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INCORPORATION AS THE MAIN WAY OF SYSTEMATIZATION OF LABOR LEGISLATION: GENERAL CHARACTERISTICS

Наталія Обушенко. ІНКОРПОРАЦІЯ ЯК ОСНОВНИЙ СПОСІБ СИСТЕМАТИЗАЦІЇ ЗАКОНОДАВСТВА ПРО ПРАЦЮ: ЗАГАЛЬНА ХАРАКТЕРИСТИКА. Стаття розкриває основний спосіб систематизації інкорпорацію. Інкорпорація може здійснюватися на постійній основі для підтримки трудового законодавства в належному стані, тоді як проводити кодифікацію систематично і постійно немає сенсу, тому що для здійснення такої діяльності відносини у трудовій галузі мають бути більш-менш усталеними, тобто кодифікація здійснюється періодично для безпосереднього оновлення законодавства. Предметом впливу інкорпорації є нормативно-правові акти у сфері праці, на відміну від цього кодифікацію спрямовано на юридичні норми, приписи та правові інститути. Зовнішня форма результату інкорпорації трудового законодавства втілюється у збірниках або зводах законів, а кодифікації – зазвичай у кодексах, основах тощо, як правило, інкорпорація здійснюється для забезпечення зацікавлених осіб текстами нормативно-правових актів, що були піддані інкорпорації, тобто певної категорії осіб, а кодифікація охоплює всіх осіб, що вступають у трудові правовідносини, і в результаті у ній зацікавлені всі. Інкорпорація є окремим способом систематизації трудового законодавства, використання якого має важливе значення для його подальшої кодифікації.

В статті висвітлено, що інкорпорація чинного законодавства виражається в повному або частковому об'єднанні в алфавітному, хронологічному, системно-предметному порядку нормативно-правових актів певного рівня в різні збірники, з метою забезпечення зацікавлених осіб текстами відповідних нормативних актів зі всіма їх офіційними змінами та доповненнями. Інкорпорація є такою формою обробки нормативного матеріалу, метою якої є тільки його зовнішнє впорядкування (виправлення друкарських, граматичних і синтаксичних помилок, виключення нормативно-правових актів або частин, що були формально скасовані; опущення преамбул, підписів посадових осіб тощо).

Результатом інкорпорації є розміщення правового матеріалу в різних збірниках у певному порядку. Особливість інкорпорації, полягає в тому, що будь-які зміни у змісті актів, поміщених у збірники, зазвичай не вносяться, і зміст правового регулювання по суті лишається незмінним. Саме ця властивість інкорпорації – збереження незмінним змісту нормативного регулювання – відрізняє її від кодифікації і консолідації. Форма викладу змісту нормативних актів інколи зазнає певних досить суттєвих змін, оскільки інкорпорація не являє собою простого відтворення актів у їх первинній редакції. Зазвичай у збірниках чинних нормативних актів тексти останніх друкуються з урахуванням подальших офіційних змін і доповнень. Крім того, у процесі інкорпорації з тексту актів, поміщених у збірник, вилучаються глави, статті (пункти), окремі абзаци й інші частини, визнані такими, що втратили чинність. У збірник вносяться всі такі зміни і доповнення з фіксуванням офіційних реквізитів тих актів, якими внесено відповідні корективи.

Ключові слова: *систематизація трудового законодавства, інкорпорація, нормативно-правові акти, трудові норми, шляхом зовнішнього опрацювання та об'єднання нормативного матеріалу, вступають у трудові правовідносини, вдосконалення чинного законодавства, інкорпорація може бути офіційною, офіціозною та неофіційною, зовнішня систематизація законодавства, зібрання законодавства.*

Relevance of the study. Today, in the scientific literature and at the legislative level, the need to systematize labor legislation is increasingly emphasized. At the same time, it is important to choose a way to carry out such activities. In our opinion, the main methods of systematization

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are incorporation and codification. At the same time, these two methods are closely related to each other, because usually it is incorporation that precedes codification.

Recent publications review. Some issues of formation and development labor law were at one time the subject of scientific research by such prominent scientists as M. Aleksandrov, V. Andriyev, N. Bolotina, L. Bugrov, S. Vavzhenchuk, V. Venediktov, S. Venediktov, S. Vyshnovetska, L. Ginzburg, Yu. Gryshina, D. Zhuravlyov, T. Zanfirova, M. Inshin, Y. Ivchuk, R. Kondratiev, M. Klemparskyi, R. Livshyts, M. Lushnikova, S. Lukash, A. Matsyuk, N. Melnychuk, K. Melnyk. Tolkunova, K. Urzhynskyi, N. Khutoryan, G. Chanysheva, S. Chernous, V. Shcherbina, O. Yaroshenko and others [1-5]. At the same time, despite the significant contribution of scientists to the development of the science of labor law, under modern conditions, a unified conceptual approach to defining the essence and features of the labor law system has not been formed.

The article's objective is to find out the essence and features of incorporation as a way of systematizing labor legislation.

Discussion. Modern legal views make it possible to separate the essential differences between incorporation and codification: 1) the most essential difference is that incorporation does not change the content of labor legislation, while codification is aimed at changing both the form and the content of regulatory legal acts, i.e. the latter has a law-making essence; 2) incorporation can be carried out on a permanent basis to maintain labor legislation in proper condition, while it makes no sense to carry out codification systematically and constantly, because for the implementation of such activities, relations in the labor field must be more or less established, that is, codification is carried out periodically for direct updating legislation; 3) the subject of the influence of incorporation is normative legal acts in the field of labor, in contrast to this, codification is aimed at legal norms, prescriptions and legal institutes; 4) the external form of the result of the incorporation of labor legislation is embodied in collections or sets of laws, and codification is usually in codes, foundations, etc.; 5) as a rule, incorporation is carried out to provide interested persons with the texts of normative legal acts that were subject to incorporation, i.e. a certain category of persons, and codification covers all persons entering into labor relations, and as a result, everyone is interested in it; 6) codification, in contrast to incorporation, is aimed at the current labor legislation, and incorporation can be carried out, for example, with regard to normative legal acts in the field of labor from the XIX to XX centuries; 7) during codification, "outdated" or those that are outdated and have no practical significance labor regulations may be canceled, but not during the incorporation process; 8) types of incorporation and codification of labor legislation differ, incorporation can be official, unofficial and unofficial, alphabetical, chronological and system-subject are also distinguished, and codification can be general, inter-branch, branch and institutional. So, from the above, we really see that incorporation is a separate way of systematizing labor legislation, the use of which is important for its further codification.

Incorporation (lat. incorporation) should be understood as "incorporation", "joining", its purpose is to improve the current legislation by systematically processing the form without changing the content of legal norms. In the legal literature, incorporation is understood as a form of systematization of legislation carried out by competent state bodies, their officials and other subjects through external processing and combining normative material into collections in a certain order without changing their content, the main purpose of which is to ensure convenience search and availability of regulatory material. Incorporation of current legislation is expressed in full or partial unification in alphabetical, chronological, system-subject order of normative legal acts of a certain level in various collections, with the aim of providing interested persons with the texts of relevant normative acts with all their official changes and additions.

Incorporation is a form of processing of regulatory material, the purpose of which is only its external arrangement (correction of typographical, grammatical and syntactic errors, exclusion of normative legal acts or parts that have been formally canceled; omission of preambles, signatures of officials, etc.). The result of incorporation is the placement of legal material in different collections in a certain order. Incorporation is understood as the adoption by the state of the norms of national law (or the change or cancellation of already existing ones), which contribute to the fulfillment of the prescriptions of international law. Norms of national law may textually repeat some rules of international law, specify and adapt them to the features of the social order and legal system of the state, since in this case new norms of national law adopted for the purpose of implementing international law are introduced (incorporated) into

national law, then this method could be called an incorporation.

Incorporation is a method of processing current legal norms by combining legal acts in a certain collection in accordance with the chosen criterion (chronological, alphabetical or thematic) without changing their internal content. This is an external systematization of legislation, which does not introduce any new provisions into it and does not set itself the goal of revising legal norms. At the same time, the texts of normative acts may be slightly adjusted, but in such a way that this does not affect their normative content (for example, correction of typographical, grammatical or syntactical errors, exclusion of articles and clauses that have lost their validity, etc.). Since the content of the regulatory regulation does not change in the case of incorporation, it can be both official and unofficial.

Incorporation is a form of systematization, when normative acts of a certain level are fully or partially combined into different collections or collections in a certain order (chronological, alphabetical, system-subject). Incorporation is a permanent activity of state and other bodies with the aim of maintaining legislation in a valid (control) state, ensuring its availability, providing the widest range of subjects with reliable information about laws and other regulatory acts in their current version [1-5].

The peculiarity of incorporation is that any changes in the content of the acts placed in the collections are usually not made, and the content of the legal regulation essentially remains unchanged. It is this feature of incorporation – keeping the content of regulatory regulation unchanged – that distinguishes it from codification and consolidation. The form of presentation of the content of regulatory acts sometimes undergoes certain rather significant changes, since incorporation is not a simple reproduction of acts in their original version. Usually, in the collections of current normative acts, the texts of the latter are printed taking into account further official changes and additions. In addition, in the process of incorporation, chapters, articles (clauses), separate paragraphs and other parts, recognized as having lost their validity, are removed from the text of the acts placed in the collection. All such changes and additions are entered into the collection with the recording of the official details of those acts, by which the corresponding corrections were made.

Incorporation can be considered as an independent form of systematization of legislation, which is carried out by competent state bodies, their officials and other subjects through external processing and combining normative material into collections in a certain order without changing their content, the purpose of which is to ensure ease of search and accessibility regulatory material. Incorporation is limited to material processing only. Only changes of an external, editorial or technical nature are allowed: correction of topographical errors, exclusion of legal acts or their parts, later formally canceled by the lawmaker, omission of signatures under normative legal acts, etc. The systematization of regulatory legal acts in the form of incorporation is expressed in the preparation and publication of various collections of such acts. Incorporation is carried out in order to provide the widest range of subjects with the texts of laws and other regulatory legal acts.

At the same time, the incorporation of regulatory legal acts is directly related to their accounting, since it is based on a certain, maximally certain fund of relevant acts and a search system capable of ensuring the finding of all the necessary acts, because the first task of incorporation is the preparation of a list of acts, which should consist of the prepared collection. In the case of preparation of a collection of acts adopted by one or several law-making bodies, normative acts adopted by them for the entire period of their activity or for some specific period are subject to selection. Normative acts can be incorporated in the form in which they were adopted by a law-making body. This principle of placement of acts in the collection is used in the case when the act consists only of normative prescriptions and has not undergone changes or additions in the course of its operation, or in the case of preparation of historical sources of law. In the collections of current regulatory legal acts, their texts are usually published not in the version in which they were originally adopted by the law-making body, but with subsequent changes and additions taken into account.

Incorporation is a type of systematization of legislation, which involves the unification of normative legal acts without changing their content into collections in chronological, alphabetical, subject or other order. The purpose of incorporation is to maintain the legislation in its current state, which could ensure its availability, to provide all subjects of law with reliable information about regulatory legal acts in their current version. The result of incorporation is the external regulation of the current legislation [3, 4]. During such arrangement, all further official changes and additions are made to the text of the acts placed in the collection, with the recording

of the details of those acts, by which the corresponding corrections were made, as well as removing chapters, articles, individual items, paragraphs and other parts that are recognized as expired. The text of normative legal acts also excludes various operative orders, non-normative prescriptions and temporary norms, the validity period of which has expired, and information about the persons who signed the corresponding act.

Investigating the problem of systematization of social security legislation, we came to the conclusion that the incorporation of social security legislation can be defined as the activity of official and unofficial ordering of the current normative legal acts of Ukraine in the field of normative regulation of social security relations into certain collections of the legislative base according to one or more system-forming criteria in order to ensure proper conditions for doctrinal and practical work with the appropriate legal framework. The peculiarity of this form of systematization of legislation on social security is that: 1) it is carried out by both general (any physical and legal entities) and special subjects (state authorities of Ukraine); 2) as a result of incorporation, collections of social security legislation of Ukraine or its individual sub-sectors (institutes) are created; 3) is carried out according to a certain systematic criterion (alphabet, date of issue of the act, sub-branch or institution of social security law, etc.); 4) there are no clear rules for the incorporation of the legislation of Ukraine on social security; 5) it can relate to both the entire subject of social security relations and a part (pension legislation, legislation on social services, etc.).

In Ukraine, the most common results of incorporation are collections and compilations of laws. Compendiums are collected normative legal acts, united according to a thematic feature. The texts of such acts are given in an updated form – with changes and additions at the time of completion of preparation for printing. The first page or the source data must contain information about the date on which the texts of the documents are given. It is allowed to include in such collections not the full texts of acts, but only extracts from them, as well as official explanations of state authorities on the application of these acts – decisions of the Constitutional Court of Ukraine, recommendations of higher specialized courts, resolutions and generalized legal positions of the Supreme Court of Ukraine. Collections of legislation in Ukraine are most often published on a commercial basis. They belong to official sources in the case of their publication under the seal of the Ministry of Justice of Ukraine or state authorities, from the acts and explanations of which the collection is compiled.

Collections of legislation are collections of normative and legal acts of higher (central) state authorities organized chronologically. They are usually of an official nature. At the same time, the texts of legislative acts are not objects of copyright, therefore, publication of unofficial collections can be carried out on the initiative of the publishing house or another subject of the publishing business. For example, in Germany, the practice of publishing printed collections of laws with detachable parts is widespread, which makes it possible to update the texts of laws by replacing parts that have lost their validity with new ones, and the publishers of such collections undertake the obligation to timely supply new editions to subscribers for independent updating (updating) of texts. Thus, the publisher and the subscriber actually become partners in the activity of incorporation of legislation. Unfortunately, there is no established practice of such commercial publications in Ukraine.

When revealing the essence of incorporation, special attention should be paid to its types. So, in the legal literature, the most classic division of incorporation into the following types:

1) depending on the legal force of published collections and collections, the following are distinguished: a) official; b) official (semi-official); c) unofficial incorporation;

2) depending on the method of placing the material, incorporation is divided into the following types: a) chronological; b) substantive; c) subjective;

3) depending on the legal force of normative legal acts, which are systematized;

4) depending on the scope of the covered material, the following are distinguished: a) general (full) incorporation; b) partial incorporation.

The process of preparation for incorporation should include the following stages: 1) removal from the text of individual articles, clauses or paragraphs that have lost their validity, and, on the contrary, adding further changes and additions with an indication of the details of the act, by which the changes or additions were made; 2) exclusion from the act of those parts of it that do not contain normative prescriptions, with a note on the reasons for the absence of such parts in the text; 3) deletion of information about persons who signed the act. Such external processing of normative acts does not affect their normative content. The norms themselves do not undergo any changes and are incorporated in the form in which they operate at the time of

systematization [1, 3]. By its very nature, the act of official incorporation is a way of publishing and reissuing current legal acts, and therefore, an official source of legislation [2, 4, 5].

Conclusions. Thus, we can state that today incorporation is really an important way of systematizing labor legislation, because it allows to streamline numerous normative legal acts in the field of labor law, to give them a more structured and systematic look. With its help, you can systematize any amount of legislation. However, incorporation as a method of systematization does not make it possible to solve all urgent problems of labor legislation, since, unlike codification, it does not create new norms, but only streamlines existing ones. At the same time, it was noted that the positive side of incorporation is that it allows to further simplify and speed up the process of codification of labor legislation. It is important that the incorporation has a permanent character, because it allows to maintain the legislation in proper condition.

Conflict of Interest and other Ethics Statements
The author declares no conflict of interest.

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ABSTRACT

The article reveals the main way of systematizing incorporation. Incorporation can be carried out on a permanent basis to maintain labor legislation in a proper state, while it makes no sense to carry out codification systematically and constantly, because in order to carry out such an activity, relations in the labor industry must be more or less established, that is, codification is carried out periodically to directly update the legislation.

The subject of the influence of incorporation is normative legal acts in the sphere of labor, in contrast to this, codification is aimed at legal norms, prescriptions and legal institutions. The external form of the result of incorporation of labor legislation is embodied in collections or codes of laws, and codification is usually in codes, foundations, etc., as a rule, incorporation is carried out to provide interested persons with the texts of normative legal acts that have been subject to incorporation, i.e. a certain category of persons, and codification covers all persons entering into labor relations, and as a result, everyone is interested in it. Incorporation is a separate way of systematizing labor legislation, the use of which is important for its further codification.

The article highlights that the incorporation of current legislation is expressed in the full or partial unification in alphabetical, chronological, system-subject order of normative legal acts of a certain level in various collections, with the aim of providing interested persons with the texts of relevant normative acts with all their official changes and additions Incorporation is a form of processing of regulatory material,

the purpose of which is only its external arrangement (correction of typographical, grammatical and syntactic errors, exclusion of normative legal acts or parts that have been formally canceled; omission of preambles, signatures of officials, etc.). The result of incorporation is the placement of legal material in different collections in a certain order.

Keywords: *systematization of labor legislation, incorporation, regulatory legal acts, labor standards, through external processing and unification of normative material, enter into labor relations, improvement of current legislation, incorporation can be official, unofficial and unofficial, external systematization of legislation, collection of legislation.*

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DIGITAL (VIRTUAL) CURRENCY AS AN OBJECT OF CIVIL RIGHTS IN UKRAINE AND EUROPEAN COUNTRIES

Дмитро Лещенко. ЦИФРОВА (ВІРТУАЛЬНА) ВАЛЮТА ЯК ОБ'ЄКТ ЦИВІЛЬНИХ ПРАВ В УКРАЇНІ ТА КРАЇНАХ ЄВРОПИ. Досліджено правову природу цифрової валюти в цілому та її різновиду – криптовалюти (віртуальної валюти), яка не має чітко визначеної правової природи і визнається або платіжним засобом, або товаром у європейських країнах. Цифровою (електронною) валютою вважаються електронні гроші, які використовуються як альтернативна або додаткова валюта. Найчастіше їх вартість прив'язана до національних валют. Проаналізовані такі цифрові валюти як Estcoin, eKrona, е-гривня. Визначено, що віртуальна валюта, як особливий різновид цифрової валюти, не має статусу законного платіжного засобу в переважній більшості юрисдикцій країн Європи. Досліджено нормативні визначення цифрових валют в Україні та ЄС, а також проаналізовані юрисдикції, у яких віртуальним валютам надано офіційного статусу як платіжного засобу. Акцентована увага на перспективному законодавстві України, присвяченому віртуальним активам та віртуальній валюті. Сформульовано ознаки цифрової валюти як об'єкта цивільних прав та особливості її правового статусу.

Ключові слова: *цифрова (електронна) валюта, віртуальні активи і віртуальна валюта, криптовалюта, об'єкти цивільних прав, фіатна валюта, блокчейн, е-гривня.*

Relevance of the study. The concept of digital currency is worth subjecting it to a comprehensive study and not only within the framework of civil and economic relations and its individual types, but also as a legal phenomenon.

Recent publications review. At one time, such lawyers as O. Danylenko, T. Zamotaeva, E. Kohanovska, V. Lapach, R. Maidanyk, K. Nekit, V. Skrypnyk, I. Spasibo-Fateeva, V. Yarotskyi, L. Zelmanovitz and others wrote and conducted research on money as an object of civil rights. Despite the fact that a lot of time has passed since independence, there have been significant changes in almost the entire range of use of various objects of civil rights, however, there are only few works devoted to digital money in Ukraine.

The article's objective is to study the peculiarities of digital currency and to provide an answer to the question of whether the legal regime of civil rights objects can be extended to it.

Discussion. Considering the complexity of the concept of digital currency and its specifics, we will focus on its main characteristics and varieties, thus making an attempt to outline the range of issues that will require considerable effort to study.

Digitalization of social relations in the world does not bypass Ukraine, which is also in the process of digitalization of the economy. This process is associated with the active use of

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