


“Scientific component of the legal education in Ukraine”

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SCIENTIFIC COMPONENT OF THE LEGAL EDUCATION IN UKRAINE

Abstract

The training of law specialists in the context of the European integration processes should be based on educational standards and requirements both of the national legislation and international acts. In present conditions of dynamic development of social relations and, accordingly, the development and improvement of legislation, the scientific knowledge of legal phenomena becomes increasingly important both in practical activities (law-making and law enforcement) and in the process of training of specialists in the field of law. The knowledge of legal phenomena, categories, concepts and terms is a complex process of understanding the essence, content and structure of these phenomena in the process of scientific activity aimed at identifying the true characteristics of the surrounding social and legal environment in order to obtain the knowledge about these phenomena, their objective relationships and principles for their further use in practical legal activity (law-making and law enforcement). The application of scientific principles in legal education does not cause any doubt, however methodological approaches and the issues of employment of certain methodological techniques to ensure the unity of science and practice remain controversial. The article presents the author's vision of solving complex issues relating to the understanding of the essence of legal phenomena by unifying the terminology, improving the conceptual apparatus and applying the relevant classification, etc. The presented authors' reflections will help find the optimal model for developing a training process for specialists in the field of law. Such a model should take into account not only the labor market demand but also the practical skills and knowledge of law and legal practice. Therefore it is extremely important to use scientific principles in the educational process, the formation of scientific thinking of students and acquisition by them of scientific approaches and the methodology of scientific research.

Keywords

legislation, methods, learning, concept, law, legal
phenomenon, scientific component, legal practice

JEL Classification

I21, I25, K10

INTRODUCTION

The creation and existence of Ukraine as a sovereign, independent, democratic, social and legal state involves the training of highly skilled professionals in all fields and, in particular, in the field of law that is carried out by higher educational institutions. The presence of such specialists is one of the guarantees of ensuring, first of all, the existence of a constitutional state, and has an impact on its sovereignty, independence, democratic and social character. Legal awareness and legal culture are important and inalienable components of the state governed by the rule of law. The formation of the citizens' legal awareness by the state is one of the priorities in the system of the national interests as well as the national security of Ukraine, in which an important role belongs to the legal literature and legal education (both general and special).

The training of legal specialists should become one of the priorities of the state since a lawyer should not only understand the legal system of the state and its legal practices, but also should have the knowledge

about the essence of legal phenomena, to analyze and interpret them. This requirement is justified by the continuous development of social relations, which leads to the emergence of new segments that do not fall under the regulatory influence of the law, but require such regulation. In the process of law enforcement practices, there are issues that often arise about the unambiguous understanding of the nature and scope of concepts or terms, since even within one branch of legislation one and the same term can be defined differently. There are other practical problems of law enforcement practices, which require scientific substantiation or scientific conclusions. And it's impossible without scientific knowledge of the essence of legal phenomena. That is why the problem of such scientific knowledge determines the application of the scientific component in the educational process during the training of specialists in the field of law.

The problematics of scientific knowledge is intensified by the fact that its main task is the disclosure of the essence of social and legal phenomena, because only the knowledge of their essence can explain these phenomena and, accordingly, the use of such knowledge in practice. By studying social and legal phenomena a specialist discovers the essence of the object, and by learning the legal environment in theory a specialist creates and uses the intellectual means of learning just as in the practical legal activity he creates and uses the empirical means of legal practices.

The solving of practical problems is impossible without scientific research based on the logic of learning of the structure and content of social phenomena, activities, etc., although it may not ensure their complete concurrence. The relevance of scientific component in legal education is enhanced by the fact that despite the widespread use of certain legal concepts and terms, the legislation does not have their definition while scientists have different definitions for the same legal phenomena. This applies not only to secondary concepts and terms but even to the legal categories and concepts of the first order. Identification of the essence and legal nature of social phenomena covered by a certain concept or term will make it possible to reflect their essence by defining these concepts avoiding the mixing of legal concepts that will allow to study their legal nature with subsequent legislative consolidation in standard definitions as well as to determine the legal regime of these phenomena. This will further ensure the effectiveness of legal activities.

1. LITERATURE REVIEW

The importance of scientific principles and understanding of the methodology of scientific knowledge is covered in the domestic and foreign literature. However, if a lot of works are devoted to the application of the scientific component in the social, educational, technical and other sectors, they are quite insignificant in the legal field while the issue of the use of the methodology of scientific learning of legal phenomena is almost non-existent.

The methodological significance of the unity of theoretical and practical activity in the study of legal phenomena is due to the fact that law and legislation are more mediocre than other subjective factors in reflecting objective reality. The legal regulation of social relations will be more effective if it is more accurate in reflecting the political,

economic and spiritual conditions, processes and needs of the society's development. Therefore, according to Kerimov (2001), a subjective reproduction of the objective in the legislation will be more adequate only under the condition of organic unity of theoretical and practical activities as well as the impact of such combination on objective social development.

The western concept of the development of legal education is based on the need for scientific knowledge in the process of teaching students explaining this by the fact that science means change. Law and legal education must adapt to these changes, but not provide a built-in guarantee that their reaction will be useful (Miller, 1967). The standards of the educational system in the field of science provide the criteria for assessing the performance of components of the educational system in science, which are responsible for providing higher

educational institutions with the necessary financial and intellectual resources (Nagle, 1999).

Comparing the continental and American legal educational systems, researchers refer to the fact that the Socratic Method is not known to the students studying continental law since it does not require an “acute decision”. Unlike the American legal education, in which the inductive argument is the most important, the continental methodology of education emphasizes deductive reasoning through the study of logic. In discussions through scientific learning the prevailing feature is the total quantity of the lecturing material during classes (Silver, 2001).

In the process of analyzing the system of higher legal education in foreign countries specialists pay special attention to the technical component of professional training of lawyers and the expediency of including a scientific component in the contemporary conditions. Until recently in England and the United States the dominant approach to jurisprudence was the one, which can be called professional. Lecturers of legal disciplines acknowledged that legal concepts are problematic only because they do not correspond to the ordinary legal techniques, yet they proposed to overcome this problem by choosing among their various aspects only those ones that can be solved by these techniques ignoring other aspects. Analyzing such approaches and techniques, Dvorkin (2000) draws attention to the fact that when lawyers deal with the mentioned technical problems or issues, they use a combination of the three specific skills. Firstly, future specialists are taught to analyze legislative acts and court decisions in order to extract a legal doctrine from these official sources. Secondly, students are taught to analyze complex factual situations so that they can accurately outline all the essential facts. Thirdly, students are taught tactical thinking so that they can project legislative acts and legal institutions that have to lead to certain predetermined social changes. According to the researcher, the application of such professional approach to the training of future lawyers was intended to reformulate the legal issues in such way as to use one or more of these skills resulting in the “illusion of progress” while complicated practical issues remained unresolved (Dvorkin, 2000).

2. RESULTS

The training of highly qualified legal specialists in the context of the European integration processes should be based on educational standards, which, in turn, should be based on a clearly defined concept taking into account the requirements of the national legislation and international acts, in particular, the Recommendations of the Committee of the Ministers of the Council of Europe No. R(2000)21 on the freedom of professional activity of lawyers, the Recommendations of the Committee of the Ministers of the Council of Europe No. R(2000)19 on the role of public prosecutors in the criminal justice system, No. R(2004)4 about the European Convention on human rights in university education and vocational training; No. R(2000)8 on the research mission of universities; No. R(2007)6 on state responsibility for higher education and research as well as the Joint Declaration on the European Higher Education Area adopted in Bologna on June 19, 1999, etc.

The aim of the conception of improving the legal education for the professional training of lawyers in accordance with the European standards of higher education is to promote the establishment of legal education in Ukraine as a system of standards and methods of teaching legal disciplines based on the formation of legal skills, awareness of the issues of ethics and human rights, understanding of the fundamental role of lawyers in establishing the rule of law through the protection of human rights and freedoms as well as the standards of access to the legal profession.

The goals of the Concept of improving the legal education for professional training of specialists in accordance with the European standards of higher education and the legal profession in the project prepared by the working group include, in particular, the provision of a task-oriented, scientifically substantiated methodological basis for the development of legal education in Ukraine; provision of high-quality legal education; ensuring high-quality research in the field of law, etc.

The further development of legal education should be aimed at preparing a lawyer in accordance with his fundamental role – to establish the rule of law

through the protection of human rights and freedoms. Such development should be carried out by strengthening the understanding of the legal profession as a profession aimed at protecting human rights and freedoms; definition of the standards of legal education as a necessary scope of knowledge about doctrines, principles and institutions, as well as the required amount of legal skills, competencies and awareness of the issues of ethics and human rights, which should be mastered by law students, etc. (draft concept, 2017).

Ukraine does not have state standards of higher education in the legal field. The draft of such standards for the first level of higher education prepared and presented for discussion aims to form the competencies necessary for understanding the nature and functions of law, the essence of its main legal institutions, the application of law and legal regulation of various social relations. The object of the study is the law as a social phenomenon. The study of law and its sources is based on the legal values and principles that underpin the rights and fundamental freedoms of a person. The theoretical content of the subject area is the formation of knowledge about: the basis of the behavior of individuals and social groups; creation of law, its interpretation, and application; legal values and principles, the nature and content of legal institutions of the basic branches of law; ethical standards of the legal profession. In training the bachelors of law the educational process should apply the general scientific and special methods of learning legal phenomena; methods for the legal assessment of the behavior or activities of individuals and social groups, identification of the legal problem and its solution on the basis of the principles of law; information and communication technologies (draft concept, 2017).

The goal of legal education is the formation of competencies necessary for the understanding of the nature and functions of law, the content of the main legal institutions, the application of law, the legal regulation of various social relations. Therefore a graduate of the legal profession must acquire integral, general and special (professional, subject) competencies. An integral competence is the ability to solve complex specialized tasks and practical problems in the field of law or in the process of learning, which implies the application of

legal doctrines and principles and is characterized by the complexity and uncertainty of conditions. The general competencies include, in particular, the ability of abstract, logical and critical thinking, analysis and synthesis; extensive knowledge of legal terminology; the skills of collecting and analyzing information from the national and international sources, assessing its reliability; the use of modern information technologies and databases; ability to conduct research; ability to correctly and precisely formulate and express one's positions, duly justify them, participate in reasoned professional discussions, etc. Within the framework of the State standard of the content of legal education, law schools should ensure the acquisition of special competencies in accordance with the doctrines, principles and institutions, which are the basis for the formation of the modern national legal traditions and the contemporary European legal culture.

In order for the students to properly master the knowledge of doctrines, principles and institutions as well as the legal skills, it is necessary to introduce the latest teaching methods, in particular, by reducing the methodology of article reproduction of normative acts as adversely affecting the acquisition of legal analytical skills by students, the introduction of network educational technologies and elements of teaching methods for adults (setting of training goals, working in small groups with the use of case studies, discussing practical aspects of application of the acquired knowledge). All this necessitates the use of a scientific component in the educational process of training legal specialists.

In present conditions of dynamic development of social relations and, accordingly, the development and improvement of legislation, the scientific knowledge of legal phenomena becomes important both in practical activities (law-making and law enforcement) and in the process of training specialists in the field of law. In the general sense, learning is the process of transformation and accumulation of knowledge about the world and human beings mediated by the cultural and historical factors, which finds its manifestation in various forms. The implementation of the processes of learning takes place as a result of the development of cognitive relationships, where there is an ac-

quisition of new knowledge in the form of various essential arrays, information, ideas, etc., which constitute socially relevant information. Such information is created and accumulated by the society in its historical process of subject-practical activity in conjunction with objective reality. In order to carry out operations with knowledge, the society depends on cultures and historical stages of its development producing different ways of acquiring, storing, transforming, using and disseminating knowledge (Ushakov, 2005).

One can give the following example of the application of knowledge in the study, for example, of the stages of the budget process in financial law. Budgetary law-making is characterized by the organic unity of the three elements: study (of the phenomena of budgetary reality), activity (preparation and consideration of the draft law on the State Budget of Ukraine) and results (passing of the law on the State Budget), which constitute a complete cycle of budgetary law-making for the relevant year. This cycle is followed by another one for the next budgetary period forming in its integrity a system of this continuous process. To adequately reproduce the processes occurring in society in the budgetary law, it is necessary to constantly identify, explore and use objective laws that generate and guide these processes. That is why the precondition for the preparation of draft budgetary legislation is the studying of those complex conditions, factors and circumstances, those social and, above all, budgetary relations, the regulation of which is determined by social needs. The studying in the process of budgetary law-making, which is a type of scientific knowledge, has its own characteristics caused by the specific features of the subject of fiscal regulation, the functions and goals of this field of studying.

A characteristic feature of such learning is the fact that the reflection of reality implies a direct practical implementation of the obtained results of the learning, which are established in the norms of the budgetary law. The knowledge matters because of its practical implementation, the formulation of specific practical goals associated with the organization and management of budgetary activities. Therefore, the learning is not only a prerequisite for the budgetary draft legislation but also an element of the budgetary lawmaking. If studying the

budgetary law-making is a process of transformation of objective reality through legislative awareness into the adoption of the budgetary law, then the implementation of the law is a reverse process of transformation of legislative awareness into objective reality. Therefore, the law on the state budget is a result of the budgetary lawmaking. But this is an intermediate result of the budgetary activity followed by the implementation of this law, which consists of the practical regulation of budgetary relations, or more precisely, of the fulfillment of indicators contained in the norms of the budgetary law (Chernadchuk, 2009).

The studying of legal phenomena, categories, concepts and terms is a complex process of understanding of the essence, content and structure of a legal phenomenon in the process of specialized scientific activity aimed at identifying the true characteristics of the surrounding social and legal environment in order to provide knowledge about these phenomena and their objective relationships for their further use in practical legal activities (law-making and law-enforcement). Such knowledge is conditioned, first of all, by the fact that in the legislation of any country one can identify a number of problems, the most urgent of which are the lack of definitions of certain legal concepts, the inaccuracy of individual definitions, the existence of conflicting legal definitions, when laws and by-laws of normative legal acts contain different definitions of the same concept. The existing problems of the absolute or relative uncertainty of concepts and terms covering certain legal phenomena lead to the ambiguous understanding of their essence and content, and this, in turn, leads to the emergence of controversial legal relationships. Such controversial legal relations (legal disputes) are resolved by appealing to the relevant jurisdictional and judicial authorities, where the legal awareness of the legal concept occurs through the competitive views of the parties to the legal dispute.

The studying of the legal phenomena involves, first of all, a constant movement from the awareness of legal abstraction to the clarification of the state of legal reality, its comparison, and evaluation. Such process of learning moves from the awareness, perception, and formation of a phenomenon to the formation of complex concepts, where higher forms emerge from lower forms revealing their

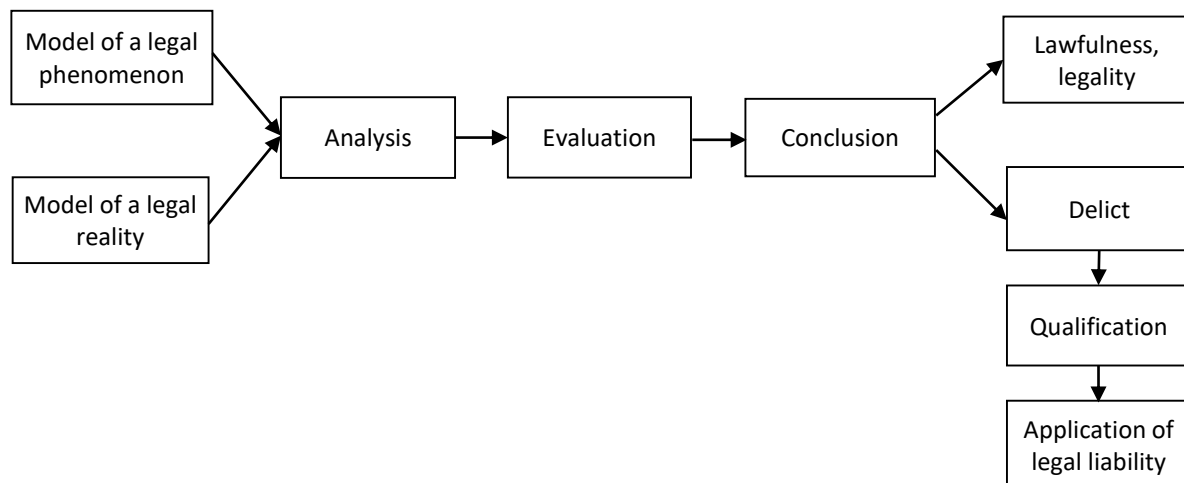


Figure 1. Model of the legal phenomenon

inner meaning. Consequently, legal concepts have such qualities that allow them to be used not only as a means of learning of the past and present in relation to the relevant legal phenomena and objects but also as a way of understanding and anticipating the trends in their future development. Only the organic connection and unity of empirical awareness of the legal reality and rational thinking that generalizes this reality, ensures the completed cycle of the knowledge movement from the concrete to the abstract and vice versa, which is constantly repeated each time becoming the beginning of the next round of the cognitive process (Kerimov, 2001).

Through the ascension from the abstract to the specific, the studying of legal phenomena involves the study of legal abstraction and legal reality. In the process of such learning one uses the method of modeling of the legal phenomena. In general, the model is considered in two dimensions: as a reproducing model simulating the structure and actions of an object, which is used to obtain the new knowledge about an object; a sample, which is used as a form for casting or reproducing in another material, as well as an image of an object, process or phenomenon used as its “imaginary or conditional (image, description, scheme, etc.) representative”.

Given the general meaning of the term “model”, in order to use it in the educational process the model of a legal phenomenon (object) can be considered in two aspects: as a sample or a standard of a legal phenomenon or its kind,

forms, procedures, etc. (legal abstraction) or as its real state or “image” (legal reality). The study of the real state of such phenomenon (object) will help reveal organizational and procedural problems, while its comparison with other external realities will reveal the trends of development, which will affect the practical activities in law-making. In the educational process such approach will make it possible to understand the essence of phenomena as well as to acquire practical skills in analyzing the status of relevant legal relationships and to identify inconsistencies (deviations). A model of the legal phenomenon (object) is an example that reproduces its state for obtaining the knowledge for the purpose of its study, formation and further use of the developed ideas, provisions and proposals for the reproduction in legal acts and its subsequent introduction into legal activities (fig. 1).

A scientific learning of legal phenomena occurs not only during the process of studying and analyzing of scientific works. It is an integral part of solving practical problems. The solving of practical problems and conflict situations requires not only the knowledge of the legislation and the practices of its application through simple mechanical studying, but also the ability to analyze these situations, to identify the causes and the factors that led to the violation of the law and to offer proposals for improving both the legal practices and the relevant legislation. Therefore, there is a reverse process from the concrete (legal situation) to the abstract (legislation). And this is impossible

without the presence of theoretical knowledge, the ability to think analytically and to apply methodological tools.

The ascension from the abstract to the concrete involves the creation of a theoretical model of legal phenomena or legal relationships in accordance with the norms of the current legislation. This ideal model is a peculiar example of the proper legal behavior; it gives an idea of how to act accordingly to the circumstances that arose in the process of social activity or the development of social relations (legal abstraction). At the second stage it is important to carry out an analysis of the activity and those actual relationships that took place in reality, those circumstances that led to the development of relations in one direction or another (legal reality). At the third stage of solving the practical situation, there is an imposition of the legal abstraction on the legal reality. Such imposition makes it possible to conclude about the conformity of the legal reality to its model. If there is a concurrence, a conclusion is made about the legality of this activity, the completion of the analysis and the development of regulatory legal relationships. If in the process of such comparison one detects a deviation of the legal reality from the legal model, then such deviations are qualified as legal offenses with their subsequent qualification. The final result of solving a delicate situation is a proper sectoral qualification of the detected offense and the conclusion on the use of sanctions, penalties or other measures imposed by the legislation, that is, the issue of the application of legal liability is resolved.

The significance of ascension from the abstract to the specific in the legal research and legal practices is that it makes it possible to show concrete legal phenomena, processes and actions objectively, avoiding subjective attitudes and assessments, fully and in their diversity. A gradual ascension from the abstract to the concrete manifestations of the legal reality achieves the fullness and unity in such diversity, which is the ultimate goal of this cycle of legal knowledge. If the ascension from the abstract to the concrete in the studying of legal phenomena makes it possible to determine the essence, goal and role of law in social activity and social relations, then the ascension from the concrete to the abstract makes it possible to reveal the

specific features of legal forms, the mechanism of the law, the peculiarities of legal phenomena and processes as well as the specifics of their interaction with each other and other phenomena of the surrounding environment.

The studying of the whole implies a dialectical contradiction: the knowledge of the whole is a prerequisite for the allocation of the part that is perceived as such only in its relation to the whole. On the other hand, the knowledge of the object as a whole involves the knowledge of its parts. This contradiction is solved in the process of studying both as its starting point and as its result. However, if in the beginning of learning the legal phenomenon (object) is a sensitive, given and indivisible whole, then, as a result, it is understood as a whole consisting of the studied parts. This movement from the undivided whole to its reflection in consciousness as a whole consisting of parts represents the movement of knowledge from the empirically concrete to the abstract one. The division of the whole and the study of its individual parts lead to the creation of an abstraction, which contains the knowledge about the parts relative to the isolated aspects of the object. Therefore, in order to learn the essence of the legal phenomenon of the financial control, for example, it is necessary to distinguish its types, which is carried out by conducting a classification, to learn the essence of each distinct type, to identify the general and the special, and only then to unite these known types of financial control into a single concept of the financial control. Consequently, we have a certain chain of knowledge: the analysis and clarification of the existing definitions of the financial control – the classification of the financial control – the discovery of the general in the selected types – generalization and harmonization of the general – the provision of the concept of the financial control with modern definition (fig. 2). Such study is quite capacious and complex, however, it makes it possible to identify the previously unaccounted segments, signs, etc., which are not regulated by the norms of the law relating to the relationships or parts of the object, the legal regime of which is not sufficiently defined by the law. In practical terms, this approach makes it possible to qualify a certain part of the whole (the type of the financial control) in order to make a decision about the application of a specific sectoral or special legislation.

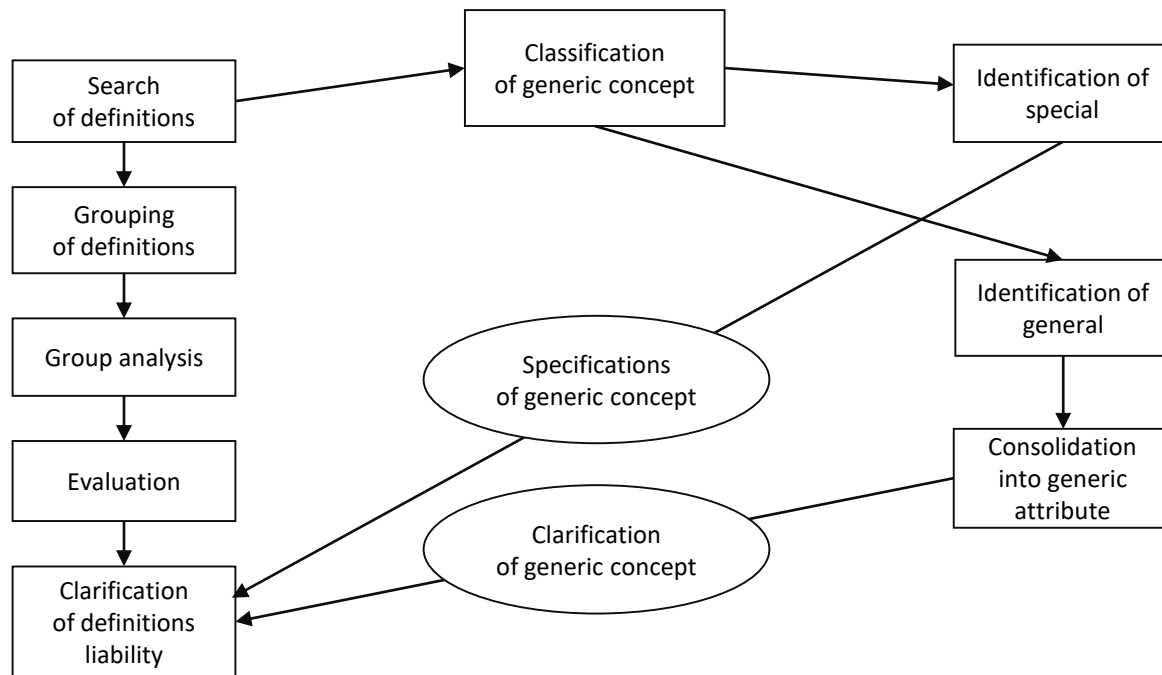


Figure 2. Chain of knowledge

A scientific guidance and optimal management of progressive social development is carried out on the basis of the society itself as a single whole organism. In this case a significant role in the implementation of such management is played by the law. This circumstance actualizes the development and the solution of the integrity of the law itself. At the same time, as Kerimov (2001) notes, there are some legal formations, parts of which can exist relatively independently and autonomously, for example, during the violation of an article of the regulatory act it is not this regulatory act that is used or the field of legislation it belongs to, but this is the specific article of the regulatory act.

In teaching academic disciplines it is important to take into account interdisciplinary relationships and to draw the students' attention to the existence of the norms of the legislation, which qualify or describe a certain legal phenomenon in relation to which, after its occurrence, the norms of other branches of the legislation are applied. For example, Article 121 of the Budget Code of Ukraine (2012) stipulates that those officials, who are guilty of violating the budgetary laws, bear a civil, disciplinary, administrative or criminal responsibility in accordance with the law. At the same time, a definition of violation of the budgetary legislation

is given in Article 116 of the specified code. Such state of the legislation requires the logical teaching of disciplines taking into account their hierarchy and relationships, which are sometimes ignored during the development of curricula for the training of law specialists. It seems logical to use the following framework of their study: general theoretical legal disciplines (theory of the state and law, history of the state and law, philosophy of law, etc.) – system-forming educational discipline (constitutional law) – method-making educational disciplines (administrative, civil and judicial law, public and private law) – complex (financial, banking, land, ecological, etc.) – special legal disciplines (forensics, judicial accounting, etc.). This logical construction is based on the fact that the norms and regulations of the higher-level law branch are the foundation for the construction of a lower-level law branch.

As a component of legal integrity, any of the above-mentioned parts is based on the general principles of its organization and functioning. The integrity itself is a combination of logically and sequentially united parts according to the content or formal criteria and depending on the nature and character of the links between them (subjective, objective, regular, etc.). This determines the systemic nature

not only of the framework of law, but also its study as a holistic phenomenon. The logic of the study of the system of law means that it is necessary to take into account the fact that some levels, that is, disciplines hierarchized according to the levels, are to be united on certain substantive grounds that characterize the peculiarities of their properties and relationships. Secondly, a systemic legal whole forms a unity as a result of the structural orderliness of its parts, which determines their functional dependencies and interaction. Thirdly, the dependence of the parts on each other, which denies the exclusion or change of individual parts, as it contributes to the change of other parts of the integrity or its disintegration. The latter provision is an additional argument of the need in the logical structure of the educational process, the planning and development of curricula.

The whole is studied through the learning of its parts and, therefore, studying requires the use of the classification method. As an important instrument in the methodology of law, classification makes it possible not only to organize the number of legal phenomena according to certain criteria, to emphasize the most typical and essential in them, but also to determine the random and subjective and place them within certain limits of space and time. A scientifically substantiated classification of the legal phenomena and objects makes it possible to better understand their essence, content and structure, to define more precisely the limits and possibilities of the regulatory influence of the legal norms and the ways of increasing their effectiveness. In practical terms, classification provides a scientific approach to the choice of methods and forms of legal activity; identification of those separate segments that require the improvement of legal regulation, development of proposals for further improvement of sectoral legislation.

In the process of classification, depending on the purpose and tasks, the subject of studying chooses classification signs or classification criteria, because in order to learn the essence of the legal phenomenon, it is necessary to distinguish its types, to learn the essence of each selected type, to identify the general and the specific in these types, and only then to unite the types of this phenomenon into a single whole concept. Consequently, we have a certain chain of studying: analysis and

clarification of the existing definitions of the legal phenomenon – its classification – identification of the general in the distinguished types– generalization and coordination of the general–provision of the concept of legal phenomenon with modern definition. Such process of studying is quite capacious and complex, but it provides a professional understanding of the concept as a result of which the subject of studying moves to the next stage – identification of problems in the existing definitions, their clarification or the development of their definition.

Therefore, a legal concept is the allocation and separation of a set of homogeneous socio-legal phenomena, which relate to the field of legal regulation. The development of the definition of a concept occurs as a result of the abstraction from the individual characteristics of a particular subject (phenomenon), the separation of their general features, which makes it possible to distinguish these objects (phenomena) from the total number into a separate group. In this logical operation, one distinguishes only important and essential features, which make it possible not only to describe a particular phenomenon, but also to reveal its essence. The most general, substantial and fundamental features of the concept, which are the subject of the generalization both in a certain field of legal knowledge and in the law in general, constitute a legal concept.

A legal term is a word or a phrase, which serves as a form of linguistic expression and consolidation of the concept used in jurisprudence, that is, a term is a material bearer of the concept. A definition is a brief logical identification that contains the most significant signs of a definite concept. A definition is a formulation, which reveals the content of the legal phenomenon and its essential features. Despite the fact that in the legal literature the terms “definition” and “concept” are usually regarded as identical, they need to be differentiated. The justification for the desirability of differentiation is the fact that a definition covers the logical operation itself, in the process of which the meaning of the concept and the result of this operation itself in the form of a certain formulation are revealed. The system of the legal terms, concepts and their definitions forms the conceptual apparatus of law.

The linguistic and legal problems and the problems of formation of the conceptual apparatus, which are scientific, but not technical, exist in many countries. Sometimes lawyers have to deal with the issues that are not technical in this respect. In one case, a lawyer poses the question not whether a certain law is effective, but whether it is just. In another case lawyers try to describe the law with fuzzy notions. For example, one lawyer declares that under the civil law a person should be liable only for the damage caused by him. Another lawyer can object to this statement, and they will not argue about the harm caused or the doctrine, but about the meaning of the concept of guilt. Or, for example, the discussion of the Supreme Court's compliance with the 1954 decision on the segregation of the established principles or the creation of a new law. The dispute between the parties may relate to the understanding of the principles and their application. In this case it is unclear how such conceptual issues are solved, since they go beyond the usual technical methods used by practicing lawyers (Dvorkin, 2000).

The described problem brings us to the new level – the understanding of the essence and importance of the principles as conceptual foundations as well as their application in controversial legal relationships. This is impossible without the application of the scientific component in practical activities, and hence the formation of skills of scientific thinking and analysis in the process of training of lawyers. The principle is a theoretical generalization of the most significant and typical expressing the objective laws of any system.

The importance of studying of the legal principles is that they are the fundamental principles of the legal system and legal phenomena leading to the emergence, development and functioning of legal phenomena. They are the basis for the formation of the legal system, the system of legislation and its elements. In general, the principles create a model of behavior, and the principles and norms enshrined in the law have the priority over all other norms of the law or the legislation. The legal principles are one of the conditions for ensuring a balanced state of the legal system. They are the primary regulator and serve as a prerequisite for the effectiveness of the system of legislation, its successful functioning and development. The study and understanding of the system of legal principles, their content and place in the hierarchy makes it possible to see the framework of those primary, fundamental principles, on which the system of legislation is built.

The studying of the subject moves from the phenomenon to its essence, consistently revealing its elements (parts) and connections, reflecting them in legal categories or concepts (forms of thinking) based on the fundamental principles of functioning and development. Different methods of learning and methodological techniques are used by these subjects to form a concept of the legal nature of this phenomenon in relation to the surrounding phenomena. This is a complex process of legal learning, which makes it possible to create an ideal legal structure in one's imagination, to compare it with the real one and, accordingly, to make a legal conclusion or generalization, which is the result of such studying.

CONCLUSION

In present today's conditions of the dynamic development of social relations and, accordingly, the development and improvement of legislation, the scientific knowledge of legal phenomena becomes increasingly important both in practical activities (law-making and law enforcement) and in the process of training of specialists in the field of law. The search for an optimal model of the training process for legal professionals should take into account not only the demand on the labor market but the availability of practical skills, the knowledge of legislation and legal practices. A mechanical acquisition of legal knowledge does not solve the problem of ensuring the effectiveness of the law and unambiguous application of the legal norms. Therefore, the use of scientific principles in the educational process, the formation of students' scientific thinking and acquisition of scientific approaches and the methodology of scientific research are of particular importance.

The knowledge acquisition of legal phenomena, categories, concepts and terms is a complex process of understanding the essence, content and structure of these phenomena in the process of scientific activity aimed at identifying the true characteristics of the surrounding social and legal environment in order to obtain the knowledge about these phenomena, their objective relationships and principles for their further use in practical legal activity (law-making and law enforcement).

If mechanical acquisition the budgetary law-making is a process of transformation of objective reality through legislative awareness into the adoption of the budgetary law, then the implementation of the law is a reverse process of transformation of legislative awareness into objective reality (application of professional competencies).

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