

The content of modern legal education from the perspective of the methodology of jurisprudence



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Abstract. *The article deals with the the essence of the methodology of jurisprudence and the changes in its role in the conditions of modern European integration and globalization processes. The main attention of the authors is focused on studying the relevance of the issue of introducing teaching of the methodology of jurisprudence for law students in order to update the content of modern legal education with the aim of ensuring the formation of integral, general and special competencies of future specialists in the field of law.*

Key words: *methodology of jurisprudence, legal competencies, legal science, legal practice, legal education.*

Problem statement

Under conditions of acceleration of socio-economic and spiritual development of society at the present stage of the renovation of state-legal institutions, the role of legal science, which reflects the dynamic processes of state-legal reality and provides for the search for new ideas for the development of jurisprudence, becomes more and more visible. In this case the study of the methodology of jurisprudence, including its importance in the training of qualified specialists in the field of law requires special attention. After all, agreeing with M.I. Kozyurba, we should emphasize that the study of the issue of methodology of jurisprudence allows us to comprehend the subject and structure of general theoretical jurisprudence in order to bring national educational programs closer to the European values and needs, as well as the requirements of the European labor market [1, p. 32-34].

Moreover, the relevance of considering the methodology of jurisprudence as a basis for training of future lawyers and a component of qualitative restructuring of the content of legal education is determined by its pragmatic ability and theoretical orientation, which allows us to

objectively assess the relation of legal science to the state and the law, to master the whole set of legal knowledge in the process of obtaining higher legal education, as well as to form the necessary level of legal world outlook and legal culture.

Analysis of research and publications.

The study was based on the scientific papers of S.D. Gusarev, I.M. Zharovska, M.I. Kozyubra, M.S. Kelman, L.T. Ryabovol, Y.I. Rymarenko, O.D. Tikhomirov and others, in which the actual problems of the methodology of the theory of state and law are presented, the questions of the methodology of jurisprudence as an independent direction of legal science and as a determining factor of the development of its subject and method are discussed, as well as some issues concerning the improvement of legal education and legal nurturing in the context of the reformation of the scientific and educational spheres are considered.

The purpose of the paper. The purpose of the paper is to summarize the existing approaches to the definition of the essence of the methodology of jurisprudence, as well as to clarify its role and significance in the process of updating the content of modern legal education with the aim of ensuring the formation of general and special competencies of specialists in the field of law.

Presenting main material. Socio-economic changes at the turn of the century have caused the reformation of the educational sphere, which resulted in the transformation of the educational paradigm, in particular, in determining the content of education from the standpoint of its effectiveness. That is, competencies which mean the formation of readiness and ability to solve educational and life problems of those who study to meet their own needs were recognized as the specific result of studying [2, p. 1]. The main goal and task of modern legal education is training of skilled personnel capable of ensuring economic and cultural growth of the country, as well as the development of Ukrainian statehood. At the same time, it should be emphasized that active participation of an individual in the life of modern society requires his legal competency, which necessitates the improvement of the legal education system.

Analyzing the latest proposed innovations in the reformation of legal education, in particular the draft Law of Ukraine "On Legal (Law) Education and General Access to the Legal Profession" (Reg. No. 7147 dated September 28, 2017) prepared on the basis of the draft Concept of Improvement of Legal (Law) Education for Professional Training of a

Lawyer in Accordance with the European Standards of Higher Education and Legal Profession, developed in 2011, it should be noted that the standard of legal (law) education is recognized as the necessary amount of integral, general and special competencies that should be formed by law students to understand the nature and functions of the law, the content of main legal institutions, the application of the law, as well as the limits of legal regulation of various social relations [3]. In other words, among the basic components of legal education, the following can be distinguished: ensuring the acquisition of general scientific, basic and specialized legal knowledge, knowledge about the structure and standards of legal profession and its role in society by degree-seeking students; formation of legal and political culture, legal thinking, modern legal consciousness; inoculation of skills and abilities of legal work; promotion of the implementation of general theoretical provisions in the practice of legal activity; enriching the forms and methods of academic and research work; generalization of practical experience to meet the needs of the development of society. The presence of these constituents shows the necessity for ensuring the study of the methodology of jurisprudence in the process of training future lawyers, as well as for the acquisition of skills of purposefully and technologically correct use of the methods of scientific knowledge, without which it is impossible to clearly understand the state-legal phenomena and achieve qualitative changes in state-legal reality.

First of all, this need is determined by the fact that jurisprudence, unlike other sciences, has a steady tendency to generalize knowledge. The constant differentiation of legal knowledge inevitably leads to the opposite process – its integration, which indicates the existence of various areas of legal knowledge and the need to apply appropriate methodologies for cognition of the law and the state [4, p. 118-137]. Therefore, studying legal phenomena with the help of various methodological approaches and principles allows us to find out the essence of certain phenomena in the field of state and law, as well as to formulate the vision of legal issues and make proposals to improve the relevant processes in the state-legal context.

The experience shows a small percentage of degree-seeking students and postgraduate students who really understand the importance of the methodology and are able to use it deliberately and get its benefit while studying legal disciplines and conducting scientific work. That is why, in the process of preparing qualified specialists in the field of law, their awareness of methods of cognition of state-legal phenomena and their ability to use them, as well as their realization of the fact that the methodology is not just a set of methods that need to be specified in the preparation of academic and scientific work, formally mentioning well-known phrases in order to meet the requirements of a certain type of research are important. This aspect is especially important concerning the fact that not all the results of the study can be verified in the practice of social reality. That is why it is rational to use other ways – studying of something already achieved, already checked by other states in their state-legal practice. But at the same time it is necessary to take into account the existing system of sociological, psychological and pedagogical methods of studying the national reality.

It is necessary to pay attention to a low demand for a significant number of new scientific recommendations of jurisprudence, which is largely due to their speculativeness, contrivedness, that is, the inability of young scientists to study the problems of life of society and law, the functioning of the law in the direction of their true purpose in the life of a person and society as a whole. Such inability of contemporary young researchers to influence the practice of state-legal formations in our state is explained by at least two main reasons that traditionally are considered as objective and subjective ones according to their qualities.

Firstly, it is the inadequate level and content of training of scientists, because they do not possess sufficient scientific tools (methodology) of cognition and reflection of state-legal reality in their works, methods of making recommendations on its change, as well as the possibilities of verifying the effectiveness of these recommendations.

Secondly, the other side of this problem is the actual separation of science from practice, which indicates the lack of opportunities to effectively influence the social and legal processes that take place in the country.

It is possible to change this situation by introducing teaching law students the methodology of jurisprudence and the technology of cognition of state-legal phenomena that can equip future specialists with the means, without which legal activity is practically impossible, and the activity of lawyers loses its content and usefulness in the scientific sphere and in practice.

However, before introducing this discipline into teaching, there is a need for a scientific definition of the issue of the notion, content and role of the methodology in jurisprudence, the achievement of consistency and agreement between representatives of insignificantly different interpretations of the methodology.

Indeed, in the literature, the methodology of jurisprudence is presented as a doctrine of the structure, logical organization, methods, means and forms of activity of a researcher in the process of cognition of the investigated phenomena [5, p. 42]; the system of methods of cognition and practice, that is, the system of principles, rules, techniques, ways and means of organization and construction of theoretical and practical activities, as well as the study of this system [6, p. 1118]; as a result of discourse, within which the process of interaction of various cognitive strategies of comprehension of the law is carried out, the fundamental methodological foundations of his cognition are determined [7, p. 139]; as a system of principles and methods for the organization of theoretical and cognitive activity in the field of study of state-legal reality [8, p. 35].

Despite the existence of different approaches to the definition of the content of the methodology of jurisprudence, which were formed mainly as a result of the processes of globalization of economy, informatization of social relations and changing the role of science in the development of society, it is important to note that modern scientific developments allow us to refute the image of methodology that is related only to scientific activity. The methodology should apply to all types of professional activities, including the legal ones, which also requires the use of the concept of "methodology of practical activity" [5, p. 33-34]. The essence of these conclusions is explained by the fact that any practical activity of lawyers requires the mental activity of the subject, which necessarily reflects the theoretical aspects of a particular problem. And

any scientific research, in turn, at least in the empirical part contains practical components. That is, agreeing with the scientific work of M.S. Kelman, it is necessary to point out that the consideration of the methodology of scientific and research activities and the methodology of practical activities should occur in one direction, from unified points of view, that is from the point of view of a modern project-technological type of organizational culture [5, p. 39-40].

That is why nowadays it is methodologically correct for jurisprudence as a science to refer to practical needs of society in order to transform the law and the state into the means of creating all necessary living conditions for a person in Ukraine. The state and the law should encourage solving existing problems in society. Taking this into account, it is necessary to point out the erroneousness of delimitation, principal separation of the state and the law from one another, and the attempt to substantially expand the scope of the concept of law, since the law is authorized by the state, which in turn acts as one of the main upholders of ensuring the observance and enforcement of legal rights and freedoms of an individual and a citizen.

The modern approach to the methodology of jurisprudence should not be one-sided, because only in the whole variety of manifestations the methodology can have a real benefit, significance both for the organization of educational process, and for the improvement of science and practice of state-legal construction. This situation should especially be taken into account in the conditions of changing of an educational focus, the appearance at the European and world cultural level, resulting in the separation from ideological visions and guided worldview. All the abovementioned allows us to state the importance of knowledge of the methodology of jurisprudence and the ability to use it by students, postgraduate students, and practitioners. After all, legal activity, whether it is educational, scientific or practical one, is mostly a productive activity aimed at obtaining an objectively or subjectively new result. That is why, while speaking of legal activity, one should understand that the methodology of jurisprudence will always be the basis for its implementation. This aspect is explained by the need for the organization of legal activities in the process of producing new scientific, educational or practical results, which is provided by the use of methodological tools.

Conclusion

Summing up, it should be emphasized that the methodology of jurisprudence is the means by which it becomes possible to cognize any phenomenon of the past or present reality and to predict its future probable state. However, the methodology of jurisprudence is not a simple technical set of impersonal methods, techniques, ways (as, for example, in natural or technical sciences). Its "orientation" is now based on a human centered ideology, spiritual content, humanism, the pursuit of high ideals, and the use of methodological tools ensures the enjoyment of legitimate interests of a person, the creation of goods for the people and the improvement of the conditions of their life. All these suggest that studying the methodology of jurisprudence, acquiring skills to use it is an important vector in the process of obtaining legal education. The abovementioned proves that the organization of educational and research activities in jurisprudence is impossible without the rules of using scientific tools and practical skills of researchers of their use (that is, without the technology of scientific research). This is what the future legal specialists need to be taught, based on this form of training of future scholars and practicing lawyers.

The methodology of jurisprudence also serves as a basis for the formation of legal consciousness of future lawyers, which is one of the most important goals of legal education, the development of legal competence, which involves the integrated ability of an individual to implement in practice the knowledge, methods of activity, experience of lawful behavior, legal value orientations in specific behavior patterns in legal context, as well as the establishment of an understanding of legal profession as a professionally independent, aimed at the protection of human rights and the maintenance of justice.

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