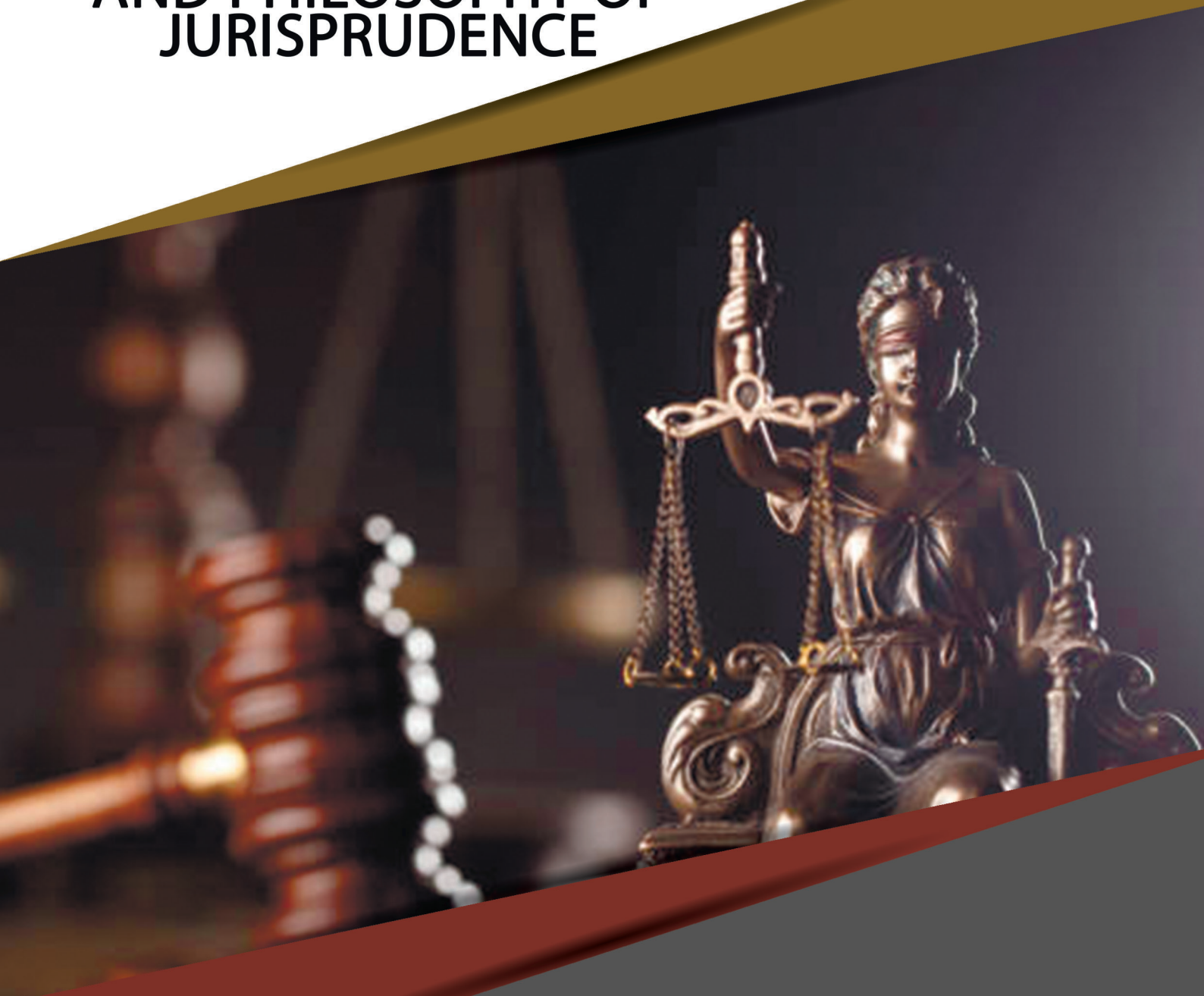
INTERNATIONAL SCIENCE GROUP

MONOGRAPH

HERMENEUTIC OF LAW AND PHILOSOPHY OF JURISPRUDENCE



DOI 10.46299/ISG.2021.MONO.LEGAL.I
ISBN 978-1-63732-135-5
BOSTON (USA) – 2021
ISG-KONF.COM

ISBN - 978-1-63732-135-5
DOI- 10.46299/ISG.2021.MONO.LEGAL.I

Hermeneutic of law and philosophy of jurisprudence

Collective monograph

Boston 2021

Library of Congress Cataloging-in-Publication Data

ISBN - 978-1-63732-135-5
DOI- 10.46299/ISG.2021.MONO.LEGAL.I

Authors - Belkin L., Iurynets J., Sopilko I., Байталюк О.М., Нашинець-Наумова А.Ю., Бездольний М.Ю., Бондар В.В., Рудниченко С.М., Шевченко Н.Л., Починок К.Б., Закорецький В.В., Розгон О., Мусаева А.Я., Корольов В., Франчук Д., Плужнік О.І., Щирська В.С., Yanishevska K., Kharchenko A., Steblianko A., Hlushchenko N., Ярошенко А., Бабінцева Л., Горяінова Н., Дерпак Ю., Кучер О., Видиборець С., Резворович К.Р., Balynska O., Skovronska I., Васильченко Р.В., Мурзагалиев Е.Ч., Косячено К.Е., Поліщук М.Г., Skriabin O., Sanakoiev D., Kurakin O., Amosova L., Davydenko N., Pestsov R., Melnyk R., Karnaukh A., Karpova N., Ostapenko O., Shevchenko A., Kudin S., Газаев А.И., Ералиева Ж., Сәткей Т.Б., Лук'янова Г.Ю. Парасюк Н.М., Миронюк О., Салієнко О.О.

Published by Primedia eLaunch
https://primediaelaunch.com/

Collection of scientific articles published is the scientific and practical publication, which contains scientific articles of students, graduate students, Candidates and Doctors of Sciences, research workers and practitioners from Europe and Ukraine. The articles contain the study, reflecting the processes and changes in the structure of modern science.

The recommended citation for this publication is:
Hermeneutic of law and philosophy of jurisprudence: collective monograph / Belkin L., Iurynets J., Sopilko I., – etc. – International Science Group. – Boston : Primedia eLaunch, 2021. 243 p. Available at : DOI-10.46299/ISG.2021.MONO.LEGAL.I

TABLE OF CONTENTS

1.	ADMINISTRATIVE LAW	
1.1	Belkin L., Iurynets J., Sopilko I. STUDY IMPLEMENTATION OF STATE POLICY IN THE FIELD OF INFORMATION SECURITY OF UKRAINE: CONCEPTUAL APPROACHES	7
1.2	Байталюк О.М., Нашинець-Наумова А.Ю. АДМІНІСТРАТИВНО-ПРАВОВЕ РЕГУЛЮВАННЯ ДІЯЛЬНОСТІ ІСТОРИКО-КУЛЬТУРНИХ ЗАПОВІДНИКІВ	12
1.3	Бездольний М.Ю., Бондар В.В., Рудниченко С.М., Шевченко Н.Л. СПЕЦИФІЧНІСТЬ В'ЇЗДУ І ПЕРЕБУВАННЯ В УКРАЇНІ ІНОЗЕМЦІВ ТА ОСІБ БЕЗ ГРОМАДЯНСТВА. ОСОБЛИВОСТІ СКЛАДАННЯ АДМІНІСТРАТИВНИХ МАТЕРІАЛІВ ДЕРЖАВНОЮ МІГРАЦІЙНОЮ СЛУЖБОЮ УКРАЇНИ	21
2.	BUSINESS LAW	
2.1	Починок К.Б., Закорецький В.В. ПРАВОВЕ РЕГУЛЮВАННЯ КОНЦЕСІЇ ЯК ОДНІЄЇ ІЗ ФОРМ ЗДІЙСНЕННЯ ДЕРЖАВНО-ПРИВАТНОГО ПАРТНЕРСТВА	25
2.2	Розгон О. ІНВЕСТИЦІЙНИЙ ПРОЄКТ ЗІ ЗНАЧНИМИ ІНВЕСТИЦІЯМИ У СФЕРІ НАУКОВОЇ ТА НАУКОВО-ТЕХНІЧНОЇ ДІЯЛЬНОСТІ	43
3.	CIVIL LAW	
3.1	Мусаева А.Я. НЕДЕЙСТВИТЕЛЬНОСТЬ ДОГОВОРОВ СУРРОГАТНОГО МАТЕРИНСТВА	51
4.	CRIMINAL AND CRIMINAL - EXECUTIVE LAW	
4.1	Корольов В., Франчук Д. ЗАПОБІГАННЯ ТЕРОРИСТИЧНИМ АКТАМ НА ТРАНСПОРТІ ТА ТРАНСПОРТНІЙ ІНФРАСТРУКТУРІ	59

4.2	Плужнік О.І., Щирська В.С. РОЗБЕЩЕННЯ НЕПОВНОЛІТНІХ: ОСОБЛИВОСТІ КРИМІНАЛЬНИХ ПРАВОПОРУШЕНЬ ПРОТИ СТАТЕВОЇ СВОБОДИ ТА СТАТЕВОЇ НЕДОТОРКАНОСТІ.ПЛУЖНІК ОЛЕНА ІВАНІВНА	67
5.	CRIMINOLOGY	
5.1	Yanishevska K. SOME ASPECTS OF COMBATING CHILD SEXUAL ABUSE	74
6.	FINANCE LAW	
6.1	Kharchenko A., Steblianko A., Hlushchenko N. PECULIARITIES OF DEFINING THE LEGAL REGIME OF E-MONEY	80
6.2	Ярошенко А. ЗАСАДИ УДОСКОНАЛЕННЯ ПРАВОВОГО РЕГУЛЮВАННЯ БЮДЖЕТНОГО ПРОЦЕСУ В УКРАЇНІ	87
7.	LABOR LAW, SOCIAL SECURITY LAW	
7.1	Бабінцева Л., Горяінова Н., Дерпак Ю., Кучер О., Видиборець С. ЮРИДИЧНІ АСПЕКТИ ПІДТВЕРДЖЕННЯ ЗВАННЯ ЛІКАР-СПЕЦІАЛІСТ НА КУРСАХ СТАЖУВАННЯ ТА ПРАВОВІ ЗАСАДИ ПРАВИЛЬНОГО ЗАРАХУВАННЯ НА ПОСАДУ ЛІКАРЯ (ПРОВІЗОРА) СТАЖИСТА	92
7.2	Резворович К.Р. ГЕНДЕРНА ДИСКРИМІНАЦІЯ ЧЕРЕЗ ПРИЗМУ РЕАЛІЗАЦІЇ ПРАВА НА ПРАЦЮ	96
8.	PHILOSOPHY	
8.1	Balynska O., Skovronska I. HERMENEUTICS AS A METHODOLOGICAL DIRECTION IN JURISDICTION	102
8.2	Васильченко Р.В. СВІТОГЛЯД ЯК ПРЕДМЕТ ФІЛОСОФСЬКОГО ОСМИСЛЕННЯ	130

9.	PUBLIC INTERNATIONAL LAW	
9.1	Мурзагалиев Е.Ч. О СОЗДАНИИ ГЛОБАЛЬНОГО ФОНДА ЗА СЧЕТ СРЕДСТВ КОНФИСКОВАННЫХ ЗА ТРАНСНАЦИОНАЛЬНЫЕ НАЛОГОВЫЕ ПРЕСТУПЛЕНИЯ: НЕКОТОРЫЕ ТЕОРЕТИЧЕСКИЕ И ПРАКТИЧЕСКИЕ ВОПРОСЫ	135
10.	THE CIVIL PROCESS	
10.1	Косячено К.Е., Поліщук М.Г. СУД ЯК ОБОВ'ЯЗКОВИЙ ЕЛЕМЕНТ ЦИВІЛЬНИХ ПРОЦЕСУАЛЬНИХ ПРАВОВІДНОСИН	139
11.	THE CRIMINAL PROCESS	
11.1	Skriabin O., Sanakoiev D., Kurakin O. CRIMINAL PROCEDURE DIGITALIZATION UNDER COVID-19 PANDEMICS: OPPORTUNITIES AND RESTRICTIONS	145
12.	THEORY AND HISTORY OF STATE AND LAW	
12.1	Amosova L. COMPETENCES DES HAUTS FONCTIONNAIRES FRANÇAIS	157
12.2	Davydenko N. KEY FUNCTIONS AND FEATURES OF DIFFERENT TYPES OF LAW IN UKRAINE IN THE 16-17TH CENTURIES	162
12.3	Pestsov R., Melnyk R., Karnaukh A., Karpova N., Ostapenko O. ACTIVITY OF COMMUNITY COURTS AS AN ALTERNATIVE FORM OF JUDICIAL PROCEEDINGS	167
12.4	Shevchenko A., Kudin S. HISTORICAL REGULARITIES OF APPLICATION OF PREVENTION IN LAW	177
12.5	Газаев А.И., Ералиева Ж., Сәткей Т.Б. ЗАҢДАРДЫ ТАЛҚЫЛАУ ҚҰҚЫҚ ГЕРМЕНЕВТИКАСЫНЫҢ БІР АСПЕКТІСІ РЕТІНДЕ	185
12.6	Лук'янова Г.Ю. Парасюк Н.М. ІНТЕРПРЕТАЦІЯ ПРАВА ЯК БАГАТОАСПЕКТНОЇ СТРУКТУРИ	193

12.7	Миронюк О. ОХОРОНА ПЕРСОНАЛЬНИХ ДАНИХ ЯК НЕОБХІДНІСТЬ СУЧАСНОГО УКРАЇНСЬКОГО СУСПІЛЬСТВА	204
12.8	Салієнко О.О. ВИНИКНЕННЯ ТА РОЗВИТОК ТЕОРІЇ ПОДІЛУ ДЕРЖАВНОЇ ВЛАДИ В УКРАЇНІ	209
	REFERENCES	214

SECTION 8. PHILOSOPHY

8.1 Hermeneutics as a methodological direction in jurisdiction

Hermeneutics emerged in the context of linguistics as language phenomenon. The representatives of hermeneutics consider language as a way of human existence, while entity itself is presented through a kind of textual signs and symbols that need to be deciphered, interpreted and explained.

Since law has always been and remains a phenomenon of consciousness, intentionally aimed at the object of existence, both orally and in writing, legal phenomena require interpretation not only linguistically, but semantically, legally as well and this requires the development and implementation of an appropriate algorithm, which is actually discussed in the presented paper.

Hermeneutic approach dominates in the modern methodological arsenal of the interpretation of legal norms, but it is mostly used unilaterally as a grammatical and semantic method, which does not always contribute to an adequate understanding of legal norms. Therefore, a slightly different understanding of the methodological paradigm of interpretation is proposed, taking into account that the methods of interpretation chosen for analysis and the outlined algorithm of their application are arbitrary and are formed according to different criteria.

The problem of hermeneutics in law has recently become more and more interesting for domestic scholars, but mainly as an interpretation of legal norms, and not as a methodological paradigm, so we will refer to their papers as supplementary to complement certain provisions of hermeneutics, of course, subjecting them to critical analysis. The main drawback of these works should be noted, emphasizing that for the most part they mechanically transfer textual analysis to the study of legal norms, due to which this study acquires a grammatical and syntactic content rather than legal.

Briefly analyzing the literature in this area, we begin with the primary sources that characterize the hermeneutic approach. The most famous and often quoted by scholars and practitioners is the work of a German scientist Hans-Georg Gadamer "Truth and

Method" [161], which in fact for the first time in a generalized form sets out the initial meaning of hermeneutics. It is worth mentioning that Gadamer was a student of the founder of existentialism M. Heidegger, so in his work he often uses the terminology of his teacher. The main category of hermeneutics in their researches was the category of "understanding" as opposed to Hegel's rationalist approach and Marxism. As for the epistemological (cognitive) aspect, Gadamer proposes the term "interpretation" (only through interpretation can understanding be achieved).

The modern representative of hermeneutics P. Ricoeur [171] builds his platform on the analysis of the will of the individual, which actually determines the need and necessity of interpretation. As central, he puts forward the concept of "narrative" - that is, the unity of phenomenology, linguistics, hermeneutics and analytical philosophy in the interpretation, where each has the right to apply, only complementing each other and interacting with each other, which, in our opinion, is the most effective approach, as it combines different methods of interpretation into a single holistic system of understanding legal norms. In particular, pointing to the possibility of applying in hermeneutics even such a specific technique as structural-anthropological, P. Ricoeur notes: "If hermeneutics is a stage in the work of assigning meaning, a stage between abstract and concrete reflection, if hermeneutics is the discovery by means of thought of the meaning hidden in the symbol, then it must get exclusively support in structural anthropology" [171, p. 58]. He pays more attention to the analysis of language, text, the concept of the creative role of language in creating life situations.

As for the publications of domestic scientists, the monograph by Y. Vlasov [158] and the textbook by I. Nastasyak [169] directly and quite fully reveal the logic and content of the interpretation of legal norms, based on the hermeneutic methodological approach. This topic is most thoroughly described in the manual "The latest doctrine of the interpretation of legal acts" edited by V. Rotan [173]. However, it analyzes mainly civil law, although the conclusions and recommendations apply to the whole process of interpretation, which can hardly be accepted, as the interpretation of sectoral norms has not only general characteristics but also its own features, which may not coincide with generally accepted approaches.

For elucidating the algorithm of the interpretation process the works of Y. Todika [174] and D. Mykhailovych [168] are worth studying dealing with the phenomenon of interpretation of the Constitution of Ukraine and the laws of Ukraine.

The textbook "Hermeneutics of Law" (authors V. Dudchenko, M. Arakelyan, V. Zavalnyuk) [165] obviously is the most successful, because it reveals hermeneutics as a method of jurisprudence, which is not examined in the publications of many other researchers. This paper is structured in such a way that it is based on the analysis of different points of view on a particular problem of interpretation. At the same time, the traditional understanding of hermeneutics is presented with the author's vision, and the features of the subject field of hermeneutics of law are presented in an original, interesting and at the same time accessible and popular way.

Despite the rather in-depth analysis of these publications, in our opinion, the important methodological fact is not sufficiently covered that interpretation as cognition is a reflection of the world, that is in this case - a reflection of existence, not just an act of will that can grow into arbitrariness. And the second important aspect is that, in studies of language, epistemology (that is, the theory of cognition as a reflection) could ensure the hermeneutic integrity of the analysis of texts and their interpretation.

The literal translation of the concept of "hermeneutics" from Greek means "to interpret". Hence the first and main idea of the hermeneutics is to provide explanations, to interpret the texts, and the second is to equip the researcher with the principles of text interpretation. The traditions of interpretation are quite old, starting with biblical texts, then secular literature, and modern legal documents. Thus, the interpretation accompanies almost the entire period of human existence and, to some extent is the characteristic of every philosopher.

As an independent course, hermeneutics was formed in the 30s of the twentieth century. And this formation is associated with the names of H.-G. Gadamer, P. Ricoeur, F. C. Savigny. A certain contribution to the development of the problems of hermeneutics was made by the Austrian Philosopher E. Koret. Today in philosophy it is one of the most influential trends, perhaps at the level as the methodology of pragmatism and structuralism. One of the prerequisites for the emergence of this

philosophy and methodology was a negative reaction to the dominant position of rationalist philosophy, which lasted for several centuries, starting with Hegel and ending with Marxism.

Why did rationalism cease to satisfy? Obviously, because it was built, so to speak, on the dominance of the mind, exclusively of prudence; because it tried to systematize everything, to introduce a certain system into the Procrustean bed. But since each system always has a beginning and an end, the attempts to introduce being, which is inexhaustible in its content, into its limits, are futile. This is where the negative reaction of the founders of hermeneutics to the system comes from.

Besides, a whole layer of phenomena remained outside rationalism: the unconscious (subconscious), faith, instinct, intuition, experience, superstition, without the knowledge of which the research could not be objective. That is, the researchers of hermeneutics were not satisfied with such scientific rationality. "Between the rationality of science and those tasks of thinking, which we call philosophy or metaphysics," writes H.-G. Gadamer, "there is a continuous interaction. But it should not lead philosophy to deny the specific nature of its mission. But then again it is not about transforming science into the pure science of the mind. The human mind manifests itself in many forms, and they challenge our thinking" [161, p. 13].

Let us emphasize at the same time that the founders of hermeneutics are not opponents to rationalism in general, they are opposed to the dominance of scientific rationalism as a system, the rigid laws of traditional rationalism. Again, let us refer to G. Gadamer, who emphasized that rationality finds its expression in art and its perception, in religion and other forms that are not reduced to scientific rationality. Philosophy should participate in the understanding of "various forms of rational creativity, without resorting to the despotism of the system of concepts" [161, p. 14].

There is one more epistemological premise of hermeneutics. As a methodology, it actually fills another gap in traditional rationalism, when the definition of a concept is given by referring it to a genus – that is, a wider phenomenon (for example, when we define the concept of philosophy, we first say that this is a science), but by doing so we make a conscious error because this definition is no longer the concept or

phenomenon itself, but their interpretation in the context of generic concepts (for example, the definition is not of philosophy, but of science as such). Thus, it is formally logical to formulate practically all definitions. By this, we consciously include ourselves in the world of "untruth", illusions, "the world of idols", as H.-G. Gadamer writes.

He, like all representatives of hermeneutics, proposes to abandon such an epistemological procedure and proceed from the direct experience of perception of phenomena and processes. Hence comes the appeal to experience as the main idea of hermeneutics. But all the subjective idealism of the Berkeley and post-Berkeley periods also appeals to the experience of the subject (emotions, complexes, sensations). In contrast, hermeneutics offers an experience of a linguistic nature, "we articulate our experience of the world through language, we communicate through language, we keep an open window to the integrity of the world" (Gadamer). Hence, such linguistic forms and structures as text, "tradition", and their interpretation come to the fore. H.-G. Gadamer relies on the interpretation of the Bible, the interpretation of laws.

The peculiarity of this interpretation is that in terms of content it is not linguistic-semantic, but the one that reveals the meaning of the text. This message is actually the starting point for constructing the logic of interpretation. The clarification of the meaning of the text which rather than grammatical and semantic analysis, as in most researchers, is what interests us most. In our case, its legal content.

For all representatives of hermeneutics, one of the central concepts is the so-called "hermeneutic circle" as a feature of the process of understanding the text. It, according to Gadamer, is cyclical. To understand something, you need to explain it. But in order to explain, one must first understand. This interdependence forms the basis of interpretation.

In practice, this process is structured in such a way that even a partial acquaintance with the text contains a preliminary general idea of the entire content of the text, and a detailed understanding of its other parts builds up this preliminary knowledge. That is, there is a kind of return to the beginning of cognition, but already with a full understanding of the holistic meaning. For the interpretation of the rule of law this is

important because, firstly, it actually sets the algorithm, gives a kind of step-by-step plan of interpretation; secondly, the opinion of the research subject (interpretation), expressed in such a sequence, does not break away from the subject of research or interpretation; thirdly, the hermeneutic circle presupposes inclusion in the subject of research, a kind of fusion with the content of the norm, that is explained, which makes it possible to understand the depth of its content and thereby adequately interpret it. By the way, Art. 214 of the Civil Code of Ukraine "Interpretation of the transaction" in its essence is a kind of reproduction of the hermeneutic circle. If we characterize the philosophy of Gadamer as a whole, then we can conclude that it performs the function of an ontological nature, that is, it concerns the issues of being, existence, human experience. As for the epistemological orientation of hermeneutics, the legacy of P. Ricoeur is interesting, which will be discussed when considering the next question.

If the founder of hermeneutics H.-G. Gadamer launches and developes mainly the ontological, existential aspect (there is only one reality –language, text, which in fact is the determinative human existence), then his follower P. Rikoeur focuses on the fundamental development of the epistemological paradigm of hermeneutics, its methodological mission. *The concept of "narrative", as we have mentioned, is at the core of the hermeneutic theory of cognition*, that is the possibility of combining different methodological approaches in cognition to better understand the content of the text being studied. In this case, comprehensiveness, integrity of cognition, and hence the achievement of a deeper understanding is provided. "The purpose of understanding –is to make the transition from these expressions to the main intention (focus – (auth.) of the sign and outgate through the expressions" [171, p. 1].

Since, according to P. Ricoeur, signs have a material nature, the most common model of which is writing, this determines the transition from understanding to interpretation. By material nature, Ricoeur understands existence itself, which, by virtue of its presence, needs clarification and understanding. For him, existence is not an epistemological category (concept), but an objectively existing thing, subject, object, which must be understood in one way or another, namely to establish its meaning. But the process of understanding includes two stages: the first, "preconception" –as a

clarification of the general belonging of the subject to the genus or kind, and the second – as a clarification of the specific features of this subject (in "real" philosophy, these are two legitimate formal-logical operations – attribution to the genus and clarification of the essence).

P. Ricoeur considers the phenomenon of "explanation" as the main methodological factor in the theory of interpretation and suggests his own dialectic of the correspondence between understanding and explanation. In his opinion, «understanding precedes" explanation through approach to the subjective idea of the author of the text, it is created indirectly through the subject of the text, that is the world is the content of the text. And second, he limits the explanation by the status of understanding (only what has become clear can be explained).

The procedure suggested by Rikoeur entirely corresponds with the logic of interpreting the rules of law and clarifying their content and explanation. Therefore, the first part of his study is called "hermeneutics of the text", and the second "hermeneutics of social action". In the first part, Rikoeur undertakes to establish the interrelation between the concepts of interpretation and understanding. "By understanding as such, we mean the art of understanding the meaning of signs that are transmitted by one consciousness and perceived by other consciousnesses through their external expressions (gestures, postures, and of course, speech)" [171, p. 1], a kind of synthesis of different ways of philosophizing that took place in the past and are used today.

It stands to reason that Ricoeur calls his philosophy "phenomenological hermeneutics". He consistently thinks about the mutual basis of phenomenology and linguistic analysis, hermeneutics and analytical philosophy, and builds his epistemological dimensions on three levels: linguistic, practical and aesthetic, because, in his opinion, man (individual) speaks, acts, suffers. Therefore, Ricoeur's epistemological concept continues the line of reflexive philosophy, the main problem of which he considers the understanding of his "I" as a subject of operations of cognition, desire, evaluation, etc. But Ricoeur's philosophical doctrine cannot be considered comprehensive, because it is based on the concept of the creative role of

language "in creating open discursive situations" [171, p. 476], so to speak, the subject matter of all theoretical constructions, which is traditionally characteristic of the hermeneutic way of thinking. Encouraging thinkers to return to understanding language as a "mediator" between thinking and things, he suggests to consider language "as a form of life" and draws a distinction between semantics and semiotics, which correspond to two parameters of language – sign and expression (sentence, message, event).

In a broad sense, this applies to any text as a way of life, including legal. At the same time, it is necessary to take into account, first of all, not the semiotic (symbolic), but the semantic aspect of the text, which contains messages, information about this or that event and makes it possible to reveal the legal reality contained in the text.

The second epistemological dimension of Rikoeur's study is *the definition of hermeneutics as a theory of text interpretation*. In such a case he understands interpretation as a dialectic of explanation and understanding. If according to H.-G. Gadamer the hermeneutic circle (in order to understand, one must first explain, and in order to explain, one must first understand) constitutes a kind of closed system, according to P. Ricoeur this closed condition acquires relativity, namely the semantic factor as a dialectic of understanding and explanation.

Ricoeur interprets understanding as the ability to reproduce the work of structuring the text. And the explanation, as "an operation inseparable from understanding, which consists in clarifying the codes that underlie the structuring of language" [171, p. 488-489]. In his opinion, such an approach, should be applied not only to the text but also to practice.

In general, agreeing with the mentioned logic, something needs to be clarified: to understand something, you must first understand its meaning, which is important for understanding, and after understanding, give an explanation. Perhaps this is the hidden logic of any practical knowledge.

And it is no coincidence that Ricoeur examines the interconnection between the social sciences from the perspective of practice. He writes "In fact, if it is possible in general terms to define the social sciences as the sciences of man and society, and

therefore to include in this group such diverse disciplines as between linguistics and sociology, including historical and legal sciences, it will not be unauthorized concerning this general topic of its extension to the field of practice, which provides interaction between individual agents and teams, as well as between what we call complexes, organizations, institutions that create the system" [171, p. 10]. Thus, interpretation, according to Ricoeur, is not a purely theoretical phenomenon, but one that presupposes a practical action, the first characteristic feature of which is that "it can be read".

On the basis of analogy, legal cognition as an interpretation begins with action, that is acquaintance with the world of signs, text; The second step is to find out what the text represents as a system of symbols. In other words, initially there is the formation of an idea of the content of the text, and then – the understanding of the text and its explanation.

The point is Ricoeur interprets the phenomenon of explanation as an action, but not as a separate act, but as a synonym for activity, practice. Hence comes the suggestion that any action includes the definition of a purpose (project), subject, motives, circumstances, obstacles, covered path, rivalry, assistance, favorable occasion, convenient opportunity, manifestation of initiative, desired or undesirable results [171, p. 6].

Ricoeur identifies "four poles of values": the first is the idea of a project, that is, the desire to achieve a certain goal; the second - the idea of a motive, the reasons for action; the third - the subject, capable to actually carry out their activities and even be the author of their actions; and finally, the fourth - the category of intervention, or the initiative as a way for facilitating the implementation of the project. This logic in the interpretation of legal norms is also important, because it allows to actually combine the text of a legal norm as a philological unit with practical activities, i.e. with law enforcement. Ricoeur interprets this like the approximation of the text field to the field of practice [171, p. 8].

Thus, starting with semantics, P. Ricoeur finally came to understand the exceptional importance of hermeneutics as a theoretical and practical method of cognition and activity, which is especially important in the knowledge of legal reality.

It should be noted that much of this problem is to be considered in view of P. Ricoeur's philosophical creativity as original unique case in history of philosophy of the XX-th century, an actual participant of which he was, having lived almost all this century (1913 - 2005). Hence is a significant evolution of his philosophical views. Like H.-G. Gadamer, he began with a critique of rationalism and appeal to phenomenological experience, supported the ideas of the era of existentialism, personalism and found his vocation in hermeneutics. Therefore, his teaching was called phenomenological hermeneutics, which acquired the character of not just epistemological, but also methodological paradigm. This was actually proceeded by the peculiar tendency of search for a methodology throughout the twentieth century, i.e. the achievement of combining different ways of cognition as a tool for a holistic perception of man and the world.

We observe in Ricoeur’s works that phenomenology, hermeneutics, existentialism, personalism, linguistic analysis, analytical philosophy and even pragmatism complement each other. At the end of his life, the he even turned to the previously criticized rationalism.

The basis of Ricoeur’s work is the concept of "narrative", according to which a human being is at the center of the intertwining of three components: language (textual), practical (action) and aesthetic (suffering). The concept of "narrative" is methodologically important for the interpretation of legal phenomena, where there is a text of the norm of the subject of action on its implementation or violation and a set of relevant feelings and experiences. It is in their dialectical unity that these components provide an understanding and interpretation of the meaning of this norm. In fact, this applies to any phenomenon of law that can be recognized from the standpoint of these components. Moreover, one of the key methods of law - technical and legal - seems to embody these components, since it involves the study of legal documents (text),

clarifying the content of a legal norm (what behaviors it regulates), and provides for liability as a complex of experiences.

Like all hermeneutics, Ricoeur considers the individual emotional and reflexive experience to be the subject of human analysis. But, unlike other researchers, he singles out the dual nature of experience which, on the one hand, is connected with the world of being, on the other - with the activity of the subject, his creativity.

It is important to emphasize the fact that legal documents embody all the diversity of experience and cannot be considered in isolation from this experience, i.e. from existence itself. And since the law originated in the context of experience, this provision works in favor of the concept of natural law. Hence, the experiential nature of customs, traditions, etc. as sources of law is beyond doubt. The experiential nature of law is not only evidence of its past, but also a reproduction of the present and a definition of the movement into the future. After all, modern experience as an indicator of legal practice continues to influence the development of the legal system, determining the practical need to regulate public relations. Thus, the experimental nature of law is one of its inner features, which provides a practical and pragmatic function of law.

This is consonant with Ricoeur’s "regressive-progressive method", the essence of which lies in a dialectically meaningful phenomenon, the unity of three temporal dimensions: past, present and future. In modern law, this method is used as a method of historicism, which is characterized not only by reference to the past, but also by indicating why modern knowledge is just as it is, which allows to explain the genesis of law.

Appealing to psychoanalysis, Ricoeur pays considerable attention to the category of "the unconscious", but does not consider it to be something fundamentally inaccessible to consciousness. He is a supporter of the theory of "voluntarism", according to which reality is revealed to the subject not in contemplation and comprehension, but in the act of will (ability to act), which is one of the central provisions of his concept. He identifies the will with the concept of human experience. A volitional act is regarded as the initial act of consciousness and man in general.

Mr. Ricoeur puts the question of raising the unconscious to the level of "the conscious" by an act of the will. This is important for the interpretation of legal actions, the content of legal documents, because the law by its origin is of a volitional nature. In addition, the regulatory function of law concerns precisely the volitional relationship, and it is the volitional factor that is woven into the legal reality. Thus, we believe that the regulatory function of law appears in unity with the volitional factor and can be objectively investigated only in this dialectical unity.

A significant place in Ricoeur's phenomenological hermeneutics is occupied by the phenomenon of interpretation. Its methodology is presented as a unity of different methodological approaches - phenomenology, psychoanalysis, dialectics (Hegel's analysis) and others - and his recommendations to the interpreter how to master these ways of understanding and describing the problem.

It would be most appropriate to apply such approach for studying the conformities of modern legal reality, where, in addition to the key dogmatic approach, it is necessary to use somewhat modern approaches, for example, in the context of natural law, to take into account the interpretation of the origin of law as a will to self-existence, etc.

However, despite all these innovations and reformation, P. Ricoeur remains true to the main strategic tradition of hermeneutics - linguistic, associated with the theory of meanings (i.e., words and signs), which he calls the "pivotal position of modern phenomenology", giving preference to the theory and art of interpretation. Although these methodologies singled out by him, are even outwardly opposite.

He goes further, on such a "seditious" path as the dialectic of the interaction between the philosophical-hermeneutic and scientific approach to human comprehension. "Understanding without explanation is blind, and explanation (scientific approach - author) without understanding (hermeneutics - author) is empty", therefore "the more explained, the better told". That is, the interpreter, in his opinion, should be not only a scientist, a specialist, but also the one who possess the art of "narrative", and even use metaphorical expressions for a better understand of the meaning. For Ricoeur, one of the main problems of hermeneutics is the question of a

person as a subject of interpretation and explanation as "the predominant way of including the individual in the holistic context of culture".

In such a way, Ricoeur pays considerable attention to the actual subject of interpretation, endows it with features that go beyond the limits of hermeneutics itself. When mastering various methodological approaches and synthesizing them into a single method, what, according to Ricoeur, the interpreter should strive for, who, in fact, is the creator of the new, which orients a person towards solving complex problems of our time – the interaction and mutual understanding of people while communicating in common being. Thus, the researcher sets high professional requirements for the interpreter as a supporter of hermeneutics and at the same time for the person who acts in the context of politics, morality, and culture.

Taking into account all the above, we can derive the algorithm for the methodology and logic of hermeneutic legal research. The value of the hermeneutic approach in the interpretation of legal norms is that it does not contradict other methodological paradigms, but largely accumulates their individual advantages. This makes it possible to synthesize methodological efforts into a single, outwardly diverse, but in fact an integral system of methods of cognizing the content of a legal norm, which are subject to the laws of logic. Perhaps that is why the vast majority of authors who writes about the interpretation of legal norms appeal to hermeneutics. As it is noted by Y. Todika, "the process of interpretation of legal norms should be carried out according to the rules of logic. If we proceed from the postulate that the main values of legal life are the certainty of law and the stability of legality, then in the law interpretation activity it is imperative to comply with the requirements of logic" [174, p. 122].

Here, naturally, we are talking about both formal logic and dialectic, in particular, the ratio of the general and the singular in the legal norm. This can be considered as the initial stage of interpretation, since only within these characteristics of the general and the singular it is possible for the existence of law as a form of legal reality.

The peculiarity of a specific legal norm is that it personifies the generalized, i.e. abstracted from the singular, and at the same time embodies this singular (separate phenomenon, fact, event) as generally necessary.

It is the dialectic of the general and the singular that is the first precondition for what we call interpretation. It should be emphasized once again, that any legal norm exists primarily as a general one, reflecting a set of specific cases, but it for certain also contains specific, singular. That is, without a singular, the norm as a general cannot exist. But the peculiarity of the singular (i.e., a separate fact, an event) is that it is dissolved in the general so much that this singularity must be revealed. In our opinion, this is the meaning of interpretation: in each norm as a general to be able to see the singular, to compare it with other singular and thereby approve the singular as a manifestation of the general. Thus, the coincidence of the singular and the general will be proof that the given event or fact belongs precisely to the jurisdiction of a certain norm. We believe that this is the first epistemological need for interpretation. Such an approach also performs a methodological function, since it equips the researcher with a system of methods of interpretation.

Consequently, hermeneutics is one of the most common methodological approaches to interpretation, the art of interpretation and understanding, which has a centuries-old tradition in world culture. Its effectiveness as a method of legal norms interpreting is explained by the fact that it embodies not only the discovery of truth, but also the possibility of the richness of its variants, that is, the multiplicity of interpretations. And if we talk about the texts of legal norms, then with this approach, the possibility of knowing their real content becomes the most rational. The peculiarity of hermeneutics is that, despite all its inexhaustibility, it makes it possible to establish certain frameworks of interpretation due to the limits of the norm as a text.

However, the legislation in general and a separate norm of law are so rich in content that one way of cognition cannot be limited, even if a kind of "depressurization" of the truth is carried out. The fact is that the singular, as well as the general necessary, is also inexhaustible in nature and develops not only according to the general, but also according to its own laws, which may differ from the general. Thus, the rules of, say,

criminal, administrative or civil law function and develop according to their own laws, and hermeneutics here can only interpret the linguistic component of the norm, and its legal content may remain outside the analysis. That is, each branch of jurisprudence requires, so to speak, not only general, but also its own methods of analysis, which will more deeply reflect their objective nature and go beyond hermeneutics. These are special legal methods. At the same time, we emphasize once again that hermeneutics as a method cannot be a "panacea" for the interpretation of a legal norm, "its realm is the semantic space of language", as T. Voznyak writes [see 3]. Thus, this is one of the ways to express the formal side of the norm, rather than its legal content.

The methodological arsenal of interpretation of legal norms must certainly include dialectics, its categories (content and form, necessity and chance, possibility and reality, etc.). In fact, the interpretation of legal norms from the standpoint of these dialectical categories constitutes an objective picture of the action of the norm in reality. This also explains the need for interpretation as a way of objectifying the norm.

Thus, if the first stage of interpretation took into consideration the dialectics of the general and the individual, then the next stage is naturally introduced by the so-called "hermeneutic circle", connecting the content aspect of the norm (the dialectics of content and form works here) to the interpretation process. If, for an example, it is about an offense, its components, features, then this is a content aspect of interpretation, and illegal behavior is a form. In other words, there is a disclosure of the meaning of the norm in its behavioral essence. That is, the preliminary idea of an offense develops into the belief of its reality. As you can see, the method of interpretation is hermeneutic, and the content remains dialectical. In this case, a peculiar third stage of interpretation is the correlation of dialectical categories of capacity/necessity and reality. Necessity is manifested in the offense, in the light of the correlation of categories of capacity and reality, which is important for the determination of the qualification of the action, and the qualification of the degree of its social danger.

Everything above reflects the author's position in the light not only of the reality of the interpretation process, but also its epistemological and methodological necessity. This is due to the fact that in a special literature, this issue is practically not investigated.

As a rule, scientists reduce the main need of interpretation to two groups of reasons: general social and special legal. Thus, D. Mykhailovych, in particular, writes: "General social reasons ... can be classified into: a) political and legal; b) communicative and information; c) educational and didactic; d) scientific and historical; e) national and linguistic; f) assimilative and linguistic. Special legal reasons: a) personal legal; b) those arising from the legal forms of state activity; c) linguistic; d) technical and legal; e) temporal; f) those caused by the imperfection of legislation" [168, p. 12]. At the same time, considering political legal reasons, D. Mykhailovych appeals to the fact that the norms of law "are quite often the result of the coordination of the interests of the plurality of individuals and social groups, reconciliation of various ideologies and theories" [168, p.13]. In fact, this is a well-known concept of "conventionalism", according to which people simply agree among themselves to adhere to certain norms, laws. The problem of applying this concept is that it claims the status of the absolute truth: that is true only what the result of an arrangement is. But this agreement may be false, and illegal. This is the main defect of conventionalism, so it should not be the main methodological guideline in interpretation. Obviously, such a classification is relatively full and has the right to exist.

At the same time, it should be noted that the term "causes" in the context of the interpretation process is not entirely successful, it is expedient to replace it with a more significant approach to the type of "necessity" of interpretation, which is important for understanding the essence, goals, and tasks of this phenomenon.

Thus, the algorithm of the research (interpretation) of law may include the following sequence. This is, first of all, to realize the act of reduction – it is a kind of clearing consciousness from insignificant, secondary, accidental features and concentrating cognitive efforts on mainly inherent features of the investigated object or subject.

For example, let's dwell on one of the key elements of law – legality "as a fundamental category of legal science and practice" [166, p. 206]. In this case, clearing (reduction) means purification of consciousness from general social, psychological, moral aspects of legality and concentration on its purely legal content. Here, the

concept of law and legality is etymologically related, which corresponds to a linguistic hermeneutic approach. At the same time, the term "legality" in contrast to the term "law" is a generalized and more multifaceted concept, rich in all its mediations and relations. Therefore, the legality is really a fundamental category, but not only in legal science and practice, but as a construction that forms the basis of all things, reality. After all, the objectivity of reality lies in the fact that it is a set of all its connections, components, mediations, which act reciprocally. Thus, the legality embodies the vitality of law. It is not identical to understanding legality by representatives of the School of Positive Law, who identify law and the law. In fact, legality as an attribute of being was formed much earlier than the concept of law. Thus, legality exists not because there is the law or lawlessness, but because the principle of legality objectively forms the basis of legal existence. Therefore, it is unlikely that you can definitely accept the statement of M. Kelman and O. Murashyn that the phenomenon of legality is derived from the category of the law [166, p. 206]. Moreover, the laws, due to their specifics, arise and die, and the paradigm of legality is an eternal characteristic of legal existence.

The second aspect of the consideration of legality is in its content, that is, as functions, actions, activities (according to P. Ricoeur). This effective component of the study underlies the requirement of unconditional observance of legality – proof of feasibility and practical value of the phenomenon of legality in general. This practical value in its legal essence as the mandatory performance in a three-dimensional functional role is emphasized by M. Kelman and O. Murashyn: firstly as the principle of exercising power; secondly as a regime of social life; thirdly, as a system of requirements that put forward to a person [166, p. 206]. They conclude that "legality is a socio-political regime of accurate and impartial implementation of laws and other normative acts" [166, p. 213].

These authors narrow the understanding of legality, reducing it to the regime that applies to phenomenon of the law, and not legality. Legality is a method, a kind of technology, an algorithm for realization of law, if we compare it to the concept of the law. The conclusion on this controversy is as follows: not the law should establish the

rules of conduct, that is, to bring the behavior under the current legislation, but the law must regulate those relations that have already developed and require appropriate regulation.

Thus, we made not only the first hermeneutic step – reduction, but also the second – we revealed the content components and the nature of the phenomenon of legality. The next step is practical actions on the implementation of legality in relevant principles, specific requirements and guarantees of their implementation, which today are fully described in legal literature and we will not focus on them.

The phenomenon of legal responsibility, which is the subject of a wide range of studies, is also interesting for hermeneutic analysis. Thus, in the textbook of M. Kelman and O. Murashyn the title of a similar section corresponds to the procedure of hermeneutic research: "legal responsibility, its nature, essence, concepts and types" [166, p. 190]. However, we immediately allow ourselves to disagree with the author's definition of the nature of responsibility, which, in their opinion, arises "as a means of ensuring lawful behavior and combating offences" [166, p.1 90]. In our opinion, the phenomenon of legal responsibility arises as a component of a broader generic human phenomenon – responsibility, in this case - social responsibility, as rightly written by the mentioned authors [166, p. 190]. This coincides with the arguments of Husserl, Heidegger, Khabermas, Jaspers: responsibility to others and to oneself (self-responsibility).

We believe the nature of this social responsibility is correctly revealed by the authors, who link it with the category of necessity: "The essence of social responsibility is the obligation of a person to subordinate his behavior to social necessity" [166, p. 191]. The only thing you can't agree with is the term "subordination." Subordination is mentioned only when there is a blind necessity, but when it is realized and becomes a "phenomenon of freedom", it should be more about coordination, a kind of harmonization of interests and actions. In this case, responsibility is not limited to duty as an external necessity, but is an internal need for proper behavior.

It is hardly possible to agree with the authors' definition of the concept of legal responsibility, which, as they write with reference to L. Yavych, «is a special

connection, a special relationship between citizens and the state. More precisely, it is a legally regulated connection of an individual (citizen, foreigner, stateless person) by the state" [166, p. 191]. This is a purely positivist definition, which corresponds more to the term "liability under the law." As for legal liability, it is a duty and a need of a person to behave in accordance with proper legal regulations. In the same textbook with reference to the legal literature, the term "negative" (retrospective) liability is used, in contrast to the prospective, that is "positive" [166, p. 191]. We understand negative responsibility as irresponsibility that has nothing to do with lawful behavior and this term is hardly necessary in the theory of law. We emphasize once again that for the onset of legal liability is not necessary to have an offense, as the authors of the textbook claim. This responsibility is first and foremost an attribute of obedience to the law, not just an offense.

One of the central places in legal analysis is given to the interpretation of legal norms. The hermeneutic approach to the knowledge of the rule of law involves clarifying its essential and substantive features. In general, the concept of the rule of law in the genus and in the species definition is known as follows: "This is a rule of conduct established or sanctioned by the state, … a fundamental part of the law which is part of the whole. It has been proved that the rule of law is neither the form nor the content of the law as a whole, namely its part. It has a content and form and in the system - creative processes with other norms is the content of law in general" [166, p. 42]. Some illogical definition (this is part of the whole and at the same time "is the content of law") should be noted. Such a qualification by the authors of the rule of law within the ratio of part and whole does not give a complete picture of it, for these categories are not dialectical, as the part does not always give an idea of the whole. For example, labor law is part of the legal system, but does not give an idea of the entire legal system.

Another thing, if the phenomenon of the rule of law is considered within the categories of general and individual, then the rule is a kind of core of the existence of law, which embodies its content. In other words, the norm is a way of law. Other than through normativity, the law does not exist and does not work. If this attribute is lost,

the law also ceases to exist. Part and whole are cognitive categories, but not reproducible, so they should not be absolute in the study of social, including legal phenomena and processes. For example, society as a whole and a criminal group as a part: it is impossible to say that a criminal group determines the type of society, although it is part of it. In this context, the categories of general and individual work absolutely effectively.

The next hermeneutic step to take is to find out for oneself or to explain to others whether a particular norm or law belongs to the relevant branch of law in which they regulate social relations. These are experiential elements: for example, the experience of family life prompted the emergence of a document that would regulate property relations in marriage - a marriage contract, which did not exist before.

Next, it is important to find out how effectively this or that norm (law) regulates a certain sphere of public relations. The following logic of actions can be applied:

1) Clarification of the content of the norm using the method of "hermeneutic circle" - from specific to general and vice versa. Failure to comply with this rule, on the one hand, can lead to a simplified idea of the problem under study, and, on the other hand - to an abstractly vague understanding of it;

2) Collection and processing of statistical data on quantitative and qualitative parameters of the norm. In this case, a rational method is used, in a broad sense it is actually a pragmatic approach;

3) Carrying out a comparative analysis of the norm in history and modernity. According to P. Ricoeur, this is a regressive-progressive method. It is important that this method allows you to find out what historical and modern processes have led to the formation of a particular rule of law as such. Thus, a deterministic approach to the analysis is involved, that is the cause-and-effect relations of the norm are revealed: what objective factors it is caused by and how it affects the further functioning of social relations;

4) The study of the social sphere regulated by this norm: how much, let’s assume, has improved or, conversely, deteriorated the state of social stability in this area. The

dialectic of contradictions between the desired and the real achievement fully works here.

For example, the strengthening of criminal liability (in 2011) for acts in the field of drug trafficking was aimed at intensifying the fight against drug trafficking, concentrating law enforcement efforts on drug traffickers, and thus reducing their illegal supply. In reality, this has led to an increase in social tensions in society, an increase in the number of people serving sentences, an increase in their incidence of HIV-AIDS and other socially dangerous diseases. These measures did not have a positive effect on reducing the illegal demand for drugs or reducing their supply. A special legal method is also used – the method of criminological analysis, which reveals the general picture of crime in this area;

5) The proposals to improve the rule, update it, or cancel it as one that has lost the need/opportunity to apply is the last step. The use of hermeneutic requirements for the subject of interpretation, because the effectiveness of further regulation of this area depends on his experience, the art of interpretation is the most effective.

These procedures generally provide an opportunity to conduct a holistic, comprehensive hermeneutic study in the field of law.

The process of interpretation has a very rich history: as much as there is legislation and legal norms, so much in the history of mankind there is a phenomenon of interpretation. The value of the hermeneutic approach in the interpretation of legal norms is that it does not contradict other methodological paradigms, but largely accumulates their individual advantages. This makes it possible to synthesize methodological efforts into a single, outwardly diverse, but in fact, a holistic system of ways of knowing the content of the legal norm, subject to the laws of logic. As Y. Todika notes, "the process of interpretation of legal norms should be carried out according to the rules of logic. If we proceed from the postulate that the main values of legal life are the certainty of law and the stability of legality, then in the interpretation of law must comply with the requirements of logic" [174, p. 122].

Here, naturally, we are talking about both formal logic and dialectic, in particular the ratio of general and individual in the legal norm. This can be considered as the

initial stage of interpretation, because only within these characteristics of general and individual possible existence of law as a form of legal reality.

The peculiarity of a specific legal norm is that it embodies the generalized, namely abstracted from the singular, and at the same time embodies this singular (separate phenomenon, fact, event) as generally necessary.

The dialectic of the general and the singular is the first precondition for what we call interpretation. Let us emphasize once again that any legal norm exists primarily as a general one, which reflects a set of specific cases, but it inevitably also contains a specific, single one. That is, without a single, the norm as a general cannot exist. But the peculiarity of the single (namely, a single fact, event) is that it is dissolved in the general so that this singularity must be revealed. In our opinion, this is the meaning of interpretation: in each norm as a general to be able to see the singular, to compare it with other singular and thus to affirm the singular as general. Thus, the coincidence of the singular and the general will be proof that the given event or fact belongs to the jurisdiction of this norm. This is the first epistemological need for interpretation. This approach performs a methodological function, as it equips the researcher with a system of methods of interpretation.

Today, one of the most common methodological approaches of interpretation is hermeneutics - the art of interpretation and understanding, which has a centuries-old tradition in world culture. Its effectiveness as a method of interpreting legal norms is explained by the fact that it embodies not only the discovery of truth, but also the possibility of the richness of its variants, ie the multiplicity of interpretations. And if we talk about the texts of legal norms (as well as any texts), then with this approach the possibility of knowing their real content becomes the most rational. The peculiarity of hermeneutics is that, despite all its inexhaustibility, it makes it possible to establish certain frameworks of interpretation due to the limits of the norm as a text.

That is why the vast majority of authors who write about the interpretation of law, appeal to hermeneutics. However, the legislation in general and the individual rule of law are so rich in content that one, even the most effective way of knowing cannot be limited, even if a kind of "depressurization" of truth is carried out.

The fact is that the single, as well as the general necessity, is also inexhaustible in nature and develops not only in general, as we have stated above, but also in its own laws, which may be different from the general. Thus, the rules of criminal, administrative or civil law are functioning and are developed according to their own laws, and hermeneutics here can only interpret the linguistic component of the rule, and its legal content may remain outside the analysis. That is, each branch of jurisprudence requires, so to speak, not only general, but also its own methods of analysis, which will more deeply reflect their objective nature and go beyond hermeneutics. These are special legal methods. At the same time, we emphasize once again that hermeneutics as a method cannot be a "panacea" for the interpretation of a legal norm, "its realm is the semantic space of language," as T. Voznyak writes [165]. Thus, this is one of the ways to express the formal side of the norm, rather than its legal content.

The methodological arsenal of interpretation of legal norms must include dialectics, its categories (content and form, necessity and chance, possibility and reality, etc.). In fact, the interpretation of legal norms from the standpoint of these dialectical categories constitute an objective picture of the effect of the norm in reality. This also explains the need of interpretation as a way of objectifying the norm.

That is, if the first stage of interpretation used the help of the dialectics of the general and the singular, then the next stage, naturally, introduces the so-called "hermeneutic circle", connecting to the process of interpretation the substantive aspect of the norm. In this case, the dialectics of content and form already works. If, for example, we are talking about an offense, its composition, features, then this is a substantive aspect of interpretation, the form is a way of illegal behavior. In other words, the meaning of the norm in its behavioral essence is revealed. That is, the preliminary idea of the offense grows into a belief in its validity. As we can see, the very method of interpretation is hermeneutic, and the content remains dialectical.

In this case, a kind of third stage of interpretation is the ratio of dialectical categories of necessity and reality. The need here is manifested in the offense, through the prism of the relationship between the categories of possibility and reality, which is

important for determining the qualification of the act, assessing the degree of its social danger.

All of the above reflects the author's position through the prism not only of the reality of the interpretation process itself, but also of its epistemological and methodological necessity. This is due to the fact that in the special literature this issue is almost unexplored. As a rule, scholars reduce the main need for interpretation to two groups of reasons: general social and special legal. Thus, D. Mykhailovych, in particular, writes: "general social reasons … can be classified into: a) political and legal; b) communicative and informational; c) educational and didactic; d) scientific and historical; e) national-linguistic; g) assimilation-language. Special legal reasons: a) personal legal; b) those arising from the legal forms of state activity; c) actually linguistic; d) technical and legal; e) temporal; g) caused by the imperfection of the legislation" [168, p. 12]. At the same time, considering the political and legal reasons, D. Mykhailovych appeals to the fact that the rules of law "are often the result of coordination of the interests of the plurality of individuals and social groups, reconciliation of different ideologies and theories" [168, p. 13]. In fact, this is a well-known concept of "conventionalism", according to which people simply agree with each other to comply with certain norms and laws. The problem with applying this concept is that it claims the status of absolute truth: only what is the result of an agreement is true. But this agreement can be both wrong and illegal. This is the main flaw of conventionalism, so in the interpretation it should not be the main methodological guideline. Obviously, such a classification is relatively complete and has a right to exist.

At the same time, it should be noted that the term "causes" in the context of the interpretation process is not entirely successful, it may be appropriate to replace it with a more important approach such as "necessity" of interpretation, which is important for understanding the essence, goals and objectives of this phenomenon.

Thus, in view of the lexical and semantic direction of the hermeneutic approach in the interpretation of legal norms, the need to supplement this approach with those methods that allow to explore the content of the legal norm at a more rational, practical

level is obvious. This approach is inherent in the methodology of pragmatism, which is used by supporters of the positivist nature of law, which does not exclude the possibility of using certain components of this approach, taking into account the following caveats.

The first thing to consider is the activity-based nature of the pragmatic method, when cognition is understood as an active practical intervention in reality, rather than its mirror image. In other words – cognition in action (from the Greek pragma means "action"). Thus, one of the first requirements of a pragmatic approach is to consider the rule of law in the context of its practicality, how it works in reality, how fully it regulates the relationship in a particular case. This determines the ability of that rule to act effectively, that is to meet its purpose. Therefore, the first sign of pragmatism is narrow empiricism, which is concentrated in the relationship "action – deed".

This practical nature of pragmatism reflects the activity content of cognition, and at the same time not only reflects reality, but is an act of creating new knowledge. From this we can conclude that the interpretation of, for instance, intellectual property right, is most appropriate to carry out using a functional-activity, purely practical approach. It is clear that we are talking about the need for substantive analysis, not essential but functional.

As you know, content is considered as a set of certain elements with an emphasis on the functions they perform. For example, the law includes specific rules – a structure, a form. And what functions these norms perform (each of them) is the content. In the analysis of a particular rule, the content cannot be detached from the context of the whole law, which ensures the integrity of the interpretation.

The second aspect of the content is determining the manner of behavior that is regulated by a particular norm, and the assessment of this behavior, to what extent it corresponds or does not correspond to what the norm provides. For example, when it comes to copyright imitation, it is necessary to find out the legitimacy of this imitation, because it is in such cases that property conflicts usually arise.

The next feature of the pragmatic method is the focus on success, the usefulness of the result of action. In other words, truth is revealed through usefulness. As for the

interpretation of the rule of law, this feature determines the extent to which the content of the rule of law corresponds to the purpose of the rule, its function. That is, to what extent it satisfies this or that human need.

Another important aspect of the pragmatic approach lies in its relation to the creativity, activity of the subject of cognition. According to Hegel, consciousness not only reflects the world, but also creates it. Pragmatism clearly borrowed this approach, but gave it a slightly new sound. That is, cognition is not a passive act, but is an active intervention in reality to anticipate the possible direction of further development of this reality.

Thus, the interpretation of the rules of law cannot be considered only as a copy of the content of the rule. It is important not just to reproduce what is in it, but to see in this content what will give this rule the right to continue to exist and be realized. Thus, the interpreter performs the creative function of improving the legislation. Focusing on the practical usefulness of knowledge, which satisfies the interests of the subject of cognition (that is, the interpretation of legal norms), means determining their value, the need for society in general and the need to regulate certain legal relations in particular.

With this approach, the achieved true knowledge must be perfect, appropriate and, again, useful. Therefore, we may conclude that knowledge (concepts, ideas, theories) is a tool of cognition, through which ideas about reality are formed. In other words, legal norms should be assessed primarily from the standpoint of their perfection, the adequacy of the reflection of real legal relations. After all, pragmatism is a kind of positivist philosophy that is important for understanding the nature of positive law. It, in contrast to natural law, contains an important component of expediency, harmony, unity of form and content, which ensures its operational nature.

Another feature of the pragmatic approach to interpretation is that it refers to the inexhaustible possibilities of the subject of interpretation − the interpreter, in this case, his (her) competence and professionalism come to the fore. It should be noted that this method in legal interpretation has limited application. It is not focused on the shortcomings of the norm, its possible imperfection, which needs to be improved. The negativity here is the excessive subjectivation of the process of interpretation, which is

reduced to a set of experiences, personal psychological belief in the correctness of personal vision of the content of the norm, when the activity of thinking is reduced to the selection of personal means and ways of the most successful solution of a problem to turn it into a solved situation. This subjectivity absolutization of the understanding of results evaluation of the content of the norm can lead to mistakes in interpretation.

The pragmatization of interpretation is a rationalized perception of the legal norm, that is, the absolutization of the individual, the singular, which may not coincide with the content of the norm as general, and again, leads to subjectivism. The practice on which pragmatism is oriented has a dynamic character, it exists in a state of constant change, and while interpreting these changes they could not always be taken into account. Hence, the act of interpretation will not always be objective. Pragmatism is threatened with a return to «vulgar» materialism, especially when it appeals to narrow practicality.

And one more remark concerning the interpretation of the subject's activity: does it solely rely on the criterion of success? After all, an important reserve of progress is defeat, miscalculation, and general dissatisfaction with the state of affairs as a guarantee of their further improvement. In terms of philosophy of law, norms of law as general are always necessary, essential, expedient, instead, the individual or single may in some cases be expedient and necessary, and be purely accidental, not dictated by the need, that a pragmatic approach does not make it possible to identify in other cases. The phenomenon of the methodology of interpretation of legal norms should not be reduced to the one-sidedly limited, monistic approach in understanding the meaning of legal norms. On the contrary, it must embody all the richness of various ways, methods, techniques and principles of cognition, as inexhaustible as reality itself or legal reality in particular.

Conclusions

Concluding the presentation of the material on the topic, it is worth noting several conclusions. First of all, hermeneutics is a truly phenomenological method, which, in contrast to the rationalist approach, makes it possible to directly comprehend legal phenomena (as individual and collective experience), to include the whole complex of

experiences, emotions, feelings in clarifying the meaning of this phenomenon. In other words, it complements the process of study with individual, reflexive-emotional experience, without addressing or reducing it to either materialism or idealism, which brings hermeneutics into an independent methodological factor.

The second conclusion is that hermeneutics serves jurisprudence, philosophy of law and all researchers of legal phenomena as such a methodological factor, which, according to Ricoeur, is an experiential phenomenon and serves as a methodology of natural law.

The third point worth mentioning is the importance and irreplaceability of the "hermeneutic circle" as an instrument of hermeneutics, which is in fact a universal way of understanding the essence of legal reality.