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ABOUT THE CONTENTS AND SIGNIFICANCE OF OFFICIAL INTERPRETATION OF LEGAL ACTS: SYSTEMATIC ASPECT

Annotation

This article examines the question about official interpretation of legal acts. The positions that concern the object of interpretation are represented. The author's approach to the analysis and estimation of the contents of official interpretation and also reasonability of normative law regulation of official interpretation sub-institution are stated.

Key words and expressions: *legal act, interpretation of legal acts, official interpretation of legal acts, act of official interpretation, systematic method of interpretation.*

The question about interpretation of legal acts is traditionally topical for both jurisprudence and legal practice. This is due to the fact that the elucidation and clarification of the meaning of legal regulations are significant for all the components of legal system; it is absolutely necessary from the position of quantitative lawmaking activity, from the position of proper enforcement and from the position of legal consciousness formation. The importance of the institution of interpreting is essentially by the solving of the question about structure and system of law. The reason is that system, stable and concerted legal action can not exist without taking into account the interpretive regulations;

out of establishment of proper, adequate sense of legal regulations. The problem of interpretation of legal statutes is brought up to date by the disputable of the question about the necessity of legal reflection of data of official interpretation sub-institute. Because of these reasons we decided to pay attention to the analysis of disputable aspects of the official interpretation of legal acts, to formulate our own judgments.

The interpretation of legal acts is an intellectual and volitional process that occurs in interpreter's mind and is aimed at the establishing of exact (adequate) meaning of the interpreted regulation. There are two positions, which are marked out for expressing of such

statement as «accurately interpreted regulation's meaning» [1]. Representatives of the first point of view regard the exact meaning as literal. So, it comes to such interpretation, by which the results correspond with the text of the interpreted regulation (regardless of the internal logic, the sense substantial load of it). Representatives of the second point of view suppose that the exact meaning must reflect the adequacy, and not just the literal meaning of the interpreted regulation. Accordingly, the second approach allowed (in the context of the system method of interpretation) some deviations from the formal (textual) display of the legal norm. In this case an adequate sense can be not only literally but also narrowly or broadly (extendedly) display the textual volume of the legal establishment. We tend to interpret the exact meaning in this particular variation, because it is focused not only on formal, but also on substantive manifestations of law.

According to the level of officiality, the interpretation of legal acts is divided dichotomous - formal and informal. In contrast to the latter, the official interpretation is issued from authorized subjects, is legally binding and is always displayed not only in the form of understanding, but also through the explanation. As a general rule, the documents, which contain the data about the official interpretation, are called generally interpretive acts. Just note that not always the whole act (and not even all its main part) is devoted only to the interpretive issues. Therefore, sometimes we believe that it is more correct to speak about the documents, which contain the interpretive regulations. But in any case, the marked acts always: a) contain the legal consolidation of interpretive inference; 2) are executed in accordance with the rules of

legislative or law enforcement techniques; 3) are passed in the procedural, regulatory or procedural particular order; 4) are binding, 5) are capable to produce legal consequences. In this documentary the expression of total interpretive process must have a certain shape, accuracy of which also contributes the perception of unambiguous of semantic load document [2].

The contents of interpretation are determined by the purpose of this process, the necessity to establish the exact (adequate) meaning of interpreted regulation. These contents are represented in appropriate explanation. It should be mentioned that the object of interpretation can be the text of legal prescription or legal will of its «creator» [3]. According to the author's opinion of the work, in all cases the preference should be given to the text, except those which by their semantic content lead to the illogical, in fact - legal result.

If there is the last variant, you should pay attention to the system method of interpretation, because it allows to identify the ideological orientation of the regulation right. As G.Kelsen said: «the study of hierarchical structure of the law system has great importance for the problem of interpretation. Interpretation is an intellectual activity, inherent in law-making process, which moves from the highest level of hierarchical structure to the lowest. In the standard case, by the interpretation of statutes, it is necessary to answer the question: how, applying the general norm (law) to the specific material fact, we can come to the relevant individual norms (judicial decision or administrative act). Also, there is the interpretation of the Constitution by its application, for example, in the legislative process, or by the issuing of emergency orders

or other acts that follow directly from the basic law - that is, when it is applicable to the lowest level of the hierarchy. We can talk about the interpretation of individual norms, judicial decisions, administrative directives, private bargains, etc. In short, the norms are the subjects of interpretation as long as they are applied alias until the creation and application of law is moving from one level of hierarchy to another» [4, p. 127-135].

As for the validity of the document of official interpretation, it is given the competence of the subject from which this act is issued [5]. Thus, formal interpretive documents may be subordinated in relation to each other. In the case of subordinated conflict, that act will operate, which comes from the highest-ranking subject of interpretation.

With regard to the very same meaning of the official interpretation of legal acts, in our view there are several aspects (sections). The most important are: 1) legal; 2) information; 3) political; 4) general social; and 5) historical.

1. Legal (special) importance, as the author of this work convinced, is prevalent. Without going into details, we should note that this hypothesis is confirmed by the fact that the notion «interpretation of the legal act» belongs to the legal notions [6].

The importance of official interpretation of legal acts in this aspect is characterized by the fact that it: 1) is the result of analytical processing of content and textual mistakes of law material; 2) contains the legal meaning of the legal act; 3) has authorized and commanding character; 4) is legally significant. The official interpretation of the legal acts is the result of such behavior of the interpreter, which is directed at the overcoming

of content and textual (stated, legal and technical) mistakes of legal acts. Thus, in addition to their main function, the sub-institution of the official interpretation can also be a kind of battery of the data about proper quality of the legal material. This has an essential importance from the position of experience got during the process of further law-making activity [7].

The clarification of the legal meaning of legal regulation is significant for two basic reasons: 1) without the adequate establishing of the contents, the correct and consistent implementation of regulations is impossible; 2) the contents show the position of regulation (and (or) group of regulations) as a system element (and (or) system elements) of total array of legal material. It helps to overcome the legal gaps and legal conflicts (both normative and enforcement).

The formality of interpretative regulations supposes: 1) obligatoriness for all corresponding addressees and 2) reflection of the will of commissioner(s) concerning the contents of legal regulations in the interpretative regulations. This formality allows the public authorities to target other subjects of law to the proper, optimal and socially-useful variant of legal norms' perception.

The feature of legal significance of the official legal acts' interpretation means the ability of interpretive document(s) to cause the legal consequences (normative or individual character). This visualizes the ability of interpretative regulations to operate, to provide genuine regulatory influence on the behavior of the subjects of legal life.

It is noteworthy that some explanatory regulations, revealing quite special legal

significance of the legal regulation, may be contained directly in the text of the legal act(s) [8, Art. 48]. Such regulations are called norms-definitions. An interesting question is about their belonging to the number of interpretative regulations. On the one hand, such norms are legal norms, they have primary, formally and source legal meaning. On the other hand, they include interpretations. Therefore, such norms can be accepted as «direct» author's normative interpretation.

2. Information sense of the official interpretation of legal acts lies in: 1) it is a means of public notification about the importance of special legal rules of behavior; 2) it reflects the official, public position of power, regarding the legal influence of law as a regulator of public relations, and 3) it informs the subjects of legal life about the proper variant of the realization of legal regulations.

3. Having the commanding character, the official interpretation can not be implemented without regard to the political factors, accompanying the passing and legal action (including future) of regulations. In this aspect the historical-political interpretive method finds its clear manifestation.

4. General social significance of the official interpretation of legal acts lies in the fact that through the contained explanations: 1) the «dialogue» between the public and political authorities and society is realized (concerning contents, meaning of legal-important rules of conduct); 2) the realizable significance of legal regulations, level of its quality and social relevance and viability are revealed. Thus, the act of the official interpretation displays, on the one hand, professional legal consciousness of

the interpreter and, on the other hand, the legal mentality of the addressees of the corresponding legal rules of conduct. In addition, the official interpretation promotes the identifying the legal regulations, which are unclear, inaccurate and (or) incomplete from the position of the recipients. Even with the predominance of empirical (ordinary) perception, such data are important. In future they facilitate the process of creating of socially adapted and legally and technically accessible legal rules of conduct.

5. The historical significance of the official interpretation of legal acts shows that by the interpretation of legal regulation: 1) the public commanding legal mentality is showed and 2) the ideas about law that exist in the certain legal environment are detected. Subsequently, this allows to estimate the level of legal culture, professional legal thinking and legal consciousness in the society. Such data can be also the empirical basis for subsequent legal developments.

Naturally, all the aspects of the significance of the official interpretation are not isolated from each other. They represent different aspects of the whole interpretive process (including the result). This means that the selection of aspects and sections has mainly classification, but in fact an ontological, significance. All the «sides» of the official (and unofficial) interpretation are realized in the real action of law.

Thus, concerning the need for normative legal regulation of the official interpretive activity we should note the following. Any interpretation of the legal act is the intellectual and volitional processes occurring in the mind of the interpreter. Therefore, its «formalized official» text display will be artificial (and therefore will not lead

to any significant positive effect). However, the results of the process often have formal, writing form. They are obligatory, and in some cases they are normative. Therefore, the full normative legal vacuum in this direction does not seem appropriate. Furthermore, history doesn't know the quality level of legal array, where the

legal regulations do not need clarification(s). From these positions, the displaying of some requirements in the legislative material for interpretative results seems appropriate, since by the appropriate embodiment such formalization will help to prevent (or at least to reduce) the negative mishaps of law realizable legal environment.

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