

ACTS OF LEGAL NORMS INTERPRETATION: APPROACHES TO UNDERSTANDING AND LEGISLATIVE BASIS

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Abstract: The paper is aimed at determining the concept and legal nature of acts of interpretation; generalization and critical understanding of the legislator's approaches to determining the role and significance of interpretation acts in the legal system of Ukraine. The main methods for studying the problem are: dialectical, formal-logical, systemic. In particular, the systemic method was used to identify connections and ratio between different acts of interpretation. Based on the analysis of regulatory material, it is concluded that there is no single agreed approach regarding the procedure for issuing interpretative acts, determining their legal force, the procedure for applying and appealing in Ukraine. The authors pay special attention to the lack of legislative regulation of the powers of individual

ministries and other agencies to engage in interpretive activities. In their turn, these judicial activities are more streamlined, although they require improvement and modernization. Basing on the analysis of the normative material, the authors outline the main problematic issues regarding the legislative regulation of the question on interpretative acts and make specific proposals for improvement of the existing legislation in that field. The conclusions and suggestions made can be used in the research sphere for further elaboration of problems of legal interpretation, in the sphere of practical activity – while generalizing the legal norms interpretation practice.

Keywords: legal interpretation, interpretative act, clarification of

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legislation, acts of official normative interpretation, clarification of legislation of advisory nature.

Introduction

The doctrine on legal interpretation is based on the fact that it consists of two consecutive processes – figuring the legal norm out and clarifying it. The subject of interpretation figures out the content of the legal requirements through specific methods and means, and then the resulting conclusions could be accumulated in the act of interpretation. The provisions on acts of interpretation are sufficiently developed in the scientific and legal doctrine; many studies analyze their content, classification, application. Concerning the implementation of their legal essence in the current legislation, with the exception of the acts of official interpretation of the Constitution of Ukraine (1996) by the Constitutional Court, this issue appears to be little studied, which actualizes researches in that direction.

To understand the interpretation acts' essence, it is advisable to mention M.M. Voplenko's (2008) thought, that their purpose is not to "solve" any legal regulation issues, but to "clarify",

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"recommend", "pay attention", "persuade", "justify understanding", etc. because the interpretation "does not solve" but offers an authoritative or informal understanding of the content of legal norms and their implementation practice. Accordingly, he understands the law interpretation acts themselves as expressed in oral or written form of clarification, which contains organizational and auxiliary rules for understanding and implementation of legal norms. As quite rightly notes L.G. Matveeva (2005) – interpretative acts "act as a means of formal determination of law, an efficient instrument of uniform, correct and effective implementation of normative acts and aimed at optimizing legal regulation, at eliminating arbitrariness by individuals and at achieving permanent social relations, stability, strength of the legal status of a human". An interpretative act is the result of the interpretation of legal norms, as opposed to a normative act that is the result of law-making or law-enforcement (Zubenko, 2009; Kostsova, 2017).

Classification of acts of interpretation of norms of law can be carried out on the following different grounds: "authorship" of the norm,



which is the matter of interpretation; subjects of interpretation; scope; branch of the interpreted norm; the structural element of the norm of law interpreted; the form of an external expression; legal form – decisions, resolutions, clarifications, etc. (Serdyuk, 2010). The acts of official normative interpretation are a special group among the acts of interpretation. They are different from other acts of interpretation of a mandatory nature.

All of the above summarizes the views of scientists on the issue of the study. It should be noted that one of the important goals of such a scientific study is to develop scientifically sound concepts and recommendations for lawmakers aimed at introducing them into the system of legislation, developing on their basis holistic, comprehensible approaches for persons implementing legal requirements. It requires analyzing the way of domestic lawmaker embodied this issue in the texts of normative acts. While studying the issue of the paper the following methods were used: dialectical, formal-logical, systemic. The systemic method was used to identify the connections and the ratio between different interpretative acts. Particularly noteworthy is the hermeneutical method

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by which the content of legal texts (both regulatory and law-enforcement) was studied and figured out. Special scientific methods (comparative-legal, formal-legal) were used to find out the legal nature of the acts of interpretation, their place in the legal system of our state.

Among the domestic scientists who devoted their monographs to the researched issue we should highlight L.G. Matveeva (2005), who for the first time in domestic jurisprudence at the dissertation level defined the legal nature and features of official interpretative acts, their place in the legal system of Ukraine. The scientist proposed unconventional approaches to the interpretation and resolution of a number of debatable issues, in particular on the legal nature of acts issued by the Constitutional Court of Ukraine and by the Supreme Court of Ukraine. PhD thesis in 2013 was defended by A. Zubenko (2009) – “Acts of interpretation of law norms in the system of legal acts”, which outlines provisions on hermeneutical principles of interpretative acts studying, correlation and interaction of acts of law interpretation with law-enforcement and normative-legal acts, interpretive



technique of law interpretation acts. N. Lepish (2014) identified the features, functions, structure of interpretative acts in her “Acts of interpretation of the norms of law: issues of theory and practice”.

Almost all lawyers who consider certain problems of legal interpretation at the general-theoretical or sectoral level touch on the issues of interpretative acts, in particular, in this paper the provisions by I.P. Kostova (2017), L.M. Kryvetska (2011), A. Mocherad (2019), T.S. Bogdanevych (2019), I.L. Samsin (2018a; 2018b), I.A. Serdyuk (2010), E.M. Terekhov (2016) etc. are analyzed. These studies are, for the most part, of a theoretical direction, focusing on acts of official interpretation of the law. At the same time, the issue of developing a comprehensive approach to the practical solution in the current legislation regarding the form, legal consequences and legal force of the various types of interpretative acts that we have tried to carry out in the course of this study is relevant these days.

Constitutional Court Interpretative Acts

We consider it necessary to begin with studying the legislative

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regulation of the interpretative activity of the Constitutional Court. Until 2016, the Constitutional Court of Ukraine was empowered to formally interpret the Constitution of Ukraine and the laws of Ukraine (Part 2 of Article 147). However, the Law “On Amendments to the Constitution of Ukraine (on Justice)” of 02.06.2016, No 1401-VIII significantly reduced these powers, leaving behind the Constitutional Court only the right of official interpretation of the Constitution of Ukraine (Part 1 of Article 147). In its turn, the innovation of the Law of Ukraine “On Amendments to the Constitution of Ukraine (on Justice)” was the introduction of the institution of constitutional complaint as an alternative to the institution of appeal by individuals and legal entities on the issue on official interpretation of the laws of Ukraine provision (The law on amendments..., 2016; Shaptala, 2018).

However, there is no legal definition of the term of “interpretation” or “official interpretation by the Constitutional Court”, such definitions are contained in the scientific literature, namely: “the activity of the Constitutional Court of Ukraine within the limits of statutory procedures by means and methods, approved by science



and practice, of overcoming the uncertainty of understanding of the Constitution of Ukraine and laws of Ukraine in the form of normative or casual interpretation for the purpose of ensuring constitutional legality and constitutional order” (Nalivaiko and Senkiv, 2015) or “long-lasting coherent process in which intellectual and cognitive activity of the Constitutional Court of Ukraine by clarification and official explanation of the actual content of the Constitution of Ukraine and its provisions is carried out by various means, which is carried out at the request of authorized subjects of appeal and in a clearly defined procedure, stipulates resulting is an official act of interpretation by the Constitutional Court of Ukraine” (Bogdanevich, 2019).

The Law “On the Constitutional Court of Ukraine” defines the procedural aspects of the adoption of an act of interpretation (decision) by the Constitutional Court, requirements for the form and structural elements of such an act of interpretation, mandatory publication. Having described the procedural points, the legislator does not determine for judges what methods, means, techniques, rules of interpretation and in what order they

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should be applied, noting in Art. 2 of the said Law the basic principles of the court's activity (Law of Ukraine..., 2017).

Having the legal force, the decisions of the Constitutional Court are able to influence on public relations and to regulate them. This ability is reflected primarily through the legal consequences of the Constitutional Court’s decisions, specified in accordance with the Constitution of Ukraine and the Law of Ukraine “On the Constitutional Court” of July 13, 2017 No 2136-VIII. The legal consequences of the decisions of the Constitutional Court are very diverse, leading to a variety of approaches to their classification.

1. Loss of validity in various ways. The second part of Article 152 of the Constitution of Ukraine enshrines the principle that laws, other legal acts or their separate provisions, which are recognized as unconstitutional, shall cease to have effect from the day the Constitutional Court of Ukraine makes a decision on their unconstitutionality, unless otherwise is stated in the decisions themselves. “With the adoption of a new act, unless otherwise is provided by the act itself, a single-matter act that has



been in force in the past is automatically canceled” (Decision of the Constitutional..., 1997). Laws, other legal acts or their separate provisions, declared unconstitutional, cannot be adopted in a similar version, since the decisions of the Constitutional Court of Ukraine are “binding on the territory of Ukraine, final and cannot be appealed” (Part 2 of Article 150 of the Constitution of Ukraine), (Decision of the Constitutional..., 1997).

2. To be established by the Court. In some cases, the legal consequences of decisions by the Constitutional Court are determined by the Constitutional Court itself. Thus, while hearing a case on the constitutionality of an act on entering into force of an international treaty for Ukraine, the Court in the resolution part points to the legal consequences for Ukraine in the case of recognizing the act to be unconstitutional. The court in the decision, the conclusion can set the procedure and terms of its implementation (Law of Ukraine..., 2017).

3. Depending on the time of manifestation. The consequences themselves arise after the Constitutional Court has entered into force. At the same

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time, the decisions of the Constitutional Court are, in almost all cases, influence on the circumstances that have arisen before the mentioned point.

4. The legal consequences of the decisions by the Constitutional Court may consist both in the need to take certain actions and in the need to refrain from taking them, i.e. to perform inaction.

5. The scope. According to the Constitution and to the Law on the Constitutional Court, some of them manifest themselves through changes in legal regulation (loss of force by acts or by their separate provisions recognized by the Constitutional Court as not in conformity with the Constitution), while others – directly in relation to acts of law-enforcement (prohibition of enforcement and the need for review).

6. Subject circle. The consequences of the Constitutional Court’s decisions may be general (Decision by the Constitutional..., 1997), be touching an indefinite circle of legal relations subjects, being of an individual (personal) nature (Decision by the Constitutional..., 2003).

Speaking about the consequences of interpretation, researchers note that even if a normative



act interpreted by the Constitutional Court changes or terminates, legal positions formulated in official interpretative acts may act as a legal basis for the adoption of a new legal act in this field or while interpreting similar norms (Ivanovska, 2013). These decisions create the foundation which all further actions by the empowered bodies, competent persons and individuals will be based on (Topchiy, 2016). These days, the official interpretation of the Constitution of Ukraine is relatively infrequent, since in the last 5 years it has happened only a few times in 2016 and 2019, most often the citizens of Ukraine have appealed to the Constitutional Court on social issues, a considerable number of constitutional complaints have also concerned the exercise of the right to review of the court decision on appeal and cassation, of the right to appeal against decisions of procedural actions and inaction during pre-trial investigation (Kostytskyi et al., 2019).

Interpretative Activity by Ministries and Agencies

Public authorities are also empowered to clarify the provisions of normative legal acts when there are unclear points, differences and, even,

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contradictions. The legal basis for this is in the general form contained in the Constitution of Ukraine, in the Law “On Citizens’ Appeals”, the Tax Code and other codes and acts. Many issues and gaps could be managed by the draft law “On normative legal acts”, but it has been under consideration for 12 years already. O. Kostyuk (2017) in his work “Theoretical and legal foundations of normative interpretation” lists the subjects that are able to implement such interpretation, namely: the Constitutional Court of Ukraine, the Antimonopoly Committee of Ukraine, the Ministry of Justice of Ukraine, the Pension Fund of Ukraine, the Central Election Commission, the National Agency Of Ukraine on State Service, State Regulatory Service of Ukraine, State Agency of Ukraine for Management of Exclusion Zone, Local Self-Government Bodies. For example, tax clarifications by controlling authorities are influenced by the complexity and incomprehensibility of tax legislation for taxpayers. I.L. Samsin (2018a) states that the legislator establishes a clear, limited range of subjects entitled to provide tax clarifications.



Within that paper, we consider it necessary to analyze in more detail the position of the legislator regarding the acts of interpretation which is set out in the current tax legislation. Tax clarification is the only clear example where the procedure for providing interpretations of legal provisions and the legal consequences are so thoroughly formulated at the legislative level. Thus, the Tax Code of Ukraine (TCU) (2010) contains Chapter 3 entitled “Tax consultations”, where in Articles 52-53 it is stated, that upon the request of taxpayers the control bodies provide them with free individual tax advice on the practical application of certain norms of tax and other legislation, the control of which is vested in controlling authorities. In addition, in order to obtain a consultation, the application must meet certain requirements of its form and content, the obtained consultation can be used only by the taxpayer, who is given such advice in writing by registering in a single database of individual tax advices and posting on the official website.

Such individual consultations are the basis for general tax advice, which is approved by order and posted on the official website. However, it should be noted that the consequence of

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the use of tax advice is that the applicant cannot be prosecuted for the act containing the features of the tax offense, in particular on the ground that such tax advice was subsequently changed or canceled, and in the event of a conflict between individual tax advice and general tax advice – the general tax consultation provisions should be applied. The taxpayer is entitled to appeal to the court an order approving a general tax consultation or given him individual tax advice as a legal act of individual action, set out in writing. The consequence of the abolition of such legal acts is the provision of new tax advice, taking into account the conclusions of the court.

So, what conclusions can we make? In fact, the mentioned formally binding act of interpretation (that is, an act of legal informal interpretation) may be appealed but releases the applicant from liability if such an interpretation act is subsequently overruled (Samsin, 2018b). Practically significant is the provision on the supreme force of an act of interpretation of a generalized nature before an individual act of interpretation. In addition, TCU contains provisions that the Central authority of executive branch of power, implementing state tax



and customs policy provides free of charge clarification of the procedure for documentary confirmation of the right to a tax rebate and filing a tax declaration (it is a matter of personal income tax), including through conducting relevant trainings, seminars, etc. (Article 166.5 of the Tax Code of Ukraine). That is, the legislator also names various forms of clarification, but does not specify their legal consequences. Questions arise how such clarifications relate to tax advices, which may also be provided to taxpayers.

If one look at the legal acts posted on legal Internet resources or at interpretation acts posted on official websites, one can see a very diverse picture, which in our view is undesirable. Thus, some state authorities, while giving explanations and posting them on their websites or on the database of type “Consultant Plus”, do not specify which of the officials gives such an explanation, the title of the act (document), other details (e.g. the adoption date). There are examples when such clarification is not agreed by the higher authority or by the controlling authority (and sometimes they are not correct) and prosecutes the subjects acting in accordance with the

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clarification. Therefore, clarifications on important issues should be provided on behalf of public authorities in the person of specially empowered officials, indicating their position and having appropriate details (number, date, responsible person).

As an example, we can mention the Letter by the National Bank of Ukraine (NBU) “On the interpretation of the letter by the National Bank of Ukraine No 17003/392”. Thus, the NBU actually provides clarification but, at the same time, it is not empowered with the official interpretation of regulations on their law-enforcement. The NBU issues its clarifications and refinements mainly in the form of letters. It should be noted that the letters by the NBU are not normative documents, i.e. they do not contain norms of law, but they are very important in banking activity regulation.

In practice, banks adhere to letters by the NBU, despite their advisory nature. We agree with Y. Kondratska’s (2010) opinion that it is necessary to consolidate at the legislative level the NBU powers of official interpretation of its legal acts, to make them mandatory for all banking institutions, individuals and legal entities on the territory of Ukraine. It would



allow to standardize the practice of the NBU regulations implementation. The contradictions and uncertainties in the interpretation of legal norms can be traced, for example, in the case when in 2018 the NBU denied the legitimacy of the interpretation of the banks accounting procedure by “fiscals”, since this issue is within the sphere of regulation by the NBU (Current issues..., 2018).

The “Regulation on the Ministry of Justice of Ukraine”, adopted by the Cabinet of Ministers of Ukraine on July 2, 2014 No 228, paragraph 4 stipulates the Ministry of Justice’s right to clarify: the issues related to the activity of the Ministry of Justice, its territorial bodies, enterprises, institutions and organizations within the scope of the Ministry’s administration, as well as acts issued by the Ministry (Resolution of the Cabinet..., 2014); for notaries and representatives; provision of generalized information on the application of the legislation on state registration; to public and private enforcement agents on the issues of enforcement performance of an obligation. At the same time, among the main tasks of the Ministry of Justice there is no function of clarifying the legislation in the areas in which it

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provides for the formation and implementation of state legal policy. We can illustrate this process with the Explanatory letter of the Ministry of Justice of Ukraine No 14459/3197-26-20/8.4.3 (2020) for the department of state registration of the executive committee of the Slavuta city council on some issues of state registration of rights in rem for real estate and their encumbrances. In fact, the document provides clarification on the application of the legislation, which is set out on 4 pages, but the publisher states that it is not legal advice on a specific situation, and the letter is informative itself. At the same time, it is informed that changes to the legislation aimed at regulating this issue have been also prepared.

One more example can be seen in the “Instruction on the procedure for defense implementation by the deposit guarantee fund of the individuals’ deposits and the rights and protected by law interests of depositors”, adopted by the Decision of the Deposit Guarantee Fund No 825 of May 26, 2016, registered by the Ministry of Justice of Ukraine on June 17, 2016 No 874/29004 (2016), where subparagraph 3 of paragraph 2 of section 2 provides for “consideration of depositors’ complaints on violation of



their rights and legitimate interests by banks ... providing them with clarification of legislation on the system of guaranteeing deposits of individuals and protection of depositors' rights”.

The examples given are typical for the system of domestic legislation, i.e. that clarification is provided on issues within the scope of authority of a particular body, but their application remains at the discretion of the person applying them, and in the event of a dispute, the final decision is made by the court bodies, which are already overburdened, including due to the imperfection of legislation and to the inability to ensure the unity of law-enforcement.

Judicial Interpretation Activities

The judiciary (court authorities) is a key subject of interpretation activity. The results of the interpretation of the legislation are reflected in judicial acts, which are mostly individual in nature, that is, they extend to a limited range of subjects involved in a particular litigation. In accordance with the provisions of Art. 6 of the Law of Ukraine “On Judiciary and Status of Judges” No 1402-VIII (2016) (hereinafter – the Law) courts perform

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justice on the basis of the Constitution and the laws of Ukraine and on the rule of law basis. Therefore, any court decision can be considered as the result of a causal interpretation of the law in its motivating part, it is the objectification of the result of finding out the content of legal norms by the court (Kryvetska, 2011; Shevchenko et al., 2020).

Recently, there has been a tendency for judicial acts of interpretation that affect not only certain subjects and particular relationships, but also affect a wider range of subjects. Such acts of judicial interpretation are characterized by obligatory nature (to a greater or lesser extent) – from the obligation to the court itself or to the authorities, and even to the obligation for everyone. An act of interpretation which gets a sign of a general obligation, obviously, similar to a norm of law, must meet the requirements of being well-known.

Article 13 of the mentioned Law establishes the rule that the conclusions on the application of the norms of law set out in the rulings by the Supreme Court are binding on all empowered subjects apply a normative act containing the relevant rule rights which in their activities, and the findings



on the application of the norms of law set out in Supreme Court rulings must be taken into account by other courts while applying such norms of law. If the cassation instance considers it necessary to depart from its conclusions on the application of the norm of law in similar legal relations, then in accordance with Art. 403 of the Civil Procedure Code of Ukraine (2004), Art. 302 of the Criminal Procedure Code of Ukraine (2012), Art. 346 of the Code of Administrative Procedure of Ukraine (2005), it serves as a basis for hearing such a case by the Joint Chamber of the Supreme Court.

In view of the issues outlined, Art. 46 of the Law is also interesting to study, which explicitly states that the Plenum of the Supreme Court generalizes the practice of substantive and procedural laws implementation, systematizes and ensures the promulgation of legal positions by the Supreme Court with reference to the court decisions in which they were formulated, and basing on the analysis of the judicial statistics and the generalization of the case law, it provides clarification of the advisory nature on the application of the law in the resolution of court cases. However, it is pertinent to note that in recent years, the

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Plenum of the Supreme Court has not provided any such clarification, unlike in previous years, when the Supreme Court's Plenum rulings on the resolution of disputes in particular categories of cases were adopted regularly and in fact contained many examples of interpretations of those or other norms of law.

Thus, there is no coherent and balanced conception in the field of legal norms interpretation. On the one hand there is the need to ensure the unity of law-enforcement practice, and on the other hand, it is declared the advisory nature of the general clarifications provided by the highest-level judicial authority (Antoshkina, 2016). A new term (for the Ukrainian law system), "case law" has appeared in the scientific environment (Marchenko, 2019).

An additional factor contributing to the approval of such terminology is the adoption by Ukraine of the Law of Ukraine "On Execution of Decisions and Application of the Case Law of the European Court of Human Rights" (2006), resulting not the ratified by Ukraine the Convention on the Protection of Rights and Fundamental Freedoms (1950), but also the case law of the European Court of Human Rights



and the European Commission of Human Rights has also become a source of law. Article 17 of that law provides for the domestic courts' usage of the case law as a source of law. The publicity of these acts is achieved through the official state translation and the publication of the full text of the Decisions concerning the Ukrainian state in Ukrainian of the by issuance specialized in legal issues, the publication of their text on the official websites of the Ministry of Justice, the Supreme Court and the European Court of Human Rights itself.

An important role in the process of elaborating and making public the content of all decisions taken is played by the Supreme Court of Ukraine, which has recently started the practice of regular digest of all (and not only Ukraine-related) decisions by the European Court of Human Rights and posting such reviews on its official media resources, including social networks. Another factor that caused the emergence of new interpretation acts in the field of justice is the permanent judicial reform in Ukraine and changes in legislation aimed at improving the efficiency of the judiciary and strengthening the guarantees of citizens' rights and freedoms.

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First of all, it concerns the so-called “model and typical” cases in administrative proceedings. The separation of such a category of cases is determined by the uniformity of the relations that require court hearing. On this basis, typical cases are similar to the pilot judgments by the European Court of Human Rights. The introduction of both pilot and model/typical cases is aimed at ensuring the unity, predictability and simplification of law-enforcement practices in certain relationships. Thus, in accordance with the provisions of Art. 4 of the Code of Administrative Procedure of Ukraine (2005), a decision taken by the Supreme Court as a court of first instance in typical administrative cases, that is, in which one and the same empowered subject (its separate structural divisions) has a dispute arose from similar grounds, in relationships governed by the same norms of law and in which the plaintiffs made similar claims, is a model one. While reaching a decision in a typical case that is consistent with the characteristics set out in the Supreme Court's decision on the outcome of the model case hearing, the court must take into account the legal conclusions of the



Supreme Court set out in the decision on the outcome of the model case hearing.

Thus, we can conclude that such a model decision is binding; its purpose is a roadmap, an example of way a dispute must be resolved in all other courts. Unlike the pilot judgment, which only states structural or systemic problems in the legal system that give rise to mass violations, and an indication of specific measures which are necessary for the operative implementation of the pilot decision – that is, to prevent complaints on similar circumstances in the future (Goncharenko, 2012).

The obligation to apply interpretative acts brings the latter closer (by their nature) to the norms of law and, therefore, requires not only making them well-known by the likely users of such acts, (i.e. the introduction of a mechanism for public awareness ensuring), but also raises the problem of systematization of a large number of acts in practice, simplifying access to their content, ensuring simplicity and efficiency in the processing of court decisions in Ukraine. Obviously, the introduction of an open Unified State Register of Judgments is a huge step forward in this direction, but it is not enough at that stage. E.M. Terekhov

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(2016) rightly raises an urgent issue in his paper regarding the monitoring of interpretative acts as a factor of the justice strategic development. He quite rightly notes that while performing justice almost daily there are cases when the court needs to resolve the dispute, using the explanation by the higher courts. For this purpose, the author proposes to introduce the usage of an automated program for the analysis of interpretative acts, which, in turn, will allow to reduce the number of repealed (amended) court acts due to misinterpretation of legal norms; to keep track of absolutely any changes made to the texts of acts of interpretation of law; it will contribute to the effectiveness of law-enforcement activities.

Thus, the conducted analysis makes it possible to state that at the legislative level the basic powers of virtually all authorities of different branches on the interpretation (figuring out + clarification) of legal norms are directly or indirectly established. The results of interpretation could be formulated as in form of specialized legal acts – acts of interpretation, as well as may be containing in other acts that do not have normative status (consultations, letters, clarifications, etc.). According to



the current legislation, only the Constitutional Court of Ukraine can issue official acts of interpretation at the domestic level (Mocherad, 2019).

Also, when the Constitutional Court decides the question on the constitutionality of laws, it must interpret both the norms of the Constitution of Ukraine and the norms of the relevant law, but an act issued as a result of such actions is not an act of interpretation, although important for the practice of applying the relevant norms. In turn, the official interpretation of laws and by-laws by issuing official acts is not envisaged. It is obvious, that the legislator proceeds from the fact that gaps or inaccuracies, incomprehensible moments that take place in the legislation, could be promptly eliminated by adopting new regulations or amending the current ones.

Conclusions

Stands out the lack of legislative regulation on the powers of individual ministries and other agencies to engage in interpretive activity and to issue interpretative acts within their competence. As it was stated earlier, the legislator does not use the term “interpretation”, but only

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consultations/clarifications and does not set normative requirements for these acts’ issuance, which consequently reduces their effectiveness in the mechanism of legal regulation. That is why one of the urgent issues is the adoption of a law on normative-legal acts that could determine the general requirements for such acts of interpretation and the consequences of their adoption. Accordingly, there is a situation in which such clarifications of public institutions are, in fact, obligatory to be used by the relevant subjects implementing the norms of law, and the legal consequences of such application are not defined. Such uncertainty causes the disadvantage, for example, for taxpayers, banking institutions, notaries, and so on. There is an urgent need to resolve this issue by taking the approaches, outlined in tax law, as a basis. It could be possible to give official interpretation power to the central executive bodies of the issued normative legal acts.

Furthermore, to determine the procedure for official interpretation of laws through the respective functions of the judicial bodies, since they ultimately have to resolve all disputable situations, they have all the information on the



disputed issues on current legislation application. Acts of judicial interpretation in such a situation carry a large functional load. In the conditions of the absence of clearly defined powers to clarify the texts of legislation, courts must fill all legal loopholes in, indeed becoming literally and legally “truth in the last resort”. That is still the reason why these days the inclusion into the legislation of the provisions on the fact that the legal prescriptions are applied in the sense stated in the decisions of the Constitutional Court and the decisions of the general nature of higher courts is of high relevance.

We should mention the fact that the monitoring of legislation and law-enforcement practice is developing in a diametrically opposite direction. Such a phenomenon is unacceptable, so the introduction of, in particular, automated monitoring systems with clear normative regulation will help to manage with these issues. Implementation of the mentioned means, quality control of rulemaking activity, practice of law-enforcement and interpretation is a necessary and urgent measure in the conditions of modern reality. If we do not build a functioning and effective model of control at the national level, the European Court of

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Human Rights, which receives numerous applications by our citizens each year, will in fact continue to perform such a function.

On the basis of the mentioned above, it is concluded that there is no single agreed approach to the issue of acts of interpretation and their legal force defining, procedure of application and appeal. Given the importance of the issues being studied and the need to manage with them urgently, it is suggested that discussions should be held (with the obligatory involvement of both scholars and practitioners, including judges) aimed at developing common approaches to regulating legal interpretation issues and providing clarifications by competent authorities and making specific proposals amending the current legislation.

The study is both of theoretical and applicable nature. Obtained conclusions and suggestions could be used: in the field of scientific research – for further elaboration of legal interpretation problems; in the field of law-making – while the preparation of proposals for amendments to the current legislation of Ukraine aimed at improving the procedure for clarifying legal requirements; in the field of

practice – while the generalization of the legal norms interpretation practice by different subjects.

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