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LEGAL INTERPRETATION OF LEGAL NORMS AND APPLICATION OF LAW

Summary. This article is devoted to the problem of improvement of the interpretation of legal norms and law enforcement. The author has revealed an interesting methodology of the hermeneutical analysis of legal texts. The article substantiates the possibility of creation of expert systems, which would be able to predict the potential ways of movement of the subject towards one or another aim in a particular regulatory framework.

Keywords: legal interpretation, law enforcement activity, designing of legal situations, intuitive legal sense, and new methods of cognition of reality.

Problem statement. Only three structural parts of the norm are usually taken into account in the logic of norms: the content, the nature and the conditions of the application. It is assumed that all the norms are addressed to the same subject, and belong to the same authority. It allows writing the norms in symbolic language without mentioning the subjects and the authorities of different norms. The analysis of the structure of norms given by the normative logic coincides basically with the ideas about the structure of norms that have long stood in the theory of law. In the legal interpretation any legal norm includes the disposition, the hypothesis and the sanction.

With regard to the legal norms the sanction is natural to be considered as a component of the norm. Although norms are an important element of social life, there is no clear and universal classification embracing norms of all kinds. There is no clear border between the norms and something that is included in norms. It suggests that the hopes for creating a natural classification of norms, like, for example, classification of plants or chemical elements, are unjustified.

Paper purpose is to explore problems of the transition from understanding the meaning of law to the explanation of its essence and to present the interpretation of legal norms as a creative process.

Paper main body. Traditionally, law did not recognize other methods, besides formal normative (dogmatic) method. Therefore, it was thought that the jurisprudence is not obliged to take into account the volatility of

social reality. It is known that people's conduct is connected to the existence of such social regulators, as the values and norms that are not always formally fixed, but, nevertheless, have quite a strong effect on the man and his behavior. Values and norms often exist independently from the behavior of individuals, although they constitute an integral part of a complex system of social reality. Changing of law and the evolution of society are mutually correlated. Legal norms cannot be reduced to the preformation, the transformation of human nature. They vary according to the historical development of the social system. New legal theories appear only when society begins to change.

The concept of «norm» causes very different views, and the reproduction of the words does not guarantee the reproduction of meaning. Symptoms of changes in the perception of law can certainly be observed; they increase as the modern civil society is realized in a political revolution, industrialization and universal expansion [1, p. 234-241].

Niklas Luhmann gave an interesting characteristic of the three positions, reflecting these changes in «legal perception». The first position concerns the opinion of Kant on «legal aspects of the problem of revolution». According to Luhmann, if we analyze Kant's views on this subject, we will see that they successfully contribute to the transformation of «the political monopoly into law basis and make possible not only to legitimate, but also to develop the legitimizing legal order». And further: «In the beginning obedience must be ensured, even regardless of the content of norms, and only then the power is able to limit itself. In this case there is rejection of single bonds of law and time, and the transition to the sequence of steps: first, the violence, then — law ... It means that those who somehow affected by the revolution cannot longer rely on the legality of their expectations: it will forced to speculate on the success or the failure of the revolution. Action or omission — that is the question» [2].

The second position: the abovementioned problem is «to be normalized in the legal technology and dogma», where «legal solutions should always be compared with various resulting solutions.» Especially good-quality legal arguments are highlighted by intuition through focusing on results. It works not only for political arguments, but also for the characterization of dogmatic legal concepts, and for ordinary interpretation of legal norms. In Germany, this point of view was established in connection with theological, or functionality, methods of interpretation. Moreover, even such point of view was defended, according to which all the values, in the end, must be justified by their consequences. But here, «value» means that the future renders its decision on law and injustice, the future that we do not know and that we can only guess.

The third position concerns the sociological understanding of law. Moreover, the legal role of the social sciences is the most important topic of discussion in Germany. However, it lacks any possibility to find out the function of norms and the sense of duty. Despite the huge number of works devoted to the consideration of the problem of sense, some of the important aspects of this problem, which are of fundamental importance, are not given sufficient attention. It is related, in particular, to the role of language in the expression and the formation of sense.

If according to Edmund Husserl (transcendental) consciousness of the

subject plays the leading role in the creation of sense [3, p. 124], then, according to Ludwig Wittgenstein, the sense is generated not by the subject, but by certain socio-linguistic practice, which, however, should be done only by the subject. This is an extremely important observation: the subject is ineradicable from the sense, and at the same time the subject is «included» in the sense through the expression.

We can say that Husserl and Wittgenstein, moving in opposite ways, equally open the «subjective» dimension of sense. It allows concluding that the role of the expression and the role of the subject in the formation of sense are not accidental. It characterizes the «nature of the sense» and does not depend on any approach.

Senses can exist objectively regardless of the subject but the subject and the language always create them. There cannot be the author outside the language and the subject. Thus, new sense has to go through the conscience of the subject and then embody in the speech to become the one it is. The sense appears as ideal objective formation. It is ideal as is unattainable for the conscience with the use of organs and senses and objective as the same sense can be revealed and understood by many subjects. At the same time the sense is the formation with which we deal directly in the process of knowledge.

From the standpoint of phenomenology the sense is constituted by the acts of conscience (acts of intention of the meaning). Revealing the machinery of constitution (i.e. the machinery of «formation of the sense») phenomenology determines ontological status of the sense: it exists as is constituted by the acts of intention of the meaning and exists only when is constituted. Moreover, this expression plays an essential part in constitution of the sense as not only communication but also reasoning itself is carried out by means of expressions.

The fact that ontological status of the sense can be defined only through revealing the machinery of its formation is also demonstrated by K. Popper's conception. The sense gets its existence by means of its impersonation in the language. Thereby, only language owing to its opportunities procures entity of the sense for our thinking and further work of the thought and knowledge with various semantic formations.

Analysis of I. Kant's teaching on transcendental schematism of clear rational concepts [4, p. 67-210] with Wittgenstein's theory of logical form testifies that inner form (in Kant's teaching it is known as transcendental schema but Wittgenstein calls it a logical form) is an important conceptualizing and cognitive component. The inner form can act as peculiar symbolism which essence consists in spotting of fundamental principle, the law of general mediation that determines the construction of the whole essence of the culture within the bounds of humanistic cognition. The inner form has huge opportunities as means of interpretation and can be considered as a special methodological procedure, scheme of interpretation directed towards finding and deciphering the essence [5, p. 11, 15].

Law exists for us as a certain form that concerns the problem of intensity between the temporal and social dimensions and endures this intensity even under the circumstances of evolutionary growth of intricacy and complexity of the social structure. Form of law consists of the combination of two distinctions: modality of expectations «cognitive/normative» and «legal/illegal» [6, p. 124]. All the social

applications of law function within this framework and intensify the subject sense.

Nowadays there is an objective necessity to improve legal interpretation of legal rules and law enforcement. Moreover, the optimization of these processes shall be based on the scientific data. However, it has recently become difficult to carry out research in the area of law [7, p. 125-128]. In turn, as Regelsberger remarks, not too many chapters can be found in the teaching of law where theory would lag behind the practice so far and knowledge would fall behind the skills as in the teaching on interpretation. In this case interpretation shares the fate of the human speech: a lot of people speak correctly without having any knowledge on laws of language. Difficulties are in the material, infinity of the aids and diversity of the application. Nowadays and in all preceding history there has not been any deficiency in attempts at giving the leading points of view mentioned here the nature of scientific principles. Special branch of theory of law was formed from them; however, dull and conventional attitude to the material did great harm to legal hermeneutics [8, p. 137-138].

Legal hermeneutics is the science on understanding and explaining the sense laid by the legislator into the text of legal act. A task of legal hermeneutics is to provide methodologically transition from understanding the sense of point of law to explaining of its essence. Such kind of transition is the process of cognition, which results in finding the sole and correct version of interpretation of general precepts of law concerning concrete legal situation.

At the same time there are widely used such methods as linguistic, double and triple reflection (takes place when not only the text is interpreted but also its author and concretely historical situation) put into the context and other methods. Perspective of these methods is especially evident for making a new type of legal awareness as well as in such section of legal techniques as statutory interpretation [9, p. 40-47]. Today legal hermeneutics aspires to be independent within the boundaries of theory of law and state [10, p. 115-121].

The Italian philosopher and poet E. Betty worked out the most interesting methodology of hermeneutic analysis of legal texts. The philosopher was saying that there is the world of objective spirit, facts and human events, acts, gestures, thoughts and projects, traces and evidence of ideas, ideals and realizations. This entire world belongs to interpretation. Interpretation appears as the process the aim and identical result of which is comprehension. The interpreter shall reproduce the real process of creation of the text by dint of reconstruction of the message and objectivization of intention of the author of the text.

Betty formulated four hermeneutic channels, which are actively used in law:

1) canon of immanence of hermeneutic scale. In other words, reconstruction of the text must conform to the author's point of view. Interpreter does not have to bring anything from the outside; he has to look for the sense of the text, respecting dissimilarity and hermeneutic autonomy of the object;

2) canon of totality of hermeneutic consideration. Its essence is in the idea that unity of integer is explained through the unity of integer, but the sense of separate parts becomes clear through the unity of integer (hermeneutic circle);

3) canon of relevance of awareness. The interpreter cannot withdraw his subjectivity till the end. To reconstruct other people's thoughts, and works of the past, to return to genuine vital reality other's emotions it is necessary to correlate them with own «moral horizon»;

4) canon of the semantic adequacy of understanding represents a requirement to the author of the text. If the author and interpreter are congenial and are on the same level, they can comprehend each other. This is also the interpreter's ability to understand the purposes of the object of interpretation as his own in the literal sense of the word.

Hermeneutic method in law is to simplify the dialogue of legal cultures since legal concepts and categories (such as freedom, democracy, liability) have different meaning in different legal systems. The usage of hermeneutic method is most productive in historical and legal research (not without reason E. Betty was the historian of law). At the same time you should not be waiting for hermeneutics to solve the problems it does not set itself and is not capable to solve: hermeneutics has a vocation to supplement but not to replace itself the existing methodology of law [11, p. 115-121].

General theory of awareness (hermeneutics) has accesses to almost all the stages and zones of legal regulation as they are mediated by the consciousness and comprehended by it when necessary. But this is a good reason for application of this science in general jurisprudence [12, p. 122-123].

Principles of hermeneutics can become an effective machinery of research, for example, reinterpretation, distortion of the author's sense put into the one or another teaching. Interpretation of scientific texts, «understanding of awareness» is the «field» on which hermeneutics can do its best to show its productivity.

Thus, contemporary (neoclassical) methodology is widely used in jurisprudence with classical methodology [13, p. 83-87]. At the same time appropriation and usage of the knowledge of the other sciences take place by means of so-called juridization of the methods (cognitive means and methods) of other sciences and formation of new legal discipline at the intersection of law and interdisciplinary sciences.

Law on hermeneutics is read: unity should be understood proceeding from the particular, but particular should be comprehended from the unity. This rule was developed by ancient rhetoric, but hermeneutics transferred it from oratory to the art of comprehension at the early modern period. Here we face a problem of hermeneutic circle. If the process of understanding constantly moves from unity to a part and back to unity, the task of the partners in the legal dialogue is to widen the unity of clear sense by the concentric circles [7, p. 123].

Activity directed to assimilation of law and expressed in it the will of the legislator is called construction — interpretation. Incidentally, Romans used the word «interpretation» which had wider sense: it tabbed not only the construction of statutes in its own sense but a further development of the cogitation of the legislator by using analogy. Certainly, statutory construction is a mental activity for which well-known rules were worked out. Total combination of these rules is called Legal Hermeneutics. The lawyers of the eighteenth and early nineteenth century desired for elevating the hermeneutics to the extent of the special science. As Puchta remarked,

all the science is hermeneutics for the one who has common sense and any of the abstract rules of hermeneutics will not help to explain the sense of law if the person who illuminates it does not have any vocation to it developed by studying and practice. Windscheid on this matter observed exactly that «Legal Hermeneutics» is not a science, which can be given, but rather the art, which should be studied.

Primarily, intercommunication of jurisprudence and hermeneutics is showed in interpretation of different forms and sources of law concerning the historical legal documents as well as legal acts valid at the up-to-date period. In our opinion, growing popularity of legal hermeneutics, primarily, is indebted to ontological approach to legal hermeneutics on the whole, H.-D. Gadamer and E. Betty who pointed out the community of historical, theological, philological and legal hermeneutics. The basis of this approach is formed by the fact that the gap between generality of law and concrete provision of law in the particular case cannot be destroyed in its essence in view of abstractedness or banality of law. «The statute is general and that is why it can not be fair to each individual case» (H. Kehn). H.-G. Gadamer's approach to this problem by means of hermeneutic perspective gave rise to the whole tendency in contemporary philosophy of law. According to legal hermeneutics, the sense of law should be comprehended with consideration of every concrete situation. H.-G. Gadamer showed generality or universality of problem of awareness on a basis of extraction of one of the integrant moments of any use. From his point of view, for legal hermeneutics as well as for theological ones the strain existing between the given text (legal act or the good tidings), of one part, and the ones he gains as a result of its application in the concrete situation of interpretation (judgement or sermon), of the other part, is constitutive. It follows that to understand the text correctly in accordance with the claims he is pulling out we have to understand it in a new and different way in every given moment and in every concrete situation. In other words, awareness at this point becomes the application: it penetrates into the sense of one or another legal text and its application to the concrete case does not represent two separate acts but the separate process.

Collision, conflict of interpretations between the legislator and implementer of law (an executing authority, a citizen) involves the legislator's initial concern to uniqueness of the text to his advantage. This is exactly what specific features of hermeneutics consist in.

I suppose that it is also necessary to connect hermeneutic method in understanding of law with existence of different legal cultures including national legal culture with personal view on the problem of human rights, legal state, separation of powers, local government etc. procuring real embodiment of ideas of freedom and justice conforming to our legal mentality and conditions of legal existence. Logic is to interpret irrational moments, which are present in any legal culture [14, p. 175-176].

We would have not considered any form of legal practice; they consist of combination of different interpretative estimations. In this comprehension law in its nature is completely hermeneutic phenomenon.

V. Lobovikov worked out a «discrete mathematical model of moral and legal aspect of human activity» [15, p. 259]. Mathematical structure modelling adequately the reasoning, which is

studied by formal logic and mathematical structure regulating adequately the behaviour, which is studied by formal jurisprudence, are essentially close (similar) mathematical structures. Having connected mathematical (natural law in its essence) method with formal logical (positivistic) methods it is possible to create mathematized multipurpose system of natural law which he called the algebra of acts, which can become a criterion for control of current legislation. Thus, the sophistication of concept of law and comprehension of its multidimensional phenomenon of human entity take place.

As the representative of «integral jurisprudence» D. Holl claims the comprehension of law is not completed and it is possible to pick out a certain legal structure, which does not include only principles of law but also the subjective legal experience of the participants of continuously changing reality [16, p. 741]. The representative of integrative jurisprudence makes a conclusion on necessity of including the value aspect determining the behaviour of a human into current legislation. The law shall express not simply real but fair, correct moral standards. Thesis «on humanity of law» which embodies the legal nature of a person can act as a distillation of this requirement.

The majority of authors engaged in hermeneutics were confined to repeating and commenting the rules of interpretation formed by Roman lawyers and remained in the Codex Justinian [17] having rarely done some amendments and additions. Very few people tried to study the process of interpretation, but not as a whole, just in certain parts. It should be noted that the theory of interpretation of legal acts has the same meaning as logic or grammar. The theory of interpretation of laws is a methodological guide to realization of principle of management.

"If there are rules», — Mill says, — «which are subordinated to consciously and unconscientiously by each mind in each case when it concludes correctly, it is scarcely to prove that the man would rather follow these rules knowing them than not being acquainted with them... People had been discussing the proofs and often correctly when logic was still not the science; otherwise it would have not become it. Just as they were fulfilling huge mechanical works having not understood the laws of mechanics. But there are bounds of the ones the mechanic can fulfil not knowing the laws of mechanics as well as the thinker can fulfil not knowing the basis of logic. Very few people with the help of extraordinary genius or acquired good mental techniques by chance could act not knowing the sources in the same or almost the same way as if they acted having adopted these sources. But the majority of people need to understand the theory of the one they are doing or follow the rules made for them by the people who understand theory [18, p. 12-13]».

The purpose of interpretation of laws is the revealing of true sense of legislative provision. Such kind of provision is the thought of legislator expressed in words. Consequently, the art of interpretation of laws comes down to ability to understand the human speech. But everyone who deals with products of human mind invested into the form of the word has to possess this ability. It follows that the rules, which are necessary for understanding another literary work, shall be followed during the interpretation of laws. These rules are worked out by special branch of philology which is called hermeneutics

and which deals with construction of theory of art to understand oral or writing speech. It stands to reason, that teaching on interpretation of laws is a special branch of this hermeneutics and that is why it is often called legal hermeneutics.

Thus, the material for working out the methods and rules of interpretation of laws should be primarily looked for in the data of philological hermeneutics. As the last one is depending in its conclusions on the number of sciences the subject of which is spiritual activity of a human, especially his literary work, work of psychology, logic, grammar, stylistics, the history of language etc., the lawyer not finding the necessary data for him in philological hermeneutics has to resort to above-mentioned sciences.

Further, the laws in force differ from the other literary works in some features. For example, they are intended for using in practice, form in their aggregate one liaison unit, are issued in view of any practical purpose the achievement of which is desirable for the legislator, are based on some or other considerations of justice or purposefulness. These and other peculiarities of laws shall be taken into account and be used as a material for modification of general hermeneutic rules and the development of new ones.

At last, the legislator caring of his enactments to be understood correctly sets the rules and interpretations which are binding for the courts and citizens because they are the same as any other rules.

It is evident from the above-mentioned that material for construction of rules of statutory interpretation shall be adopted: 1) from philological hermeneutics and sciences it is based on; 2) from the analysis of characteristics of legislative regulations; 3) from provisions of law itself [19, p. 12].

Application of laws and other legal rules in practice is in enumeration of particular cases of life under the decisions, which envisage them in general form. This enumeration has the form of syllogism in which the major premise is a legislative regulation or a number of rules and minor one — factual circumstances of the given concrete case but the conclusion drawing from them with logical necessity gives an answer to the legal issue which has arisen and is to be solved.

Take for example that I. in consequence of fight with P. has damaged his street-clothes. The barrister who has been asked for advice by P. or the judge at whom he will make a claim against I. on compensation for damages will have to cope with civil laws and look for an article on the grounds of which it is possible to solve this case.

Having acted in such a way they will get the following syllogism.

The minor premise. I. has caused damages to P. by his acts to the amount of 250 UAH.

The major premise. In accordance with article 1166 of Civil Code of Ukraine, «Property damages caused by illegal decisions, actions and inactions to personal non-property rights of individuals or legal entities, and the damage caused to the property of individual or legal entity is made up for on all amounts by the person who caused the damage».

Conclusion. I. is obliged to pay P. 250 UAH.

As it is evident from this example, it is necessary to have two premises to build up a syllogism. But they are rarely given enough finished. They are usually to be obtained: the minor premise by means of legal analysis of factual

circumstances of the given concrete case, the major one — by means of interpretation and logical development of legal rules.

At first, take a look at the way the minor premise is obtained.

Each concrete case springing up in life and demanding settlement under the legal rules consists of the major or minor amount of the elements. Some of these elements have legal significance as legal act connects the consequences with them: the other elements do not have the same importance being legally indifferent. Therefore, first of all, it is necessary to lay the case, which is subject to solution, into component parts, and select the ones from them, which have legal significance. The analysis of factual circumstances consists in it.

Take for example that P. asking the barrister for advice is telling him the following: «Yesterday at 10 PM having left the cinema and going to the restaurant to have supper we started arguing with him about the causes of the earthquakes and became so irritated that we started to be free with our fists and I. tore my suit jacket up by his left hand for which I paid 350 UAH to the tailor the other day. Is it possible to recover this amount from I.?»

First of all, in his story the barrister has to separate juridical elements from domestic ones, which do not have legal significance to answer this question. Also, he has to determine the extent of damages P. suffered and whether a group or a person caused them. Further, P. says that he was going from the cinema. It is also not important. If he had been going from the cinema or home, the legal essence of the case would not have changed. Similarly, the cause of the quarrel, infliction of damage by left but not the right hand, purchase of the suit jacket from the tailor but not somewhere else etc. Having eliminated all the domestic circumstances, the barrister would fix upon the fact that I. has caused P. damages having torn the outerwear up. This is legal grain, which lies in the story, which has been told by P.; everything else is domestic husk, which does not have any value in the lawyer's eyes. It is not hard to note that legal analysis is similar to medical diagnosis. Just as a doctor chooses from the number of painful symptoms the patient is complaining about only a few of essential ones and diagnoses a disease by them, the lawyer allots legal elements from domestic ones of the concrete case and constructs a legal incident from them.

After the concrete case, which is to be solved, has been analysed and thus the minor premise of syllogism has been got, the lawyer has to start looking for the major premise, which conforms to it. The stage for searches shall be the favourable legislation, which provisions are to be applied to this case. These searches can lead to either of two results. Sometimes the major premise is expressed directly in one or several provisions of law. It took place in the above-mentioned example where the issue on the compensation for damages caused by one person to the other one was solved directly by article 1166 of Civil Code of Ukraine. It just remains to interpret the point of law in such kind of cases, i.e., to find out its real and exact sense. It is not rare when deliberate searches remain unsuccessful and there are no any provisions in the legislation, which could be a finished premise. In such kind of cases the major premise shall be logically brought out from the existent rules. This method of gaining a major premise can be called a logical development of rules.

One operation of preliminary nature shall precede interpretation as well as logical development. Before the application of the found rule it is necessary to make sure that it is a genuine rule, i.e., has legal force, and ascertain its exact text. The criticism of the authenticity of the rules consists in it.

So, the application of laws in practice embraces four operations: 1) legal analysis of concrete cases which are to be solved; 2) criticism of authenticity of rules: 3) interpretation of rules; 4) logical development of rules.

The first of these operations do not need a special research. To be able to distinguish legally material circumstances from purely domestic ones, it is necessary to be familiar with legal concepts but this acquaintance is gained by means of study of jurisprudence, i.e., legal education. There are no any special rules, which are to be guided while carrying out the legal analysis. There is only one general rule: «It is necessary to cast aside all the circumstances which do not have any significance from the perspective of current law».

It is ought to say the other thing concerning criticism, interpretation and logical development of regulations. These operations are incomparably complicated; they are to be carried out according to special rules, but it is possible to establish them by means of detailed research into the essence and distinctive features of each of the named operations.

Interpretation of rules of law includes two elements: elucidation — revelation of content (interpretation) of legal rules «for yourself» and explanation — unfolding of the content (interpretation) of legal rules «for the others». The interpretation is found in special acts (they are known as interpretative).

Legal interpretation is a special cognition, which is fulfilled with the purpose of practical realization of law.

The activity of the court and other law-application bodies on ascertaining the factual circumstances of the case also refers to special cognition in the area of law. Legal interpretation gains more important significance while application of law becomes a part of state-powerful activity of law enforcement bodies determining the necessary legal consequences during the solution of the legal case. Here the interpretation gains legally binding meaning and the element of explanation (interpretation) is not infrequently essential and it directly influences the legal regulation of public relations.

The role and the place of interpretation of law in life of society are connected with political regime and state of legitimacy. Under the totalitarian regime in the conditions of lawlessness the interpretation is often used in order to attach the arbitrary sense to the law in accordance with some or other political purposes and hence for random application of law.

The experience of hermeneutics gives us all reasons to believe that interpretation cannot be represented purely as logical and methodological procedure since it exists as diverse phenomenon on different levels of entity of the subject [20, p. 7-25].

In the opinion of Nietzsche, human reasoning always acts as «the interpretation according to a scheme we cannot get rid of» [21, p. 211] and the value of the world turns out to be grounded in our interpretation. Criticizing positivism Nietzsche considers that there are no facts but only interpretations. We cannot ascertain any facts «in ourselves».

Nietzsche says that there is always an opportunity to offer new significances, «perspectives» and «methods» to lay phenomena out by the particular measures. The world, as he claims, «does not have one sense but infinite senses».

In Panofsky's opinion, «the internal sense can be defined as uniting principle which is the basis and defines visible event, its type and intelligible significance and which even stipulates the form of internal event (Italics are mine — *V.P.*) [22, p. 5].

Panofsky's «perspective» is established exclusively by the subject similar to Kant's transcendental scheme or Cassirer's symbolic form. It reduces artistic phenomena to the strict, i.e., mathematically precise rule, but it makes this rule dependent from man, individual, ...since the manner of its acting is determined by arbitrarily chosen position of subjective point of view» [23, p. 88].

As Nietzsche indicates, the power considering the perspective is «the entity as the subject» [21, p. 298]. It should be noted that Panofsky is speaking about the «great transformation» from aggregate space to systematic, development of infinity category and desacralization of universe [24, p. 84-87].

Interpretation (legal hermeneutics) is as a culminating point, summit of legal activity. Legal interpretation is the activity, which on the practical side is connected with completion of adjustment of vital relationships by law. Legal rules become ready for realization and practical effectuation as a result of interpretation.

Another thing is not the less important. Refined legal knowledge, experience, legal culture and legal art unite together and converge in unified focus in the interpretation. From this point of view, hermeneutics, i.e., the science and art of interpretation of legal terms and concepts is the kind of apex of legal skills, the culminating point of legal activity. That is why one of the most reliable indicators of high-grade work of professional lawyer is the level of professional training which lets him «immediately», fully and exactly interpret any laws and other legislative acts.

Conclusions. In essence, the activity, which is quite often called the legal analysis, consists in legal interpretation. Legal interpretation represents itself in known sense as the process opposite the one, which is fulfilled by the legislator while adoption of the statute. It is a sort of drawing an analogy with the excavation, archaeological developments — overburden operations when the layers of the ground are revealed layer by layer, not infrequently of the dead ground to reach the desired, sought-for object. The cogitation of the person who carries out interpretation (the interpreter) here goes from layer to layer of legal matter — from analysis of literal, linguistic text to analysis of legal dogma, legal features of rules of law and thereby to moral, social and other bases, backgrounds of prescriptions of law. All of these things are in order to establish actual content of legal determinations.

Legal interpretation reveals its high legal purpose and at the same time in the conditions of democracy, constitutional state, developed legal culture is not beyond the scope of legality. In the situation of totalitarian state, autocratic regime it is sometimes an expression of juridical casuistry, manipulation of law and legal categories and occasionally a direct violation of law in force under the pretext of interpretation and results in arbitrariness and lawlessness.

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Плавич В.П.

Юридичне тлумачення правових норм і застосування законів.

Анотація. Аналізуються проблеми удосконалення юридичного тлумачення правових норм і застосовування законів. Автором розкрита цікава методологія герменевтичного аналізу правових текстів. Обґрунтована можливість створення експертних систем, здатних прорахувати можливі траєкторії руху діючого суб'єкта до тієї чи іншої цілі у заданому нормативному просторі.

Ключові слова: Юридичне тлумачення, правозастосовна діяльність, моделювання правових ситуацій, інтуїтивне правове чуття, нові способи пізнання реальності.

Плавич В.П.

Юридическое толкования правовых норм и применение законов.

Аннотация. Анализируются проблемы совершенствования юридического толкования правовых норм и применения законов. Раскрыта методология герменевтического анализа правовых текстов. Обоснована возможность создания экспертных систем, способных просчитать возможные траектории движения действующего субъекта к той или иной цели в заданном нормативном направлении.

Ключевые слова: юридическое толкование, правоприменительная деятельность, моделирование правовых ситуаций, интуитивное правовое чувство, новые способы познания реальности.