
4. enhancing the effectiveness of both law-making and law enforcement practices;
5. studying the features and potential interaction among different types of sublegal NLAs;
6. determining their purpose;
7. analysing the mechanisms through which legal norms influence legal subjects (Zaichuk, 2006).

The division of sublegal NLAs on such grounds underscores the relevance of studying this issue.

The classification of sublegal NLAs regulating social relations in general and within specific societal domains is actively exam-

ined by scholars such as M. Vylehzhannina, I. Hryhorieva, H. Dudka, T. Kalynovska, L. Mohylevskyi, I. Ovcharenko, N. Petrusheva, K. Naumova, among others. In their works, classification is traditionally based on such criteria as rule-making subjects, legal force of the act, duration, territorial scope, applicability by subjects, and others. At the same time, modern academic literature proposes new classification criteria that may enhance the effectiveness of law enforcement and require further scholarly investigation (Kudriavtsev, 2018).

2. Principles of Classification of Sublegal Normative Legal Acts

Before analysing the scholarly positions on such classification, it is necessary to clarify the meaning of the term itself. The *Comprehensive Explanatory Dictionary of the Modern Ukrainian Language* defines "classification" as:

1. the act of classifying;
2. a system of dividing objects, phenomena, or concepts into classes, groups, etc., based on shared features or properties (Dubinskyi, 2009). Classification allows for the systematic organisation of objects according to specific criteria, thereby contributing to their effective and consistent application.

In legal scholarship, the classification of legal norms is understood as "their division into separate types based on certain essential features, which determine the specific role of each type of norm in the regulation of social relations" (Zaichuk, 2006).

Turning to the classification approaches specifically for sublegal normative legal acts (NLAs), scholars apply a variety of criteria. An analysis of academic works dealing with classification reveals the existence of both narrow and broad approaches. A **narrow approach** to the classification of NLAs refers to the use of only one or a few criteria or classification within a specific field of social relations. A **broad approach**, by contrast, entails the application of multiple criteria for classifying sublegal NLAs (Kudriavtsev, 2017).

Examples of the narrow approach can be found in the works of M. Vylehzhannina, L. Mohylevskyi, O. Skakun, Yu. Nychka and others. For instance, L. Mohylevskyi, analysing the role of the highest state authorities in issuing sublegal normative legal acts, classifies them based on whether they are adopted by the Verkhovna Rada of Ukraine, issued by the President of Ukraine, or the Cabinet of Ministers of Ukraine (Mohilevskyi, 2016).

M. Vylehzhannina classifies sublegal NLAs into presidential decrees, resolutions of the Cabinet of Ministers of Ukraine, orders of central executive authorities, decisions of local self-government bodies, and decisions resulting

from national or local referenda (Vylehzhannina, 2011).

V. Sukhonos divides them into: normative presidential decrees, Cabinet of Ministers resolutions, instructions and normative orders of ministries and agencies, decisions of local self-government and local executive authorities (e.g., decisions of regional state administrations), and normative orders applicable at enterprises, institutions, and organisations (Sukhonos, 2005).

Yu. Nychka classifies sublegal rule-making based on:

- subjects (rule-making by the head of state, the government, executive authorities, local self-government, non-state organisations and institutions for internal matters);
- the method of formation (normative-act based [unilateral], contractual, or precedent-based);
- the method by which the rule-making authority is defined (Nychka, 2015).

A **broad approach** to classifying sublegal NLAs can be found in the works of V. Kulapov, N. Motuzova, A. Malko, M. Tsvik, and O. Petryshyn, among others. This approach is based on the application of multiple classification criteria (Kudriavtsev, 2018).

The classification developed by L. Horbunova is among the most widespread. She groups sublegal NLAs of public administration entities into:

1. normative legal acts of the President of Ukraine;
2. normative legal acts of the Cabinet of Ministers of Ukraine;
3. normative legal acts of ministries and other central executive authorities;
4. normative legal acts of the authorities of the Autonomous Republic of Crimea;
5. normative legal acts of local state administrations;
6. normative legal acts of local self-government bodies (Horbunova, 2005).

The authors of the textbook *General Theory of State and Law* classify sublegal NLAs according to:

1. the adopting subject;
2. the external form of the act (e.g., decrees, resolutions, orders, directives, decisions, statutes, rules, etc.);
3. the scope of the act (general, departmental, local, internal);
4. duration (permanent or temporary);
5. the nature of rule-making competence (within own authority or based on delegated powers);
6. the procedure of adoption (issued individually, adopted collegially, or jointly by multiple bodies) (Tsvik, 2010).

Special attention should be given to the classification criterion of the **nature of rule-making competence**, which is not always explicitly addressed in academic discourse. In our view, it is most comprehensively defined in the **Law of Ukraine "On Local Self-Government" of 21 May 1997, No. 280/97-VR**. Chapter 2, titled "Powers of the Executive Bodies of Village, Settlement, and City Councils," provides a list of both their own (self-governance) and delegated powers across 14 areas, including: socio-economic and cultural development, planning and accounting; budget, finance, and pricing; management of communal property; housing and communal services; domestic services; trade, public catering, transportation and communications; construction; education, health-care, culture, physical education and sports; regulation of land relations and environmental protection; and others (*Law of Ukraine On Local Self-Government*, 1997).

The most comprehensive classification of sublegal NLAs is presented by M. Kelman and O. Murashyn. They identify the following main types of sublegal NLAs:

- decrees and directives of the President of Ukraine;
- resolutions of the Verkhovna Rada of Ukraine and other acts;
- normative acts of the Autonomous Republic of Crimea;
- Cabinet of Ministers resolutions;
- international treaties of Ukraine – those duly concluded and ratified (approved, sanctioned, or adopted) by Ukraine form an integral part of national legislation and are applied in the manner prescribed for legal norms. The legal force of such treaties is determined by the body that ratified them;
- instructions, directives, and normative orders of ministers and heads of other central executive bodies, as well as agencies of economic management and oversight;
- instructions and normative orders of ministries and departments of the former USSR on matters not yet regulated by Ukrainian legal acts;
- normative acts of divisions and services of local executive bodies, agencies of economic management and oversight that affect the rights, freedoms, and legitimate interests of citizens or have interdepartmental significance;
- resolutions of the Board of the National Bank of Ukraine;
- decisions of territorial communities;
- decisions of village, settlement, district (in cities), oblast and district councils (Kelman, Murashyn, 2006).

In addition, they recommend identifying types of specific legal acts that may acquire normative legal significance, such as:

- acts of direct popular expression of will, reflecting the results of national or local referenda;
- certain decisions of public associations (acts of rule-making by such associations delegated or sanctioned by the state);
- specific decisions of labour collectives (resolutions and councils of labour collectives) (Kelman, Murashyn, 2006).

3. Specifics of Formulating Criteria for the Classification of Normative Legal Acts

The most significant discrepancies arise concerning the formulation of the criteria by which scholars classify normative legal acts (NLAs). In our view, a unified approach to the classification criteria of NLAs should be established in the academic community.

We propose classifying sublegal NLAs according to the following criteria:

– **By adopting subjects:** resolutions of the Verkhovna Rada of Ukraine; presidential decrees; resolutions of the Cabinet of Ministers of Ukraine; orders, directives, and decisions of ministries and other central executive bodies; orders of their territorial subdivisions; orders, resolutions, and directives of other state authorities that are legally authorised to adopt normative acts; directives of the heads of local state administrations; decisions of local referenda; decisions of local councils and their executive committees; directives of village, settlement, and city mayors, as well as heads of district, district-in-city, and regional councils.

– **By legal force:** types of normative legal acts are hierarchically ranked as follows: Constitution, law, decree, resolution, ordinance, order, directive, decision. The place of sublegal NLAs within this system is determined by the status of the executive body in the hierarchy that adopted the act.

– **By subject matter of legal regulation:** sublegal NLAs are classified into acts of constitutional, civil, administrative, financial, labour, land, criminal law, and others.

– **By scope of legal regulation:**

– *General acts* regulate a wide range of public relations and are mandatory for them;

– *Special acts* are mandatory for regulating a specific type of social relation or within a particular field.

– **By functional purpose:**

– *Regulatory acts* are aimed at the positive regulation of social relations;

– *Protective acts* are aimed at securing regulatory norms and safeguarding them from violations.

– **By territorial scope:**

– *General effect* (applicable throughout the territory of Ukraine);

– *Limited effect* (applicable within a specific region);

– *Local effect* (applicable within the institution or body that adopted them).

– **By duration:**

- *Permanent* (no specified term of validity);
- *Temporary* (valid for a defined period).

– **By external form:** decrees, resolutions, orders, decisions, statutes, rules, and others.

– **By procedure of adoption:**

- *Unilateral* (e.g., an order issued by the head of a body or institution);
- *Collegial* (adopted by a board, directorate, or similar collective body);
- *Joint* (adopted by multiple government bodies) (Kudriavtsev, 2018).

Let us consider the criteria by which NLAs are classified within various branches and areas of legal regulation.

Legal scholarship also presents classifications of sublegal NLAs issued by local self-government bodies. For example, T. Kalynovska classifies such acts according to:

1. the adopting subject;
2. the legal basis for adoption;
3. the form of the act;
4. the subject matter of regulation;
5. the content of the expressed will, most clearly manifested in the acts of local councils;
6. the nature of the functions performed by local council acts;
7. the circle of persons to whom the act applies;
8. the duration of the act;
9. the nature of the powers exercised by local councils (Kalynovska, 2011).

The author notes that these acts differ from those adopted by state authorities in several respects, including: the purpose of adoption; the scope of application; hierarchical subordination; and a specific procedure for annulment (Kalynovska, 2009).

K. Naumova suggests classifying normative legal acts of local self-government bodies based on the following:

1. **Rule-making subjects** – acts adopted by the territorial community, respective council, or executive body of the local council;

2. **Form** – statutes, regulations, decisions, directives, etc.;

3. **Duration** – permanent and temporary acts;

4. **Territorial scope** – applicable throughout the jurisdiction of the local self-government body or to a specific locality;

5. **Target group** – general, special, or exceptional application;

6. **Hierarchy** – adopted by representative or executive bodies of local self-government, or by local referendum;

7. **Purpose** – acts implementing own powers and those implementing delegated powers;

8. **Subject area** – consistent with the fields in which powers are exercised by local self-government bodies and officials (Naumova, 2014).

L. Horbunova proposes the following criteria for the classification of normative legal acts of local state administrations, which we support:

a) **By the organisational and legal level of the local executive authorities issuing them:**

– NLAs of regional, Kyiv and Sevastopol city state administrations;

– NLAs of district administrations in regions and in the cities of Kyiv and Sevastopol.

b) **By form:** directives of the heads of local state administrations; orders of department heads and other structural units of local state administrations.

c) **By subject matter:** acts addressing legality within a given administrative-territorial unit; protection of citizens' rights, freedoms, and legitimate interests; socio-economic development; local budgets, finances, and accounting; management of state property; privatisation and entrepreneurship; regional economic and industrial development; agriculture; transportation and communications; education, science, and culture.

d) **By purpose:**

– Acts aimed at implementing the own powers of these state bodies;

– Acts aimed at exercising delegated powers, including those of local self-government bodies (Horbunova, 2005).

In administrative law, normative legal acts are regarded as **acts of public administration**, and their classification is commonly based on the following criteria: **legal content, legal force, legal consequences, issuing subjects, form of expression of will, method of adoption, temporal and territorial scope, entry into force and termination procedures**, among others (B. Averyanov, D. Bezubov, T. Hurzhii, N. Zarosylo). We concur with the position of N. Zarosylo that **legal force** is the principal criterion for the classification of administrative legal acts (Zarosylo, 2014), given that administrative law governs public administrative relations within the state (Kudriavtsev, 2018).

Of particular interest is the classification of administrative legal acts proposed by a group of scholars (Averianov, 2004), which is based on the following criteria:

– **By legal nature:** normative, individual, and mixed acts;

– **By issuing subjects:** the authorities legally empowered to adopt acts of public administration;

– **By legal form:** resolutions, directives, orders, instructions, rules, regulations;

– **By the method of adoption:** unilateral, collegial, joint, or by coordination;

– By the relationship between the issuer and addressees:

- acts addressed directly to subordinate subjects;
- acts addressed to entities within the functional scope of the issuing authority;
- acts with an undefined circle of addressees;
- acts addressed to individually identified (personalised) subjects;

– By form of expression of will: written and oral acts;

– By the moment of entry into force:

- a) immediately upon signature or adoption;
- b) from the date specified in the act itself;
- c) from the date indicated in another act;
- d) upon state registration;
- e) after official publication or notification in accordance with established procedures;

– By the scope of authority of the issuing subject:

- *discretionary acts* adopted at the sole discretion of the authority or official without the need for approval;
- *acts of "bound administration"* adopted where the authority has no discretion and must act within strictly defined parameters (Averianov, 2004).

In economic law, scholars classify **sublegal normative legal acts** to include:

- a) presidential decrees on economic matters;
- b) presidential directives on economic matters;
- c) resolutions and directives of the Cabinet of Ministers of Ukraine relating to economic policy;
- d) economic regulatory acts issued by ministries, state committees, and administrative bodies;
- e) normative legal acts of local councils and state administrations that govern economic relations (Kravchuk, 2007).

When classifying sublegal NLAs by **legal force**, H. Smolyn proposes the following hierarchy:

1. Decrees of the President of Ukraine;
2. Acts of the Cabinet of Ministers of Ukraine;

3. Ministerial and departmental normative acts issued by competent ministries and agencies to regulate specific sectors of the national economy or particular categories of subjects;

4. Regional normative acts adopted by local self-government bodies within the framework of delegated state authority and established procedures (e.g., regional rules concerning urban development master plans or spatial planning, approved by regional councils);

5. Local normative acts adopted directly by business entities or their founders, such as charters, founding agreements, internal regula-

tions of governing bodies, and other documents that regulate the activities of the economic entity (Smolyn, 2010).

Even a superficial analysis of these classifications reveals the **absence** of some forms of sublegal normative legal acts, such as **resolutions of the Verkhovna Rada of Ukraine**, which are also relevant in the system of legal regulation (Kudriavtsev, 2018).

4. Conclusions

An analysis of scholarly literature on the classification of subordinate normative legal acts reveals a general consensus among legal scholars regarding the following classification criteria:

1. subjects of normative law-making;
2. legal force;
3. subject matter of regulation;
4. duration of effect;
5. scope of application;
6. personal scope of application.

Most authors emphasize the existence and importance of local subordinate normative legal acts. A positive trend can be observed in the recognition of such additional criteria as: the **nature of law-making competence** (within the scope of own competence or within delegated powers), and the **procedure of adoption** (issued unilaterally, adopted collegially, or jointly by several bodies).

Emerging approaches to the classification of subordinate normative legal acts reflect a growing academic interest in their application, which contributes to more effective legal practice (Kudriavtsev, 2018). However, it is necessary to **unify the classification criteria** and to define, within the framework of legal science, the **specific set of standards** by which the classification of subordinate normative legal acts should be carried out.

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КОМПЕТЕНЦІЯ СУБ'ЄКТІВ ЩОДО ВИДАННЯ ПІДЗАКОННИХ НОРМАТИВНО-ПРАВОВИХ АКТІВ У СФЕРІ ЯДЕРНОЇ ЕНЕРГЕТИКИ ТА РАДІАЦІЙНОЇ БЕЗПЕКИ

Анотація. *Метою статті* є визначення компетенції суб'єктів щодо видання підзаконних нормативно-правових актів у сфері ядерної енергетики та радіаційної безпеки. **Результатами.** У статті досліджено компетенцію суб'єктів щодо видання підзаконних нормативно-правових актів у сфері ядерної енергетики та радіаційної безпеки. Підзаконні нормативно-правові акти у сфері використання ядерної енергії та радіаційної безпеки є похідними. Їх підзаконний характер зумовлюється тим, що вони приймаються або на основі законів, або підзаконних актів вищої юридичної сили (на виконання указу Президента України, постанов КМУ, Міністерство енергетики України тощо) або відповідно до міжнародних зобов'язань України. Наголошено, що нормативно-правове регулювання в галузі використання ядерної енергії має не лише стратегічне значення, а й вимагає особливої чіткості, системності та узгодженості. Так як правове поле у цій сфері охоплює широкий спектр актів - від законів України до підзаконних нормативно-правових актів органів виконавчої влади та спеціалізованих органів. Водночас велика кількість таких актів, їхній різний юридичний статус, рівень деталізації та правова сила зумовлюють потребу в докладному аналізі суб'єктів нормотворчості та ролі в механізмі правозастосування. Автором визначено наступні суб'єкти у компетенцію яких входить видання підзаконних нормативно-правових актів у сфері ядерної енергетики та радіаційної безпеки, ними є: Верховна Рада України, Президент України, Кабінет Міністрів України, Міністерство енергетики України, а також інші органи державної влади (міністерства, відомства, місцева державна адміністрація) та органи місцевого самоврядування. **Висновки.** Аналіз підзаконних нормативно-правових актів у сфері ядерної енергетики та забезпечення радіаційної безпеки дозволив автору констатувати їх відповідність законодавчим положенням, стабільність і водночас оперативність та постійне оновлення відповідно до реального стану ядерної енергетики. Однак, звернено увагу на недостатнє розмежування повноважень та компетенції органів державної влади і управління щодо нормативного регулювання діяльності енергетики та радіаційної безпеки, що призводить до дублювання нормативного масиву, прийняття та впровадження фактично аналогічних нормативних актів, паралелізму в нормативній діяльності міністерств та відомств.

Ключові слова: компетенція, підзаконні нормативно-правові акти, ядерна енергетика, радіаційна безпека, суб'єкти.