дження та вдосконалення українського законодавства у даній сфері, узгодження останнього з нормами міжнародних конвенцій, введення санкціонованого нагляду за дотриманням прав та інтересів дитини при процедурі міжнародного усиновлення, адже головною метою всіх таких дій є надання дитині можливості рости та розвиватися в сімейному оточенні, затишку, атмосфері довіри та любові.

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MODEL ACT AS A UNIFICATION CATEGORY OF A NATIONAL LAW SYSTEM

The validity of a chosen topic is primarily due to defining the most optimal and perspective ways and solutions of theoretical and juridical problems, connected with using a model law system in an international as well as a national juridical regulation. In seeking new promising areas of harmonization and unification of national legal systems and international legal approaches to regulating individual relations, states and international organizations have come to the necessity of using a specific method of legal unification, namely, unification with the help of international model norms. Despite the entrenched use of such categories as «model legislative act», «model agreement», «uniform and model law» and others, as well as the emergence of so-called model law, at present

international model norms containing similar model (typical) constructions, have not yet become the subject of a comprehensive study.

In the contemporary world, in the conditions of integration processes strengthening, the spring of new intergovernmental organizations and interstate structures is primarily connected with appearance of new threats of a global scope. There is a question of unification necessity and law system harmonization that arises. Hence, a model law system gets a greater meaning.

In the modern era, due to integration processes and the development of international cooperation among the peoples of the world, the importance of international public law is growing. This requires improving the methods and methodologies of international legal research. In the methodological apparatus of public international law, the comparative method occupies an important place. Conversely, international legal issues are very important for comparative jurisprudence as a direction of research.

The comparative method is widely used in international public law, for example, in the study of the interaction of the international and domestic legal system in the unification of international substantive law, in the formation of international legal customs and general principles of international public law, etc. Specialists of private international law show great interest in comparative law, and Hungarian scientist F. Madl even proposes the idea of creating a special «comparative international private law» [1, p. 147].

In the methodological apparatus of IPP, the comparative method occupies an important place, since all systems of conflict resolution by law provide for the application of a foreign law in a number of cases. At the same time, the norms of national law are compared with the norms of the foreign law.

One of the possible outcomes of comparative legal studies in the field of IPP is the unification of material and legal or conflict rules. Such unification can be carried out in two ways: by developing a uniform act, perceived by many states, or by concluding an international treaty. After unification is carried out, there is a problem of uniform interpretation and application of the unified law.

Comparative law is the study of differences and similarities between the law of different countries. More specifically, it involves study of the different legal «systems» (or «families») in existence in the world, including the common law, the civil law, socialist law, Canon law, Jewish Law, Islamic law, Hindu law, and Chinese law. It includes the descrip-

tion and analysis of foreign legal systems, even where no explicit comparison is undertaken. The importance of comparative law has increased enormously in the present age of internationalism, economic globalization and democratization.

The origins of modern comparative law can be traced back to 18th century Europe, although, prior to that, legal scholars had always practiced comparative methodologies [2, p. 290].

Montesquieu is generally regarded as an early founding figure of comparative law. His comparative approach is obvious in the following excerpt from Chapter III of Book I of his masterpiece, De l'esprit des lois (1748; first translated by Thomas Nugent, 1750): «The political and civil laws of each nation ... should be adapted in such a manner to the people for whom they are framed that it should be a great chance if those of one nation suit another. They should be in relation to the nature and principle of each government: whether they form it, as may be said of politic laws; or whether they support it, as in the case of civil institutions. They should be in relation to the climate of each country, to the quality of its soil, to its situation and extent, to the principal occupation of the natives, whether husbandmen, huntsmen, or shepherds: they should have relation to the degree of liberty which the constitution will bear; to the religion of the inhabitants, to their inclinations, riches, numbers, commerce, manners, and customs» [3, p. 375].

Comparative law is an academic discipline that involves the study of legal systems, including their constitutive elements and how they differ, and how their elements combine into a system [4, p. 300].

Several disciplines have developed as separate branches of comparative law, including comparative constitutional law, comparative administrative law, comparative civil law, comparative commercial law (in the sense of business organisations and trade), and comparative criminal law. Studies of these specific areas may be viewed as micro– or macro-comparative legal analysis, i.e. detailed comparisons of two countries, or broad-ranging studies of several countries. Comparative civil law studies, for instance, show how the law of private relations is organised, interpreted and used in different systems or countries. The purposes of comparative law are:

- To attain a deeper knowledge of the legal systems in effect
- To perfect the legal systems in effect
- Possibly, to contribute to a unification of legal systems, of a smaller or larger scale (cf. for instance, the UNIDROIT initiative).

The model norm regulates relations between subjects of international law, but not all subjects, but only by the right-creating, capable of

participating in the law-making process. This is primarily the state in the person of its bodies, as well as international organizations. The model norm is an orienting standard for subjects of international and national rulemaking, a rule designed for repeated application by right-holders.

The international model rule provides for the right or obligation to enact a law within the national legal system or to conclude an international treaty of a certain content.

If one adheres to the accuracy of the wording, then the international model norm is the norm containing a model of future legal norms. International model norms determine the behavior of their participants and predetermine the behavior of participants in future legal relations – the addressees of future legal norms. Thus, it is possible to define a norm regulating relations concerning the development and adoption of legal acts (norms) – international or domestic – of the content defined therein. As an example, let us turn to some norms of the Geneva Convention on the Treatment of Prisoners of War of August 12, 1949, namely article 6, artical 10 and article 110, the last of which is a direct reference to the Model Agreement on the direct repatriation and hospitalization of wounded and sick prisoners of war in the neutral country and the Statute on the mixed medical commissions attached to the Convention. The rule contained in Article 110 of the Convention is a typical example of a model rule, since in addition to the rule of conduct it also contains a specific legal model, namely the Model Agreement on the direct repatriation and hospitalization of wounded and sick military prisoners in a neutral country, which is proposed in Appendix No. 1 to the Convention. [5, p. 651].

As an example, let us cite another model rule of the Convention providing for the Uniform Law on the Form of an International Will signed in Washington on October 26, 1973. Article 1 of the above-mentioned Convention states that «Each contracting party undertakes not later than six months after the entry into force of the Convention with respect to a Party to include in its legislation rules relating to an international will contained in the Annex to this Convention».

This annex is a Uniform Law on the form of an international will, which is part of the model norm [6, p.3].

There is an opinion that the main property of model norms is that they are a kind of bridge between the norms of international and internal law, they have the ability to «weave» into the fabric of these normative systems. But, most likely there is no «interweaving», but only a perception of the content of model norms. Model norms directly «absorb» the previous experience of legal regulation, translating it into a normative-

concentrated form, including in national legislative acts. For example, numerous model codes, uniform laws – annexes to international treaties. The content of model norms is diverse, because they can contain either a normative concept and general principles of regulation in a given sphere, norms that are only a «silhouette» of future norms (for example, Council of Europe framework conventions) or a clearly structured model serving as a model for derivatives of national and international legal acts, such as the UN General Assembly Resolution of 14 December 1990, containing the Model Treaty on Extradition.

Perhaps to sum up the above a few important theses:

– the model norm is an orienting standard for subjects of international and national rulemaking, a rule designed for repeated application by right-holders;

– recommendation standards are designed to regulate relations in a recommendatory way, establishing a desirable, appropriate behavior model.

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