DOI https://doi.org/10.36059/978-966-397-100-1/211-233

CHAPTER 11
METHODOLOGICAL APPROACHES TO STUDY THE CATEGORY OF CRIMINAL MISDEMEANOR IN CRIMINAL-LEGAL DOCTRINE

Fedotova H. V.

INTRODUCTION

At the present stage of development of Ukraine, the fundamental changes in the socio-political and other conditions of social and public life, as well as the current provisions of the Constitution of Ukraine, have predetermined reforming of the criminal law system towards its further democratization, humanization, strengthening of the protection of human rights and freedoms in accordance with the requirements of international legal acts and commitments of our state to the European and world community.

In Ukraine, contemporary development of criminal law study convincingly testifies that new searches for scientific support for the formation and implementation of criminal-legal policy are not substantiated comprehensively enough.

Doctrinal studies of proper regulation of legal relations in counteraction to crime by methods of criminal law require in-depth theoretical and methodological approaches to substantiate the essence of individual elements of the criminal law subject. Consequently, the formation and development of new scientific perspectives regarding the essence and purpose of the domestic state policy, which determines the objectives, main areas, means of influencing crime.

One of such scientific novelties is a criminal misdemeanor, that is, a legal phenomenon that requires holistic and comprehensive scientific development of theoretical foundations to implement it in practice as a criminal law means of countering crime.

In order to reveal theoretical issues regarding a criminal misdemeanor, the concept (theoretical basis) for introducing this act into the law on criminal liability should be justified. The concept is considered as a system of views, a system of describing a particular subject or phenomenon in

relation to its structure, functioning that contribute to its understanding, interpretation, study of the main ideas. The concept is extremely important, since it is a single, decisive notion, the main idea of scientific research.

11.1. The System of Fundamental Scientific Perspectives regarding the Concept of Criminal Misdemeanor

In most European countries, criminal law provides for two or even three types of criminal acts subject to punishment (crime – misdemeanor –offence). Therefore, Europe has long recognized that the existence of more than one single type of act subject to punishment (crime) in criminal law [1].

In domestic legislation, an approach differs in some way. Thus, in the current Criminal Code of Ukraine, the crimes are classified according to the degree of their social danger (crimes of minor, medium gravity, grave and especially grave). The degree of social danger, together with the standard sanction, became the criterion for this classification.

Moreover, despite varying degrees of crime gravity, persons found guilty of committing them are correspondingly subject to a conviction. This approach is reasoned by the fact that the guilty person shall undergo punishment and other legal restrictions.

However, in other countries, the legal regulation of criminal liability is more humane.

Analysis of the practice of legislating in the field of criminal law enabled scientists to conclude that its evolutionary development is one-sided, namely, in the direction of criminal reprisals for various types of crimes[1]. In criminal policy, the trend of criminalization and penalization has been reflected in the legislated amendments and additions to the Criminal Code of Ukraine during the specified period, while most of them enable to evaluate the one-sided orientation to solving social problems and tasks of strengthening the rule of law, mainly by strengthening the intensity of criminal law influence. This approach has remained, despite ongoing concern at the State level of ensuring guarantees of human rights and freedoms and the construction of a European criminal justice system.

The necessity to revise domestic forms of legal responsibility towards their humanization and comprehensive protection of the rights and

[1] Balobanova D. O. Zahalna kharakterystyka osnovnykh tendentsii kryminalnoi zakonotvorchosti v Ukraini (2002–2012 rr.) [General characteristics of the main trends of the criminal law-making in Ukraine (2002-2012). (2002-2012)] / D. O. Balobanova. *Aktualni problemy derzhavy i prava [Current problems of state and law]*. Retrieved from http://www.apdp.in.ua/v69/23.pdf. (in Ukrainian).

freedoms of citizens is repeatedly underlined in recommendations of the European Court of Human Rights (hereinafter – the ECHR)[2], because Ukraine has recognized its practice as a source of law [3] and its priority over national legislation.[4].

For example, according to its decisions, to define an act as a crime or other type of offense depends not only on its place in the national legal system, but also on the nature of the act committed and the degree of restrictions on the rights and freedoms of the person that are determined by the type of penalty (punishment)[5].

Therefore, the distribution of the criminal law standards of certain country or international organizations into the legal framework of Ukraine is a rather painstaking and problematic process.

Moreover, the inclusion of new provisions in the Criminal Code of Ukraine raises a number of problems with respect to making them consistent with the existing criminal law provisions, as well as in relation to their compliance with changes in the CPC of Ukraine, in the CAO of Ukraine and other legislative acts.

For the first time, at the State level, the idea of introducing a criminal misdemeanor was announced by the National Commission for the Strengthening of Democracy and the Rule of Law (an advisory body under the President of Ukraine, created by the Decree of the President of Ukraine no. 1049 of July 5, 2005)[6], which stated the priority of creating a democratic system of criminal justice. According to the members of the commission, this activity should be systematic and involve an integrated

[2] Council of Europe, Committee of Ministers of the Council of Europe. (2004). Rekomendatsiia Rec(2004)6 Komitetu ministriv Rady Yevropy derzhavam-chlenam «Shchodo vdoskonalennia natsionalnykh zasobiv pravovoho zakhystu» [Recommendation Rec (2004) 6 of the Committee of Ministers of the Council of Europe to member states "On the improvement of national remedies"] (Recommendations, International document no. Rec(2004)6 of May 12, 2004). Retrieved from http://zakon4.rada.gov.ua/laws/show/994_718. (in Ukrainian)

[3] Pro vykonannia rishen ta zastosuvannia praktyky Yevropeyskoho sudu z prav liudyny [On the fulfillment of decisions and application of the practice of the European Court of Human Rights]. (The Law of Ukraine no. 3477-IV of February 23, 2006). *Vidomosti Verkhovnoi Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], 30,* 260. (in Ukrainian)

[4] Pro mizhnarodni dohovory Ukrainy [On international treaties of Ukraine] (Law of Ukraine no. 1906-IV of June 29, 2004). *Vidomosti Verkhovnoi Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine]*, no. 50, 2004. P. 540. (in Ukrainian)

[5] Rishennia Rady Yevropy, Yevropeyskyi sud z prav liudyny [The Decision of the Council of Europe, European Court of Human Rights] (Case 'Hurepka vs Ukraine' of September 06, 2005, Appeal no. 61406/00). Retrieved from http://www.justinian.com.ua/article.php?id=2643http://zakon4.rada.gov.ua/laws/show/980_437. (in Ukrainian)

[6] Pro Natsionalnu komisiiu iz zmitsnennia demokratii ta utverdzhennia verkhovenstva prava [On the National Commission for the Strengthening of Democracy and the Rule of Law] (The Decree of the President of Ukraine no. 1049 of July 5, 2005). Retrieved from http://zakon0.rada.gov.ua/laws/show/1049/2005. (in Ukrainian)

and interrelated change of the three components: criminal law – criminal procedure – institutionalization of the pre-trial investigation bodies and other bodies that ensure the rule of law.

The National draft concept of State policy in criminal justice[7], developed by the National Commission, provides for an important change in criminal law, such as the introduction of the criminal misdemeanor institution within the framework of democratization, humanization, strengthening of the protection of human rights and freedoms in accordance with the requirements of international legal acts and obligations of our country towards the European and world community.

Simultaneously, the members of the working group of the Centre for Political and Legal Reforms for future development of administrative responsibility (well-known domestic representatives of the administrative-legal science) also stated the necessity of introducing criminal misdemeanors. Proposals regarding criminal misdemeanors were outlined in the provisions of the draft Concept of the reform of administrative responsibility institution[8,9]. The main idea of the reform project was to «purify» administrative responsibility by defining as administrative delicts only those acts that cause public harm in public administration. According to the representatives of the administrative-legal study, the procedure for prosecution for administrative misdemeanors should not have criminal law characteristics and provide measures such as administrative apprehension, bringing a person, search, etc.; confiscation, correctional labor and arrest cannot be administrative sanctions, since they are of a criminal law nature. This concept has not been further developed.

The draft Concept has been developed rapidly, and the draft Concept of State policy in criminal justice, presented on October 16, 2007 at a meeting of the National Commission for the Strengthening of Democracy and the Rule of Law, received a generally positive assessment.

On February 15, 2008, the revised draft Concept was considered at a meeting of the National Security and Defense Council of Ukraine. Upon

[7] Proekt Kontseptsii derzhavnoi polityky u sferi kryminalnoi yustytsii [The National draft concept of State policy in criminal justice]. Retrieved from http://www.justinian.com.ua/article.php?id=2643.

[8] Proekt Kontseptsii reformuvannia instytutu administratyvnoi vidpovidalnosti [The draft Concept of the reform of administrative responsibility institution]. Retrieved from http://pravo.org.ua/ua/news/2584. (in Ukrainian)

[9] *Kryminalnyi kodeks Ukrainy 2001 roku: problemy zastosuvannia i perspektyvy udoskonalennia [The Criminal Code of Ukraine 2001: Problems of application and prospects of improvement]: Proceedings from International Scientific and Practical Conference*. (Lviv, April 13-15, 2007). L.: Lviv State University of Internal Affairs, 2007. Part 1, pp. 189–194. (in Ukrainian)

consideration, on April 8, 2008, the President of Ukraine issued the Decree «On the decision of the Council of National Security and Defense of Ukraine «On the process of reforming the criminal justice system and law enforcement bodies» no. 311 of February 15, 2008 (hereinafter – the Concept)[10].

According to this Concept, the category of criminal (subject to litigation) misdemeanors should include: a) separate acts that under the current CC of Ukraine, relate to crimes of minor gravity, which according to the policy of criminal legislation humanization will be recognized by the legislator as not having a significant degree of social danger; b) acts under the current CAO, which are within «court jurisdiction» and are not administrative in their essence (minor hooliganism, minor stealing of somebody else's property, etc.).

However, the scientific literature criticizes the introduction of the criminal misdemeanor institution in the legal system of Ukraine, since this idea contradicts a number of provisions of the Constitution of Ukraine (for example, Articles 29, 30, 31, 34, 39, 60, 62, 92, etc.)[11], which provide for the concept of «crime» and do not mention «criminal misdemeanor.» In this case, the strongest argument is the requirements of paragraph 22, Part 1, Art. 92 of the Basic Law on the list of types of legal responsibility and the presumption of innocence of persons, enshrined in Art. 62 of the Constitution of Ukraine.

Instead, according to paragraph 5 of the Resolution of the Plenum of the Supreme Court of Ukraine of November 1, 1996 «On the Application of the Constitution of Ukraine in the Administration of Justice,» in assessing constitutionality, the courts should proceed on the basis that normative legal regulations of any state or other body (acts of the President of Ukraine, resolutions of the Verkhovna Rada of Ukraine, resolutions and orders of the Cabinet of Ministers of Ukraine, legal regulations of the Verkhovna Rada of the Autonomous Republic of Crimea or decisions of the Council of Ministers of the Autonomous Republic of Crimea, acts of local self-government, orders and instructions of ministries and departments, orders of heads of enterprises, institutions and organizations,

[10] Pro rishennia Rady natsionalnoi bezpeky i oborony Ukrainy vid 15 liutoho 2008 r. "Pro khid reformuvannia systemy kryminalnoi yustytsii ta pravookhoronnykh orhaniv" [On the decision of the National Security and Defence Council of Ukraine of February 15, 2008 "On the process of reforming the criminal justice system and law enforcement bodies" (The Decree of the President of Ukraine no. 311/2008 of April 8, 2008). Retrieved from http://zakon0.rada.gov.ua/laws/show/311/2008. (in Ukrainian)

[11] *Konstytutsiia Ukrainy [The Constitution of Ukraine]*. Uzhhorod: JSC Patent, 1996. 119 p. (in Ukrainian)

etc.) are subject to the assessment and compliance with both the Constitution and the law[12].

In addition, the content of clause 1.1 of the operative part and the last paragraph of clause 2 of the reasoning part of the Decision of the Constitutional Court of Ukraine in case no. 1-22/2001 no. 7-rp/2001 (case about liability of legal entities) of May 30, 2001[13] states that the content of clause 22 of Art. 92 of the Constitution of Ukraine indicates that the grounds and general principles of criminal liability should be provided exclusively by laws. Therefore, the legislator may determine other types of delicts (offenses) by law, in particular, to establish liability for committing criminal misdemeanors. Evidently, the national legal system involves constitutional (political and legal) responsibility not covered by the provisions of Art. 92 of the Constitution of Ukraine and the introduction of the category "criminal misdemeanor" into criminal law do not contradict obligatory to the provisions of the Basic Law, since the Constitution of Ukraine, according to Professor A.O. Selivanov[14] enables to realize the idea. The criminal misdemeanor should be considered an ideological-regulative criminal-legal institution, structural element of criminal law.

Nowadays, the procedure for introducing a criminal misdemeanor into the provisions of criminal procedure law has just begun. By adopting the CPC of Ukraine in 2012, the legislator introduced the concept of «criminal misdemeanor» as a separate type of criminal offense.

Therefore, the concept «criminal misdemeanor» appeared textually in the CPC of Ukraine 2012, which provided for that the Law of Ukraine on criminal liability includes legislative acts of Ukraine that establish criminal liability, such as the Criminal Code of Ukraine and the Law of Ukraine on criminal misdemeanors» (para. 7, Part 1, Art. 3 of the CPC of Ukraine)[15].

---

[12] *Postanovy Plenumu Verkhovnoho Sudu Ukrainy u kryminalnykh spravakh [The Resolutions of the Plenum of the Supreme Court of Ukraine in criminal cases]*. 2nd ed. K.: Skif, 2007. Pp. 9-15.

[13] Rishennia Konstytutsiinoho Sudu Ukrainy u spravi za konstytutsiinym zvernenniam vidkrytoho aktsionernoho tovarystva "Vseukrainskyi Aktsionernyi Bank" shchodo ofitsiinoho tlumachennia polozhen p. 22 ch. 1 st. 92 Konstytutsii Ukrainy, ch.1, 3 st. 2, ch. 1 st. 38 Kodeksu Ukrainy pro administratyvni pravoporushennia (sprava pro vidpovidalnist yurydychnykh osib) [The decision of the Constitutional Court of Ukraine in the case of the constitutional appeals of the Open Joint Stock Company "All-Ukrainian Joint-Stock Bank "regarding the official interpretation of the provisions of para. 22 of Part 1 of Art. 92 of the Constitution of Ukraine, Parts 1, 3 of Art. 2, Part 1, Art. 38 of the Code of Ukraine on Administrative Offenses (case on liability of legal entities)]. *Visnyk Konstytutsiinoho Sudu Ukrainy [Bulletin of the Constitutional Court of Ukraine]*, no. 5, 2001. Art. 234. (in Ukrainian)

[14] Selivanov A. O. Ukrainskomu narodu potribna "zhyva" Konstytutsiia Ukrainy [Ukrainian people need "live" Constitution of Ukraine] / A. O. Selivanov. Retrieved from http://ckp.in.ua/news/10060. (in Ukrainian)

[15] Kryminalnyi protsesualnyi kodeks Ukrainy [Criminal Procedure Code of Ukraine] (Law of Ukraine no. 4651-VI of April 13, 2012). *Vidomosti Verkhovnoii Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine]*, no. 9–10, 11–12, 13, 2013. Art. 88. (in Ukrainian)

However, any legal regulation, primarily new, is reflected in unity with other provisions with regard to ruling public relations in a particular area. The new regulation occurs when social changes have been gradually accumulating and have acquired a new qualitative state that requires a fundamentally new legal regulation. New social relations change the previous, and a new adopted legal regulation regarding these relations cancels the old legal provisions. Therefore, the amendments to criminal legal regulations in order to introduce a criminal misdemeanor should have objective grounds related to the area of socially determined criminal law policy in society, but require further approving of a criminal misdemeanor by regulations of criminal (material) law.

Moreover, the objective to improve the quality of Ukrainian criminal law should be considered, since it should be ensured by the two main processes of sustainable development (dynamics and stability), as well as their ration is important. Furthermore, the introduction of changes to the criminal law, determined by criminal policy and dominant ideology, should not violate the codified system of criminal law and its implementation. These processes must be dialectically combined to improve criminal law.

Further characteristics of the available approaches to doctrinal interpretation of the category of criminal misdemeanor require considering of the basic conceptual provisions that determine the possible ways of introducing a criminal misdemeanor into criminal law.

The scientists of the Yaroslav Mudryi National Law University interpret the expediency of the misdemeanor institution in the «Concept of introducing a misdemeanor by adopting the Law (Code) of Ukraine on misdemeanors»[16]. Scientists argue that the idea of delineating crimes and misdemeanors is implemented in the legislation of Austria, England, Belgium, the Netherlands, Spain, the Republic of Latvia, the Republic of Lithuania, the Republic of San Marino, the United States, Switzerland, Germany, France. In addition, in some countries, the misdemeanor category is determined within the framework of criminal law (legislation), in others, in special regulations. On the contrary, at the present time, current domestic criminal law of Ukraine contains a number of acts, which by their degree of social danger do not always correspond to the concept and content of the crime as the most socially dangerous type of offense that

[16] *Yurydychnyi visnyk Ukrainy [Legal Bulletin of Ukraine]*, no. 21 (986), May 24-30, 2014. (in Ukrainian)

requires their decriminalization. In addition, the scientists claim the necessity of an advanced procedure for investigating and reviewing acts of so-called «court jurisdiction,» which is far from being fully implemented within the framework of the CAO of Ukraine, but its implementation into the legislation is essential, since it would create the required legal (legislative) guarantees to ensure the full and comprehensive protection of the rights and freedoms of the person prosecuted. In other words, a new approach to determining the form of legal liability, different from administrative and criminal, expressed in a separate legal regulation, the Law (Code) of Ukraine on misdemeanors, should be applied. According to experts, such approach will harmonize Ukrainian legislation with the legislation of European countries, bring it further toward European legal standards, and ensure the implementation of the State policy on humanization of criminal liability by decriminalizing a number of acts that are now recognized as crimes; ensure full and comprehensive protection of the rights and freedoms of the person prosecuted for administrative offences, which entail heavier types of measures of influence; reduce the number of persons who are subject to punishments such as deprivation or restraint of liberty, and persons who are prosecuted and in this regard suffer conviction.

M. Khavroniuk advocates this perspective, because it would be logical to create an independent Code on criminal misdemeanors. They argue that categorizing of criminal misdemeanors in the current Criminal Code of Ukraine cannot be considered optimal; as a result, crimes and misdemeanors joined together will create confusion in the structure of the provisions of the CC of Ukraine and the institutions. Moreover, two types of offenses in a single legal regulation require a substantial and unjustified revision of the CC of Ukraine and will lead to the criminalization of a significant number of acts that will negatively affect the crime situation in society, artificially increase statistical indicators and create a negative perception of the political situation in the country[17]. Yu. Usmanov[18],

[17] Khavroniuk M. I., Khavroniuk A. N. Shchodo vidmezhuvannia zlochynu vid kryminalnoho prostupku [Regarding the delineation of a crime from a criminal misdemeanour]. Retrieved from http://www.big-lib.com/book/63_Kriminalnii_kodeks_Ykraini___10_rokiv_ochikyvan_T/6849_(in Ukrainian)

[18] Usmanov Yu. Kryminalnyi prostupok – sposib pomiakshyty vidpovidalnist? [Is criminal misdemeanour a way to mitigate responsibility?]. Retrieved from http://www.pravoconsult.com.ua/shho-take-kriminalnij-prostupok-i-z-chim-jogo-yidyat-v-ukraini/#ixzz311621a00. (in Ukrainian)

P. Mudrak[19], O. Knyzhenko[20] advocate this perspective and underline that an individual legal regulation should be created.

The arguments of the scholars are appropriate and reasonable, but along with this in the legal literature, proposals for the establishment of criminal misdemeanors in the current CC of Ukraine exist.

The conceptual aspects of the introduction of a criminal misdemeanor within the current Criminal Code of Ukraine are reflected broadly in the model draft of the CC of Ukraine, prepared by members of the Criminal Law Department of the National University «Odessa Law Academy,» including V. O. Tuliakova, N. A. Myroshnychenko, N. L. Berezovska, D. O. Balobanova, N. M. Myroshnychenko, Yu. Yu. Kolomiiets-Kapustina, M. M. Dmitruk, O. M. Polishchuk, M. P. Ihnatenko, L. K. Kravets and others. The model project based on the concept of criminal offense in accordance with the provisions of Art. 6 of the European Convention on Human Rights and Fundamental Freedoms and the practice of the ECHR. The experts consider the idea of introducing a criminal misdemeanor into the criminal law of Ukraine to be mature enough and confirm the grounds for its implementation, which requires the unity of doctrinal thought today[21].

Therefore, the ways of introducing a criminal misdemeanor are the author's perspective of the possible unification of various scientific opinions and considerations about the essence of this legal phenomenon that today have become a multi-layered structure, which is not provided by criminal law leading to scientific polemics and preventing the further development of the national legal system.

In our opinion, the concept of criminal misdemeanor should be a unified, scientifically grounded, theoretically modelled, predicted, justified by the actual needs of social life, verified and proven idea, while

[19] Mudrak P. M. Instytut kryminalnykh prostupkiv v konteksti intehratsii natsionalnoho zakonodavstva do yevropeyskykh standartiv [Institute of criminal misconduct in the context of integration of national legislation to European standards]. *Naukovyi visnyk mizhnarodnoho humanitarnoho universytetu [Scientific Bulletin of the International Humanitarian University],* no. 6–3 (2), 2013. Pp. 93–94. (Seriia 'Yurysprudentsiia' [Series Jurisprudence]). (in Ukrainian)

[20] Knyzhenko O. Pryntsyp zakonnosti v konteksti reformuvannia kryminalnoho zakonodavstva Ukrainy [The Principle of Legitimacy in the Context of the Reform of the Criminal Legislation of Ukraine] / O. Knyzhenko. *Naukovyi chasopys natsionalnoi akademii prokuratury Ukrainy [Bulletin of the National Academy of Public Prosecutor of Ukraine],* no. 1, 2014. Pp. 86–91. Retrieved from http://www.chasopysnapu.gp.gov.ua/chasopys/ua/pdf/1 –2014/86-knyzenko.pdf. (in Ukrainian)

[21] Tuliakov V. O., Pimonov H. P., Mitritsan N. I. et al. *Kryminalnyi prostupok u doktryni i zakonodavstvi [Criminal misdemeanours in doctrine and legislation]* / V. O. Tuliakov (Ed.). O.: Yurydychna literatura, 2012. 424 p. (in Ukrainian)

suggestions and recommendations stated in it should become the necessary product for further implementation in law.

Therefore, the introduction of the concept of criminal misdemeanor as a system of fundamental scientific views and ideas about the phenomenon inherent in criminal-legal relations, under which socially dangerous actions have caused minor reversible damage to important groups of social relations, is relevant.

11.2. Methodology for Developing the Concept of Criminal Misdemeanor

Among the key areas of the theoretical development of the concept of criminal misdemeanor, as any phenomenon, is the methodology justified by the way of cognition (methods, procedures).

Considering the methodological foundations of the criminal misdemeanor study in the criminal law of Ukraine, it should be clarified what is: the supposed leading scientific idea of a criminal misdemeanor; the essence of a criminal misdemeanor as a phenomenon (object, subject of study); contradictions that arise in the process of introducing a criminal misdemeanor into the criminal law framework; the stages, phases of development (or trends) of a criminal misdemeanor. Considering the aforementioned theoretical statements, the main methods used in the study should be described.

The method of dialectical materialism. This is one of the philosophical methods, based on dialectical notions about the world around us, which is used to study state-legal phenomena. It is characterized by basic principles, such as historicism of any phenomena; comprehensiveness of considering of the subject of the study; the usage of dialectics categories in scientific research.

These principles are formulated on the basis of the main postulate of dialectics: all the phenomena of the environment are in continuous development, mutually transcend each other, constantly arise and cease; accordingly, in order to really understand the essence of the world, such means of the study are needed.

In addition, the method of dialectical materialism enables to study state-legal phenomena. The prerequisite for true knowledge is the principle of the research objectivity. It means to study the legal reality, perceiving it as it really is. «The nucleus» of dialectics is a dynamic approach to the

phenomena under study, specified in the most important laws of dialectics, which are simultaneously: specific methods of thinking, enabling to study and understand the movement of a certain phenomenon, law in this case, its source and nature. Such operations are the dichotomy of a single and study of its contradictory parties, distinction of quantitative and qualitative changes in the phenomenon development and the negation of the negation as the abolition of obsolete trends from the viable in the object development. Compliance with this principle is of particular importance for law-based scholars. The stability of law as a system of regulations, its «conservatism» in relation to changing socio-economic conditions, is the cause of a static approach to legal reality in general. However, for legal science it is important to consider an object under study not in statics, but in dynamics. With regard to law, self-regulation is impossible; law develops in line with the development of society, being primarily subject to its objective patterns. However, law is characterized by contradictions, which are a specific source of its development and relative independence. In addition, law functions constantly, while processes in its implementation are dynamic, and this dynamics is subject to study[22]. Humanity has crossed the threshold of the new millennium with the need to rethink many fundamental values of social life and the pursuit of serious guarantees of sustainable development and legal regulation of social life under the relative disappearance of borders between space and time, between people and societies and states.

Due to the need to update views on the role and purpose of law in the new socio-historical conditions, its relationship with the trends of society development, the patterns of legal institution functioning, the effectiveness of regulatory capacity should be studied thoroughly.

Therefore, at the present stage, the domestic legal system is changing due to two groups of factors: external (processes of globalization) and internal (building a market economy, society formation). These processes affect all elements of the legal system and determine the trends of its further development. The transformation of the elements of the legal system requires rethinking of legal phenomena such as the legal system, legal regulation, self-regulation, legal regimes, etc.

In the criminal-legal sphere of application, the study of the phenomenon of criminal misdemeanor enables to consider the correlation

[22] Gerlokh A. O metodakh poznaniia prava [About the methods of law study] / A. Gerlokh. *Pravovedenie [Jurisprudence]*, no. 1, 1983. Pp. 12–20. (in Russian)

of administrative and criminal norms under constant development, the interaction of material and ideal, providing a materialistic approach to this phenomenon. It enables to trace the nature of social relations in the formation of legal relations. The main dialectics law is considered the law of unity and struggle of opposites that reveals the source of development of all that exists, according to which contradictions occur (a certain connection of opposites). The content of this law is to find the opposites in the phenomenon under study and consider their struggle as a key factor in the sequential formation of the phenomenon, that is, a criminal misdemeanor.

The law of the mutual transition of quantitative and qualitative changes enables to observe the phenomenon regeneration, that is to say, the gradual increase of quantitative changes, associated with the object, leads to radical transformation of the object itself, to the occurrence of a new quality that will later affect reversely the nature and pace of the subsequent quantitative changes. For example, an increase in the sanctions of the current provisions and creation of special departments extending the scope of criminal prohibitions led to a growing impact of criminal liability by some means. Therefore, nowadays, the reform of the law-enforcement system towards humanization of criminal legislation by its decriminalizing is due. In some way, a crime as a phenomenon is undergoing transformation, the concept of «criminal offense,» which combines the types of acts, such as a crime and a criminal misdemeanor, is being introduced.

The next method, although historically previous than the dialectical materialism, but still relevant today, is *the method of abstraction*. It is universal and used both in practical and in theoretical research. According to D. P. Gorskii[23], to abstract means to separate from the wealth of the content of a particular phenomenon, to ignore deliberately the specificities and features of the phenomenon, but to identify the typical, most characteristic and essential in the phenomenon, to establish the laws according to which it exists, that is, to reveal it as a scientific category. According to A. M. Vasyliev[24], the abstract concepts, related to the logical system of the legal theory, enable to express the legal reality entirely and

[23] Gorskii D. P. *Voprosy abstraktsii i obrazovaniia poniatii [Issues of abstraction and concept formation]* / D.P. Gorsky. M.: AN SSR, 1961. 341 p. (in Russian)

[24] Vasilev A. M. *Pravovye kategorii. Metodologicheskie aspekty razrabotki sistemy kategorii teorii prava [Legal categories. Methodological aspects of the development of the system of categories of the theory of law]* / A. M. Vasilev. M.: Yurid. lit., 1976. 265 p. (in Russian)

specifically. Abstraction or its results, abstractions, are associated with any development of thoughts. Therefore, without abstraction it is impossible to reach the categorical level of reality development. The essence of abstraction is in the allocation of a certain feature of the subject and consistent systematic detachment from the secondary features, connections, relations of the object under study. In the study of a criminal misdemeanor, abstraction enables to propose new definitions, to form constituent elements of misdemeanors, to identify their typical features.

In scientific knowledge, analysis and synthesis are related to each other organically. Under analysis, the subject of the study distributes into components and they are studied further using other methods. Under synthesis, elements of the phenomenon, perceived in the analysis, are combined into a single body and studied as a set of qualities of the object under study. However, V. K. Kolpakov[25] argues notably that dialectical relationship between analysis and synthesis reveals that they are not likely to be separate, individual ways of cognition. They exist only together, since they are the essence, two parts, two aspects of comprehensive knowledge. The result of cognition is always represented by the dialectical unity of analysis and synthesis. In this study, no issues can find the solution without analysis and synthesis of reality or legal constructs.

The next is the *historical materialist* method, established in the XIX century as one of the most important methods of scientific knowledge. In fact, this method can be regarded as a historical approach from the perspective of dialectical materialism. It requires a concrete historical approach to legal categories, provisions and jurisprudence, since their historical determinant enables to understand better the content of the latter, the source and prospects of development not only within a certain historical period, but also within an individual state, considering national traditions, political and legal culture.

In the study of a criminal misdemeanor in criminal law, the historical materialist method enables to establish the correlation between the concepts of «crime,» «administrative offense» and «criminal misdemeanor,» to find out the place of a criminal misdemeanor in the system of criminal law categories.

The study focuses on the genesis of a criminal misdemeanor to determine its legal nature. In addition, the historical approach supposes

[25]Kolpakov V. K. *Administratyvno-deliktnyi pravovyi fenomen [Administrative and delict law phenomenon]* (Monography) / V. K. Kolpakov. K.: Yurinkom Inter, 2004. 528 p. (in Ukrainian)

active application of the *comparative historical method*, that is, the set of cognitive means, procedures, which reveal the similarity and the distinction between the phenomena under study, their genetic affinity (linkage by origin), and determine the general and specific in their development.

Structuralism as a scientific direction of humanitarian knowledge occurred in the 20s of XX century. It is based on the establishment of a structure as a set of relations, considered not as a «skeleton» of an object, but as a set of rules by which other objects can be obtained by rearranging elements of a structure[26]. In structuralism, synchronic study of the object (not diachronic), its structure study, distinction of constituents and stable relations between them are of particular importance. *The method of structuralism* is used widely to study the essence of a criminal misdemeanor, as well as to define the main elements of its structure.

The axiological (value) approach is based on the concept of value and enables to find out the qualities and features of objects, phenomena, processes capable of satisfying the needs of an individual and society, as well as ideas and motives formulated as a norm and an ideal. Values are the advantage of certain meanings and the modes of behavior formed on this basis. Humanistic or universal values, such as life, health, love, education, work, creativity, beauty, etc., are fundamental. Systems of values are present in every culture, society, state, profession, personality. Axiological comprehension is applied to material and spiritual values. Any social institution, based on values of a more general level, forms its own specific values: cultural, pedagogical, professional, etc. A system of general and special criteria and value indicators is created.

A universal tool for cognitive activity is *system analysis* (or system approach). In the study of the concept of «criminal misdemeanor,» the system method provides grounds for considering it as a phenomenon with integrational qualities that has the proper conditions for self-development, as well as its inherent structure and functionality.

The system approach is related to the structural and functional, system-pragmatic, system-genetic, approaches etc.

The essence of the structural-functional approach is to distinguish the structural elements (components, subsystems) in the system objects and determine their role (functions) in the system. Elements and relations

[26] Gretskii M. N. Strukturalizm / M. N. Gretskii. *Filosofskii entsiklopedicheskii slovar [Philosophical Encyclopaedic Dictionary]*. M.: Sov. Encyclopedia, 1983. P. 657. (in Russian)

between them create the structure of the system. Each element performs specific functions that «work» for system-wide functions. The structure characterizes the system in statics, while functions – in dynamics. They begin to depend on each other.

The functional method enables to study the functions of a criminal misdemeanor. The study of the functioning can, for example, reveal what socially dangerous acts are criminal misdemeanors, distinguish criminal misdemeanors from other types of acts. Functional analysis enables to determine how fully human rights and freedoms are protected in the course of prosecution for criminal misdemeanors.

Modelling is essential for research of the internal and external relations of the object under study. It enables to study those processes and phenomena that are not subject to direct study. The modelling method has proven itself as an effective means of identifying essential features of phenomena and processes using a model (conceptual, verbal, mathematical, graphical, physical, etc.). In this study, modelling is important as a means of theoretical or practical indirect cognition, in which some auxiliary object (model) is used to provide the researcher with new scientific information about the features of an objective phenomenon or process under study. The model is aimed at disitegration of the object under study, the allocation of some of its essential elements, which are subject to formalization and evaluation of options and performance.

In our opinion, the conceptual model of introducing a criminal misdemeanor enables to study the ways of legislating the category of «misdemeanor,» to outline the range of acts appropriate to be included in it.

The sociological method is used in the study of documents and statistical data, while conducting a questionnaire. This method enables to determine, with high probability, the level of legal consciousness in a society (state of law and order), the opinion of law enforcement officers on problematic issues regarding the introduction of the criminal misdemeanor institution in the criminal law of Ukraine.

The hermeneutic (cognitive-procedural or interpretative) method enables to better understand the texts of legal regulations, important documents or works. This supports explaining and interpreting the internal content of the latter, as well as the concepts, definitions and terms to be considered.

The synergetic method. The concept «synergetic» derives from the ancient Greek word «synergeia,» which means cooperation, complicity, joint activity. In general, synergetics is an interdisciplinary area of research, the task of which is to study natural phenomena and processes based on the principles of self-organization of systems that consist of corresponding subsystems. Therefore, this concept was initiated precisely to refer to the processes of self-organization. Sometimes synergetics is considered as «global evolutionism» or «universal theory of evolution,» which provides a unified basis for describing the mechanism of any novelty emergence[27].

In the Encyclopaedic Dictionary, edited by A. A. Ivin[28], synergetics is defined as an interdisciplinary area of scientific research, which studies the general patterns of transition processes from chaos to order and vice versa, in other words, processes of self-organization and unauthorized disorganization.

According to V. N. Protasov[29], the introduction of the concept «synergetics» dates back to the period of joint work by German physicists H. Haken and R. Graham on the study of lasers (1968-1970), who discovered the spontaneous formation of macroscopic structures, self-organization.

Therefore, the objective of synergetics is to reveal during the study of systems spontaneously formed structures due to self-organization. Consequently, the essence of the synergetic approach as a universal scientific method is explanation of the occurrence of systems as a result of the ability of phenomena and processes to spontaneous (not predetermined by their previous development) self-organization[30].

The comparative legal method enables to reveal general trends and regularities of legal development that are inherent in various branches within one state, and to fix their manifestations under the specific conditions of individual countries. The comparative legal method requires

[27]Lorents K. Kontseptsiia samoorganizatsii. Sinergetika. Obshchie polozheniia [The concept of self-organization. Synergetics. General provisions]. Retrieved from http:// spkurdyumov.ru. (in Russian)

[28] *Filosofiia: entsiklopedicheskii slovar [Philosophy: Encyclopedic Dictionary]* / A. A. Ivin (Ed.). M.: Gardariki, 2004. Retrieved from http:// dic.academic.ru/dic.nsf/enc_philosophy (in Russian)

[29] Protasov V. N. *Teoriia gosudarstva i prava. Problemy teorii gosudarstva i prava [Theory of State and Law. Problems of the theory of state and law]* / V. N. Protasov. 2nd ed. M.: Urait-M, 2001. 346 p. (in Russian)

[30]Ibid, p. 30.

using special ways and means of research due to the nature of the object, for example, the normative nature of law[31].

The application of the comparative legal method is a challenge, since its solution requires considering a large number of different factors (the legal culture of respective countries, legislation structure, legal infrastructure, national legal concepts, etc.), therefore, Yu. A. Tikhomirov[32] argues that it is important to comply precisely with methodological approaches, research principles, and consider legal techniques. In the study of criminal misdemeanor problems, this method enables to consider the trends in criminal legislation development in the states with legal systems approximated to Ukraine, to avoid incorrect decisions, and to follow positive experience of legislation on this issue.

In order to analyses a criminal misdemeanor comprehensively as a complex system of unlawful acts, a variety of methods, used successfully in other fields of scientific knowledge should be applied. For example, the method of modelling enables to examine the internal and external relations of the object under consideration. It enables to study those processes and phenomena that cannot be researched directly, since the essence of the latter is based on assumptions about the similarity of objects, when mutual unambiguous correspondences can be established between different phenomena, therefore, understanding of the features of one of them (the model) empowers to consider the quality of another (the original). Therefore, the modelling method is an effective means of identifying essential features, phenomena and processes using a model (conceptual, verbal, mathematical, graphical, physical, etc.).

In addition, the research uses *quantitative and qualitative methods*, which are common in various fields of science, such as scientometrics, bibliometrics, informetrics.

Therefore, the search for methodological foundations of the study is carried out in the following areas:

– the study of scientific works by well-known scientists who applied the general scientific methodology for studying a specific branch of science;

[31]Tille A. A. Sravnitelnyi metod v yuridicheskikh distsiplinakh Comparative method in legal disciplines / A. A. Tile, G. V. Shvekov. 2nd ed. M.: Higher School, 1978. Pp. 6–38. (in Russian)

[32]Tikhomirov Yu. A. Kurs sravnitelnogo pravovedeniia / Yu. A. Tikhomirov. M.: Norma, 1996. Pp. 54–60.

– the analysis of works by leading scientists who, simultaneously with the general problems of their branch, have studied the issues of such branch;

– summing up the ideas of the scientists who studied the problem directly;

– the study of specific approaches to solve this problem by practitioners who have not only developed but also implemented their ideas in practice;

– the analysis of Ukrainian scientists and practitioners' concepts in this scientific and practical area;

– the study of scientific works of foreign scientists and practitioners.

Furthermore, the methods considered do not exhaust the methodological diversity of approaches to study criminal misdemeanor issues in the criminal legislation of Ukraine, but, in our opinion, they are tools most requested in their study.

Therefore, the use of a wide range of general scientific and special legal methods forms a certain system of methods, which is the methodology of this study, that is, a set of methods of cognition and techniques, which enable to solve special research tasks related to the study of the features of a criminal misdemeanor as an act, *which does not cause a significant social danger* or which is socially dangerous, but the degree of harm caused by such act is minor and significantly different from the harm caused by a crime. Evidently, the methods considered above do not exhaust the entire methodological variety of approaches to study the category of criminal misdemeanor in the criminal-law doctrine in general, but in line with our study, this methodological framework is the most optimal.

CONCLUSIONS

The concept of criminal misdemeanor should be a unified, scientifically grounded, theoretically modelled, predicted, justified by the actual needs of social life, verified and proven idea, while suggestions and recommendations stated in it should become the necessary product for further implementation in law.

Nowadays, the concept of criminal misdemeanor as a system of fundamental scientific views and ideas about the phenomenon inherent in criminal-legal relations, under which socially dangerous actions have caused minor reversible damage to important groups of social relations, is relevant. In order to reveal theoretical issues regarding a criminal

misdemeanor, the concept (theoretical basis) for introducing this act into the law on criminal liability should be justified. The concept is considered as a system of views, a system of describing a particular subject or phenomenon in relation to its structure, functioning that contribute to its understanding, interpretation, study of the main ideas. The concept is extremely important, since it is a single, decisive notion, the main idea of scientific research. The issue of responsibility for criminal misdemeanors centers on the definition of the concept of «criminal offenses,» which theoretical and methodological justification remains open.

Consequently, the methodology of the study of the concept of criminal misdemeanor is considered as a set of methods of cognition and techniques, which enable to solve special research tasks related to the study of the features of a criminal misdemeanor as an act (which does not cause a significant social danger or which is socially dangerous, but the degree of harm caused by such act is minor and significantly different from the harm caused by a crime).

SUMMARY

In the study, basic conceptual provisions that determine the possible ways of introducing a criminal misdemeanor into criminal law are considered; scientific approaches to the criminal misdemeanor are described.

Therefore, the study reveals that: 1) theoretical and methodological developments concerning a criminal misdemeanor are at the initial stage; 2) responsibility for criminal misdemeanors centers around the definition of the concept of «criminal offenses,» while theoretical and methodological justification of a criminal offense remains open in criminal law doctrine; 3) the theoretical foundation, that is, a single concept of criminal misdemeanor is undeveloped.

The methodology of the study of the concept of criminal misdemeanor is defined as a set of methods of cognition and techniques, which enable to solve special research tasks related to the study of the features of a criminal misdemeanor as an act (which does not cause a significant social danger or which is socially dangerous, but the degree of harm caused by such act is minor and significantly different from the harm caused by a crime).

REFERENCES

1. Balobanova D. O. Zahalna kharakterystyka osnovnykh tendentsii kryminalnoi zakonotvorchosti v Ukraini (2002–2012 rr.) [General

characteristics of the main trends of the criminal law-making in Ukraine (2002-2012). (2002-2012)] / D. O. Balobanova. Aktualni problemy derzhavy i prava [Current problems of state and law]. Retrieved from http://www.apdp.in.ua/v69/23.pdf. (in Ukrainian).

2. Council of Europe, Committee of Ministers of the Council of Europe. (2004). Rekomendatsiia Rec(2004)6 Komitetu ministriv Rady Yevropy derzhavam-chlenam «Shchodo vdoskonalennia natsionalnykh zasobiv pravovoho zakhystu» [Recommendation Rec (2004) 6 of the Committee of Ministers of the Council of Europe to member states «On the improvement of national remedies»] (Recommendations, International document no. Rec(2004)6 of May 12, 2004). Retrieved from http://zakon4.rada.gov.ua/laws/show/994_718. (in Ukrainian)

3. Pro vykonannia rishen ta zastosuvannia praktyky Yevropeyskoho sudu z prav liudyny [On the fulfillment of decisions and application of the practice of the European Court of Human Rights]. (The Law of Ukraine no. 3477-IV of February 23, 2006). Vidomosti Verkhovnoi Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], 30, 260. (in Ukrainian)

4. Pro mizhnarodni dohovory Ukrainy [On international treaties of Ukraine] (Law of Ukraine no. 1906-IV of June 29, 2004). Vidomosti Verkhovnoi Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], no. 50, 2004. P. 540. (in Ukrainian)

5. Rishennia Rady Yevropy, Yevropeyskyi sud z prav liudyny [The Decision of the Council of Europe, European Court of Human Rights] (Case ‘Hurepka vs Ukraine’ of September 06, 2005, Appeal no. 61406/00). Retrieved from http://www.justinian.com.ua/ article.php?id=2643 http://zakon4.rada.gov.ua/laws/show/980_437. (in Ukrainian)

6. Pro Natsionalnu komisiiu iz zmitsnennia demokratii ta utverdzhennia verkhovenstva prava [On the National Commission for the Strengthening of Democracy and the Rule of Law] (The Decree of the President of Ukraine no. 1049 of July 5, 2005). Retrieved from http://zakon0.rada.gov.ua/laws/show/1049/2005. (in Ukrainian)

7. Proekt Kontseptsii derzhavnoi polityky u sferi kryminalnoi yustytsii [The National draft concept of State policy in criminal justice]. Retrieved from http://www.justinian.com.ua/article.php?id=2643.

8. Proekt Kontseptsii reformuvannia instytutu administratyvnoi vidpovidalnosti [The draft Concept of the reform of administrative responsibility institution]. Retrieved from http://pravo.org.ua/ua/news/ 2584. (in Ukrainian)

9. Kryminalnyi kodeks Ukrainy 2001 roku: problemy zastosuvannia i perspektyvy udoskonalennia [The Criminal Code of Ukraine 2001: Problems of application and prospects of improvement]: Proceedings from International Scientific and Practical Conference. (Lviv, April 13-15, 2007). L.: Lviv State University of Internal Affairs, 2007. Part 1, pp. 189–194. (in Ukrainian)

10. Pro rishennia Rady natsionalnoi bezpeky i oborony Ukrainy vid 15 liutoho 2008 r. "Pro khid reformuvannia systemy kryminalnoi yustytsii ta pravookhoronnykh orhaniv" [On the decision of the National Security and Defence Council of Ukraine of February 15, 2008 «On the process of reforming the criminal justice system and law enforcement bodies» (The Decree of the President of Ukraine no. 311/2008 of April 8, 2008). Retrieved from http://zakon0.rada.gov.ua/laws/show/311/2008. (in Ukrainian).

11. Konstytutsiia Ukrainy [The Constitution of Ukraine]. Uzhhorod: JSC Patent, 1996. 119 p. (in Ukrainian)

12. Postanovy Plenumu Verkhovnoho Sudu Ukrainy u kryminalnykh spravakh [The Resolutions of the Plenum of the Supreme Court of Ukraine in criminal cases]. 2nd ed. K.: Skif, 2007. Pp. 9-15.

13. Rishennia Konstytutsiinoho Sudu Ukrainy u spravi za konstytutsiinym zvernenniam vidkrytoho aktsionernoho tovarystva "Vseukrainskyi Aktsionernyi Bank" shchodo ofitsiinoho tlumachennia polozhen p. 22 ch.1 st. 92 Konstytutsii Ukrainy, ch.1, 3 st. 2, ch. 1 st. 38 Kodeksu Ukrainy pro administratyvni pravoporushennia (sprava pro vidpovidalnist yurydychnykh osib) [The decision of the Constitutional Court of Ukraine in the case of the constitutional appeals of the Open Joint Stock Company «All-Ukrainian Joint-Stock Bank «regarding the official interpretation of the provisions of para. 22 of Part 1 of Art. 92 of the Constitution of Ukraine, Parts 1, 3 of Art. 2, Part 1, Art. 38 of the Code of Ukraine on Administrative Offenses (case on liability of legal entities)]. Visnyk Konstytutsiinoho Sudu Ukrainy [Bulletin of the Constitutional Court of Ukraine], no. 5, 2001. Art. 234. (in Ukrainian)

14. Selivanov A. O. Ukrainskomu narodu potribna "zhyva" Konstytutsiia Ukrainy [Ukrainian people need «live» Constitution of Ukraine] / A. O. Selivanov. Retrieved from http://ckp.in.ua/news/10060. (in Ukrainian)

15. Kryminalnyi protsesualnyi kodeks Ukrainy [Criminal Procedure Code of Ukraine] (Law of Ukraine no. 4651-VI of April 13, 2012).

Vidomosti Verkhovnoii Rady Ukrainy [Bulletin of the Verkhovna Rada of Ukraine], no. 9–10, 11–12, 13, 2013. Art. 88. (in Ukrainian)

16. Yurydychnyi visnyk Ukrainy [Legal Bulletin of Ukraine], no. 21 (986), May 24-30, 2014. (in Ukrainian)

17. Khavroniuk M. I., Khavroniuk A. N. Shchodo vidmezhuvannia zlochynu vid kryminalnoho prostupku [Regarding the delineation of a crime from a criminal misdemeanour]. Retrieved from http://www.big-lib.com/book/63_Kriminalnii_kodeks_Ykraini___10_rokiv_ochikyvan_ T/6849_(in Ukrainian)

18. Usmanov Yu. Kryminalnyi prostupok – sposib pomiakshyty vidpovidalnist? [Is criminal misdemeanour a way to mitigate responsibility?]. Retrieved from http://www.pravoconsult.com.ua/shho-take-kriminalnij-prostupok-i-z-chim-jogo-yidyat-v-ukraini/#ixzz311621a00. (in Ukrainian)

19. Mudrak P. M. Instytut kryminalnykh prostupkiv v konteksti intehratsii natsionalnoho zakonodavstva do yevropeyskykh standartiv [Institute of criminal misconduct in the context of integration of national legislation to European standards]. Naukovyi visnyk mizhnarodnoho humanitarnoho universytetu [Scientific Bulletin of the International Humanitarian University], no. 6–3 (2), 2013. Pp. 93–94. (Seriia ‘Yurysprudentsiia’ [Series Jurisprudence]). (in Ukrainian)

20. Knyzhenko O. Pryntsyp zakonnosti v konteksti reformuvannia kryminalnoho zakonodavstva Ukrainy [The Principle of Legitimacy in the Context of the Reform of the Criminal Legislation of Ukraine] / O. Knyzhenko. Naukovyi chasopys natsionalnoi akademii prokuratury Ukrainy [Bulletin of the National Academy of Public Prosecutor of Ukraine], no. 1, 2014. Pp. 86–91. Retrieved from http://www.chasopysnapu. gp.gov.ua/chasopys/ua/pdf/1 –2014/86-knyzenko.pdf. (in Ukrainian)

21. Tuliakov V. O., Pimonov H. P., Mitritsan N. I. et al. Kryminalnyi prostupok u doktryni i zakonodavstvi [Criminal misdemeanours in doctrine and legislation] / V. O. Tuliakov (Ed.). O.: Yurydychna literatura, 2012. 424 p. (in Ukrainian)

22. Gerlokh A. O metodakh poznaniia prava [About the methods of law study] / A. Gerlokh. Pravovedenie [Jurisprudence], no. 1, 1983. Pp. 12–20. (in Russian)

23. Gorskii D. P. Voprosy abstraktsii i obrazovaniia poniatii [Issues of abstraction and concept formation] / D.P. Gorsky. M.: AN SSR, 1961. 341 p. (in Russian)

24. Vasilev A. M. Pravovye kategorii. Metodologicheskie aspekty razrabotki sistemy kategorii teorii prava [Legal categories. Methodological aspects of the development of the system of categories of the theory of law] / A. M. Vasilev. M.: Yurid. lit., 1976. 265 p. (in Russian)

25. Kolpakov V. K. Administratyvno-deliktnyi pravovyi fenomen [Administrative and delict law phenomenon] (Monography) / V. K. Kolpakov. K.: Yurinkom Inter, 2004. 528 p. (in Ukrainian)

26. Gretskii M. N. Strukturalizm / M. N. Gretskii. Filosofskii entsiklopedicheskii slovar [Philosophical Encyclopaedic Dictionary]. M.: Sov. Encyclopedia, 1983. P. 657. (in Russian)

27. Lorents K. Kontseptsiia samoorganizatsii. Sinergetika. Obshchie polozheniia [The concept of self-organization. Synergetics. General provisions]. Retrieved from http:// spkurdyumov.ru. (in Russian)

28. Filosofiia: entsiklopedicheskii slovar [Philosophy: Encyclopedic Dictionary] / A. A. Ivin (Ed.). M.: Gardariki, 2004. Retrieved from http:// dic.academic.ru/dic.nsf/enc_philosophy (in Russian)

29. Protasov V. N. Teoriia gosudarstva i prava. Problemy teorii gosudarstva i prava [Theory of State and Law. Problems of the theory of state and law] / V. N. Protasov. 2nd ed. M.: Urait-M, 2001. 346 p. (in Russian)

30. Tille A. A. Sravnitelnyi metod v yuridicheskikh distsiplinakh Comparative method in legal disciplines / A. A. Tile, G. V. Shvekov. 2nd ed. M.: Higher School, 1978. Pp. 6–38. (in Russian)

31. Tikhomirov Yu. A. Kurs sravnitelnogo pravovedeniia / Yu. A. Tikhomirov. M.: Norma, 1996. Pp. 54–60.

Information about author:
Fedotova H. V.
Doctor of Juridical Sciences, Senior Researcher,
Head of the Scientific-Organizational Department,
State Research Institute of the Ministry of Internal Affairs of Ukraine,
4a Ye. Gutsala Lane, Kyiv, Ukraine