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A New Decade for Social Changes
Contemporary Aspects of Legal Doctrine and Interpretation - Challenges and Perspectives

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Abstract. In the countries where we have the construction of the legal system with the new laws, the ambiguity of the legal norms in the new laws in some cases is almost inevitable. But commenting on laws and judicial practice will be of great help to bring about the implementation of all legal norms as was the intention of the legislator, because the correct interpretation of legal provisions is a necessity of any legal order that creates a legal security for all citizens equally. Of course, the object of legal interpretation or clarification is not only written legal-civil norms, but also those that are part of customary law. The issue of interpretation of laws currently represents a fundamental concern for citizens and legal institutions, looking for a smart and innovative approach to address this issue effectively and sustainably. In this context, this paper aims to identify and analyze the advantages and challenges of legal doctrine and interpretation in the contemporary context.

Keywords. Legal doctrine; interpretation; challenges; perspectives

1. Introduction

In countries where written law exists, legal doctrine stagnates, because it is contained only in a few writings and rather in the commentary of existing laws. The doctrine must enjoy authority among itself, respectively in the space where it is created. Legal doctrine is the set of opinions (views) expressed by legal scientists, with which they explain or interpret the provisions (rules) of law in their scientific works, in scientific journal articles or in other public records. Viewed historically, the doctrine was originally a mandatory formal source of law. In Roman law, jurisprudence was a source of law and in the case of interpreting existing law as well as filling legal gaps, the judge was obliged to respect the opinions supported by all known jurists. On the other hand, interpretation also means the interpretive result, that is, the meaning given to the norm through the act of interpretation. Interpretation is an obligation, which falls on every subject to whom the legal norm is directed. In fact, to analyze a rule, its meaning must first be determined. With clarification it is possible to prove “ratio legis” - the right
understanding of the legal norm, the legislator's own order of what he wanted to achieve by drafting the legal norm in relation to the regulation of legal relations in society. Because the legal norm must first be interpreted and then applied.

2. Methodology
To carry out this study, literature has been collected and studied in order to present the analysis of the achievements so far and the creation of a theoretical basis for further research with reliable and valid data. The methodology of the paper is oriented to epistemology, using the positivist attitude. The model of the work is "cross-sectional study" or "representative studies", which will be accompanied by quantitative data, while the strategy of the work is evaluation.

Source of data, primary data were used in this paper. Descriptive and analytical methods were used.

The general objectives of this paper are based on the research of legal doctrine and interpretation. The specific objectives of the research will be presented through the following research questions:

1. What is the meaning and importance of legal doctrine?
2. What role does legal interpretation play?

The hypothesis of the work: Legal doctrine, a system of ideas about law, objectively exists in every society and has a very important role within the sources of law. The correct interpretation of the legal norm is a condition of necessity for its correct application, which achieves the purpose for which the norm was issued.

3. The meaning and importance of legal doctrine
Legal doctrine includes the works of jurists, such as professors, judges or practitioners. So the opinions and positions of legal writers expressed in works, monographs, books and justified with certain scientific methods, on what positive law is like or on what new solutions should be approved, are implied. It is known that the doctrine has long played a very important role within the sources of law. It must be said that legal doctrine as a system of ideas about law objectively exists in every society, but it is another matter that the degree of influence of legal doctrine in the processes of law making and law enforcement varies greatly depending on whether the state authorizes the provisions of the doctrine in legal acts or in application of the law practice. However, it can be said that even when the state avoids such authorization, the minimal influence of legal doctrine in these processes always remains, which gives reason to question whether it is a source of law in any legal system. On the other hand, interpretation also means the interpretive result, i.e. the meaning given to the norm through the act of interpretation. Interpretation is an obligation, which falls on every subject to whom the legal norm is directed. Hermeneutics, which deals with the interpretation of ambiguous legal norms, avoids misunderstanding the legal nome. Hermeneutics, the interpretation of the text, whether in written or unwritten form. Interpretation from the etymological aspect, derived from the Latin word interpretare, which means clarification, explanation.

Legal doctrine in continental European law consists of professional legal writings, such as handbooks, monographs, etc., whose task is to systematize and interpret valid law. By producing general and rebuttable theories, legal doctrine aims to present the law as a coherent network of principles, rules, meta-rules and exceptions, at different levels of abstraction, linked by supportive relationships. The argumentation used to achieve coherence includes not only description and logic, but also evaluative steps (Peczenik, 2002). However, skeptics criticize
legal doctrine for its normative character, ontological obscurity, ambiguity, fragmentation and its locality. Normative reason is possible. Liberal ontology accepting such entities as morally justified law is also possible. The vagueness of the legal doctrine can be interpreted as indifference. Reliability is inevitable in law and in human thought in general. The fragmentation of legal doctrine is not absolute. His theories are related to comprehensive moral theories. Finally locality is not absolute either. Legal doctrine theories bear significant parallels to analogous theories in other states, although occasionally being restricted to a certain state (Kelsen, 2008).

A legal doctrine is created when a judge prescribes a process, procedure, or rule that can be applied not only to the case before him, but also to similar cases in the future. When many judges use this process, procedure or rule, over time it becomes embedded in the common law system as legal doctrine, meaning it becomes the main way of handling any similar cases in the future (Tiller & Cross, 2006). A legal doctrine is a product of scientific activity, a kind of result of the recognition of the legal-state reality in a certain historical period. A new judicial politics of legal doctrine has the potential to resolve foundational dilemmas and reconcile long-standing and counterproductive scholarly divisions by bringing together legal concerns and political science priorities (Lax, 2011).

4. The historical aspect of legal doctrine

An important part of a legal doctrine is the evaluated and prognostic component that contains program provisions and is the result of a critical analysis of state-making and law-making practices. A practically oriented legal doctrine as a complex of scientific knowledge of law has a complex multi-level structure, the elements of each level of this structure differ according to the level of abstraction and have different degrees of generalization (Semenihin, 2016).

In the modern legal systems of Anglo-American law and Romano-German law, as well as in the internal legal system, the legal doctrine is an integral part, although a non-normative element of the mechanism of legal regulation. It primarily serves as the ideological and theoretical foundation and theoretical core of rulemaking and promotes its correct understanding and implementation of legal orders. Based on the specified features, legal doctrine can be defined as, predetermined by the character of the legal culture of society, a complete and logically coordinated set of ideas recognized by the legal community and scientific views on law, which is the basis e professional legal consciousness and the conceptual framework of making rules, applying the law and interpreting the activity of the law (Semenihin, 2016).

Throughout history, the doctrine has not had the power to create law, but its contribution has been accepted as support for the resolution of legal-civil issues by the courts. Today, in countries with complete codification of law, the doctrine is denied to be a source of law in general. Viewed historically, the doctrine was originally a mandatory formal source of law. In Roman law, jurisprudence was the source of law and in the case of interpreting the existing law and filling legal gaps, the judge was obliged to respect the opinions supported by all known jurists (Aliu, 2009).

The role of jurists has been to prove the existence of the right, which has been of great importance, because it was done by various professional persons, associations or institutes, who have worked for years and had great experience. Of course, one should not think that well-known authors did not play another role, especially if they enjoyed high prestige and if they offered strong arguments. In some cases, by stating what the law should be, authoritative writers
can help create opinion, which can influence the behavior of states and thus indirectly over time modify existing law (Gruda, 2013).

5. **Legal interpretation - general aspects**

In the foreground and in the first place is the interpretation of the law. This does not mean anything other than understanding the texts of the norms (Budlinski, 2013). Interpretation means the interpretative result, i.e. the meaning given to the norm through the act of interpretation. Interpretation is an obligation, which falls on every subject to whom the legal norm is directed. In fact, to analyze a rule, its meaning must first be determined (Nuni, 2011). With clarification, it is possible to prove “ratio legis” - the correct meaning of the legal norm, the lawmaker's own order of what he wanted to achieve by drafting the legal norm in relation to the regulation of legal relations in society. Because the legal norm must first be interpreted and then applied (Ismajli, 2011).

For the interpretation of legal norms, a scientific discipline HERMENEUTICS has been developed, which deals with the interpretation of unclear legal norms, which avoids the wrong understanding of the legal norm. Hermeneutics, which deals with the interpretation of ambiguous legal norms, which avoids misunderstanding the legal norm. Hermeneutics, the interpretation of the text, whether in written or unwritten form. Etymology: interpretation based on the Latin term interpetere, which meaning elucidation or justification (Edgerton, 1938).

The object of legal interpretation or clarification is not only written legal-civil norms but also those that are part of customary law, i.e. unwritten legal-civil norms because they are presented as a subsidiary source (Aliu, 2009).

The legal interpretation of the legal norm is important for the normal functioning of the activity of state bodies, namely persons and officials, citizens and associations in discovering the content of the will of the creator of the legal norm. In other words, this process is an activity carried out by state bodies in order to identify the true meaning of the content of the legal norm. In this context, we are dealing with a systematic process aimed at clarifying the content and meaning of legal provisions, their social value, their position and role in the system of legal regulation. The most important system of these signs is undoubtedly language, which consists of audible sounds, which can be presented in other ways, especially through writing. Interpretation in general, as a scientific process, is an activity that clarifies the meaning of material phenomena in order to transmit them. This material phenomenon is defined as the carrier of the meaning represented by the sign (Berisha, 2013).

5.1 **Object of legal interpretation**

Taking into account that interpretation is a fairly complicated process, we must inevitably be provided with the tangible signals that allow this transmission through the Code of Meanings.

There are at least two scientific options as to who is the subject of legal interpretation; the first think that the subject of legal interpretation is only the general legal acts, the written sources of law and other scientific opinion, the second opinion is that the subject of interpretation is only the written norms, not the unwritten ones such as customary rules, moral etc (Kryeziu, 2016).

Legal gaps are filled through the interpretation process. The concept of the object of interpretation exists as such, in the narrow and broad sense. With interpretation in the narrow sense of the word, we will understand the situation when the legal norm works in unity as one or several norms connected between them. Meanwhile, the object of interpretation in a broad
sense will be understood as the entirety of the legal system, i.e. the entire normative framework of the given field. From the legal activity of the special elements of positive state law, the object of legal interpretation is determined. During the interpretation process, as predetermined by its object, a series of practical rules are respected, which aim to implement the essential elements of positive law (Berisha, 2013).

The accuracy of the legal interpretation is in direct proportion to the degree of recognition of the reality of the normative framework. The essence of the legal norm lies in its meaning, the alienated meaning of a norm can lead to the creation of a new, completely unregulated reality. In this plan we see that the importance of interpretation takes a primary role. All modes of interpretation have the same purpose; to break down the content and purpose of the norm, so that it is applicable, as the creator of the legal norm issued them. The importance of this process stands out in the case of scientific interpretation, which always has a creative character. In order to realize this, we must discover and prove the correct meaning of the legal norm. A necessary prerequisite for the potential of the proper (legal) implementation of the legal standard is interpretation.

One of the important parts of the process of interpreting the legal norm is the recognition of the right, namely the recognition of the legal norm. Some interventions of the analyst make it possible for interpretations to have the desirable dynamic effect (Loewenstein, 2017).

The norm which is interpreted may be unclear from the moment of creation or due to the passage of time it loses its meaning or becomes unclear. From the moment of creation, it means that the legal norm is unclear from the beginning and this issue occurs when laws are passed. The initial ambiguity of the legal norm is due to the compilation shakes, there was no adequate expression or there was not enough knowledge when compiling that legal norm. So the lack of knowledge or legal terminology leads to the initial ambiguity of the legal norm (Berisha, 2013).

Legal literature states that "Quickly approved texts of norms, without consulting qualified lawyers and other professionals beforehand, frequently lack clarity, contain ambiguities, have inadequate names, or use the same name for different institutes." It is the various bodies' responsibility to apply the norm's content in accordance with the officially provided norms of interpretation.

6. Conclusions

Although sometimes limited to a particular state, the theories of legal doctrines show important similarities with the corresponding theories in other states. Legal doctrine considers law as man-made and historically changing. Throughout history, the doctrine has not had the power to create law, but its contribution has been accepted as support for the resolution of legal-civil issues by the courts.

Today, in countries with full codification of law, the doctrine is denied to be a source of law in general.

Regarding the interpretation, in the countries where we have the construction of the legal system with the new laws, the ambiguity of the legal norms in the new laws in some cases is almost inevitable. But commenting on the laws and judicial practice will be of great help to come to the implementation of all legal norms, as was the intention of the legislator, because the correct interpretation of legal provisions is a necessity of any legal order, to create a legal certainty for all citizens in the same way.
We can conclude that the interpretation of legal norms is of great importance, because the goal of any legal order is to be as effective as possible, to implement the right and of course to realize legality.

References