



WHEN THERE IS A NEED TO CODIFY LEGISLATION? (ON THE EXAMPLE OF UZBEKISTAN AND KYRGYZSTAN)

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Received:	6 th January 2024	<p>Due to the complication and rapid development of social relations, the array of legal acts aimed at regulating new complex social relations in the context of digitalization is correspondingly increasing. This, in turn, can lead to certain difficulties in the enforcement process. Therefore, it is very important that law enforcement entities, if necessary, quickly and accurately apply the relevant rules. Consequently, the issue of effective systematization of legislation is becoming particularly relevant at the present stage. This article will examine the issues of the codification process in Uzbekistan and Kyrgyzstan from the point of view of comparative law.</p> <p>One of the important forms of systematization of legislation is codification. At the same time, in legal science there is no holistic doctrine of codification, including when and on what grounds the need for codification arises. Several proposals and conclusions have been formulated aimed at improving the codification process and its scientific research as a whole.</p>
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INTRODUCTION.

The modern world, in conditions of total digitalization, is characterized by the rapid development of interactions between subjects of social activity. Modern states and rights are also subject to this trend. Today, not a single state and not a single legal system can function successfully without proper interaction with other similar entities. This fully applies to the development of legal science.

In this regard Alekseev's statement is particularly relevant that, "the national limitation of legal knowledge within a given country, its isolation on purely national positivist material, despite all its importance for every lawyer, is ultimately destructive for jurisprudence as a true science" sounds particularly relevant [1]. Thus, today the interaction of the legal systems of different states is a completely natural process. From all this it follows that the legal science of a certain state, in order to develop organically, must interact with other legal sciences, which became the impetus for writing this joint article, which attempts to analyze the dynamic processes of development of the codification of legislation in Uzbekistan and Kyrgyzstan.

2. MATERIALS AND METHODS

The article uses general scientific methods of understanding the surrounding world, such as analysis and synthesis, logical, systemic and historical methods, as well as private legal methods, such as comparative legal, formal legal, etc.

3. RESULTS AND DISCUSSION

Currently, due to the complication and development of public relations, the array of regulatory legal acts that are aimed at regulating new complex social relations in the context of digitalization is increasing accordingly. This, in turn, creates an urgent need to systematize legislation.

In this regard, we need to define the concept of "systematization of legislation". The importance of systematization is that it is necessary for the further development of legislation, helping to eliminate gaps, irrelevance and contradictions in it.

Komarov understands the systematization of legislation as an urgent need to bring it into a coherent system, eliminate contradictions by making changes and additions. [2]. According to Chukhvicev, systematization of legislation can be defined as a set of measures aimed at bringing normative legal acts into a certain structural order [3].



In our opinion, the authors slightly narrow the tasks of systematizing legislation. More interesting are the statements of Romashov, who writes that the systematization of legislation is the purposeful activity of competent subjects to streamline normative legal acts in order to make them easier to use in practice, eliminate possible contradictions, inaccuracies, gaps and thus, improve the legislative system in general. Thus, this author sees the tasks of systematizing legislation, both in streamlining regulatory legal acts and in eliminating possible shortcomings [4].

The general opinion is that systematization of legislation leads to its improvement. According to Morozova, systematization of legislation is bringing it into a single system, streamlining it, which allows, firstly, to quickly find the desired act, track its changes, additions or repeals; secondly, to identify gaps, collisions and other inconsistencies in the regulatory material; thirdly, improve the current legislative system [5].

As rightly noted by Pigolkin and Golovistikova, systematization of legislation is a constant form of development and streamlining of the current legal system [6].

According to Gruzdev, systematization of legislation is the purposeful streamlining and improvement of existing regulatory legal acts by processing, regrouping and presenting them in an integral system in the form of collections or consolidated acts [7].

Thus, from the above definitions, "systematization of legislation" leads to its streamlining, bringing it into a single system and inventory of legislation, while identifying gaps and conflicts in it and thereby contributing to the improvement of legislation.

One of the important forms of systematization of legislation is codification. It should be noted that in the legal literature there is no consensus on codification itself, as the highest form of systematization of legislation, nor about its characteristics, its goals, etc. [8].

As noted in the scientific literature, codification, as a type of systematization of legislation, has several characteristics:

- a codification act is the most important among acts operating in a certain area of public life, it contains general principles that determine the nature and content of all norms of the relevant branch or institution of law;

- such an act regulates a significant and fairly broad sphere of relations (property, labor, marriage and family relations, the fight against crime, etc.);

- a codification act is a single, internally connected document, which includes both existing norms that have been put to the test in life and social practice, as well

as new rules determined by the dynamics of social life and the pressing needs of society;

- codification ensures the creation of more sustainable, stable norms designed for a long period of their validity;
- codification strengthens the systematic nature of normative acts, their legal unity and consistency. A codification act usually heads a system of interrelated normative acts that form a certain branch or a separate institution of legislation;

- an act of codification always has a significant volume and a complex structure (parts, sections, chapters and other divisions). This is a kind of enlarged block of legislation that ensures a clearer construction of the system of regulatory requirements, as well as ease of use. [9].

It should be noted that codification as a form of systematization of legislation affects not only the content of legislation, but also its form.

According to Khabrieva, codification of legislation is necessary to ensure the normal functioning of the mechanism of legal regulation, but it should not be a goal, but a means of building a holistic, coordinated system of legal acts [10].

Both the main form of codification of legislation and the form of a large consolidated act - the Code, so to speak, "enjoy success" with the legislator. According to Tikhomirov, Code has the following features that distinguish it from other legal acts:

- a) a code is a law that occupies a high place in the hierarchy of acts;

- b) the code is a consolidated normative legal act that, on the basis of uniform principles, regulates a particular area of public relations;

- c) the code regulates an important and fairly extensive area of public relations;

- d) the code introduces significant novelty into the content and methods of legal regulation of homogeneous social relations;

- e) the code ensures completeness of regulation and is a large consolidated act characterized by internal unity, integrity and consistency of regulatory requirements;

- f) the code contributes to the streamlining and consolidation of legislation [11].

As Bergel noted, "In its broadest sense, a code is a collection of laws, a code, or set of legal provisions relating to a specific issue. More specifically, it is "a collection of laws or regulations, collected into a single body, containing a more or less complete system of rules on one of several legal issues. It is a product of the "spirit of method" applied to legislation." [12].

When it comes to codification and codes, it is necessary to pay attention to the types of codes. Since, if the Civil, Criminal codes are quite traditionally common in the



legal systems of the Romano-German legal family, including the CIS, sectoral, then the electoral, town planning and budget codes have a different focus.

Thus, as can be seen from the content of the above statements, all authors, in one form or another, state the content of systematization of legislation as a factor, a tool for streamlining, improving existing legislation, eliminating gaps, conflicts and inconsistencies.

4. Analysis of the results of the study

Currently, the legal system of modern Uzbekistan and Kyrgyzstan is developing dynamically, due to the rapid development of social relations and digitalization. Accordingly, as noted above, a lot of regulations are being adopted aimed at regulating these relations, and the need for their codification is increasing.

It should be noted that in these countries there is a multiplicity of legal acts dedicated to rule-making, including the systematization of legislation [13].

In Uzbekistan and Kyrgyzstan, as in countries whose legal system in its parameters belongs to the Romano-Germanic legal family, codification processes are more developed.

When comparing the codification process in both republics, you first need to pay attention to the presence of codes that regulate similar social relations, such as Civil, Civil Procedural, Criminal, Criminal Procedural, Criminal Executive, Administrative Responsibility, Administrative Procedural [14], Family, Labor, Housing, Customs, Tax [15], Land, Air, Budget and Election [16]. As can be seen from the above list, these are typical industry codes specific to the CIS countries.

It should be noted that in the legal system of Kyrgyzstan at one time there were or are several more codes, in addition to those listed above, such as the Code of Misconduct [17], Code of Offenses [18], Code of Non-Tax Revenues, Code of Forests, Water Code, Code of Children. The relations that form the basis of these codes in Kyrgyzstan are regulated by relevant codes and laws in Uzbekistan.

Of certain scientific interest is the question of the prospects for the codification process in both republics. In this regard, it should be noted that in Uzbekistan, projects of the Entrepreneurial, Environmental, Information Code, Code on Non-Governmental and Non-Profit Organizations, and Health Care Code are currently at the stage of development or discussion.

In Kyrgyzstan, the process of developing a Digital Code has been going on for several years; it is possible that it will soon be adopted by the legislative body of the Kyrgyz Republic; the first Investment Code is also being developed [19]. An attempt was made (2019) to develop a draft Code on Local Self-Government in Kyrgyzstan [20], while relations in local self-government are regulated by the relevant law.

5. Conclusions

Thus, based on the above, the following conclusions can be formulated:

- in legal science, the issues of systematization of legislation and its types such as incorporation, consolidation and codification have not been sufficiently researched, there are insufficient theoretical developments on these issues, and in this regard it is necessary to strengthen and expand research on codification, consolidation and incorporation, as a result of which it will be possible to formulate theory of systematization of legislation, including codification.

- currently, several draft codes are being developed in both countries, but public relations do not stand still; a significant number of regulations are adopted in each area, which leads to difficulties in their application, creating repetitions, inaccuracies, etc. One of these areas is the rule-making process, which is regulated by many regulations of various levels and legal force. In this regard, it would be advisable to plan the development of a draft code on rule-making (or Rule-making Code), which would combine and systematize the main regulatory legal acts in this area and would serve to improve the relevant legislation.

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