

UDC 342.9 (477) 437

DOI <https://doi.org/10.32849/2663-5313/2022.3.09>

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Bukovskyi, Viacheslav (2022). Analysis methodology of administrative and legal support for intellectual property and investment protection. *Entrepreneurship, Economy and Law*, 3, 67–70, doi: <https://doi.org/10.32849/2663-5313/2022.3.09>

ANALYSIS METHODOLOGY OF ADMINISTRATIVE AND LEGAL SUPPORT FOR INTELLECTUAL PROPERTY AND INVESTMENT PROTECTION

Abstract. Purpose. The purpose of the article is to identify methods of a comparative legal analysis of Ukraine, the EU Member States and North America regarding the administrative and legal support for intellectual property and investment protection.

Results. The article considers scientific perspectives on problematic issues of legal science methodology, definition and introduction of methodological analysis and methods of scientific knowledge in the process of research of support for intellectual property and investment protection. It is found that the study of the administrative and legal support for protection of intellectual property rights and investments requires scientific understanding, which is impossible without the analysis of the methodological basis of the study. To this end, the article analyses general philosophical, general scientific and special methods of knowledge of legal phenomena, enabling the assessment of the current status of administrative and legal support for protection of intellectual property and investments. It is determined that the content and structure of the scientific method can be represented variously by main stages as follows: the analysis of the problem situation, proposal concerning a problem design, substantiation and formulation of the problem, concretisation of the problem in tasks, proposal concerning a primary assumption, working and expanded hypothesis; justification of a hypothesis by establishing its empirical verifiability, theoretical validity, logical validity, accuracy and reliability; development of a pilot study programme; selection of procedures and technical means; conducting research, collecting and processing observation and measurement data; comparing empirical data with the contents of the proposed hypothesis, its acceptance, modification or rejection; formulating unsolved tasks and scientific problem. Evidently, the holistic structure of the scientific method includes the initial principles and ideas of management, material and ideal experimental operations, as well as the rules and norms of cognitive activity.

Conclusions. It is concluded that the methods are related and closely interact, as well as formulate the basis of the analysis methodology in the course of studying the administrative and legal support for intellectual property and investment protection. The combination of different research methods allows describing the public activity in the field of the administrative and legal support for intellectual property and investment protection, as well as the solution of specific problems in this field not only at the national, but also at the international level.

Key words: investments, intellectual property, method, methodology, protection, comparative legal analysis, subject matter.

1. Introduction

In democratic legal countries with market economies, intellectual property and investment occupy an important place in the State and civil society system. The former is the basis for social and economic progress, the latter supports this process. They are interrelated in many fields.

Accordingly, such an important aspect of social relations cannot remain outside law.

The static scope of such regulatory mechanism is private law. However, in the evolution of legal protection of values in question, the provisions of public law, primarily administrative and financial law, are of importance.

However, as domestic experience shows, the protection of intellectual property rights and investment protection are at an inadequate level, which is a leading factor in the low standard of living of citizens, because good and sig-

nificant investments in the domestic economy almost do not come. Without them neither decent wages for workers, nor success for business, nor increase of gross domestic product of the Ukrainian economy are possible.

In other words, addressing the issue of intellectual property rights and investment protection will directly improve the well-being of citizens.

The comparative legal analysis of Ukraine, the EU Member States, and North America regarding the administrative and legal support for intellectual property and investment protection was under focus by domestic administrative law scholars, such as V. Halunko, P. Dikhtievskiy, A. Zamryha, A. Ivanyshchuk, O. Kuzmenko, M. Loshytskyi, D. Pavlov, O. Pravotorova, A. Chubenko, O. Yunin, and others. However, they did not directly address the issues that we proposed, analysing more general, special or related challenges.

2. Approaches to the definition of the concept “method”

The administrative and legal support for protection of intellectual property and investments in various forms of manifestation (scientific, law enforcement, law-making, etc.) is determined by a number of factors. The result depends not only on who acts (the actor) or what it is focused on (the object), but also on how this process occurs, what methods, techniques, means are used. That is, the basis for the further development of knowledge on the administrative and legal support for intellectual property and investment protection should be the methodology of jurisprudence, the gnoseological orientation of which concludes the methodological sense, defining the development and application of methodological tools to ensure the effectiveness of law.

Therefore, concepts “method” and “methodology” can be defined as follows. According to the dictionary of foreign words, method (from Greek *methodos*): 1. The way of understanding the phenomena of nature and social life; technique. 2. The practice or system of practices applied in any field of activity (science, production, etc.) (Bilodid, 1972). In other words, the method in the broadest meaning of the word is the manner of actor’s performance in any form.

The main function of the method is to internally organise and regulate the process of cognition or practical transformation of any object. Therefore, the method (in one form or another) is reduced to a set of certain rules, techniques, ways, norms of cognition and action. It is a system of instructions, principles, requirements that should guide the solution of a specific task, achievement of a certain result in a par-

ticular field of activity. It disciplines the search for truth, enables (if correct) to save strength and time, to move to the goal in the shortest way. Sincere method serves as a compass by which the actor of knowledge and action makes his way, allows to avoid mistakes (Birta, Burhu, 2014, p. 19).

Therefore, the method of science is a balanced system of empirical and theoretical levels of research developed by the scientific community, enabling to receive and generalize gradually new scientific knowledge from facts to laws and theories.

In a more general form, the content and structure of the scientific method can be represented by main stages as follows: 1) the analysis of the problem situation, proposal concerning a problem design, substantiation and formulation of the problem, concretisation of the problem in tasks; 2) making an initial assumption, working and expanded hypothesis; 3) justification of a hypothesis by establishing its empirical verifiability, theoretical validity, logical validity, accuracy and reliability; 4) development of a pilot study programme; selection of procedures and technical means; 5) conducting research, collecting and processing observation and measurement data; comparing empirical data with the contents of the proposed hypothesis, its acceptance, modification or rejection; 7) formulating unsolved tasks and scientific problem. Evidently, the holistic structure of the scientific method includes the initial principles and ideas of management, material and ideal experimental operations, as well as the rules and norms of cognitive activity.

The main purpose of any method is on the basis of the relevant principles (requirements, regulations, etc.) to ensure the successful solution of certain cognitive and practical problems, the growth of knowledge, the optimal functioning and development of certain objects (Birta, Burhu, 2014, p. 20).

To sum up, the formulation of the scientific method adopts terms and concepts such as: the principle is the starting point of any scientific system, theory, ideological direction (Bilodid, 1972); the imperative is an unconditional, categorical requirement, concretising principle (Bilodid, 1972); operation is research action in solving the problem; procedure is a set of operations connected and ordered.

3. Approaches to the definition of “methodology”

Meanwhile, the methodology of scientific research means a set of principles, means, methods and forms of organisation and conducting scientific study of the problem. The methodology is endowed with a research apparatus, which includes: principles of organisation and conduct

of scientific research; different methods of scientific research and ways of its conduct; conceptual and categorical basis of scientific research, such as relevance, topicality, object, subject matter, purpose, tasks, scientific novelty, heuristic value, theoretical and practical significance (Yurynets, 2011, p. 14).

According to P.M. Rabinovych, the methodology should be understood as, on the one hand, a system of approaches and methods, ways and means of scientific research, and, on the other hand, a study (theory) on their use in the study of State legal phenomena (Rabinovych, 1995, p. 82).

S. Kalambet advocates this perspective, supplementing that the main purpose of the methodology of science is to study the means, methods and techniques of scientific research, thanks to which the actor of scientific study receives new knowledge about reality. Methods and techniques enable the actor to perform certain actions to achieve the goals set that can be both practical and theoretical. The methodology of science considers the most significant specificities and features of research methods, that is, reveals these methods by their generality and depth, as well as by levels of scientific knowledge (Kalambet, Ivanov, Pivniak, 2015, p. 38).

We agree with the statement that methodology is a type of rational-reflective consciousness, aimed at studying, improving and constructing methods, and the concept of "methodology" has two main meanings: first, it is a system of certain rules, principles and operations applied in a particular field of activity (in science, politics, art, etc.); second, it is a doctrine of this system, the general theory of the method (Konverskyi, 2010, p. 25).

Consequently, the study of the administrative and legal support for intellectual property and investment protection within the general theory of law is possible through the principles and methods of knowledge developed in science.

In his thesis, V. Senuta determines that the research methods of the legal aspects of intel-

lectual property include: philosophical (dialectical, metaphysical), general scientific (system, structural, historical, sociological, ascent from concrete to abstract and from abstract to concrete, etc.), as well as special (comparative legal, legal hermeneutics, etc.) (Seniuta, 2018, pp. 34–35).

As noted above, dialectical and metaphysical methods are used among philosophical and ideological ones. For example, a dialectical method enables to study the essence of the administrative and legal support for intellectual property and investment protection, to clarify its nature, to establish the sequence of stages, interrelation of elements and their development.

General scientific methods, such as systemic methods, provide a holistic, consistent vision of the administrative and legal framework for the protection of intellectual property and investment.

With regard to special methods, the comparatively legal one enables to compare ways of setting the administrative and legal support for intellectual property and investment protection and to establish the peculiarities of their manifestation in different legal systems of the world.

That is, the dialectical method, system method, and comparative-legal method enable to understand the methodology in the field of the administrative and legal support for protection of intellectual property and investments as a comprehensive system category, covering a sufficient theoretical and practical level of law-making and law enforcement.

4. Conclusions

It is concluded that the methods are related and closely interact, as well as formulate the basis of the analysis methodology in the course of studying the administrative and legal support for intellectual property and investment protection. The combination of different research methods enables to describe the public activity in the field of the administrative and legal support for intellectual property and investment protection, as well as the solution of specific problems in this field not only at the national, but also at the international level.

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МЕТОДОЛОГІЯ АНАЛІЗУ АДМІНІСТРАТИВНО-ПРАВОВОГО ЗАБЕЗПЕЧЕННЯ ОХОРОНИ ІНТЕЛЕКТУАЛЬНОЇ ВЛАСНОСТІ ТА ІНВЕСТИЦІЙ

Анотація. Мета. Мета статті полягає у визначенні методів здійснення порівняльно-правового аналізу України, країн-учасниць ЄС та Північної Америки щодо адміністративно-правового забезпечення охорони інтелектуальної власності та інвестицій.

Результати. У статті розглядаються наукові погляди на проблемні питання методології юридичної науки, визначення та застосування методологічного аналізу та методів наукового пізнання у процесі дослідження адміністративно-правового забезпечення охорони права інтелектуальної власності та інвестицій. З'ясовано, що дослідження адміністративно-правового забезпечення охорони права інтелектуальної власності та інвестицій потребує наукового осмислення, яке неможливе без здійснення аналізу методологічної основи дослідження. З цією метою проаналізовано загальнофілософські, загальнонаукові та спеціальні методи пізнання правових явищ, за допомогою яких була здійснена оцінка сучасного стану адміністративно-правового забезпечення охорони інтелектуальної власності та інвестицій. Визначено, що зміст та структуру методу науки можна варіативно уявити такими основними етапами, як: аналіз проблемної ситуації, висування проблемного задуму, обґрунтування та формулювання проблеми, конкретизація проблеми у завданнях; висунення первинного припущення, робочої та розгорнутої гіпотези; обґрунтування гіпотези шляхом встановлення її емпіричної перевіряльності, теоретичної обґрунтованості, логічної спроможності, істинності та достовірності; розробка програми експериментального дослідження, вибір процедур та технічних засобів; проведення досліджень, збирання та обробка даних спостереження та вимірювань; порівняння емпіричних даних зі змістом запропонованої гіпотези, її прийняття, доопрацювання чи відкидання; формулювання невирішених завдань та нової наукової проблеми. Як бачимо, у цілісну структуру наукового методу включаються вихідні принципи та керівні ідеї, матеріальні та ідеальні дослідні операції, а також правила та норми пізнавальної діяльності.

Висновки. Зроблено висновок, що методи тісно взаємодіють та пов'язані між собою, а також становлять основу методології аналізу дослідження адміністративно-правового забезпечення охорони інтелектуальної власності та інвестицій. Поєднання різних методів дослідження дає змогу охарактеризувати публічну діяльність у сфері адміністративно-правового забезпечення охорони інтелектуальної власності та інвестицій, а також вирішення конкретних проблем у цій сфері не лише на національному рівні, але й міжнародному.

Ключові слова: інвестиції, інтелектуальна власність, метод, методологія, охорона, порівняльно-правовий аналіз, предмет.

The article was submitted 11.04.2022

The article was revised 02.05.2022

The article was accepted 23.05.2022