

is deemed as an advisory document, which questions overall feasibility of existence thereof.

The court is not obliged to enter the legal expert opinion into the case file, and even if it does, it shall not be binding upon the court. If the judge makes conclusions similar to those specified in the legal expert opinion, the court still has to make independent conclusions on relevant matters. At the same time the court may rely upon the legal expert opinion, but only to the extent of certain information specified by the legal expert, and not upon the outcome of the research.

When considering the legal expert opinion the court may disregard it without giving any reason, is not obliged to explain the reason for refusal to accept conclusions in question, unlike in the case of an expert opinion, rationale for overruling which by the court must be specified in the court judgment (Art. 110 of the Ukrainian Code of Civil Procedure).

Unlike an expert analyzing objective circumstances, a legal expert makes conclusions on the rules of foreign law, which may have various interpretations depending on application thereof in terms of time and scope of persons, and may also be interpreted in many ways in academic sources and case law.

Since the legal expert is entitled to consideration for his/her services to be paid by the customer, and there is no responsibility stipulated for making patently false opinions, opinions of such legal expert may be biased, and this fact shall be considered by the court when deciding on whether the legal expert opinion may be relied upon.

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CONSTITUTIONAL VALUES: INDIVIDUAL ASPECTS OF JUDICIAL INTERPRETATION

Key words: *constitutional values, interpretation, judicial interpretation.*

In order to reveal the meaning of the concept of “constitutional values”, it seems necessary to draft off the content of the two components of it, namely: “constitutional” and “values”. Expanding the content of these two concepts, one can come to an understanding of the essence and content of the concept of “constitutional values”, which covers the features and qualities of its constituents, offers us a new meaning with a qualitatively transformed meaning. Applying the so-called “elemental approach”, that is structuring the concept into component parts, a deeper understanding of it is theoretically possible. However, one should remember that the concept of “constitutional

values" reflects a large part of the legal reality, which is endowed with unique features, qualities and content, and is a certain integrity, which has an independent significance. Therefore, the use of elemental approach is explained by the specifics of philosophical and legal reflection on constitutional values.

It should begin with the analysis of the adjective "constitutional" and determine whether it is equivalent to the fact that the parliament, which "establishes a constitution, literally writes these values in the text of the constitutional document ... Such use of the word "constitutional" implies the idea that the written constitution can give any meaning to constitutional values" [4].

Obviously this analysis lies in the plane of the ratio of natural and positive law. If we move away from the positivist point of view, then the above-mentioned understanding of the essence of the constitutional is true. That is, the constitutional is established by the legislator in the constitution. If we look at the problem from the natural law point of view, then the constitutions are provisions that correspond to unwritten constitutional norms and principles (natural law, the principle of justice and reasonableness, etc.), which are not enshrined in the constitutional text, but are organically associated with it, as well as constitutional values and legitimate aims of constitutional and legal regulation in society" [19].

Today, this idea is a prevailing methodological foundation for the study of constitutionalism as a whole, which is construed as a legal limitation of the state and opposed to arbitrary rule [3]. It is proven that the concept of constitutionalism forms the expression of the structural laws of social ties "built on the ideas of the association of law as a neutral tool for the needs and interests of individuals, communities or social institutions" [17]. As a philosophical and legal category, "constitutionalism is the embodiment of civilization values that are realized through the intercession of a democratic state and its institutions" [9].

In this context, it is appropriate to consider T. Paine that "the constitution is not a document of the government, but a document of people who are members of the government. And the government without a constitution is power without the right to it" [15]. That is, we can conclude that in a legal state, public power must be legitimate, that is, recognized by the people. The basis for the legitimization of power is a constitution, "which is at the same time a fundamental act in which the effective mechanism of legitimizing power is laid down and an act which itself is the result of democratic legitimation. The history of European constitutionalism is a vivid testimony to the fact that the constitution is, first and foremost, an act of the constituent power of the people, which is the primary to the authorities established, to which the legislature also belongs among others" [11].

Thus, legitimacy as a property of a constitution implies its recognition by society in terms of content and procedure. In terms of content, the constitution must comply with the natural law and reflect the will of the people, which is the source of the constituent power. "Legitimacy of the basic law is also ensured by observance of the procedure provided for by the same

for change or such a procedure for the adoption of a new constitution that guarantees the implementation of the constituent power of the people (procedural element). Ultimately, the combination of content and procedural elements is intended to ensure the unconditional recognition of the constitution by society, on which its authority and readiness of society to implement its principles and regulations are based" [9].

It follows from the above that the restriction of the subject of constitutional law only by the norms of constitutional law is a myth and does not correspond to the practice of modern states in the process of constitutional justice. As US Supreme Court Chief Justice D. Marshall pointed out, "If the goal is legitimate, if it lies within the scope of the Constitution, and all means to achieve this goal are permissible, apply to it and are not forbidden, but correspond to the spirit and letter of the Constitution, then they are constitutional" [19].

Though the natural law approach to understanding "constitutional" is quite obvious today, there is no unity in the list of values that can be called "constitutional". This is due to the fact that each constitution can emphasize these or those aspects among existing values that can be recognized as "constitutional" and which may differ from one nation to another. In addition, the constitutional provisions are interpreted in accordance with the dominant idea of time, so that "the basic rights and requirements of the democratic process mean, even within one constitution, something else from time to time ... Without a system of constitutional values, constitutional practice would risk to promote one specific value in a biased way and twist them into something completely opposite, legitimize injustice on behalf of the constitutional law" [4].

With an axiological approach to it, the Constitution is not created, but because of its inseparability with the spirit and values of the people arises from it and is proclaimed by the state. The more this truth is realized in practice, the stronger the constitutional order in terms of legal consciousness, the more intact the Constitution and its guidelines [13]. It is the constitutional values that determine the content of the constitutional principles and norms, the interpretation of which is entrusted to the Constitutional Court of Ukraine. They are interrelated with the settings and doctrinal guidelines when interpreting the constitutional text in a particular historical context [16].

It seems reasonable to consider the Constitution as a tool of value-filling the legal system of the state, the constitutional axiology of legal theory and practice. The value of the Constitution manifests itself in the fact that it is a unique document, which expresses the system of values and the program of life of society, a state that possesses the qualities of universality and compulsion. The Constitution enshrines and guarantees general legal values and values that are fundamental to society, the state, the people, and every person [18], namely: a human being, its life and health, honour and dignity, inviolability and security (Articles 3, 27, 49 of the Constitution of Ukraine); human dignity and freedom (Articles 21, 28 of the Constitution of Ukraine); the right to free development of an

individual (Articles 23, 34, 35, 53 of the Constitution of Ukraine); legal equality (Articles 21, 24 of the Constitution of Ukraine); the rule of law (Articles 1, 8 of the Constitution of Ukraine); democracy (Articles 1, 5 of the Constitution of Ukraine); sovereignty and territorial integrity of Ukraine (Articles 1, 2, 17 of the Constitution of Ukraine); the republican form of government (Article 5 of the Constitution of Ukraine), etc.

The constitution is a concept that is filled with axiological content. "The Constitution is not a text; it is the value system, values that live, reproduce, and direct a social life". Guaranteeing the Constitution implies guaranteeing fundamental social values in the legal system. The peculiarity of social values is that they express the main obligatory signs of legal existence on the basis of social consent, and therefore they are not subjective or discretionary. In addition, social values cannot "be manifested in isolation, they are systematized at the constitutional level and act as complementary and interconnected" [8].

Constitutional values are seen as the benefits embodied in various legal forms (norms and principles, rights and freedoms, other norms of the most general nature), enshrined in the constitution and deduced from its content through official interpretation [10]. Constitutional values are also considered universal, which are provided by means of legal protection in accordance with the constitution and determine the content of its principles and norms [17].

Prof. Venter proposed a hierarchical system of constitutional values, among which human dignity was singled out as the core. Equality and freedom are recognized by the scientist as supportive values, and democracy and the rule of law are structural values that together create a system of constitutional values. The proposed hierarchical system of values reflects a certain structure of the legal form of government. The discovery of the content of these values is due to the establishment of general rules of interpretation. Thus, constitutional values contribute to a correct understanding of constitutional provisions [5].

The Federal Constitutional Court of Germany also emphasized that the constitution is not neutral in terms of values. In the section on fundamental rights, it establishes an objective hierarchy of values, in which more important meaning of fundamental rights finds expression. "This system of values, which focuses on a freely developing person and its dignity in a social community, should be extended to the main constitutional and legal decision in all areas of law; legislation, administration and justice receive impulses and guidance from it" [2].

The Federal Constitutional Court emphasized that the social order of free democracy can be defined as a system that, except for any despotism and arbitrariness, is a system of rules of the law-bound state based on the self-determination of the people by the will of the relevant majority and on freedom and equality. The court referred first and foremost to the basic principles of this order: respect for the human rights as interpreted in the Basic Law, in particular the right to life and free development of the individual, state sovereignty, division of the branches of power, the

responsibility of the government, the legitimacy of the authorities, the independence of the courts, the principle of multiparty and equality of the chances for all political parties with the right guaranteed by the constitution to create and operate the opposition [14].

A vivid example is the hierarchical system of values of the Constitution of South Africa, on the basis of which the state is based. The system of constitutional values includes the value of human dignity as the core of the system, equality and freedom as supporting values, and democracy and the rule of law as structural values. In this way, the values that are properly identified as “constitutional” create the limits of a legitimate form of government. In addition, constitutional values create general rules for interpreting the Constitution and promote a correct understanding of constitutional provisions [4].

One should agree that, at first glance, a purely philosophical position on the hierarchy of constitutional values may acquire a significant practical resonance in the event of the competition of values, “it gives an appropriate orientation to the state, particular centres of society, public organizations, and other entities (including individuals) when solving value collisions: there is no such value for which a human being could be sacrificed” [12].

The foregoing makes it possible to draw a conclusion on the constitutional significance of human dignity, which has a central regulatory role. Human dignity as a constitutional value is a factor that unites human rights into a single whole. This ensures the normative unity of human rights. This normative unity is expressed in three ways: firstly, the value of human dignity serves as the normative basis for the constitutional rights set forth in the constitution; and secondly, it serves as an interpretative principle for determining the scope of constitutional rights, including the right to human dignity; thirdly, the importance of human dignity plays an important role in determining the proportionality of the statute that restricts the constitutional law [1].

Appeal to constitutional values and human dignity is seen in the decision of the Constitutional Court of Ukraine 5-p/2018 dated May 23, 2018, in which, reflecting the current trends in the development of law, it is indicated that human dignity must be interpreted as a right guaranteed by Article 28 of the Constitution of Ukraine, and as a constitutional value that fills the meaning of human existence, is the foundation for all other constitutional rights, the measure of the definition of their essence and the criterion of admissibility of possible restrictions of such rights. By this decision, the Constitutional Court emphasized the importance of the constitutional values and human dignity as the system-creating value, a source of human rights.

On this occasion, the experience of the Constitutional Tribunal of the Republic of Poland is interesting. For example, in one of the decisions, the Constitutional Tribunal pointed out that human dignity has a number of functions in a constitutional order: the connection between the Constitution (act of positive law) and the natural law order; a determinant of interpretation and application of the Constitution; a determinant of the system and the scope of human rights and freedoms; and the subjective right

of a person with a separate legal content [6]. In another decision it was emphasized that the application of the Constitution should be “accompanied by care for the preservation of natural human dignity. Hence, dignity cannot be considered as a feature or set of rights granted by the state. It is primary in relation to the state, as a result of which both the legislator and the law enforcement bodies should respect the content contained in the concept of dignity which belongs to each person” [7]. Thus, the constitutional significance of human dignity is emphasized as the natural and legal basis of the constitutional system values around which the Constitution and the foundations of the legal structure of the state are built.

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APPOINTMENT OF EXPERTISE IN THE PROTECTION OF THE CHARITY AND DOMESTIC PRACTICE OF AN INDIVIDUAL

Key words: *linguistic expertise, inaccurate information, negative information, appraisal judgment.*

The existence of communicative human needs remains an undeniable fact. The state of the development of information technology indicates the improvement of means of interaction of individuals, including through the exchange of information. The advent of the Internet, various Internet platforms, mobile applications has simplified and improved the processes of searching, exchanging and disseminating information and creating it. Earlier, existing information sources such as print media, leaving their original form also transformed into electronic, in the form of Internet publications. However, the quality state of modern information has deteriorated