Professional consciousness as a factor in the regulation of the professional activity of attorneys

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In that article is considered the professional consciousness and its development in the activity of attorney. It was opening the psychological analysis of the special advocate's activity. The professional consciousness of advocate is characterized like an insight intellectual subject's model, in what from the one hand describes the sense of the law norms of society, and from another hand is formed the programs purposeful law's executive activity.

In the professional consciousness of the personality of the attorney are connected display and regulatory areas of the psyche. The psychological mechanism of interaction of the reflective (theoretical) sphere of professional consciousness with its regulatory sphere is extremely complicated, but it is revealed through the methods of system analysis. One example of the use of system-activity analysis can serve as the theory of phased formation of mental activities (P. Ya Halperin). The use of this method allows deeper to reveal the stages of development of professional consciousness of the attorney's personality.

The professional activity of an attorney is characterized by an extraordinary variety of solvable tasks. This activity is primarily related to the norms of law, and some of its types contain the following concepts: law enforcement activities, human rights activities, and so on.

Keywords: professional consciousness; professional activities of an attorney; an intellectual model subject; regulatory sphere of the individual psyche; the idea of the Law.

Introduction

The attorney in Ukraine acts to ensure the right to protection from prosecution and to provide legal assistance in dealing with cases in courts and other state bodies. It is subject to the general principles of ethics of attorneys, approved by the International Association of Attorneys and approved by the Union of Advocates of Ukraine. Democratization of social processes, extension of the rights of a defense attorney under the Law of Ukraine "On Advocacy" and in accordance with changes introduced in the criminal procedure legislation, creates new opportunities for advocacy.

In the professional consciousness of the personality of the attorney are connected display and regulatory areas of the psyche. The psychological mechanism of interaction of the reflective (theoretical) sphere of professional consciousness with its regulatory sphere is extremely complex, but it is revealed through the methods of system analysis. One example of the use of system-activity analysis can serve as the theory of phased formation of mental activities (P. Ya Halperin). The use of this method allows deeper to reveal the stages of development of professional consciousness of the attorney's personality.

Goals of article

To uncover and analyze professional consciousness as a factor regulating the professional activity of attorneys.

Analysis of recent research

The professional consciousness of attorneys, its ontological, functional and other characteristics was the subject of studying various psychological schools, as well as scholars of the humanities (philosophy, psychology, pedagogy, history). M. Ya. Sokolov and V. O. Levansky, who developed a model of professional consciousness of different groups of attorneys, made an important contribution to the formation of the theory of professional consciousness.

According to O.M. Kurlaev's reflection of objective reality by representatives of one profession or another is influenced by at least two factors: the objective, that is, the conditions of professional work; subjective, psychological peculiarities of the person. The presence of the first factor allows us to speak about the relative independence and integrity of this type of group consciousness, as professional consciousness. Characteristics of the professional consciousness of attorneys should begin with some terminological clarifications. The term "professional consciousness" in the broadest sense means the consciousness of various professional groups. In this regard, at first glance, you can agree with BD Parigin, who considers professional consciousness as a fact of a person's awareness of belonging to a certain set of social groups.

O.V. Kobetz drew attention to the fact that the role of professional consciousness "is not expressed in the fact that it corrects the law with its criteria beyond the current law, but that it helps to overcome the gap in the mind of the interpreter of the applicable norm from the system of this branch of law or law in general, helps to realize its socio-political significance, to reveal the true meaning and specific content of the law in applying to a particular case".

O.V. Klishina believes that the professional consciousness of an attorney, due to his outlook, ideas about the right, professional knowledge and life experience, in this case serves only as a basis for the interpretation and application of law, but is not its source. It is legal awareness that helps to understand the true meaning of the law without having the purpose of changing or abolishing it. The great merit of the attorney lies in the fact that he "... directly forms the quality, the perfection of the law as a defining moment in the rule of law; is able to provide the optimal mode of the whole mechanism, the requirements of the law, since the latter acts as a product of legal practice and an instrument in everyday activities".

According to S.D. Gusariev, special attention to the professional activity of a attorney deserves a functional way of interpreting law, which is based on the particular circumstances and conditions of application of one or another legal norm. In this case the attorney uses "assessments and arguments relating to the sphere of politics, justice, morals".

The professional activity of a attorney is characterized by an extraordinary variety of solvable tasks. This activity is primarily related to the norms of law, and some of its types contain the following concepts: law enforcement activities, human rights activities, and so on. Investigating the activity of the attorney V.L. Vasilev drew attention to the fact that she is one of the professions, which is full of extreme extremes and professional stress. The success of a attorney depends largely on the ability to communicate, from the approach to the client, the interaction with the judge, the investigator, the prosecutor. An important role is played by the organizational activity of the attorney: preparation for the process; drawing up a plan; application of methods and tools, formed by practice and professional experience.

Presenting main material

The professional consciousness of the attorney in the process of its development and functioning acts as a complex self-regulated functional system of conduct in human rights activities, which includes the processes of acceptance and processing of legal information, and relevant human rights actions. This system is reflected by us in the structural-functional scheme (Fig. 1).

It can distinguish several basic functions: the perception and selection of socially meaningful information, the formation of a conceptual model (legal knowledge); motivational, that is, mediation of actions, previously assimilated by the subject of interests, guides, values orientations; purposefulness on certain actions, formation of a program of behavior and choice of ways of action; prediction, prediction of the final result of action, their social and personal consequences; implementation of normative acts; self-monitoring on the basis of a consistent ratio of observed results with standard representations about legal norms of behavior; evaluation of the obtained result by its comparison with the ideas of the purpose; correction and normative reorganization of behavior in case of negative result.

In the formation of professional consciousness of an advocate an important role is played not only by subjective self-esteem, but also by an objective social assessment of the behavior of other people. This assessment is the most important factor that stimulates intellectual analysis and emotional experiences of the personality of the results of their actions, responsibility, the desire to improve their socio-normative behavior.

For legal behavior, as a kind of volitional process, the property of self-regulation is characteristic, which consists in a constant phased comparison of the results of actions and actions with standards of law and the representations of the desired end result, preserved in consciousness.

The most rational way of forming the legal behavior of an individual is to: master the content and social role of ethical norms; perception of examples of law enforcement behavior; practical implementation of legal actions - actions - development of abilities; conscious self-control; exercises on enforcement actions - actions and their transformation into skills that allow to automate the correct actions in appropriate situations; the transformation of the correct ethical and legal skills into

the habits of ethical-legal behavior, so that law-making behavior becomes a person's need.

Beginning under the influence of socially established legal norms, professional consciousness on the principle of feedback is the most important means of regulating the relationship of personality with the environment. The orientation of such relationships is multifaceted:

- focus on the establishment and maintenance of optimal relations between the person and the state on the basis of observance of rights and obligations;

- Establishing an active position of the individual in a society where observance of rights and obligations takes place on the basis of conscious purpose, discipline, self-control and interaction with various social structures;

- organization of relations with other people as citizens with respect to their rights and freedoms, with the manifestation of a high legal culture, a sense of responsibility for the fate of other people;

- compliance with ethical norms in interaction with members of formal and informal groups on the basis of mutual guarantees of rights and freedoms.

Fig. 1. Structural-functional scheme of human rights advocacy

Beginners and experienced attorneys should regularly analyze their legal positions by checking (consistently) the adequacy and effectiveness of the legal approach adopted. Legal positions are specified and practically represent the model of application of a certain legal norm of individual professional activity.

The attorney needs to know the identity of the client, his psychology, the motives of the crime, the causes and conditions of committing the crime. Having analyzed and made conclusions about the identity of the defendant, logically considering his own line of defense, the attorney can achieve positive results in human rights activities. The defender must have the moral right to participate in solving the issues of justice, to evaluate the actions of people, to reveal their psychological content. Therefore, the attorney must be principled, honest, irreconcilable with the violation of the rights and legitimate interests of the defendant.

The success of an attorney's activity depends largely on his ability to find among a large number of evidence that would help to justify a defendant or mitigate his guilt. And this requires searching, creative thinking, orientation in the circumstances of the case. Speaking in the process, the attorney adheres to a certain line of defense and a clearly defined goal, to achieve which he needs to take certain actions, to make decisions. Therefore, very important are its features, such as autonomy, will, ability to withstand other participants in the process, persistence and determination. Very dangerous for a attorney is the lack of their own point of view, the inability to defend their views, positions, beliefs.

The psychological analysis of the work of the attorney showed that it can distinguish the following stages: the

formation of a general concept; development of tactics of protection; application (realization) protection and communicative communication with process participants. At the first stage, the reconstructive activity of the attorney takes the main place. Such psychological qualities as memory, thinking (analytical and synthetic), imagination, are realized at the first and second stages of activity. At the third stage in the communicative activity of the attorney are distinguished: psychological contact with the client, which occurs mainly before the trial begins during private conversations; psychological contact with the composition of the court and other participants in the trial; At the same time, the quality of the attorney is being implemented as a court speaker.

Under the professional qualities of a attorney one should understand the individual characteristics of the subjects of work that influence the efficiency of professional activity and the success of its development. In tabl. 1. shows the main components (a substructure of professional activity) of a attorney: professional motivation; professional competence; professionally important psychological qualities of a specialist.

The legal activity of a attorney has a list of features that are determined by the specifics of interaction in the system "man - law - man." An attorney must have social and psychological competence - the ability to interact with others around him, the ability to navigate the social environment, adequately reflect the psychic features and the condition of other people, choose the best ways to communicate with them, and the ability to social communication.

The most important part of the attorney's activity is communicative processes - the ability to reach a contact and organize communication with people. Communicative activity in the work of the defender is one of the leading places and determines the level of his professionalism. Realizing his communicative skills, the attorney must be a subtle master of dialogue, an experienced polemicist. The experience of the best human rights defenders testifies that

precisely because of the high level of professionalism based on the proper legal and psychological culture, in the process of dialogue with the advocate with the subordinates and participants in the legal process, the necessary contact is established that promotes the disclosure of the truth. Among the professionally important communicative qualities of an attorney are as follows: social activity; extraversion; verbal erudition; suggestibility; empathy.

Table 1

Professionally defined structure of the personality of the attorney

SIGNATURE ACTIVITIES	SOCIO-PSYCHOLOGICAL COMPONENTS OF ACTIVITY (CATEGORY)	PROFESSIONALLY PROCESSED COMPONENTS OF ACTIVITY (KEY QUALIFICATIONS)
Professional motivation and orientation	The motive, purpose, inclinations, interests, attitudes, attitudes, values, beliefs, justice	Social and professional interests: readiness to interact with people, focus on success, achievement and professional growth, reliability, social responsibility
Professional competence	Cognitive, communicative, whole reliance, decision-making, aspiration	Scientific competence, special practical competence, personal competence (knowledge and skills), qualification
Professionally important psychological qualities	Typological, characterological, intellectual, emotional and volitional qualities	Professional independence, social-professional intelligence, ability to plan, creativity, analyticity, observation, diagnostic abilities, professional mobility, self-control, self-regulation

High demands are placed on the attorney's broadcasting culture, which is his "rhetorical toolkit." Language is an intellectual means of formation, theoretical generalization and practical expression of the views of the jurist. Language is a necessary means of communicating with a lawyer with colleagues, with all participants in the trial, as a means of speaking in court. A attorney's defense counsel is pronounced during litigation. It reflects the culmination of a psychological conflict in the trial and has a huge socio-psychological effect. In a public advocate's speech, the "effect of presence" is very important, which is considered in three main aspects: technical, emotional and informative. The mastery of all these aspects of professional language is promoted by the general literacy of a attorney, psychological training, the study of oratory.

A characteristic feature of advocacy is the presence of evaluative mental processes in her, whose purpose is to determine their position, their attitude (positive or negative) to the appraised statement, event, fact, criminal case as a whole. Often, the appraisal process by the attorney is an expanded comparison of the actual data of a particular case with the evaluation criteria - legal norms. In some cases, judgmental judgment depends on the immediate, sometimes unconscious reaction.

The judgmental judgment is specific in that it depends not only on the objective situation prevailing in connection with a particular criminal case, but also on the needs, interests and intentions of the attorney, from his personal preferences. In most cases, the activity of a attorney is accompanied by negative emotions, with the need to suppress them, and emotional discharge, as a rule, is chronologically delayed.

These cognitive, communicative and regulatory professional qualities are reflected in the activities of the attorney in the form of individual peculiarities of the individual, which may have both natural and social determinants in their genesis.

Conclusions

1. The content of the professional consciousness of attorney's includes ideas, basic settings that reflect the

reality in human consciousness and concepts that act as a representation of this reality.

2. Professional consciousness acts as the regulator of professional activity of a attorney, influenced by such socio-psychological factors as individual character, directness of interaction with colleagues, so to speak, the presence of informal relations, high level of responsibility.

3. Attorney's work refers to those types of activities, success and achievements which are more related to the general high development of the individual and his professional consciousness.

References

- Bilenchuk, P.D., Slyvka, S.S. (1999). Legal Deontology. K.: ATIKA.
- Bandurka, A.M., Bocharova, S.P., Zemlyanska, E.V. (2001). Legal psychology. Kharkiv: Publishing house. one and one inside affairs.
- Gusarev, S.D., Tikhomirov, O.D. (2005). Legal Deontology (Fundamentals of Legal Activity). K.: Knowledge.
- Halperin, P.Ya. (2000). Introduction to Psychology. Moscow: University.
- Kurlaeva, E.M. (2004). Features of the professional consciousness of lawyers. Proceedings of the Orenburg Institute of the Moscow State Law Academy (fifth issue). - Orenburg, 22-38.
- Kobets, O.V. (2005). The structure of professional legal sense of the lawyer. Pedagogics and psychology. Formation of a creative person: problems and searches, 36, 389 - 398.
- Klishina, A.V. (2008). Professional legal consciousness of lawyers: theoretical and legal research. (Dissertation): Russian. state Social Un. Moscow.
- Lunov, V. (2016). Recommendations for the development of professional thinking the cadets and of officers police CPD. Fundamental and Applied Researches in Practice of Leading Scientific Schools, 17(5), 177-184. Retrieved from <https://farplss.org/index.php/journal/article/view/107>
- Lunov, V. (2017). Features of development the professional thinking of police officers (CPD of Ukraine). Fundamental and Applied Researches in Practice of Leading Scientific Schools, 19(1), 73-87. Retrieved from <https://farplss.org/index.php/journal/article/view/116>
- Levansky, V.A., Sokolov, N.Ya. (2008). Professional qualities of lawyers: desirable and valid Journal of Russian Law. Moscow: Norma, 5. - P. 50-72.
- Pevtsova, E.A. (2002). Relationship of legal awareness and legal consciousness in modern society. Fundamentals of state and law, 5, 77.
- Sokolov, N.Ya. (1988). Professional Consciousness of Lawyers. Moscow: Nauka.
- Skabelina, L.A. (2012). Psychological aspects of advocacy. Moscow: Federal Chamber of Lawyers,.
- Vasiliev, V.L. (2000). Legal psychology. 3rd ed. St. Petersburg: Publishing House "Peter".