

DISCUSSION PROBLEMS OF THE CRIMINALISTICS METHODOLOGY

Shevchuk V. M.,

*Doctor of Legal Sciences, Professor,
Honored Lawyer of Ukraine, Professor of Criminalistics
of Yaroslav Mudryi National Law University*

The establishment and the development of criminalistics, as a scientific discipline, is naturally connected with the organization of system methods of scientific study in this discipline. So, these methods are defined by the complex of criminalistics tasks and also by its functions and specifics of objects knowledge. I think, that it's impossible to provide a further development of criminalistics without having and using of necessary methods of scientific knowledge, which are specially adapted for the analysis of such specific phenomenon as crimes and activity for their detecting and investigation.

Nowadays the activation of scientific projects, dedicated to analysis and invention of criminalistic methodological basis is observed. An increasing interest of forensic scientists to the issues of criminalistic methodology is explained by the modern tendencies and specifics of the development of this science [5, c. 159-173; 6, c. 874]. Among them, the following points are getting a particular importance: the influence of scientific and technical progress and integrative process on the development of modern science; the raise of technologization and mathematization processes of scientific researches; the development and activation of informative technologies; the problems of scientific knowledge formalization; the tendencies of how to increase the abstraction level of theoretical researches; the problems of particular disagreement in interaction of criminalistic science and practice.

Moreover, it is necessary to tell, that the integrational processes of modern science greatly influence the further development of the theory and methodology of criminalistics. So, nowadays the research and the development of the methodological issues in criminalistics gain a special actuality, which is caused by the needs of practice and by the further perspectives of the criminalistic development.

So, it should be noted, that nowadays, there are many discussions and opposite opinions in criminalistic literature about its methodology. So, some scientists tell about some "disagreements and problems» in criminalistic researches, but others mention the "situation of crisis» in criminalistics and the third ones even blame criminalistics "for the deadly sins».

Moreover, lately we can see different proposals of certain scientists about "the modernization» of criminalistic methodology. One of them suggest the creation of a special criminalistic methodology, others tell about the necessity to change the scientific paradigm of criminalistics, the

third ones suggest the realization of non-traditional methods in crime investigation practice such as hypnosis, astrology, chiromancy and so on. A grounded analysis and criticism of these “blames» against criminalistics was a subject of a burning discussion between scientists and it is still considered to be an actual problem.

From our point of view, we can't, but agree completely with such statements and concepts. We think, that this situation is largely explained by the discussions of different issues of criminalistic methodology. So, the claim of V.E. Konovalova [3, c. 62] is considered to be right and it is necessary to pay attention to criminalistic theory and its examination, criminal procedural law and to the necessity to investigate problems of scientific methodology, to the necessity of interaction between dialectic categorical concepts and methods of certain scientific fields and directions. It can contribute to definition and improvement of methodology concept of certain disciplines. Because of that study of the dialectical methodology problem and its connection with methods of sectoral research, including criminalistics is important for creating of methodological basis.

It's known, that criminalistic methodology is based on a dialectical approach. It helps to reveal the philosophical nature of the problems, which are specific for criminalistics and to find out the role of practice, both in scientific criminalistics research, and in work of an investigator, a judge and an expert.

The theory of cognition and the theory of reflection is considered to be the methodological base of criminalistics. So, principles, laws and categories of dialectics play an important role in methodology of criminalistics and are considered to be the ground for learning of criminalistics objects.

Some scientists consider dialectical materialism to be not the only method of criminalistic learning. For example, the professor V.G. Goncharenko (2011) sees the dialectics to be connected with metaphysics, the value and the necessity of which lie in the studying of cognitive learning through their “deadening» [4, c. 109]. From our point of view, we can't but agree that it can be explained in the following. Firstly, gnoseology defines the laws of the reality cognition and is based on dialectic, which can give the universal image of the world, where phenomenon of the reality is investigated in revealing of interconnections. Secondly, metaphysics changes universal scientific understanding of world phenomenon.

So, nowadays metaphysics is “a stop» for scientific researches. Metaphysics doesn't give a complete image about the research subject and can't give an objective vision of the world. Based on the above said, it is necessary to mention that there is also another side of this problem. It means, that the wrong methodological approach leads to breaking of methodological principles of criminalistics. Furthermore, in criminalistic researches, the same as in practical activity of crime investigation, unfortunately,

acceptance criterias of using criminalistic and practical methods are not always taken into account.

One more problem, connected with the problems of criminalistic methodology is a problem of practical orientation of criminalistic researches. The analysis of scientific researches shows, that during the last twenty years, criminalistics often goes into self-development and pointless theorization.

As an example of this, such an idea as “novation» in creation and development of different separate criminalistic theories: criminalistic eidology (the theory of forming and practical usage of forensic ideas); criminalistic cadavrology (the study of dead bodies); criminalistic factology (criminalistic theory about facts); criminalistic heuristics (criminalistic theory about the processes of information transfigurations, while searching, analyzing and working it out in unordinary situations); criminalistic phenomenology (an approach to a crime as to a phenomenon); criminalist interpretation (argumentation in criminalistics) [2, c. 19-20].

Some scientists (G.A. Zorin) tells about new criminalistic branches “in accordance to problem statement»: criminalistics of economic activity; criminalistics of criminal search and so on. They also suggest to point out the separate sub branches, as: criminalistics of murders, economical criminalistics, international criminalistics, transnational criminalistics, transboundary criminalistics [2, c. 20] and so on.

We think that, it's impossible to accept such proposals, because they contradict the principles of scientific character, practice and theory unity. So, V.P. Bahin asks the following question: “Is criminalistics for criminalistic scientists or for practice?» [1, c. 53-61]. From our point of view, it's obvious, that criminalistics is considered to be an applied science, which should study the regularity of objective reality not as a goal in itself, but only for solving tasks of detecting, investigating and preventing crimes.

So, there can't be “clear», abstractive theories, principles and conceptions in criminalistics, because any theoretical research should have pragmatic way out to solve the given practical tasks. In criminalistics, the value of any theory, conception and recommendation are determined by their practical orientation.

The fact, that the distraction of methodological principles leads to “littering» of criminalistic language is obvious. Lately some criminalistic scientists propose new terms, which are sometimes absurd and unreasonable. For example, criminalistics cadaurology (A.A. Protasevich), criminalistics hypnology (V.A. Obrazcov), criminalistics psychology (V.A. Obrazcov, S.N. Bogomolova), “oerdology», “oerdistics», (A.A. Kirichenko, K.V. Antonov) etc.

The unreasonable process of a new term introduction in criminalistics leads to disparity in names of criminalistic terms. So, an interest of using so called “trendy» terms from other sciences is considered to be one of the

negative tendencies in criminalistics science. Such new terms do not only contribute to “unification» of a language, but on the contrary, brings misunderstandings, multiple meanings in the usage of terms in criminalistic science. We can't agree with some scientists about the introduction of new terms but only in the case of an obvious necessity. The replacement of the definite term is considered to be right only in case, if this new term gives a new definition of the meaning.

It is necessary to mention, that there are such problem questions of terminology and criminalistic literature as: 1) multiple meanings of terms; 2) double interpretation of terms; 3) excessive emotional colouring of terms; 4) distraction of logical sequence in the formulating of the definitions; 5) wrong transliteration; 6) wrong author's interpretations.

The problem of unification, standardization and codification of criminalistic terms is very important nowadays. Theoretical studies of criminalistic science should be realized in accordance to the norms of the scientific style of the literary language and its lexico-semantic norms. The language of scientific criminalistics publication sources should correspond with the principles of accessibility.

The language of criminalistics is dynamic, and it is constantly developing. The introduction of new terms in criminalistics is determined by objective changes in modern life and also reflects the features of language development. Today, certain tendencies of criminalistic science language are in the process of developing and demand further research.

The further tendencies of the criminalistic methodology development should find their reflection in the working out of common statements of theory knowledge, its category in adaptation to the concepts of criminalistics. These adaptations were presented in the researches of criminalistic identification theory, and in separate statements of criminalistic technics, tactics and methodics.

Besides, we think, that the further improving of criminalistic methodology is closely connected with the realization of complex multisubject science researches in criminalistics, where some working practical recommendations should be realized.

Moreover, the further development is also demanded by the integrative criminalistic function, by realization of system-structural, active and functional, technological and other approaches. The problems of unification, standardization and codification of criminalistic terms is very important nowadays.

Criminalistic researches and further scientific works should have a practical direction. We consider that the solving of these problems will raise the modern criminalistics to a quality level of its development.

References:

1. Bahin V. P. (2002). Kriminalistika dlja kriminalistov ili dlja praktiki? Rol' i znachenie dejatel'nosti R. S. Belkina v stanovlenii sovremennoj kriminalistiki: materialy mezhdunarodnoj nauchnoj konferencii. Moskva: JURist, 53–61. [in Russian].
2. Zorin G. A. (2000) Teoreticheskiye osnovy kriminalistiki [Theoretical bases of criminalistics]. Minsk: Amalfeya [in Belorusija].
3. Konovalova V.O. (2015). Problemi metodologii galuzevih nauk (kriminal'ne pravo, kriminal'no-procesual'ne pravo, kriminalistika, sudova ekspertiza). Pravo ta inovacii. № 4 (12), 62. [in Ukrainian].
4. Kriminalistika. (2011). Akademichnij kurs: pidruchnik / T. V. Varfolomeeva, V. G. Goncharenko, V. I. Bojarov ta in. Kiiiv: JURinkom Inter, 30. [in Ukrainian].
5. Textbook of criminalistics / ed.: H. Malevski, V. Shepitko. – W. 1 : General Theory. Kharkiv, 2016. p.159-173.
6. Shepitko, V.Yu. (2013). Suchasnij stan ta rozvitok kriminalistiki. Pravova doktrina Ukraïni: u 5 tomah. Kharkiv: Pravo, 5: Kriminal'no pravovi nauki v Ukraïni: stan, problemi ta shljahi rozvitku / za zag. red. V. JA. Tacija, V. I. Borisova. [in Ukrainian].

INSTITUTUL DE CERCETĂRI JURIDICE,
POLITICE ȘI SOCIOLOGICE

UNIVERSITATEA DE STAT «ALECU RUSSO»
DIN BALTI

INSTITUTUL DE ȘTIINȚE PENALE
ȘI CRIMINOLOGIE APLICATĂ

CONFERINȚA INTERNAȚIONALĂ
ȘTIINȚIFICO-PRACTICĂ

**«CONCEPTUL DE DEZVOLTARE A
STATULUI DE DREPT ÎN REPUBLICA
MOLDOVA
ȘI UCRAINA ÎN CONTEXTUL
PROCESELOR DE EUROINTEGRARE»**

1–2 noiembrie 2019

**Chișinău,
Republica Moldova**

«Conceptul de dezvoltare a statului de drept în Republica Moldova și Ucraina în contextul proceselor de eurointegrare», conferință internațională științifico-practică (2019 ; Chișinău). Conferința internațională științifico-practică «Conceptul de dezvoltare a statului de drept în Republica Moldova și Ucraina în contextul proceselor de eurointegrare», 1-2 noiembrie 2019 / com. org.: Бужор В. [et al.]. – Chișinău : S. n., 2019 (Tipogr. «Tipocart Print»). – 264 p.

Antetit.: Inst. de Cercet. Juridice, Politice și Sociologice, Univ. de Stat «Alec Russo» din Bălți, Inst. de Științe Penale și Criminologie Aplicată. – Texte : lb. rom., engl., rusă, alte lb. străine. – Rez.: lb. rom., engl. – Referințe bibliogr. la sfârșitul art. – 500 ex.

Membrii comitetului organizatoric:

Бужор В. – доктор права, профессор, ректор Института уголовного права и прикладной криминологии;

Гучак И. – доктор хабилитат права, профессор, член-корреспондент Академии наук Республики Молдова, вице-председатель Академии наук Республики Молдова;

Русу В. – доктор права, декан юридического факультета Бельцкого университета «Алеку Руссо»;

Кушниц В. – доктор хабилитат права, профессор, заместитель директора Института юридических, политических и социологических исследований;

Костаки Г. – доктор хабилитат права, профессор, главный научный сотрудник Института юридических, политических и социологических исследований;

Гуцулеак В. – доктор права, профессор, заведующий кафедрой Института уголовного права и прикладной криминологии;

Черба В. – доктор права, проректор USEM;

Арсене Л. – главный редактор правового журнала «*Legea si viata*».

ISBN 978-9975-3380-2-8

© Institutul de Cercetări Juridice, Politice și Sociologice, 2019

© Universitatea de Stat «Alec Russo» din Balti, 2019

© Institutul de Științe Penale și Criminologie Aplicată, 2019

CONFERINȚA
INTERNAȚIONALĂ ȘTIINȚIFICO-PRACTICĂ

«CONCEPTUL DE DEZVOLTARE A STATULUI
DE DREPT ÎN REPUBLICA MOLDOVA
ȘI UCRAINA ÎN CONTEXTUL PROCESELOR
DE EUROINTEGRARE»

(Chișinău, Republica Moldova, 1–2 noiembrie 2019)

Culegere și paginare computerizată.
Bun de tipar 07.11.2019. Formatul 60x84/16. Tipar ofset.
Coli tipar conv. 15,35. Tiraj-500 ex.
Imprimat la SRL «Cetatea de Sus», mun. Chișinău.