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A SCIENTIFIC CONCLUSION: A METHODOLOGY FOR THE PREPARATION

The article is devoted to the study of issues concerning the methodology for the preparation of scientific conclusions. The characteristics of scientific and expert conclusions and advisory opinions are analyzed. The place of the conclusions for the judicial system is defined. The methodology of the criminal-legal research, including the compulsory components and the components of the procedural angle of the research are emphasized, as well, as the motivation of the research.

Key words: *scientific research, scientific conclusion, expert conclusion, advisory opinion, methodology of scientific research, methodology of scientific conclusion, methodology of the criminal-legal research.*

The complex and difficult processes that have been taking place at the global level, as well as in a certain region or in a particular state, regardless of their content and direction, and accompanying the rapid development of the society in recent years (Streltsov 2016, p. 42) have once again resulted into the necessity to rationalize the value of science, scientific research and findings in different spheres of knowledge, including the jurisprudence (Kuzmin 2016, pp. 1-2). Thus there is felt an increase in the demand for a large variety of scientific and expert conclusions and advisory opinions. Awareness of the recommendatory character of the latter, the pluralist spectrum of views and thoughts, issues of trust, respect and reputation of researchers, experts, academia and practitioners alongside with the quality and relevance of such conclusions and opinions, raises the question of the need for the methodology in their preparation.

In this regard, referring to the legal research, it is worth mentioning that a scientific conclusion needs to be undertaken in accordance with a sufficiently wide range of provisions that are inherent in legal science, in our case, in criminal legal study. Most notably, the conduct of a scientific research, in general, is considered as one of the types of productive human activity, the main purpose of which is to shape attitudes, ideas and assumptions about criminal-legal phenomena. Thus, in this situation, the definition of features of criminal law research is due to the presence of a fairly wide range of its functions (tasks).

It is fair to say that the preparation of a criminal-legal conclusion, which refers, generally speaking, to the generation of a new knowledge about the concrete phenomenon, is being viewed as one of the most common theoretical and applied type of scientific research in the field mentioned above. Meanwhile, the content of such conclusion certainly depends on the orientation and area of the relevant scientific conclusion.

Moreover, it should be noted that the preparation of such conclusions for the judicial system, based on the unified principles of the organization and operation of the courts, which exercise the judicial power, constitutes a separate area of focus. In turn, the preparation of such conclusions for the international courts (e.g. OON 1993) generally stands for the consideration to be recognized as a part of this pillar, but still remains separate in some way.

Significantly, the methodology, which is traditionally understood as the teaching about the organization of the relevant activities, techniques and methods of theoretical cognition, is considered as an essential part of the preparation of each and every single scientific conclusion. And if a method allows learning only one of the sides of the researched object, the methodology enables to experience the nature and scope of the whole phenomenon. Nevertheless, there are still active deliberations and debates on all of those issues (e.g. Hoecke 2011).

Hence, the methodology of the criminal-legal research should include several compulsory components, in particular: a) formulation of the problem, explanation of the object and the subject of the research; b) definition of goals and tasks of the research; c) designation of research methods; d) clarification and interpretation of the main categorical apparatus; e) preliminary systematic analysis of the research object; f) development of the research working hypotheses.

However, it should be noted that there is also a procedural angle of the research. As a rule, it usually consists of the following components: a) development of the principal research plan and its prospectus; b) identification of the main procedures for gathering and analysis of the raw data; c) approbation of the research results.

In addition, within the context of present-day realities, such criterion as a 'motivation' of the research should be given due regard in terms of the scientific conclusion both overall, and within the field of criminal law. It is necessary to mention that in the past this issue was raised by the European Court of Human Rights on several occasions. The *Bönisch* case (*BÖNISCH v. AUSTRIA*, [1985]) and the case of *Brandstetter v. Austria* (*BRANDSTETTER v. AUSTRIA*, [1991]) may serve as the vivid examples. In the proceedings neutrality, impartiality and objectivity of the experts were brought into question.

A. Einstein (1918, p. 225) in his *'Motives for Research (1918)'* stated that the final goal of the research has to be the obtaining of '... a simplified and intelligible picture of the world. ...'. With respect to our specific case that means to conduct an objective, in-depth, unbiased, based on the methodology, research dedicated to the clarification of facts and eventually – to the ultimate truth.

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LEGAL EXPERT OPINION

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Scope of persons qualified to act as legal experts («experts in the field of law», regrettably there are inconsistencies in the terms used in the law, obviously they are the same) and their rights and responsibilities are specified in Art. 73 of the Ukrainian Code of Civil Procedure, listed among regulations on other parties to the civil procedure. According to Art. 73 of the Ukrainian Code of Civil Procedure, any person, who holds an academic degree and is recognized as an expert in the field of law, may act as a legal expert.

According to Art. 114 of the Ukrainian Code of Civil Procedure, parties to the case are entitled to file a legal expert opinion with the court. According to Art. 73 of the Ukrainian Code of Civil Procedure, the court shall make a decision on granting a legal expert the right to participate in the case and on entering the legal expert opinion into the case file. We shall assume that the rule on entering the expert's opinion into the case file shall also apply to the instance when the legal expert does not participate in the case personally, but his/her opinion is filed with the court by the party to the case under Art. 114 of the Ukrainian Code of Civil Procedure.