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INTEGRAL LEGAL SYSTEM: CONCEPT AND FEATURES

First of all, it should be noted that the legal system is the whole set of interdependent and agreed special and general means and phenomena of legal effect on public relations conditioned by objective laws of the development of society, which are constantly reproduced and used by people and their organizations (including the state) as subjects of law for achieving private and public purposes, ensuring law and order [1, p. 295].

The notions «the concept of legal system» should not be confused with notion «legal system», since they are not identical. The legal system is a generalizing concept, which includes all the positive phenomena connected with the law. The system of law is the basic component of the legal system [2, p. 145-146].

The typology of legal systems creates a «legal map of the world», showing which legal types (families) belong to the legal systems of the peoples of the world.

Globalization leads to the need to understand the problems of legal convergence. Of particular interest here is the common law of the European Union, which is a new phenomenon that does not refer to either international or domestic law. Apparently, this legal system can be designated as a system of integrative law.

A distinctive characteristic of the EU as an international organization is the existence of a clearly expressed and highly developed law-making function in the Union, which is largely connected with the concept of an international supranational organization forming its own legal order, along with the rule of law of the Member States, in the spheres that are transferred to it by the member states. The concept of an international supranational organization (or international organization of integration) was fully realized in the activities of the European Communities. Thanks to the lawmaking of the Communities, and then the Union, a system of legal norms has been

formed today, which can be defined as EU law or the legal system of the EU.

The EU law is a special legal system, the norms of which regulate social relations that are formed during the integration processes within the EU.

The subject of legal regulation of EU law is the following groups of legal relationships: 1) legal relations that develop in the process of interaction between Member States, EU institutions, individuals and legal entities residing or located on the territory of Member States, for the realization of the objectives of the domestic market, socio-economic and monetary integration; 2) legal relations that form within the organizational structure of the EU, which can traditionally be called intra-organizational legal relations; 3) legal relations in the spheres of freedom, security and justice; 4) legal relations arising from the implementation of external functions of the EU, i.e. EU legal relations with other subjects of international law.

The heterogeneity of the internal structure of the EU legal system has been embodied in terms of Community law and EU law, as well as in the concepts of primary and derivative EU law formulated by Western European legal doctrine. Given the fact that the scope of the Community right has been reduced (only Euratom remained), today one can say that there is only EU law.

Norms of law of the EU are usually divided into two large groups: the primary (or initial) EU law and the derivative (or secondary) law of the EU.

The primary law of the EU consists of the norms of the Union's constituent treaties and those convention norms through which changes are made to the constituent treaties. It is characterized by three main features. The norms of the primary law are international legal norms that meet all the necessary requirements of general international law applicable to international treaties. They are created by sovereign subjects of international law in the traditional way. The special nature of these norms is manifested in the fact that they have the highest legal force in relation to any other norms of EU law.

The norms of a derivative right form a set of legal acts based on the norms of the primary law. The international legal nature of the norms of the derivative law is determined by the contractual nature of the delegated competence of the EU. In any case, they are of an international legal nature, therefore, the acts adopted in the process of their implementation are also international legal in nature.

The norms of the EU law are divided into three large groups. The norms listed above refer to the so-called institutional derivative law of the EU, in which the name reflects the role of EU institutions in the formation of the norms of this group. They are adjoined norms of the derivative law, the application of which also finds its basis in the norms of the primary law, but in their content they are international legal. These include the norms of agreements between Member States or the decisions of representatives of the Member States assembled within the Council. Finally, the EU's foreign

policy has supplemented the EU's derivative law with new types of acts that differ from previously considered acts by the originality of the legal nature, since the majority acceptance is not attributed to the exclusive powers delegated to the EU, and therefore they are not subject to judicial control by the EU Court. These are acts adopted by the EU institutions, or the norms contained in the agreements of the member states, concluded to achieve the goals and solve the tasks envisaged in Sec. V Lisbon Treaty. Among such acts, there are «general guidelines», «decisions of the Council» within the framework of a common foreign security policy or «Council decision» adopted within the framework of a common security and defense policy. The latest types of acts create norms that can be attributed to all their main characteristics to international legal norms.

Thus, the EU legal system preserves dualism, which follows from the fact that it includes two different groups of legal norms: international law of cooperation and that part of EU law that regulates relations on the functioning of the internal market, which was formerly called the Community law or the communitarian right. For convenience, they can still be referred to as Community law in order to distinguish them from international legal norms that are also part of the EU legal system. Their main difference lies in the fact that the Community law can be protected by judicial means (in the courts of member states and within the framework of the EU's own judicial system), while the rules of international law of cooperation are provided by traditional diplomatic means, although there is a tendency to transfer them under jurisdiction Court of the EU.

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