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LEGISLATIVE CONSOLIDATION OF LEGAL TERMS

Abstract. *Purpose.* The purpose of the article is to study the significance of legislative consolidation of legal terms. *Results.* The article studies the importance of legislative consolidation of legal terms. It is established that the importance of legislative consolidation of legal terms implies unity in the interpretation of one or another legal term. A unified understanding of terminology in its functionality will contribute to an effective regulatory framework for social relations, which will be achieved through the absence of misunderstandings and disagreements in the implementation and application of legal provisions. It is determined that unity in the interpretation of legal terms will also prevent ambiguity, which can lead to legal conflicts and different interpretations of the same concept. A legislative definition avoids such situations and ensures a unified interpretation of terms throughout the territory. It is established that the importance of legislative consolidation of legal terminology is the basis for legal certainty, accuracy of legal documents and unity in the interpretation of legal terms. This is important for the effective functioning of the legal system, ensuring justice and legal protection, and guaranteeing equal rights and obligations for all participants in legal relations. *Conclusions.* An in-depth understanding of legal terms contributes to legal literacy, which in turn facilitates access to legal resources, courts and other institutions. If terms are too complex or ambiguous, the ability of people to exercise their rights or protect their interests may be limited. Law application bodies, such as courts, law enforcement agencies, attorneys-at-law, must correctly interpret legal terms to ensure that the law is applied properly. Any misunderstanding of terms can lead to incorrect legal decisions. Relying on the analysis of scientific works and views of scholars, we conclude that the importance of legislative consolidation of legal terms is as follows: 1) accuracy of legal documents; 2) unity in the interpretation of legal terms; 3) legal certainty.

Key words: legal document, legal term, legal certainty, legal accuracy, interpretation of legal terms, regulatory framework, quality of legislation.

1. Introduction

The study of the legislative consolidation of legal terms is due to the need to achieve accuracy, clarity and consistency of the legal text. Legal terminology is essential for ensuring the clarity, comprehensibility and unambiguity of legal provisions and regulations. Terms should be used in legal texts in a manner that prevents different interpretations. Unclear or ambiguous terms can lead to legal errors, create grounds for legal conflicts and cause difficulties in the interpretation and application of legislation.

The need for continuous development and improvement of legal terminology is closely linked to the development of legal science and practice. The legal system is dynamic and constantly adapts to changes in society, the economy, technology and other sectors of life. With the advent of new areas of activities, innovative technologies and social relations, the need arises to formulate, clarify or adapt legal terms to meet new realities. Therefore, it is

important not only to create new terms, but also to legislate them in a timely manner and clearly define their content and limits of use.

A comprehensive study of legal terminology allows lawyers to better understand the essence of regulatory changes, correctly interpret legislative provisions, effectively use terms in their professional activities and avoid mistakes in the practical application of legal provisions. Adequate knowledge of legal terminology ensures the effectiveness of legal regulation and a high level of legal practice.

It should be emphasised that the importance of legislative consolidation of legal terms is multifaceted and cannot be reduced to a single aspect. The legal consolidation of terminology ensures not only clarity and consistency in the use of concepts, but also gives them legal force, which determines the limits of their application and enhances the stability and predictability of the entire legal system. Due to the legislative consolidation of terms, it is possible to avoid misunderstandings and legal disputes,

improve the quality of lawmaking and law application, while ensuring an appropriate level of legal certainty in society.

The purpose of the article is to study the significance of legislative consolidation of legal terms.

N. Artykutsa, O. Hladkivska, L. Besedna, V. Lazarev, M. Liubchenko, A. Khvorostiankina have studied the problem of legislative consolidation of legal terms.

The specifics of legal terminology, which is determined by the branch of law, have been studied by S. Fursa, Ye. Fursa, N. Zabolotna, Ye. Michurin, M. Smokovych. The technical and legal aspects of legislative consolidation of legal terms and definitions have been studied by L. Andrusiv, I. Bylia-Sabadash, T. Podorozhna, V. Mamutov, V. Kosovych, L. Pryhara, V. Ryndiuk, I. Shutak and other researchers.

2. Specific features of legal terminology

O. Hladkivska emphasises the specifics of legal terminology, in particular, “as regards legal terminology, it is special due to its universality, since any social activities are closely related to law and legislation. A clear definition and unambiguous interpretation of legal terms is an extremely important condition for the establishment of the rule of law, contributes to the improvement of law-making, effective implementation of legislation, creates an enabling environment for their streamlining and systematisation. In order to perform its functions, a term should meet the requirements that are scientifically substantiated and legally enshrined (Hladkivska, 2015). O. Petryshyn argues, “The universal features of the legal language are its terminologisation (it is based on a system of clear legal concepts), the desire for lapidarity (brevity combined with clarity, accuracy, completeness of expression), subordination of emotionality to rational principles and requirements (i.e. if emotional words and expressions are present, they are used only to enhance and highlight rational meanings). The legal language is largely official in nature, as it is based on the language of legal regulations-documents, in particular the language of written formal legal sources of law” (Petryshyn, 2020).

S. Fursa and Ye. Fursa emphasise that terminology is of particular importance for lawyers, in particular, what terminology to use as a basis for certain concepts to be subsequently enshrined in legislation and acquire the appropriate legal meaning (Fursa, Fursa, 2023).

Scholars do not have a single approach to the need or importance of legislative consolidation of legal terms. A review of the legal literature and the views of lawyers highlights the diversity of approaches and the use of dif-

ferent terminology. If we assume that the legislative consolidation of legal terms is primarily their inclusion in the texts of legal regulations, we understand that such a term is fixed primarily in the provision of law, which in turn form legal structures. The following are the existing approaches to the meaning of legislative consolidation of legal terms.

According to M. Kozyubra, “Reliability (unambiguity) of language is sometimes more important than its compliance with certain nuances of real reality. The principle of *nullum crimen sine lege* (no punishment without law) would remain unrecognised if the law were formulated in terms so unclear that a judge would have to determine what type of crime a particular act falls under and the type of punishment to be imposed. This shows that the meaning of legal terms should be unambiguous and stable” (Koziubra, 2015).

V. Lazarev identifies the following disadvantages of legal terminology: “designation of several different concepts by one term or designation of one concept by several terms; lack of clear definitions for several terms; use of words with expressive colouring as terms; not always justified use of foreign terminology; use of linguistically and stylistically incorrect terms; use of outdated terms, etc. These shortcomings in the use of terminology in legal regulations may lead to a number of negative consequences: distortion of the will of lawmakers; difficulties in the implementation of law. All of this can lead to human rights violations, which will have a negative impact on the authority of law as the most important regulator of social relations in the modern world and may lead to a decrease in the value of law in society” (Lazarev, 2022).

According to L. Andrusiv (2020), accuracy and clarity are also required for a legal regulation as a legal document. V. Pankratova (2016) emphasises the requirement of accessibility and comprehensibility of a legal regulation. N. Zabolotna considers “the accuracy of the statement of a provision of law in a legal contract as achieving the most optimal form of expression of the ideas of its parties. The degree of compliance with this requirement is of particular importance in the process of interpreting the content of the contract in the future” (Zabolotna, 2016). At the same time, N. Zabolotna refers to the requirements to the terminology used in a legal act as unambiguity, which is revealed through “the absence of many options for interpreting the term” (Zabolotna, 2016).

V. Ryndiuk argues that the terminology of legal regulations implies the so-called terminological unification, that is, unambiguity (consistent use of one term in the same meaning) (Ryndiuk, 2009).

Based on the review of research by scholars, we can confidently say that the legislative consolidation of legal terms is important for the accuracy of legal documents.

Next, the importance of legislative consolidation of legal terms implies unity in the interpretation of one or another legal term. A unified understanding of terminology in its functionality will contribute to an effective regulatory framework for social relations, which will be achieved through the absence of misunderstandings and disagreements in the implementation and application of legal provisions. In the scientific and practical textbook "Technique of drafting contracts," Ye. Michurin aptly uses the word 'misinterpretation' and notes that it is necessary to follow the technical and legal rules for drafting the texts of legal regulations and contracts. The accuracy of fulfilment of contractual obligations by the parties depends on the unambiguous wording of the content (Michurin, 2006).

According to U. Andrusiv and S. Fedyk, 'the category of quality of law includes various features, namely: accuracy, clarity, comprehensibility and predictability. The accuracy and clarity of the wording of legal provisions can be stated in case if: a) the content of the legal provision is understandable to an ordinary citizen who is not a legal expert. We are talking about both a specific legal provision and a system of legal provisions that are interrelated; b) the content of the legal provision becomes clear by identifying a more complex interrelation of legal provisions, including on the basis of summarising court practice in relation to a specific area of social relations; c) the content of the legal provision becomes clear after seeking legal assistance. The level of accuracy, in turn, depends on the content of the disputed law and the area it is intended to cover' (Andrusiv, Fedyk, 2019).

That is why the unification of terminology will in any case lead to the same understanding and interpretation by those in charge of applying the law. An example is the term 'declaration.' The explanatory dictionary of the Ukrainian language gives several meanings. Thus, the first meaning is: "An official statement about something, a solemn proclamation by a government, party, congress, etc. of any principles, provisions, as well as a document in which they are set out" (Busel, 2005). The second meaning is "the name of some official documents that provide required information" (Busel, 2005). The Tax Code of Ukraine (2011) uses the term 'declaration' 895 times. Meanwhile, the terms 'tax declaration,' 'excise tax declaration,' 'clarifying declaration,' 'clarifying tax declaration,' 'customs declaration,' 'annual declaration of property status and income,' 'income tax declaration,' 'financial agent's tax declaration,' etc. are used. Despite

such diversity of the term 'declaration' within the same legal instrument, Article 46 of the Tax Code of Ukraine contains a legislative definition of the term and definition of 'tax declaration' exclusively. The title of Article 46 is "Tax Declaration (Calculation)." The legal provision includes the following definition: a tax declaration, calculation, report (hereinafter referred to as a tax declaration) is a document submitted by a taxpayer (including a separate subdivision in cases specified by this Code) to the controlling authorities within the terms established by law, on the basis of which a monetary obligation is accrued and/or paid, including a tax liability, or the amount of transaction(s), income (profit) for which the tax and customs legislation provides for exemption of the taxpayer from the obligation to accrue and pay tax and fee, or a document evidencing the amount of income income accrued (paid) in favour of individual taxpayers, the amount of tax withheld and/or paid, and the amount of the accrued unified social tax. One article and one codified legal instrument contain a conflict or inaccuracy. The title of Article 46 contains the term 'tax declaration (calculation)', while the text offers a definition of the term 'tax declaration, calculation, report'. It is unclear what the legislator meant by placing the calculation in brackets or listing it separated by commas together with the report. As a result, some lawyers will use 'calculation' as a synonym for 'tax declaration,' while others will use 'report' as a synonym for it.

Clarification of the exact meaning of a legal term, unification of its definition and uniformity in its use throughout the text of a legal regulation is a prerequisite for effective regulatory and enforcement action. In addition, S. Fursa and Ye. Fursa argue that: "we could name even more regulations that use different terminology that is not consistent with the terms adopted in the legal regulations, which makes it impossible to unambiguously perceive and apply them in practice" (Fursa, Fursa, 2023).

3. The role of legal certainty

The next meaning of legislative consolidation of legal terminology is to achieve legal certainty.

M. Smokovych argues that "in a democratic society, legal certainty is recognised as one of the fundamental values, it is the principle that is designed to enable participants in legal relations to predict the results of their actions, and at the same time provides for predictability of court decisions based on the results of disputes. Most researchers define the principle of legal certainty as a set of requirements for the organisation and functioning of the legal system in order to ensure a stable legal position of a person by improving both law-making

and law application processes. The requirement of certainty is one of the most essential requirements for both legal regulations and court verdicts" (Smokovych, 2020).

L. Luts emphasises the diversity of approaches to the principle of legal certainty and concludes that "the principle of legal certainty is a set of requirements to the organisation and functioning of the legal system with the aim of ensuring, first of all, a stable legal position of an individual by improving the processes of law-making and law application. The requirements are differentiated into three groups: for certainty of legislation, for certainty of powers and for certainty of court decisions. The requirements for certainty of legislation are clear wording of the legal provision; clear wording of the conditions under which restriction or deprivation of liberty is imposed; mandatory publication of legal regulations; prevention of unforeseen changes to legislation; consistency and stability of legal provisions" (Luts, 2023).

V. Smorodynskyi considers legal certainty to be "not only one of the general principles of law and one of the requirements of the rule of law, but also a fundamental property and condition of the significance of law and its instrumental value as a systemic means of regulating relations between people and their groups (collectives) in society. This position is confirmed, in particular, by the review of scientific studies by well-known Western philosophers and legal theorists who, long before the emergence of this special term in legal science and judicial practice, considered legal certainty as an important (if not the most important) requirement of the rule of law over state arbitrariness, and as a crucial condition for the morality and effectiveness of law, law-making and law application" (Smorodynskyi, 2020).

I. Borovska refers to the principle of legal certainty as "a special principle that details the rule of law and consists of a set of requirements that can be grouped into: 1) requirements of law-making nature for legislation, according to which the court makes a decision, which consists of clarity, accessibility for understanding, unambiguity of the provision in the interpretation of its content, as well as predictability; 2) requirements of law application nature for certainty of court decisions, which are manifested in ensuring uniform application of the law by the court in similar legal relations in the course of civil proceedings, finality and permanence of the court decision; binding nature of court decisions, as well as clarity of the content of the court decision; 3) requirements for certainty of the court procedure" (Borovska, 2020).

According to D. Sukhanova, legal certainty is ensured by the requirements for legal defini-

tions, in particular, "the definition must meet the requirements of clarity, certainty, completeness and unambiguity" (Sukhanova, 2023).

L. Bogacheva argues, "In a broad sense, the principle of legal certainty is a set of requirements for the organisation and functioning of the legal system in order to ensure a stable legal position of a person by improving the processes of law-making and law application. The principle of legal certainty is a type of general principles of law. It is reflected in the sources of EU law and is applied in the case law of the European Court, is common to the legal orders of EU member states and is becoming widespread in Ukrainian law" (Bohachova, 2013).

In its Decision No. 10-rp/2011 of 11 October 2011, the Constitutional Court of Ukraine pointed to "uncertainty in resolving the issue related to the time of delivery of the offender, which may lead to certain abuses by the relevant authorities in terms of establishing a possible term of restriction of a person's right to liberty, which, considering the time of delivery, may last longer than that specified in the law. The issue of the moment of sobering up a person who is intoxicated also remains unclear, which leads to uncertainty in establishing the total time of detention of such a person in the custody of the relevant bodies, which may also be the basis for certain abuses by them" (Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of 50 people's deputies of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of certain provisions of Article 263 of the Code of Ukraine on Administrative Offenses and Clause 5 of Part One of Article 11 of the Law of Ukraine "On the Police", 2011).

In the same Decision, the Constitutional Court of Ukraine points out the uncertainty of the legal terms of 'disobedience' and 'malicious disobedience' used in different codes. According to paragraph five of the Decision, 'the Code provides for liability for malicious disobedience to a lawful order or demand of a police officer, member of a public formation for the protection of public order and the state border, or a military serviceman (Article 185). Malicious disobedience is the refusal to comply with persistent, repeatedly repeated lawful demands or orders of a police officer in the performance of his/her duties, a member of a public formation for the protection of public order or a military serviceman in connection with their participation in the protection of public order, or a refusal expressed in a defiant manner that demonstrates clear disregard for persons protecting public order (paragraph two of item 7 of Resolu-

tion No. 8 of the Plenum of the Supreme Court of Ukraine of 26 June 1992 “On the application by courts of legislation providing for liability for encroachment on the life, health, dignity and property of judges and law enforcement officers”). The Constitutional Court of Ukraine proposes a definition of the legal term ‘disobedience’, in particular, it states that ‘disobedience’ means refusal to comply with or ignoring a certain requirement (Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of 50 people’s deputies of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of certain provisions of Article 263 of the Code of Ukraine on Administrative Offenses and Clause 5 of Part One of Article 11 of the Law of Ukraine “On the Police”, 2011). Accordingly, the court concludes that “From the analysis of the provisions of the Code, it appears that they provide for liability for disobedience of pedestrians to traffic control signals (part one of Article 127) and malicious disobedience to a lawful order or demand of a police officer, member of a public formation for the protection of public order and the state border, transport worker, military serviceman, employee of the State Border Guard Service of Ukraine. According to the Criminal Code of Ukraine, disobedience and malicious disobedience are also distinguished, in particular, Article 391 provides for liability for malicious disobedience to the requirements of the administration of a penitentiary institution, and Article 402, for disobedience as a crime against the established procedure for military service. Based on the analysis of Ukrainian legislation, the court concludes that ‘with regard to the grounds for legal liability for certain acts, the legislator did not equate acts manifested in the form of disobedience and malicious disobedience’ (Decision of the Constitutional Court of Ukraine in the case on the constitutional submission of 50 people’s deputies of Ukraine on the compliance with the Constitution of Ukraine (constitutionality) of certain provisions of Article 263 of the Code of Ukraine on Administrative Offenses and Clause 5 of Part One of Article 11 of the Law of Ukraine “On the Police”, 2011).

4. Conclusions

An in-depth understanding of legal terms contributes to legal literacy, which in turn facilitates access to legal resources, courts and other institutions. If terms are too complex or ambiguous, the ability of people to exercise their rights or protect their interests may be limited. Law application bodies, such as courts, law enforcement agencies, attorneys-at-law, must correctly interpret legal terms to ensure that the law is applied properly. Any misunderstanding

of terms can lead to incorrect legal decisions.

Relying on the analysis of scientific works and views of scholars, we conclude that the importance of legislative consolidation of legal terms is as follows: 1) accuracy of legal documents; 2) unity in the interpretation of legal terms; 3) legal certainty.

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ЗАКОНОДАВЧЕ ЗАКРІПЛЕННЯ ЮРИДИЧНИХ ТЕРМІНІВ

Abstract. Purpose. Метою статті є дослідження значення законодавчого закріплення юридичних термінів. **Results.** У статті проведено дослідження значення законодавчого закріплення юридичних термінів. Установлено, що важливе значення законодавчого закріплення юридичних термінів полягає у єдності у тлумаченні того чи іншого юридичного терміну. Уніфіковане розуміння термінології у своєму функціоналі матиме ефективне правове регулювання суспільних відносин, яке досягатиметься через відсутність непорозуміння, розбіжностей при реалізації та застосуванні норм права. Визначено, що єдність у тлумаченні юридичних термінів також запобігатиме неоднозначності, що може призвести до юридичних колізій і різних інтерпретацій одного й того ж поняття. Законодавче визначення дозволяє уникнути таких ситуацій і забезпечує єдине трактування термінів на всій території. Встановлено, що значення законодавчого закріплення юридичної термінології є основою правової визначеності, точності юридичних документів та єдності у тлумаченні юридичних термінів. Це важливо для ефективного функціонування правової системи, забезпечення справедливості та правового захисту, а також для гарантування рівних прав і обов'язків для всіх учасників правових відносин. **Conclusions.** Поглиблене розуміння юридичних термінів допомагає забезпечити правову грамотність населення, що в свою чергу сприяє доступу громадян до правових ресурсів, судів та інших інстанцій. Якщо терміни будуть занадто складними або невизначеними, це може обмежити можливість людей користуватися правами або захищати свої інтереси. Правозастосовні органи, такі як суди, правоохоронні органи, адвокати, мусять правильно тлумачити юридичні терміни, щоб забезпечити належне застосування норм права. Будь-яке невірне розуміння термінів може призвести до неправильних правових рішень. На основі аналізу наукових праць та поглядів вчених робимо висновок, що значення законодавчого закріплення юридичних термінів полягає у: 1) досягненні точності юридичних документів; 2) єдності у тлумаченні юридичних термінів; 3) досягненні правової визначеності.

Ключові слова: юридичний документ, юридичний термін, правова визначеність, юридична точність, тлумачення юридичних термінів, правове регулювання, якість законодавства.