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ANALYSIS OF INTERNATIONAL EXPERIENCE ON CODIFICATION OF LEGISLATION (USA experience)

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Annotation:

In this article, some theoretical and practical problems of legal systematization, types of codification, based on the experience of countries with advanced experience in this regard, in particular, the USA, are analyzed in detail. Also, opinions are expressed about the types of codification that are increasingly needed in the legal system of our country in the conditions of today's digitization.

Keywords: legislative system, codification, consolidation, general legal codification, sectoral codification

In the United States, the issue of legal systematization was raised at the beginning of the 19th century. In 1814, the US Congress passed a law to publish a complete chronological collection of laws. In essence, this law will be the first step in the field of systematization of legislation. However, it cannot be said that all problems in the field of systematization have been solved. Over a period of almost a hundred years, the main focus was on the creation of a collection of laws, and several versions of such collections were prepared in the early years of the 20th century. The passage of the US Bill of Rights by Congress in 1926 put an end to this work.

Although the purpose of the development of the set of laws is to eliminate the gaps in the legislation, in the Law that officially approved it, if conflicts arise between this set of laws and the laws adopted before that, the set of laws shall apply. a rule is established. Based on this, it can be said that the US Code is a kind of "code".

In 1947, codification of incorporated sections of the Code of Laws began. This means that the text expressed in the section is irrefutable proof that the law included in it applies.

The Law on creating a set of laws establishes the rule that it is a systematic set of laws. However, despite this, the "executive orders" of the President and normative legal documents of the government were included in the collection of laws. In



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addition, it is worth noting that separate sets of government regulations are published both at the federal level and at the state level.

The US Code consists of 50 sections: the first six sections are listed in logical sequence, and the rest are listed alphabetically. The first section is "General Provisions" and contains laws regarding the adoption, publication and interpretation of the Code of Laws.

Officially, the task of maintaining and updating the Code of Laws is entrusted to the Standing Committee on Legal Affairs of the House of Representatives (lower house) of the Parliament, which regularly consists of a subcommittee of 8-10 congressmen. creates a myth. In practice, these works are performed by the apparatus of the committee, as well as by a private publishing company. The Code of Laws shall be published no more than once every five years.

American law now has its own system, unlike its "predecessor" - English law. The US legal system is close to continental law in its complex nature. One such feature is the practice of systematizing law, which forms the traditional basis of the Romano-Germanic legal family.

In the American scientific literature, usually the forms of legal systematization are not expressed in the form known to legal theory (accounting, incorporation, consolidation, codification). Researchers of American legislation usually divide the systematization of existing regulatory legal documents into three types:

- a) combine them in chronological order;
- b) combine them in a systematic way;
- v) consolidation¹.

The first two correspond to the form of systematization that we call incorporation, that is, the existing legal norms are unchanged, they are combined based on a certain order. Consolidation means that old laws are "dissolved" and new laws are created as a result of legislative approval. However, this division is very conditional.

In US legal literature, the term "codification" (codification) is mostly used, meaning "the systematization of state or federal laws generally on the subject of legal regulation." In the process of codification, existing laws (often judicial precedents) regulating this or that branch of social relations are combined. The

¹ Боботов С. В. Кодификация и систематизация законодательства в США // США: Экономика, политика, идеология. 1973. № 10. С. 120.

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document resulting from codification (code - "code") completely changes all regulatory legal documents related to this field, despite the presence of some exceptions. If the legislator, in the process of creating a "code", deals only with processing the norms established by laws or court decisions, and does not introduce a completely new norm into it, then this process is not codification, but a consolidation process as understood in jurisprudence. In addition, the term "code" is any systematization can be interpreted not only as a "code", but also as a "set of laws".

The main purpose of creating the Code is to make legal documents in a concise and easy-to-use form. Admittedly, half of the Code sections enacted by Congress to date (e.g., Sections 1, 3–6, 9–11) have been enacted as statute law and are in fact subject to regulation. are consolidated (consolidated) documents. They can be cited as irrefutable evidence of the existence of legal norms. Other sections state the applicable law only as prima facie (because it cannot be proved otherwise) evidence. In the future, all sections of the code should be adopted as consolidated laws².

Today, the official and unofficial collections listed above are carried out electronically. The full text of all US public and private law passed after 1994 is available at:

<http://www.gpoaccess.gov/plaws/index.html>;

The Codes of America are published at the following sites:

<http://www4.law.cornell.edu/uscode/>;

<http://www.findlaw.com/casecode/uscodes/>.

Converting to electronic form provides several conveniences, including updating these documents faster than in paper form, besides, it is much easier to search the document according to various elements (date of acceptance, subject).

State laws, as a rule, are systematized in a form similar to federal collections (session laws, codes). Each state has its own Code of Laws, and Codes of Laws and their interpretive publications follow federal principles.³

The wide spread of sectoral codification (essentially consolidation) in American law dates back to the 19th century. New York attorney David D. Field works on entire codes, the most valuable of which is the 1848 New York Code of

² How Our Laws Are Made / Revised and Updated by Ch.W. Johnson. Washington, 2003. P. 53–56.

³ Cohen M. L., Olson K. C. Op. cit. P. 157–164.



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Civil Procedure. In this Code, D.Field brings the norms of common law and equity law into a single system in essence and thereby achieves a much simpler procedure for conducting court proceedings.⁴

Today, in the USA, both state and federal legislation are adopting completely sectoral codes (civil, criminal, procedural, etc.). For example, in the state of California today there are 29 sectoral codes: , tax, insurance, financial, family, civil, labor, education, water, civil-procedural, etc.

In the United States, codification is a more common form of legal systematization than in other countries of the Anglo-Saxon legal family.

In conclusion, it can be said that modern American law, in contrast to English law, rises to higher levels of systematization, and although this systematization is carried out in special forms, that is, through the consolidation of statutes and precedent law norms, in a sense it is closer to continental law.

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⁴ Friedman L. M. *A History of American Law*. N. Y., 1985. P. 391–393.

