INTERNATIONAL STANDARD OF LAW INTERPRETATION

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Abstract: *The relevance of the present study is conditioned upon the importance of interpretation of law acts for the comprehensive and due protection of human rights and freedoms, protection from poor-quality law that issues such regulations, as well as research and development of common standards of law interpretation activities. The main objectives of this study are to define the concept and essence of law interpretation; to consider the features, attributes, and principles of interpretation; to determine the ways and types of interpretation; to investigate the international practices of interpretation; to study the practice of the European Court of Human Rights; to consider and study the standards of law interpretation. To investigate this subject, the study employed such methods as dialectical, historical, system, functional, comparative, logical, and the law cognising method. The author also investigated the international practices in the interpretation of law acts and proposed to introduce them into Ukrainian legislation. This study describes the essence of the interpretation process, methods and types of interpretation, determines the role of the court in the interpretation process, explores the international practices of law interpretation and the role of the European Court of Justice in the interpretation and direct protection of human rights, and identifies the problem of introducing uniform standards of law interpretation. The provisions consolidated in this paper are of practical value primarily for citizens of the state, persons who are directly engaged in activities relating to the law interpretation, for persons on whom extends the effect of a directly interpreted act, for practitioners and for persons whose powers include the direct application of law acts.*

Keywords: law norm, law interpretation, law provision, interpretation object, interpretation subject.

The matter of problems with interpretation of law norms has always been one of the key tasks in the theory of law. All legislative acts, and the law system in general, are the result of the painstaking work of both legislators, practical lawyers, researchers, and judges, who play a key role in law interpretation activities. The application of law is necessarily associated with the interpretation of law norms, since without a proper and understandable law interpretation for society, high-quality and effective law enforcement is impossible; therefore, it is also impossible to deliver justice and protect and guarantee fundamental human rights and freedoms[1]. Ukrainian law is described by a dynamic nature of development, raising the question of interpretation of law acts underlying the transformation of Ukrainian legislation. This is conditioned upon both the historical development of the law system of Ukraine and political instability. It is an effective interpretation of law norms that will lead to the sustainable functioning of the law system of Ukraine.

[1] A. Badyda, V. Lemak, "Interpretation of law: definition problems of the concept, composition, practical need", in *Public Law,* 2019, vol. 4, no. 36, p. 133-141; A.V. Kostruba, "The rule of law and its impact on socio-economic, environmental, gender and cultural issues", in *Space and Culture, India*, 2019, vol. 7, no. 2, p. 1-2; I.V. Horislavska, D.O. Marits, O.Yu. Piddubnyi, D.M. Shatkovska, Y.M. Shatkovskiy, "Tort liability of medical workers in the patient safety system in Ukraine and the world", in *International Journal of Criminology and Sociology*, 2020, vol. 9, p. 1567-1572.

The implementation and introduction of international approaches to law interpretation into Ukrainian legislation is one of the conditions for Ukraine's integration into the European Union[2]. Ukraine's European integration demands the former's development as a law and democratic state, which is inextricably linked with respect for the rule of law[3]. In turn, the main reason for the violation of this principle is an imperfect interpretation of law norms and the resulting ineffective implementation and application of law. It is during law enforcement activities that problems arise with the interpretation of law norms, since during the implementation of law acts, the subjects of application of said law norms face such problems as the conflict of law norms and, accordingly, legislative gaps[4]. To effectively combat this phenomenon, it is necessary to improve law interpretation activities in Ukraine — most importantly, for the correct understanding and application of law norms by members of society[5].

The prescriptions of law provisions in respect of which activities relating to the law interpretation are performed should be interpreted considering the need to protect human rights and freedoms[6]. The law exists not for itself, but to meet the needs of the population, to protect the rights of individuals from unlawful acts. According to V. K. Antoshkina[7], the legislator, considering the needs of practice, should create the most concise statutory text, which necessitates clarifying, "decoding" this text in court.

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[2] O. Gavryliuk, L. Katerynchuk, "Human-centric discretion of the judiciary", in *Judicial system, Entrepreneurship, Economy and Law*, 2020, vol. 6, p. 248-256; N.V. Trusova, T.A. Cherniavska, Y.Y. Kyrylov, V.H. Hranovska, S.V. Skrypnyk, L.V. Borovik, "Ensuring security the movement of foreign direct investment: Ukraine and the EU economic relations", in *Periodicals of Engineering and Natural Sciences*, 2021, vol. 9, no. 3, p. 901-920.

[3] V. Kopcha, "Modern rule of law and basic approaches to understanding", in *Law Journal of the National Academy of Internal Affairs*, 2021, vol. 11, no. 2, p. 7-12.

[4] S. Z. Opotyak, "The role of interpretation of law norms in improving the legislation of Ukraine", in *Scientific Bulletin of Lviv State University of Internal Affairs*, 2011, vol. 1, no. 1, p. 46-52; A. Abikenov, S.K. Idrysheva, A.Z. Zharbolova, N. Apakhayev, Y.A. Buribayev, Z.A. Khamzina, "The problems of effectiveness and implementation of the international legal norms of the states of the Eurasian economic union (EAEU)", in *Bulletin of the Georgian National Academy of Sciences*, 2019, vol. 13, no. 1, p. 175-181.

[5] Y. Orlov, "Thermodynamic processes in the social system as a factor of legal liberalization", in *Scientific Journal of the National Academy of Internal Affairs*, 2021, vol. 118, no. 1, p. 50-57; A.V. Kostruba, "The place and role of right depriving legal facts in the legal regulation mechanism of civil property relations", in *Utopia y Praxis Latinoamericana*, 2018, vol. 23, no. 82, p. 171-183.

[6] O. Gavryliuk, L. Katerynchuk, "Human-centric discretion of the judiciary", in *Judicial system, Entrepreneurship, Economy and Law*, 2020, vol. 6, p. 248-256.

[7] V. K. Antoshkina, "Methods of interpretation in civil law and their role in law enforcement practice", in *Journal of Kyiv University of Law*, 2015, vol. 3, p. 110-114; V. K. Antoshkina, "Interpretation features in the system of private law", in *Law Position*, 2020, vol. 3, no. 28, p. 7-12.

The American researcher Schauer develops the theory of presumptive positivism, according to which law-making of both the law and judicial practice, wherein jurisprudence actually develops, contains the same nature[8]. The nature of interpretation is conditioned upon the fact that it is performed by a certain subject who is a carrier of various personal qualities, including mental abilities, different levels of individual law and moral consciousness, the extent of individual experience, and personal interests[9]. The purpose of introducing a single standard of law interpretation is primarily the need to make provision for such a law act, that is, a person who does not directly perform law interpretation activities, but whose rights may be violated, could correctly interpret the law act and independently protect their rights from violation. Thus, according to Part 1, Article 57 of the Constitution of Ukraine, everyone is guaranteed the right to know their rights and obligations[10].

To study the content of law provisions, subjects directly engaged in law enforcement activities and researchers use two types of operations to clarify the essence of a law act: law hermeneutics and law interpretation. Law hermeneutics is the identification of the law phenomenon using the rules of law interpretation, while the law interpretation is a direct clarification of the will of the legislator, which is contained in a law act, as well as an explanation of the content of a law norm[11].

The purpose of the present study is to investigate the concept and essence of law interpretation, as well as to examine common standards for activities relating to the law interpretation.

Materials and methods

The research methods of this study include the dialectical method, which applies to all processes of cognitive activity. The use of this method leads to theoretical and practical information about activities relating to the implementation of law interpretation and the development of common standards for interpretation. In addition, this method enables the study of the phenomena of interpretation in their interrelation; they are in constant development, and there is a transition from quantitative changes to fundamental qualitative transformations. A manifestation of the dialectical method of research is the requirement of a comprehensive study of the subject under study.

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[8] A. Karapetov, *The struggle for recognition of judicial lawmaking in European and American law*, Statut, Moscow, 2011.

[9] E. Evgrafova, "Doctrinal interpretation of law (laws): the nature and implementation", in *Bulletin of the Academy of Law Sciences of Ukraine*, 2010, vol. 2, p. 40-51.

[10] Constitution of Ukraine, 1996. Available at https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text

[11] A. Scalia, B. A. Garner, *Reading Law: The Interpretation of Law Texts*, West, Eagan, 2015.

One of the central places among the research methods of this study is occupied by the system method. This method of regulation should be understood as a set of all techniques, the use of which, in turn, reveals the content of the law act subject to law interpretation. In addition, when using the above method, one can establish the correlation between two interpreted acts with similar content. This method enables the determination of the scope of the law act subject to law interpretation, as well as the circle of persons falling within the scope of such act.

The functional method of studying the interpretation of law acts involves determining all the functions used in the implementation of activities relating to the law interpretation. Using this method, the subject who carries out law interpretation considers the conditions under which the act that is being interpreted is to be implemented.

The comparative method is used to establish the common and different between the methods of law interpretation, and allows studying the use of official and unofficial interpretation. The use of a comparative research method becomes effective only when the acts to be interpreted are similar to each other. The advantage of this method over all others is that it allows comparing acts subject to interpretation in different countries and identifying the advantages and disadvantages of such interpretation in different countries, thereby facilitating the adoption of the international practices of law interpretation in the national law system.

The historical method of research is primarily aimed at studying the development of the law interpretation in time. It is used to study the dynamics of the development of activities relating to the law interpretation.

The target method is the greatest guarantee of a complete and correct interpretation of the provisions of a law act. Interpretation of a law act without using this research method may lead to a violation of the meaning and content of the application of the interpreted norm in practice. The above method allows establishing the task and purpose of the law act being interpreted.

A logical method of research, the purpose of which is to use dialectical and formal logic to clarify the content of an interpreted act by correlating the logical connections of such an act. This method of interpreting law allows establishing the content of a law act using the laws of logic and logical techniques.

The law recognition method is aimed at finding out the effectiveness of applying the interpreted norm. The article of the law is not given provided in isolation, but in a certain correlation with other articles, thereby receiving the proper meaning and content.

Results and discussion

The main task of interpreting law is to determine the content and purpose of a regulation that was intended by the legislator. Interpretation helps apply the law equally throughout the territory of Ukraine. The law interpretation as a law phenomenon is defined differently by lawyers and researchers. A. Karapetov [12] noted that the main purpose of the law interpretation should be to determine and consolidate a single correct version and standard of interpretation of law acts, and not to highlight all possible meanings of a legislative act. A. Pigolkin, in turn, understood the law interpretation as an activity including two concepts, emphasising the need to understand the intellectual activity of the subject of interpretation as the primary basis for the implementation of law interpretation. Intellectual activity relating to the law interpretation is an activity that occurs in the mind of a person applying a legislative act, as well as explaining the content of such a law norm, which is expressed in the form of a law act issued by authorised state bodies, and in the form of advice and recommendations issued by public organisations[13]. Thus, the law interpretation is an intellectual activity aimed at establishing the true content of law norms and acts to implement and improve them.

In accordance with paragraphs 46–48 of the Opinion of the Consultative Council of European Judges (CCEJ) No. 11(2008)[14] on the quality of court decisions, most cases of research of law acts entail interpretation of the corresponding law acts. While recognising the power of a judge to interpret the law, one should also keep in mind the duty of a judge to promote law certainty, since it is law certainty that guarantees the predictability of law norms in their application, thereby contributing to the provision of a high-quality judicial system. With this goal in mind, judges will apply the principles of interpretation adopted in both national and international law. In common law countries, their reference point will be any appropriate precedent. In the countries of continental law, their reference point will be judicial practice, especially the

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[12] A. Karapetov, *The struggle for recognition of judicial lawmaking in European and American law*, Statut, Moscow, 2011.

[13] O. Bilous, "Interpretation of law: concept and essence", in *National Law Journal: Theory and Practice*, 2020, p. 46-53; O. Bilous, "The concepts and the essence of interpretation of law", in *Baltic Journal of Economic Studies*, 2021, vol. 7, no. 1, p. 139-144; O. V. Bilous, "Analysis of doctrinal approaches to determination of principles of interpretation of law norms", in *Actual Problems of Domestic Jurisprudence,* 2020, vol. 2, p. 3-8; A. Bidaishiyeva, K.K. Nadirova, S. Kuldinova, N. Apakhayev, Z.A. Khamzina, Y.A. Buribayev, "Improving quality of legal regulation for social rights of family and child within new social course in the Republic of Kazakhstan", in *Journal of Legal, Ethical and Regulatory Issues*, 2018, vol. 21, no. 1, p. 1-10.

[14] The conclusion of the CJEU No. 11 on the quality of court decisions, 2008. Available at https://court.gov.ua/userfiles/visn_11_2008.pdf

practice of the highest courts, whose task is to ensure a unified judicial practice[15].

In addition, according to Paragraph 1 of the of the CCEJ Opinion No. 20(2017) [16] on the role of courts in ensuring the unity of the application of the law, the same understanding and application of the law is conditioned upon the binding force of the law, law certainty, and equality of all transfers by law. On the other hand, the need to ensure the unity of application of the law should neither lead to the inflexibility of such a law and to unjustified restrictions in the appropriate development of legislation, nor call into question the principle of judicial independence[17]. The judge, during the administration of justice, that is, upon making a decision on a case, is primarily guided by the principles of law and personal beliefs and vision[18]. The above suggests that judges, upon performing the powers assigned to them by law, carry out a certain interpretation of law norms[19]. Therewith, there is a threat of reducing the authority of a judge, since manipulation of concepts can lead, in turn, to arbitrariness on the part of judges, and not to the protection of human rights and freedoms[20].

Principles act as the basis of any activity, as they are key principles and ideas that act as guidelines in the development of law. There is no exception to activities relating to the interpretation of law norms, which are carried out based on certain guidelines (principles). American lawyers A. Scalia, B.A. Garner[21] in their study "Reading Law: Interpretation of Law Texts" distinguish several principles of law interpretation as follows:

1. The principle of text preference. The text of an official document and what it transmits is of paramount importance.

2. The principle of interpretation. This principle means that each application of an official text entails its interpretation.

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[15] *Ibidem.*

[16] The conclusion of the CJEU No. 20 on the role of courts in ensuring the uniform application of the law, 2017. Available at http://www.vru.gov.ua/content/file/%D0%92%D0%B8%D1%81%D0%BD%D0%BE%D0%B2%D0%BE%D0%BA_%D0%9A%D0%A0%D0%84%D0%A1_20.pdf

[17] A. Butsmak, "International legal guarantees for the realization of human and citizen rights", in *Law. Human. Environment*, 2021, vol. 12, no. 4, p. 62-71.

[18] V.O. Pankratova, "General principles of law as a source of European Union law", in *Legal Horizons*, 2021, vol. 14, no. 2, p. 111-117.

[19] N.V. Hlushchenko, "Modern issues of administrative law", in *Legal Horizons*, 2021, vol. 14, no. 2, p. 124-129.

[20] O.M. Omelchuk, S.D. Hrynko, A.M. Ivanovska, A.L. Misinkevych, V.V. Antoniuk, "Protection of human rights in the context of the development of the rule of law principle: The international aspect", in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 1, p. 32-42.

[21] A. Scalia, B. A. Garner, *Reading Law: The Interpretation of Law Texts*, West, Eagan, 2015.

3. The principle of presumption of validity. According to this principle, the interpretation that confirms the validity of the norm exceeds the interpretation of the norm that denies it.

4. The principle against inefficiency. When applying this principle of interpretation, the main place is given to textually acceptable interpretation, which contributes to the purpose of implementing the law interpretation[22].

Based on the developments of the above-mentioned researchers, S. V. Shevchuk B. identified several "special principles or canons of interpretation":

1. The principle of limited interpretation of law provisions. This principle determines that if there is any doubt regarding the meaning of a law norm, then this law norm should be interpreted in favour of the person subject to it.

2. The principle of *noscitur a sociis* ("it is known by its associates"). This principle determines that if a word has several meanings, then in a regulation it will be indicated in context.

3. The *pari materia* principle. Law acts governing relations that are similar or close in content should be interpreted in concert, in a certain interrelation.

4. The principle of complexity. According to this principle, the law should be interpreted as a single concerted act, which in turn means that certain provisions specified in the legislative act cannot be interpreted separately.

5. The principle *expressio unius, exclusio alterius*. This principle of law interpretation defines the following provision, if a certain list of law provisions is prescribed in the law act in respect of which the interpretation is performed (for example, a list of offences or a list of punishments), then such a list of provisions is not subject to expanded interpretation[23].

Thus, proceeding from the above, it can be argued that the principles of interpretation are fundamental principles and guiding ideas that play an organisational and value influence on the interpretation of law norms, which in turn leads to the correct coverage of their content[24]. There are two types of law interpretation: official and unofficial. Official interpretation is an explanation of the content of a rule of law, which is carried out by authorised bodies and is

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[22] *Ibidem.*

[23] Zh. M. Melnik-Tomenko, *Application of the case law of the European Court of Human Rights in the interpretation of general principles of administrative proceedings*, University of Customs and Finance, Dnipro, 2020.

[24] V. Bondarenko, N. Pustova, "Legal influence in the system of social influence", in *Social and Legal Studios*, 2021, no. 2, p. 12-18; E. Kharytonov, O. Kharytonova, A. Kostruba, M. Tkalych, Y. Tolmachevska, "To the peculiarities of legal and non-legal regulation of social relations in the field of sport [A las peculiaridades de la regulación legal y no legal de las relaciones sociales en el ámbito del deporte]", in *Retos*, 2021, vol. 41, p. 131-137.

contained in a special act that is mandatory for all who use it[25]. This type of interpretation is generally binding and is carried out exclusively by the Constitutional Court of Ukraine. Informal interpretation (doctrinal) is an explanation of the content of a rule of law, which is carried out by unauthorised subjects, respectively, does not contain a mandatory nature and cannot cause law consequences. The subjects of this interpretation may be researchers, law scholars, practitioners, public organisations, and citizens. Such interpretation is performed in written or oral form. The importance of informal interpretation lies in the fact that it is provided by authoritative subjects.

At present, the main subject of law interpretation in Ukraine is the Supreme Court and the Constitutional Court of Ukraine. This provision is consolidated in the Constitution of Ukraine, the Law of Ukraine "On the Constitutional Court", the Law of Ukraine "On the Judicial System and Status of Judges" and in procedural laws in accordance with the type of law proceedings[26]. Granting the Constitutional Court of Ukraine, the authority to interpret the Constitution of Ukraine is one of the crucial decisions on the way to transforming and improving the law system of Ukraine. In addition, the assignment of powers to interpret the Constitution to the Constitutional Court freed the Ukrainian law system from the remnants of the Soviet system, where the main feature of the law interpretation was considered to be the presence of bodies that were specifically designed for the so-called authentic interpretation and, based on this, issued directives, the mandatory operation of which extended to all state bodies[27].

Based on the operation of the Constitutional Court of Germany, it is possible to study the foreign practices of the law interpretation by the Constitutional Court. The Federal Constitutional Court of Germany, which became the first constitutional judicial body in Europe after the World War II, was established with the purpose to interpret the Fundamental Law of Germany in case of disputes on the powers of the main federal bodies. It resolves issues relating to the study of the powers of legislative and executive authorities, that is, it makes decisions in the sphere of performance of powers by these bodies in accordance with the Fundamental Law of Germany. The above-mentioned Court also considers cases relating to the compliance of laws adopted by the parliament or a body of any land with the provisions of the

[25] S.I. Maksymov, N.I. Satokhina, "Rule of law and state of exception: The genesis of the problem", in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 2, p. 47-54.

[26] Law of Ukraine No. 2136-VIII "On the Constitutional Court of Ukraine", July 2017. Available at https://zakon.rada.gov.ua/laws/show/2136-19#Text.

[27] O.Yu. Piddubnyi, L.D. Rudenko, L.V. Hbur, V.V. Nezhevelo, V.P. Oleksiuk, "Legislative support for expanding the land powers of local self-government bodies in Ukraine", in *International Journal of Agricultural Extension*, 2021, vol. 9, no. Special Issue, p. 55-63.

Constitution. The main importance during the adoption of the Constitution of Ukraine was assigned to the constitutional model of Germany[28].

The main problem of the institution of law interpretation, as well as the emergence of problems with the creation of uniform standards of law interpretation, is primarily the inadequate level of implementation of decisions made by the Constitutional Court of Ukraine. There are several reasons for improper execution of decisions of the Constitutional Court: 1) lack of proper responsibility for non-execution of decisions of the Constitutional Court; 2) the procedure for enforcement of decisions is insufficiently regulated; 3) a high level of law nihilism among the population. Eric Poser (USA) has published a book, very pessimistically titled Twilight of Human Rights. In this book, he noted that "human rights become ineffective when too many rights begin to exist". This phenomenon can be explained by the fact that when there are too many rights in a country, the state justifies its inability to respect one right, arguing that such a right has justified its political or financial resources, thereby trying to ensure other rights[29].

The activities of the European Court of Human Rights (ECHR) play a key role in the law interpretation. Many states of the European continent, when deciding a case and making a law decision on this case, refer to the practice of the European Court of Human Rights to protect human rights as effectively as possible. The decision taken in the case of the European Court of Human Rights is binding in the respondent state and is the source of rights in these states, which gradually develops the role of judicial precedent in countries belonging to the Romano-Germanic law system. Every year, the number of applicants who apply to the ECHR for protection of their rights increases.

The European Court of Rights is based on the European Convention for the protection of human rights and fundamental freedoms of 1950[30]. The main purpose of the Convention is to regulate and protect fundamental human rights. The convention also governs the powers of the states that have ratified it to guarantee individuals their rights and freedoms and the obligation not to violate the rights that are consolidated in it[31]. The court's primary task is to deal with complaints raised in respect of a violation of the Convention, as well as to

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[28] Yu. V. Chistyakova, "Interpretation of law norms by the Constitutional Court of Ukraine in the context of the experience of other law systems", in *Law Scientific Electronic Journal*, 2017, vol. 5, p. 26-29.

[29] A. Yudkovskaya, *Twilight of Human Rights and the European Court*, 2016. Available at https://ccl.org.ua/ru/position/sumerky-prav-cheloveka-y-evropejskyj-sud/; N.M. Onishchenko, T.I. Tarakhonych, O.L. Bohinich, (2021). "The state as a party to private law relations", in *Global Journal of Comparative Law*, vol. 10, no. 1-2, p. 47-60.

[30] Convention for the Protection of Human Rights and Fundamental Freedoms, 1950. Available at http://zakon2.rada.gov.ua/laws/show/995_004/.

[31] E. Rainer, A. Goel, "Self-inflicted instability: Myanmar and the interlinkage between human rights, democracy and global security", in *Democracy and Security*, 2020, vol. 16, no. 4, p. 334-350.

interpret the Convention. Interpretation of the Convention is included in the list of main tasks of the court because the norms that are consolidated in the Convention need to be constantly improved for the effective protection of human rights, as well as for the legitimate resolution of a particular case. When making a decision on a case, the court must perform an official interpretation of the Convention[32].

Decisions of the court are acts of interpretation, since they contribute to the same understanding of the Convention among all Member States to the Convention. The rules of the convention should be interpreted and applied in each Member State to the Convention in the same way as they are applied by the court. The features of decisions of the European Court of Human Rights as acts of interpretation can be distinguished as follows: binding; having direct effect; directly addressed to the participants in the consideration of the case, as well as to persons and a state body that will use them in the future upon considering the case; constitute acts of an authoritative judicial body. The principles guiding the European Court of Human Rights in the implementation of law interpretation can be distinguished as follows:

1) the principle of ensuring a certain margin of national discretion;
2) the principle of proportionality and ensuring the balance of interests;
3) the principle of autonomous interpretation;
4) the principle of effective and dynamic interpretation;
5) the principle of compliance with the precedent.

The European Court of Human Rights uses the following methods to effectively perform law interpretation activities:

System method. The essence of this method is that the content of one norm should correspond to other norms that are consolidated in the Convention. As an act of interpretation, the essence of the Convention is that it is a single whole, where all its parts complement each other. When using this method of interpretation, the court must consider the principles and norms of international law, as well as the norms of the national legislation of the Member States; the connection between the Convention itself and its protocols; the decisions of the European Court of Human Rights and the practice of the European Commission on Human Rights, which previously handled complaints filed by private individuals[33].

Grammatical interpretation. Interpretation of any law act should begin with an analysis of the text. Grammatical interpretation is one of the types of interpretative practice aimed at establishing the content of the text of a

[32] O. Gavryliuk, "Problematic issues of application of the case law of the European Court of Human Rights by national courts", in *International Law. Entrepreneurship, Economy and Law,* 2018, vol. 4, p. 231-238.

[33] A.B. Omarova, B.A. Taitorina, A.T. Yermekov, B. Doszhanov, Y.A. Buribayev, Z.A. Khamzina, "Application of international rules ensuring social rights of families and children in Kazakhstan", in *Journal of Advanced Research in Law and Economics*, 2017, vol. 8, no. 1, p. 153-163.

normative act, using language tools and text connections. Any interpretation of a law act begins with a grammatical interpretation. It is well-known that the official languages of the Convention are English and French. The two languages have an equal law force, and the texts of the Convention set out in these languages are authentic, but in the practice of applying the Convention, there are issues of inconsistency and divergence in the use of these two options upon dispute resolution.

Thus, in one of the cases that considered by the Court, Angel and others V. The Netherlands, the applicant demanded in his complaint that the Court check whether it was necessary and legitimate for public authorities to interfere with the right to freedom of speech to protect law and order in accordance with Article 10 § 2 of the Convention. He confirmed his claims by saying that Article 10 of the Convention makes provision for the possibility of restricting freedom of speech to protect law and order only if such restriction is aimed at preventing crimes[34]. However, in the French version of the Convention, these concepts are connected by the copulative conjunction "et" ("and"), and in the English version they are connected by the disjunctive conjunction "or". In its decision, the court did not agree with the applicant's statements, and accordingly preferred the English version of the Convention, arguing that Article 10 of the Convention, which is set out in the English version, gives a more accurate reference point and thereby more effectively regulates this issue[35].

Historical interpretation. This type of law interpretation is expressed through clarification of the law norms of the Convention through the lens of the establishment of relationships and circumstances that have developed between persons over a long period of time. When implementing this type of interpretation, it is necessary to consider the purpose for which the Convention was adopted, since failure to consider the circumstances facilitating the adoption of the Convention renders the full clarification and interpretation of the text impossible[36]. It is essential that upon using this method of interpretation, the Court refers not only to the Convention, but also

[34] N. Vysotska, "Historical and Legal analysis of criminal law counteraction domestic violence in Ukraine", in *Law Journal of the National Academy of Internal Affairs*, 2021, vol. 11, no. 1, p. 24-31; A.V. Serebrennikova, T.F. Minyaseva, N.S. Kala, A.A. Malinovsky, V.M. Malinovskaya, S.V. Grynchak, "Comparative analysis of foundations of legal regulation of criminal liability for organ trafficking in the Russian Federation, Kazakhstan, and the European Union", in *Journal of Advanced Research in Law and Economics*, 2020, vol. 11, no. 4, p. 1405-1415; D.V. Lukianov, V.M. Steshenko, H.P. Ponomarova, "Freedom of expression and Islam: Charlie Hebdo's lessons", in *Journal of the National Academy of Legal Sciences of Ukraine*, 2021, vol. 28, no. 1, p. 61-70.

[35] Judgment of the European Court of Human rights, Engel and Others v. the Netherlands, 1976. Available at www.echr.coe.int.

[36] O. Bilous, "Interpretation of law: concept and essence", in *National Law Journal: Theory and Practice*, 2020, p. 46-53.

to the that preceded its adoption. These documents include preparatory documents, works of document developers, notes, explanatory notes, draft acts, reports, and minutes of meetings. In some cases, involving the implementation of interpretation, the Court refers to the materials used to prepare for the adoption of the Convention "Travaux preparatoires" ("preparatory documents"). According to Article 32 of the Vienna Convention on the Law of Treaties, such preparatory documents act as an additional means of interpretation.

Evolutionary interpretation. This method of interpretation is used to establish the content of the provisions of the Convention, considering the circumstances and conditions existing upon interpreting a law act. In the vast majority of cases, the court uses this method of interpretation in case of interpretation of value concepts[37]. The evolutionary way of interpretation plays an important role in the activities of the European Court of Human Rights, since the use of this way of interpretation contributes to the expansion of human rights and freedoms, as well as obliges the Member States to protect and restore human rights as effectively as possible[38].

Target method of interpretation. This method of interpretation should be understood as a list of all available techniques and means, enabling the establishment of the content of the provisions of the Convention, as well as its purpose and tasks. The main objective of targeted interpretation is the recognition of individual human rights and compliance by the Member States of the Council of Europe with the provisions of the Convention. This method of interpretation provides a more complete and effective protection of fundamental human rights and freedoms. The expression of this statement can be seen through the application of Article 8 of the Convention, which regulates and protects respect for personal and family life, as well as respect for the housing (office) of not only an individual, but also a law entity (office premises of companies, agencies, etc.)[39].

For an effective study of international approaches to law interpretation, it is important to investigate the specific features of the law interpretation in various law systems. In the countries belonging to the Romano-Germanic law

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[37] V. Kachur, "Legal values as determinants of sustainable development of society", in *Law. Human. Environment*, 2021, vol. 12, no. 3, p. 15-23.

[38] A. Voitsikhovskyi, O. Bakumov, O. Ustymenko, T. Syroid, "The right of access to the internet as fundamental human right given the development of global information society", in *Revista De Direito, Estado e Telecomunicacoes*, 2021, vol. 13, no. 1, p. 1-19; A.V. Kostruba, "Legal regulatory mechanism of social relations for ensuring dynamics in civil relationship", in *Journal of Advanced Research in Law and Economics*, 2018, vol. 9, no. 5, p. 1689-1695.

[39] Convention for the Protection of Human Rights and Fundamental Freedoms, 1950. Available at http://zakon2.rada.gov.ua/laws/show/995_004/; Y. Buribayev, Z. Khamzina, D. Belkhozhayeva, G. Meirbekova, G. Kadirkulova, L. Bogatyreva, "Human dignity – The basis of human rights to social protection", in *Wisdom,* 2020, vol. 16, no. 3, p. 143-155.

family, the law system was developed based on the reception of Roman law and is widespread mainly in the countries of continental Europe. In Germany, the law interpretation is recognised as both law theory and practice. The interpretation of law norms is defined as one of the main elements of law enforcement due to the fact that law norms themselves are abstract and need to be concretised for their effective application [40]. The result of the interpretation is the text of an official document, which, after appropriate activities, becomes understandable to the public. The term "interpretation" is used to refer to the process of interpretation and its results. There are two types of interpretation: judicial interpretation and law interpretation. The application of law norms in Germany depends on the process of implementing interpretative activities. In addition, an essential role in the law interpretation is played by judges who are free to express their opinions, but cannot interfere in the activities of the legislative branch and, accordingly, in the adoption of laws. The interpretation of law norms here is carried out considering the principle of prohibiting interference in the activities of the court and forcing the judge to apply a law contradicting the legislation of the country[41].

In France, the law interpretation is subjective, since the law norms created in the process of interpretation reflect not the objective meaning of a law act, but the subjective one. That is, they always contain the will of the subject performing the law interpretation and choosing one of the possible meanings of applying a law norm. A judge in France has authority over the law interpretation, since they have the right to interpret the rule of law that they use in the course of their activities. The object of interpretation here is not the law norm itself, but its text, which may contain different meanings. French law contains a theory per which a law without its application does not have an objective meaning, and all law acts are abstract and gain meaning only after the implementation of law explanatory activities. The corresponding theory contains both positive and negative sides. The positive side is manifested in the fact that this theory connects law with law relations and makes the development of law more dynamic, while the negative side is in the fact that it gives preference not to legislation, but to the person of law enforcement, the subject interpreting the law[42].

In countries belonging to the Anglo-American law system, the main source of law is judicial precedent. The specific features of the interpretation of

[40] A.V. Kostruba, "Law enforcement as a form of realization of right: Phenomenological analysis experience (Civilized aspect)", in *Revista de Derecho Civil*, 2018, vol. 5, no. 1, p. 177-190; A.P. Getman, V.V. Karasiuk, "A crowdsourcing approach to building a legal ontology from text", in *Artificial Intelligence and Law*, 2014, vol. 22, no. 3, p. 313-335.

[41] Yu. V. Nedilko, "Features of the interpretation of law in Germany: the interaction of theory and practice", in *Eurasian Law Journal*, 2015, vol. 10, no. 89, p. 189-201.

[42] L. Cadiet, "Introduction to French Civil Justice System and Civil Procedural Law", in *Ritsumeikan Law Review*, 2011, vol. 28, p. 331-392.

English law are that the dominant source of law here is judicial precedent, i.e., it is the highest in governing relations from, for example, charters or customs. Here, the law interpretation takes place through precedents, laws of interpretation, linguistic maxims, rules of presumption, and other auxiliary approaches and means. A person interpreting the law is obliged to analyse the norm in a creative way, to apply this norm to particular law relations[43]. In the theory of English law, there are two processes of interpretation of law norms: the interpretation process and the process of law interpretation in a narrow sense. The former involves exclusively intellectual activity aimed at covering the content of a law act, and the latter should be understood as direct activity to explain incomprehensible provisions of a law act. In the English law system, the law interpretation is understood as an activity to create new provisions, and not only as an activity to explain law norms, in connection with which a new understanding of law acts is created[44].

In the United States of America, there are two concepts of law interpretation: constructive and mechanistic. The constructive concept of interpretation assumes that the text of a law act acts as a starting point for further logical constructions. The mechanistic concept of interpretation proceeds from the fact that the resources necessary to interpret the provisions of a law act are contained in the law act itself, but if it contains certain shortcomings, the only way to overcome such shortcomings will be to amend the legislative process. The U.S. Constitution does not arrange that the Supreme Court can interpret it, but within the framework of judicial oversight that it has exercised since 1803, the interpretation of the norms of the Constitution is a necessary prerequisite for determining whether a law act complies with the provisions of the Constitution of the United States of America. The United States have several methods of interpreting the Constitution, which include the method of direct or literal interpretation, which is directed and linguistic research of the text of a law act; the "free" method of interpreting law acts, which allows a judge to express his or her opinion; the historical method that determines the true intentions of the legislator upon the adoption of a law act and sets the conditions for the adoption of such an act[45].

U.S. Supreme Court Justice S. Breyer[46] identified six elements to be used in justice to interpret a law act, which can be distinguish as follows: 1) the text;

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[43] G. O. Samilo, "Features of the interpretation of law in different law systems", in *Scientific Bulletin of Uzhgorod National University, Law Series*, 2016, vol. 39, no.1, p. 15-17; A. Getman, V. Karasiuk, Y. Hetman, "Ontologies as a set to describe legal information", in *CEUR Workshop Proceedings*, 2020, vol. 2604, p. 347-357.

[44] S. Breyer, *Active liberty: Interpreting Our Democratic Constitution,* Vintage, New York, 2006.

[45] G. O. Samilo, "Features of the interpretation of law in different law systems", in *Scientific Bulletin of Uzhgorod National* University*, Law Series*, 2016, vol. 39, no. 1, p. 15-17.

[46] S. Breyer, *Active liberty: Interpreting Our Democratic Constitution,* Vintage, New York, 2006.

2) the history of this text; 3) traditions (the way this text was used earlier); 4) the purpose of the provision; 5) precedent; 6) the consequences of interpretation. The use of the above-mentioned tools for implementing the law interpretation is conditioned upon the need to strengthen the role of the US population as the main source of power. Breuer, in carrying out his activities, called on judges to exercise their powers in favour of the population, and not to give preference to the will of the legislator. He considered this approach to correspond to "ancient" freedom, and not to modern realities.

The above suggests that judges play a crucial role in the process of interpreting law. Judges can express their personal opinion concerning the norm of a law act, which may be fortified in the future during the consideration of a case. At present, there is no single international standard for the law interpretation. This problem was clearly expressed in the decision of the European Court of Human Rights "Zelenchuk and Tsitsyura v. Ukraine"[47]. Such precedents signal the national judicial authorities to independently assess the quality of the law for violations of human rights ensured by the Convention.

The violations that were identified during the consideration of this case are not limited to land legislation only. Debatable is the possibility of applying a similar approach by courts, for example, to cases in the field of bankruptcy – whether the court has the right to proceed to the procedure of liquidation of state-owned enterprises in connection with the long, current legislative restriction on the sale of property of state-owned enterprises (by analogy with the conclusions in the ECHR decision "Zelenchuk and Tsitsyura v. Ukraine" [48]). The above suggests that the limits of interpretation of law acts by national judicial authorities and the limits of interpretation by the European Court of Human Rights differ. Uncertainty of the limits of interpretation gives rise to uncertainty of the limits of discretionary powers of public authorities in carrying out activities relating to the application of law.

Conclusions

Thus, the law interpretation is the activity of authorised entities, which is aimed at establishing and explaining the content of a law norm. The main task of interpreting law is to determine the content and purpose of a regulation that was intended by the legislator. Interpretation helps apply the law equally throughout the territory of Ukraine. The purpose of introducing a single standard of law interpretation is primarily the need to make provision for such

[47] Judgment of the European Court of Human Rights in Zelenchuk and Tsitsyura v. Ukraine (applications No. 846/16 and No. 1075/16), 2018. Available at https://zakon.rada.gov.ua/laws/show/974_c79#Text
[48] *Ibidem.*

a law act, that is, a person who does not directly perform law interpretation activities, but whose rights may be violated, could correctly interpret the law act and independently protect their rights from violation.

The study investigated the principles based on which the law interpretation should be carried out, including the principle of superiority of the text, the principle of interpretation, the principle against inefficiency, and the principle of presumption of force. The role of the Constitutional Court in the law interpretation was also established, namely that it acts as the main body whose powers include the law interpretations and the Constitution of Ukraine and this provision is legislatively consolidated. The study defined the role of the European Court of Human Rights in the activities of interpretation, which directly entails the protection of human rights and fundamental freedoms. The author analysed the international practices in interpretation of law acts, namely, the experience, methods, and subjects of law interpretation were demonstrated on the examples of two law systems. The study identified problems of not having a single international standard for the law interpretation today. It was also established that the uncertainty of the limits of interpretation creates uncertainty of the limits of the discretionary powers of state bodies in law enforcement.

The law interpretation requires further standardisation and improvement by issuing an opinion of the Advisory Council of European judges to the Council of Europe entitled "International Standard of Law Interpretation" and its subsequent introduction into the national legislation of each of the Council of Europe States. The standard for carrying out activities relating to the application of law include 1) the text; 2) the history of this text; 3) traditions (as this text was used earlier); 4) the purpose of the provision precedent (established judicial practice); 5) precedent (established judicial practice); 6) the consequences of interpretation.

The relevance of the study on this subject is necessary primarily for the use of the results obtained in interdisciplinary research, which in turn will increase the standards of justice administration and thereby increase the level of protection of human rights and freedoms and lead to greater predictability of the application of law among the population.