



SYSTEMATIZATION OF LEGISLATION: THEORETICAL LEGAL ANALYSIS BASED ON FOREIGN EXPERIENCE

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ABSTRACT

In this article, today's need to analyze the theoretical and practical issues of the systematization of legislation, in particular, the codification process, the essence of the codification process, its types, problems and shortcomings in practice, methods of overcoming these problems, the legal system of foreign countries, in particular, France, the rich historical experience developed in this country, the methods of systematization of legislation are widely and comprehensively analyzed, and the results obtained as a result of the analysis are discussed

Introduction

Codification, which is a form of systematization of legislation, is given great importance in legal literature and law-making practice. That is, codification is described as the most effective way to systematize legislation, and with the help of codification, not only current issues of legal regulation, but also future ones are solved, and legal principles and norms aimed at regulating social relations are established in a relatively long historical period. is emphasized.

Currently, Uzbekistan is in the process of renewal, democratization of all aspects of public life. The rapid development of social relations also contributes to the expansion of lawmaking activities, which ultimately leads to an increase in the number of legal acts adopted by the subjects of law-making activities. So, according to Article 6 of the Law of the Republic of Uzbekistan ZRU No. 682 "On regulatory legal acts", "the types of regulatory legal acts are: Constitution of the Republic of Uzbekistan, laws of the Republic of Uzbekistan, resolutions of the chambers of the Oliy Majlis of the Republic of Uzbekistan, decrees and resolutions of the President of the Republic of Uzbekistan, orders and resolutions of ministries, state committees and departments, decisions of local authorities". As can be seen from the above list, there is a multiplicity of types of regulatory legal acts in the republic, which will largely affect their number. Thus, the National Database of Legislation of Uzbekistan (Lex.uz) today contains more than 35,000 legal acts. In this state, the possibility of duplication, discrepancies and inaccuracies in the legislation is inevitable, which certainly complicates law enforcement practice [1].

According to Sh.Rozinzarov, "... in the development of legal documents, the main direction must be codification or unification of laws aimed at regulating similar relations from

the point of view of systematization"[2]. Adoption of codes instead of laws, which are close to each other in terms of content, is a positive direction widely used in legislative activity.[3]

The code, which is considered the main form (tool) of systematization of legislation, the core and main source of the legal (legislative) network, not only paves the way for the implementation of relevant constitutional principles, but also determines the directions of development of legal policy and legislation in the field. [3]

Today, it is no secret that there are outdated norms in the regulatory legal documents of some industries. It can also be assessed as a one-sided objective situation. The reason is that the process of social development in our independent Uzbekistan is being implemented at a rapid pace. This requires regular updating of certain norms in legal documents. In such a situation, the systematization of legislation through codification serves to develop the regulation of social relations.

Materials and methods

Codification is a special type of law-making activity, the purpose of which is to improve the current legislation by issuing normative-legal documents in the form of a collection, which includes the systematic guarantee of legal exhibitions aimed at regulating a certain area of social relations.[3]

At the same time, in the legal literature, codification means in a narrow sense only the elimination of previous legal documents, replacing them with newly created laws, and in a broad sense, the process of actual law-making, technical regulation of laws, from legislation to legal application of laws. there are opinions that it is necessary to understand the filling in the form of removing the existing ones, that is, eliminating the laws that have lost their force.

We found it necessary to dwell on the approaches of foreign countries to codification, and in this process we used theoretical and practical methods of scientific knowledge, in particular, the method of legal and comparative analysis.

Analysis of the results of the study

It is known that the study of foreign experience related to each case helps to eliminate problems at the national level in this field, not to repeat the mistakes made in some countries, and to take a model from the methods and tools that have been effective in traditional, foreign practice. will help. In this sense, within the framework of our research work, we tried to study the activity of systematizing the legislation formed in the country of France, which is considered the homeland of codification.

The modern legal doctrine of France contrasts the natural law, which comes from human nature and is common to all, and the positive law established by each state within its sovereignty. According to the subject of legal relations, private and public law were distinguished. Public law includes: constitutional law, administrative law, financial law, international law. The issues of organization, form and structure of the state and its higher bodies, participation of citizens in the management of the state are the subject of constitutional law. Common public law refers to the philosophic-legal theory of the state, and includes individual liberties and fundamental rights, which are included in the preamble of most French constitutions and enshrined in declarations of rights. Administrative law consists of legal norms that regulate issues related to the organization of public bodies (except courts and political parties) and their legal status. The financial legislation determines the actions necessary for the activity of public agencies and their compensation (taxes, debt).

International law regulates the problems that arise between states in the international community.

Private law includes civil law defining private relations (Civil Code of 1804), civil procedure defining the exercise of judicial rights, commercial law regulating the activities of traders and commercial relations; labor law, business law; documents mountain rights, forest rights and so on.

Official recognition and determination of the relevant legal field is carried out through the codification of a specific group of normative legal acts. In France, a code is understood as "a legal document consisting of a set of legislative and regulatory guidelines used in a specific field of law" [4]. Thus, codification is considered the final stage formalizing the field of law as an element of the legal system.

The main codes of France were developed during the time of the Consulate and the Empire (Civil Code 1804, Civil Procedure Code 1805, CPC 1808, CC 1810) and retained their previous form in terms of structure.

The next phase of adoption of new codes spanned the period from the Renaissance to World War II. During this period, codes of forestry (1827), agriculture (1898), labor (1010), naval affairs (1926), military justice of the infantry and navy (1928 and 1938), were adopted. done Fiscal codes incorporated into the tax code by the government decree of April 6, 1950 form a special group of codes.

Today, the tasks of the state in the systematization of legislation are manifested in its codification and coordination of activities in the field of legal informatics. In France, activity on the systematization of legislation revived mainly in the post-war years.

By the end of the 1940s, France had so many legal documents that it became difficult to use them. Regulatory and legal documents (royal ordinances, declarations, edicts) adopted in the country before the revolution of 1789, legal documents adopted after the revolution, normative documents issued by the collaborationist government of Vichy, as well as many other normative and legal documents adopted during the period of two empires and three republics. documents were valid.

In such circumstances, the task of organizing the systematization of French legislation is assumed by the executive authority. According to the government decree No. 48-800 dated May 10, 1948, the Supreme Commission for Codification and Facilitation of Laws and other normative legal documents of the executive power in the country is established. The commission was established under the Prime Minister, and it includes members of parliament, high officials of the state, the chairman of the general council and the mayor. The chairman of the internal section of the State Council heads the commission. The commission is an advisory body of the government on the systematization of legislation, and it is not empowered to approve draft codes. In its activities, the commission is directly related to the central office that coordinates the development of codes - the general secretariat of the government, and thus can influence the systematization work. The task of preparing code drafts is assigned to the ministry office closest to the type and nature of the activity, the commission itself is not directly involved in the development of code drafts. If several ministries and agencies are "interested" in the development of the draft code, one of them will be entrusted with the task of managing the systematization.

A commission headed by the inspector general of the government will be established in

the ministry, office responsible for the development of the draft code. It includes representatives of the ministry, the office, and a member of the State Council dealing with issues related to the content of the code.

Preparation of the draft code is carried out in the following stages:

- 1) selection and analysis of normative legal documents forming the basis of the code;
- 2) preparation of the draft code plan;
- 3) preparation of the text of the draft code.

In addition, the work plan of the commission is developed and its implementation is monitored by the chief speaker of the High Commission on codification. Preparation of the text of the draft code can be carried out only after the approval of the draft plan by the Supreme Commission on Codification.

Prepared draft codes are discussed at meetings of the High Commission on Codification. The discussion begins with hearing information about the project from a specially appointed speaker who is an expert in this field. One of the members of the High Commission on codification can act as a speaker. The procedure for "administrative codification" is organized in the same way. Special commissions will be established under the Ministry of Justice to revise the classic codes (so called in France, the codes adopted during the Napoleonic era).

In France, the term "codification" has a somewhat broader meaning, unlike in Uzbekistan. That is, codification can be understood in a broad and narrow sense. Codification in the narrow sense corresponds to the content of the work conducted in Uzbekistan. As a result of such codification, a complex document with a new version is created that regulates a certain area of social relations. Codes adopted during the Napoleonic era are examples of such complex documents. It is possible to compare the French Civil Code of 1804 with the Civil Code of Uzbekistan, however, the codification work carried out in France in later periods, unlike the work of systematizing legislation in Uzbekistan, did not lead to the development of a complex document in a new version, but to the normative legal regulation regulating similar relations. aimed at combining documents. Such "codes" resemble collections of legal documents systematized in terms of form and content.

This process is codification in a broad sense, which essentially consists of bringing various regulatory legal documents into a single document. Codification in a broad sense, unlike codification in a narrow sense, does not require revision of legislation. Basharti, if in the process of codification, contradictions in legislation or the need to revise outdated legislation are revealed, the relevant regulatory legal documents will be revised in the order of the usual law-making process, not codification.

In general, the process of legal systematization in France consists in the creation of codes that cover all areas of relations that can be the object of complex legal regulation. Currently, codification in a broad sense is being carried out, and it is customary to refer to it as "administrative codification".

The Supreme Commission on Codification has defined the following principles of codification.

- 1) completeness
- 2) possession of a formal tone
- 3) continuity

In accordance with the principle of completeness, all social relations of the same nature

should be regulated by the norms established in the code (material completeness of the code), Codes are at the same time in all regulatory legal documents adopted by central authorities (laws, ordinances, government decrees, decisions and circulars of ministries and agencies) should include norms. Norms defined in the constitution and normative legal documents of a temporary nature cannot be included in the codes (formal completeness of the code).

The principle of administrative codification is manifested in the limitation of the powers of the government regarding legal documents. In other words, without obtaining the special authority of the parliament, he cannot amend the legal norms in terms of content (except for editorial amendments).

This limitation does not apply to regulatory legal documents adopted by the executive authority. that is, based on the needs of codification, the government can make amendments to regulatory legal documents to change its content.

As a result of the expansion of the powers of the executive power in the field of legislation in accordance with the French Constitution of 1958, the fate of many normative legal documents adopted in different periods that have not been revised in the procedure of administrative codification remains up to the government. Pursuant to Article 34 of the Constitution, only the part of the codes adopted in the period of the Fourth Republic, which regulates issues related to the competence of the parliament, remains in force. The remaining parts remain in force, equal to government decrees. Under the 1958 Constitution, codes must be passed by Parliament to become law.

Continuity of codification is seen as an important condition for assessing its effectiveness and value. Based on the proposal of the Supreme Commission on Codification, approved by the government, amendments will be made to the codes in a manner analogous to the newly adopted regulatory legal documents. The process of changing or adding to existing codes is called incorporation. Current incorporation regulations are governed by the Prime Minister's circulars of January 14, 1961 and October 10, 1968. According to the rule adopted in practice, all draft laws and drafts of government decrees submitted to the parliament on behalf of the government are checked by the chief secretary of the government in terms of compliance or non-compliance with the current rules of incorporation.

In France, the government considers itself to have the authority to codify administratively not only the acts of the executive, but also the acts of the legislature. However, in practice, such an experience has been formed that according to it, codification of regulatory legal documents of the legislative authority, even if such codification acquires an editorial character, is carried out only on the basis of the parliamentary mandate. Draft laws on codification in one or another area of legal regulation are introduced to parliament, as a rule, by the government.

Codes usually consist of several parts: the first part contains legislative norms (Code legislative ou Premiere partie. Legislative). The norms of this section are denoted by the letter L. The norms of the second part (2-partie: Reglements d'aministration) - (R) will consist of presidential and government decrees, which have the highest legal force among executive authority documents introduced on the basis of the conclusion of the Council of State. The norms of the third part of the Code consist of simple decrees of the prime minister that do not require the conclusion of the State Council. (partie 3: Decrees) - (D). The fourth part contains the norms expressed in the decisions of the ministries and agencies (partie 4: Arretes) - (A).

The fifth part of the Code contains the circulars of the executive authority (partie 5: Instruction generale) - (C).

Codexes have different structures. In particular, the Election Code is divided into legislative and regulatory parts. In 1958, a regulatory part was added to the Criminal Code (currently, the Criminal Code consists of four laws). This category of codes is called legislative codes. Two categories of such codes are distinguished: ratified by parliament (having independent legal force) and non-ratified by parliament (such codes are inferior to laws in terms of legal force).

Most of the codes are regulatory codes. These codes contain only the norms defined in the documents of the executive authority (the Code of Economic Contracts, the Code of Savings Banks, the Code of Crafts, etc.).

In the process of codification, the principles of dividing normative materials into specific codes were developed. This is mainly done depending on the object of legal regulation and the spheres of state activity (development of entrepreneurship, protection of certain freedoms, etc.). The basis of the Code can be more specific issues (for example, depending on whether the legal norms apply to a certain group of persons: disabled, pensioners, merchants). Based on these criteria, the Supreme Commission on Codification divides all codes into the following four main groups:

- 1) in the field of economy
- 2) in the social sphere
- 3) in the intellectual sphere
- 4) in the political (public) sphere.

Evaluating the activities of the Supreme Commission on Codification for more than fifty years, it should be noted that it was sufficiently effective. France currently has more than 70 codes covering most areas of law.

In the Prime Minister's circular dated June 15, 1987, addressed to the heads of ministries and departments, it was noted that codification should be an integral element of the policy implemented by them and that this event should serve to establish closer relations between the state and civil society.

At this point, it should also be noted that despite the success of codification in France, a large number of regulatory legal documents remain uncodified. The total volume of these normative legal documents is sufficient, but it is clear that the purpose of codification is to reduce their number. The existence of a large number of non-codified normative legal documents in the legal system may explain the lack of consideration of French legislation by sector and the skepticism regarding the creation of a set of laws. In this matter, the French are distinguished by their pragmatic approach. For example, while the problems of interdisciplinary legal regulation are considered in scientific practice, priority is given to systematic classifiers organized in an alphabetical-subject manner. Such classifiers ensure the completeness and relevance of legal information in addition to facilitating the accounting and searching of regulatory legal documents.

In France, the systematic accounting of legislation is carried out by the General Secretariat of the government. HBK maintains a file that clearly represents French law. ("Lex" database). The file is kept chronologically and systematically. In the chronological file, legal documents are sorted according to the date of their publication in the official publication -

"Journal officiel". In the systematic card file, legal documents are taken into account in the order in which they were published in "Journal Officiel". In this case, column names are placed in alphabetical order. Classification in more detailed forms is allowed based on the columns of the official publication. There is no officially approved classifier in the country. The columns of the official publication - "Journal officiel" are based on the classification of French legislation. Laws and decrees are published in "Journal officiel", the official publication of the government. The management of this magazine are considered government servants and report directly to the Chief Secretary of the government. Recently, the material and technical base of this publication has been modernized. In accordance with the decision of the government on August 13, 1985, the electronic version of the "Journal officiel".

Laws and decrees" began to be published. The purpose of this is to deliver normative legal documents to the widest possible population. The journal is subordinated to the Directorate of Official Publications and operates on a commercial basis. The use of these publications is established on the basis of a contract and by becoming a subscriber. Every subscriber of "Journal officiel. Laws and decrees" has the right to freely use its materials.

Conclusion:

Codified laws serve not only to regulate social relations, but also to develop them. In all branches and areas of the legal system, the code is the governing and harmonizing basis, and all other normative legal documents related to this branch must be harmonized with the code. By creating a code, the set of legal norms in the network will be revised, the rules will be summarized and condensed, conflicts and inconsistencies between them will be eliminated, outdated norms will be eliminated, and thus logical harmony and chaos will be achieved.

In France, the main efforts of state bodies are directed to the codification of legislation and the implementation of organizational coordination in this area. Organizational structures such as the High Commission for Codification, the General Secretariat of the government ensure the coordination and effective state policy in the systematization and distribution of legal information.

Based on the above, it can be said that the experience of France, which strictly defined the stages and mechanisms of the code preparation process and turned it into an old work, can be very useful for Uzbekistan in determining the organizational and legal forms of the process of systematization and classification of legislation.

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