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THE PARADIGM OF LAWYER'S PROFESSIONAL COMPETENCE

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THE PARADIGM OF LAWYER'S PROFESSIONAL COMPETENCE

Olexiy CHERNOVSKYI[1]

Abstract

The article is devoted to the disclosure of the problem of the lawyer formation, the impact of legal education on these processes, the acquirement *of legal competences. The author emphasizes that there is an urgent need to improve the system of professional training of future specialists. At this stage, students' education and training is aimed at achieving high professionalism. The main condition to ensure their own competitiveness and life success is to achieve a high level of psychological competence.*

Professional competence of different types of activities, the effectiveness of which is largely achieved due to the individual-typological properties of the individual is important in the period of overcoming crises.

The high quality education is an integral indicator of the standard of living of both society as a whole and a separate personality. The UN Development Program pays attention to the indicator of educational activity, as to one of the main factors of integrated assessment of the human life quality.

Democratization of the legal system, change of its functions from protecting the state's interests to ensuring human rights, correction of the principles and methods of law-enforcement activity increases the requirements for graduates of legal educational institutions not only in relation to the theoretical but above all practical component of their professional competences. The psychological and pedagogical competence of future lawyers depends directly on the psychological and pedagogical preparation they receive during their studies at a higher educational institution, on its practical-oriented character. The analysis of the state of such training of future lawyers in different Ukrainian universities proves that, mostly, only one component of such training is done - only basic or only professional one.

Keywords:

Lawyer's profession; lawyer's competence; psychological peculiarities of the lawyer's professional competence; legal education; lawyer's preparation; lawyer's training; lawyer's communication activity.

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Problem statement

One of the fundamental features of a legal state is the person legal security of which implies the existence of a system of effective legal means for the realization and protection of person rights. In this system professional competence of a lawyer occupies a special place and its task is to protect the rights, freedoms and legitimate interests of citizens. A strong, professional, independent community of lawyers can influence significantly all aspects of the life of the state, can assist actively in the development of the legal state.

System reformation of our state is one of the most urgent needs of the present day.

The obtaining of professional competence has always been and remains one of the fundamental priorities that higher education institutions are faced with, because competence itself is the most important part of professionalism, although the field of law enforcement has felt its lack lately.

The problem of preparing future lawyers in modern conditions is still insufficiently researched in scientific theoretical and practical activities. At the same time, the content of educational disciplines does not always correspond to the current pace of development of information technologies; there is not paid sufficient attention to the self-sustained work of students during the study of disciplines of legal direction; moreover, students do not always have the practical skills of a future lawyer specialist in all its forms. All this reduces the level of competence of a future lawyer.

Analyzing the organization and conducting of study in higher educational institutions of the legal direction, one can come to the conclusion that usually its traditional forms are carried out, that is holding lectures and (practical) seminars, which mainly contain information that does not yet reflect trends and processes, taking place in the field of law enforcement activities. Also, there is not drawn enough attention to the study of the practice of national courts and the European Court of Human Rights, to the activities of state bodies and commercial structures, their generalization, etc.

There are good reasons for calling the modern period of national-cultural revival of Ukraine the "axial time" of the Eastern Slavic civilization, to which it has heading for many centuries and which now gives phenomenal manifestations of language thinking, "culture and dignity", the world perception in various forms of art and spirituality in general. This period of development of our culture can be called "axial time" because our local civilization has managed to step over its original national limitations,

rising to the universal tops of spirituality, and thereby determining the further path to the knowledge of the higher truth of existence.

We are on our way to a deep awareness of our true cultural-historical nature, to culturological [5] self-determination through the renewal of spiritual values, through the splashes of the nation spiritual activity. As an eternal ontological basis and eternal value goal, the National Paradigm of life-formation acts at the same time as the main object of cultural studies that are meant to reveal and understand the national culture as a multidimensional reality of human existence in which a person finds the opportunity for self-fulfillment and makes his own destiny. It is the ethno-national culture that is the life meaning model, which among the elements of the past and modern cultural forms can be a guide for a young person who not only seeks to survive, but also establish himself in the surrounding world.

Studying and defining the humanistic-value orientation of the future lawyers' cultural education, we have noticed that the lawyer professionalism is formed on the basis of recognized universal human values. However, the leading function is held by the national legal traditions, which lead to the understanding of the legal phenomenon through national culture, the nation spirit, its mentality [7].

The notion professional competence is understood mostly as a possession of the required amount of knowledge, skills and abilities, values, personality qualities, which are sufficient for making an effective interaction with other people in the process of professional activity.

In accordance with proposed above experiential - role-based approach to the formation of professional psychological -pedagogical competence of future lawyers in the process of their psychological and pedagogical training we have introduced the concept of "professional - role-based competence". Professional - role-based competence (PRC) is the ability to handle operatively a complex of professionally important roles as a result of gaining experience in mastering the patterns of behavior necessary for successful professional activity, which is formed during the process of professional psychological - pedagogical training. A multi-role professional competence – is higher level of formation of professional - role – based competence.

The range breadth (repertoire) of professionally important roles and the range depth (repertoire) of professionally important roles are indicators of the formation of the PRC. In different combinations they form a specific profession as a professional role. The range of roles is the number of occupationally important roles.

The range depth of the roles is the quality (perfection) of skills that make up each professionally important role and their totality.

Mobility in changing roles is also important - the speed of their diversification, the ability to realize their advantages and the limitations in mastering certain professionally important roles, the ability to focus on preferential roles and to improve on them, or to develop harmoniously the entire repertoire of professionally important roles that make up professional roles in different combinations, avoiding in the same time professional - role-besed conflicts even at the stage of studying in the university.

In the structure of professional-role-based competence, we have identified a motivational component - the motivation to master the psychological and pedagogical disciplines of the practical and professional training unit, the interest in mastering the professionally important (psychological and pedagogical) roles in the process of training, etc.; cognitive component - knowledge of the psychological peculiarities of the lawyer professional activity, the socio-psychological structure of this activity, the means of educational influence on citizens' legal consciousness, communicative and organizational and managerial aspects of each of the legal professions - prosecutor, legal adviser, lawyer, judge, notary; personal - communicative and organizational and managerial inclinations, the ability to determine the role of psychological and pedagogical competence, the aspiration to expand and deepen the multi-role professional competence, the formation of polarized professional orientation, reflexive abilities, the ability to determine strategies for expanding and deepening the role repertoire of professionally important roles as psychological and pedagogical positions and abilities - advisory, motivational, oratory, diagnostic and research; behavioral - self-evaluation of multi-role professional competence, of mastered roles, the desire to acquire psychological and pedagogical experience in the process of training, gaining of such an experience, the desire to transfer this experience to the field of professional practice and practical experience in the Legal Clinic, increasing the level of success in psychological and pedagogical disciplines

Presentation of basic material of the article

The psychology of the lawyer professionalism activity implies a valuable attitude of the individual towards legal work, a motivational readiness to carry out this activity in a particular environment and under specific (often extreme) conditions. In legal psychology, the lawyer modern activity is unfolding successively in the direction of psychology, while the search for ways of activating the human factor - in jurisprudence and taking

into account the psychological and socio-psychological characteristics of the individual in the context of efficiency increasing of legal work.

Professional legal work is a state work (mainly), since the state sets for law-enforcement bodies certain goals and objectives meant to eliminate criminality in the country [3].

At the same time, state creates a special system of training, retraining and improvement of law enforcement and judicial bodies. The work of many legal professions involves the presence of special powers of the law enforcement representants, availability of rights and obligations to apply power on behalf of the law. In parallel with this right, most legal entities (prosecutor, investigator, lawyer) develop a professional sense of increased responsibility for the consequences of their actions and deeds. In general, the lawyer work is supposed to make increased demands both from the state side and his own personality. Legal work is a responsible, complex work that requires a lot of emotional stress, patience, knowledge and all of this is based on strict compliance and compliance with the law.

A characteristic feature of most legal professions is the organizational side of the activity, which has two aspects: organization of own work during the working day, week, organization of work in conditions of irregular working hours; organization of joint work with other officials, law enforcement bodies. [2]

Analysis of professional legal activity from the psychological point of view allows to distinguish in it a number of stages (parts): cognitive (search), communicative, constructive, organizational, identity, social (educational). Each of these parties can act independently or in conjunction with other types or as an auxiliary activity. There are two types of legal activities: main and auxiliary. To the main types that lead directly to achieving the objectives of investigation and justice, belong: cognitive (searching), constructive and social (educational) parts. The communicative, organizational and identifying parts, which are auxiliary types, are meant to ensure the optimal fulfillment of the main goals. In the concept of "competence" V. Orekhov includes the ability to respond effectively to the challenges of the external environment and to predict them, as well as be able to feel the strategic goals of the company, understand people interests, to be able to act in the new conditions independently. The author defines the following components of the concept of competence: a creative style of thinking, the ability to reflect on their own experience critically and with honor to come out from unexpected situations honorably.

Psychological science distinguishes following key types of competence: multicultural - understanding and respect for the language, culture and religion of other people; readiness for taking responsibility -

ability and readiness, after having analyzed the situation, to make a decision consciously and responsibly; technological - the ability to use technical means to accelerate and improve own activity; readiness for self-education - the ability to identify gaps in own knowledge independently; informational - the ability to use all possible and accessible sources of information; social - the ability to work in team, to correlate own needs to the needs of society; communicative - the ability to communicate productively.

The state policy of Ukraine in the field of legal education includes a system of measures for the dissemination of legal culture, a way of orientation in the social and legal space in accordance with legal and ethical norms, lawful conduct in Ukrainian society [4]. The professional training of a future lawyer in a non-profile higher education institution involves the provision of a number of organizational and pedagogical conditions that determine, on the one hand, the formation of the professional competence of a mobile and competitive graduate in the labor market, and on the other - the quality of educational services and the competitiveness of the educational institution itself in the market of educational services.

The quality of legal education should be considered as an integrated category with inherent internal and external characteristics.

The external characteristics include the performance indicators of the educational system and its impact on the social sphere, etc. The most important internal characteristics are the quality of the educational environment, which is determined by the effectiveness of management of the educational process and scientific and methodological work, resource provision of training; the quality of the implementation of the educational process, which involves the implementation of the principles of scientificity and accessibility of the content of education, the effectiveness of teaching aids, the mastery of teachers; the quality of the results of the educational process, determined by the level of academic achievement of students and the level of development of their personal qualities.

External characteristics of the quality of legal education determine the impact on the functioning of this branch of socio-economic and socio-cultural factors, public requests, educational paradigms, pedagogical concepts and trends, regulatory and legal support. In this context the development of sectorial standards of legal education is important, they define the content of the fundamental and professional training of future lawyers and requirements to the level of its assimilation. The quality of legal education also depends on the basic principles of organization of the education system defined by the Law "On Higher Education". Priority of external characteristics is observed during periods of significant reform of

the system of higher professional education, when in the new conditions the goals and objectives of educational systems change.

One of the main internal characteristics is the quality of its educational environment, built by an effective system of management of educational and cognitive activity of students, an appropriate level of scientific and methodological work and resource provision.

The management process is directly related to the target guidance and the programming of learning outcomes.

The quality of the implementation of the educational process in the higher law school is ensured by the implementation of the main didactic principles in the structure and content of the students' professional training, its scientificity, accessibility, systematicity and continuity of the legal education system, which organically combines the efforts of the main, senior and high school, the system of postgraduate legal education.

The quality of the implementation of the educational process is influenced significantly by the level of qualification and professional skills of scientific and pedagogical workers, their skills and abilities, their readiness and ability to implement personally oriented, activity and competence approaches in the process of fundamental and professional training of future lawyers.

The future lawyer formation of professional competence which characterizes highly developed skills and abilities of professional activity. The key competence is understood as a specially structured set of characteristics (qualities) of the individual, which enables him to act effectively in various spheres of life and belongs to the general content of educational standards.

An important criterion for achieving the objectives of professional legal education is the quality of the results of the educational process. One of its indicators is the level of educational achievements, which, in terms of credit-module training of future lawyers, is rated and determined by flexible tools. One of the important conditions for the objective determination of educational achievements is the development of standard system measure for educational achievements.

The most valid and objective measure instruments are test the use of which ensures the openness and reliability of control and evaluation of student achievements.

One of the main issues requiring detailed study, theoretical substantiation and development of scientific and methodological support is the management of the quality of modern professional legal education. The implementation of information and communication technologies as a way of quality management education makes it possible to improve perfectly the

educational process with the use of distance learning technologies, systematic monitoring of students' cognitive activities, the creation of computer test systems to determine the level of mastery of the content of learning, which creates conditions for detail, a step-by-step analysis of students' answers and making corrections in the content and methodology of teaching fundamental and professional subjects.

The lawyerp professional competence involves a combination of the ability to creative problem solving and the availability of professional skills. The manifestation of creativity and individuality characterizes the high level of development of professional competence, accompanied by intellectual and creative initiative, reflexivity, a sense of novelty, the desire to deepen own knowledge, personality self-expression in the profession and updating of creative possibilities of the individual.

Formation and development of these qualities in a lawyer – is a long and tensional process. At the same time, this is a necessary condition for the professional formation of a specialist in the legal sphere. Insufficient development of these qualities of the lawyer personality prevents the normal exercise of his functional duties, generates errors in his activities, determines the processes of professional maladaptation and deformation. In this context, the professional-psychological training of a future specialist in the legal profession in higher education is of great importance today. Professionalism is considered as professional fitness - a set of mental and psycho-physiological features of the person, necessary and sufficient to achieve a certain efficiency in a particular profession; as skill - high quality of work; as creativity - activity aimed at creating new material and spiritual values.

Professionalism of legal activity consists of a set of general theoretical, special legal and psychological knowledge, skills and abilities for its effective implementation. The professional competence of a lawyer is characterized by a certain level of psychological readiness to carry out legal work.

It is also possible to distinguish the following components of the professionalism of the legal work of the law enforcement officer: professional preparedness (readiness to carry out legal work qualifiedly, handling the technology of self-encouragement to reaching the tops of professional legal activity, the ability to take into account the legal factors of the environment); socio-psychological readiness (communicative competence in communicating with employees and representatives of various social groups); personal suitability for legal activity (latitude and depth of knowledge, skills and abilities, special abilities that increase the degree of readiness to perform legal activity, self-education, self-instruction

and education as conditions for achieving the tops of professionalism); V. Yagupov believes that the professional competence of a specialist should be considered as a complex integral intellectual, professional and personal entity, which is formed "in the process of professional training in institution of higher education, is manifested, developed and improved in professional activity, and the effectiveness of its implementation depends substantially on the types of its theoretical, practical and psychological readiness for it, personal, professional and individual-psychic qualities, perception of goals, values, content and peculiarities of this activity "[6].

Certainly, the results of the professional activity of the legal branch employees are connected with the formation of the personality of a specialist in law enforcement. The practice of evaluating the effectiveness of the activities of legal professionals points out that the success of the activity is possible under the conditions of optimal formation of three levels: professional training; development of personality professional orientation; social and psychological interaction and social control. An impeccable level of professional activity is possible due to the well-developed components of professionalism. The semantic aspect of the concept of "professional competence" covers the following characteristics: cognitive (ownership of knowledge and ideas); behavioral and active (the formation of adequate methods of activity and professional behavior, skills and abilities);

Motivational and value (value attitude to own profession and personal growth), reflexive (complex of skills of self-examination, self-control, forecasting of the results of its activity).

At the same time, the specificity of the structure of professional competence is due to the presence of special and professional and key competencies. When determining the components of professional competence, V. Barco distinguishes the structural components of the professional competence of a specialist, which covers three areas: motivation, subject and practical (motivational, subject-practical (operational and technological), the sphere of personality self-regulation. [1].

The achieving of the tops of professionalism shows that the personality is self-fulfilled. The transition from one stage of professional competence to the next one can be accompanied not only by the personal and mental development of workers, but also by a certain mental tension and may serve as the cause of difficulties and conflicts in professional activity.

Professional success can be experienced by those specialists who have professional competence, broad legal knowledge, powerful brain. The special qualities of the professional competence of the lawyer include such qualities: stable motivation for his profession, ability to profile education, the

need for professional self-education, the pursuit of success in his professional career. In general, the work of the lawyer raises heightened demands both from the state as well from the activity itself, it is based on rigorous enforcement and compliance with laws. According to its psychological structure it is responsible, complex, requires high emotional stress, patience, special knowledge and skills. That is precisely what will require the development of a program for the formation of professional competence of future lawyers in higher education, which will be the subject of our further research.

Lawyer's professional competence is an integrative personal formation of theoretical knowledge, practical skills, professionally significant qualities, experience, which ensures the effective fulfillment of the tasks of legal activity, and is the main criterion for the professional development of the individual. A competently qualified lawyer is a person who is able to carry out high-level legal activity both from law and morality point of view, achieving positive results in the field of legal settlement of social relations, protection of human rights and freedoms. Among the general competencies are often called "ability to work in team", "ability to acquire new knowledge", "knowledge and readiness to use innovative ideas". General competences are sufficiently universal for different directions of preparation of graduates, and at the stage of developing a model it is necessary to allocate and agree the necessary minimum competencies that constitute the "universal core" of training a modern specialist. These are, first of all, social and personal and organizational and managerial competencies that characterize the interaction of man with society and other people, the ability to plan their activities, to make managerial decisions.

In addition, professional competence will help a graduate of higher educational institutions find himself in the profession, aware of his professional role, gain a professional image, develop his own style of professional activity, determine his professional perspectives, the peculiarities of his achievement and the desire for harmonious development of the individual as a whole.

Communicative competence is a complex socio-functional phenomenon that becomes inherent in man as a result of goal-directed learning and education, as well as self-development of the individual.

Given the importance of communicative activities in the profession of lawyers, the legal education system has every opportunity to provide the conditions for theoretical and practical learning and the formation of the communicative competence of their graduates.

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