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**Horielova Veronika**

*Candidate of Legal Sciences,  
Associate Professor of Department of State Legal Sciences  
University of Economy and Right "KROK"*

**Горєлова Вероніка Юрїївна**

*кандидат юридичних наук, доцент,  
доцент кафедри державно-правових дисциплін  
Університет економіки та права «КРОК»*

**Горелова Вероника Юрьевна**

*кандидат юридических наук, доцент,  
доцент кафедры государственно-правовых дисциплин  
Университет экономики и права «КРОК»*

*ORCID: 0000-0001-6536-2422*

**ANTINOMY OF MORAL REQUIREMENTS IN THE ACTIVITY OF A  
LEGAL HACKER**

**АНТИНОМІЯ МОРАЛЬНИХ ПРИПИСІВ В ДІЯЛЬНОСТІ  
ПРАВОВОГО ХАКЕРА**

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***Summary.** The article emphasizes the uncertainties in the legislative field of some categories concerning the moral core of advocacy, which, unfortunately, leaves room for reflection, allowing everyone to judge their actions based on their philosophy of morality. The article proposes a new category of "legal hacking" and shows some antinomies of the moral provisions of advocacy. Several principles (internal imperatives) of a lawyer have been defined, in compliance*

*with which "legal hacking" will never go beyond the immoral and illegal, and the reputation of a lawyer will remain decent.*

**Key words:** *lawyer, lawyer ethics, morality legal hacking, antinomy.*

**Анотація.** *В статті розглядаються деякі проблемні місця виконання адвокатами правил адвокатської етики. Сучасне століття знаменується як «епоха гаслів та вигуків прав людини», що, у підсумку, зобов'язує приділяти значної уваги етичним стандартам адвокатської діяльності. Однак, реальність нашого часу надає адвокату одночасно як і нові можливості, так і нові небезпеки, що зав'язується в цілий вузол глобальних проблем, які створюють загрозу як моральному і фізичному здоров'ю людини, так і її майну. На сьогодні, корінні зміни та становлення цілого комплексу моральних орієнтирів адвоката - це глибоко соціальний процес, адже адвоката сприймають як «надлюдину» - безпосередню «руку допомоги», продуктивну силу суспільства. При цьому суспільство само і встановлює рамки загальної моралі, та мінімуми «підвищеної» моралі адвоката, одночасно закладаючи перспективи для адвокатської моралі в майбутньому, виходячи з певних уявлень про те, яким повинен бути адвокат, яким суспільство його бажає бачити. При цьому, прагнучі «поліпшити адвоката» суспільство допускає суттєві помилки: мало приділяє уваги внутрішнім якостям особи, яка бажає стати адвокатом; вдається до спотворення «образу адвоката» на фоні загального занепаду моралі, та в результаті отримує непоправну шкоду. Досить вказати на такі моменти адвокатської практики коли клієнт для адвоката стає фінансовим або рекламним об'єктом, а участь в судовому процесі перетворюється на фарс. У статті робиться наголос на невизначеності у законодавчому полі деяких категорій, що стосуються моральних стержнів адвокатської діяльності, що нажаль, залишає вільний простір для роздумів, дозволяючи кожному на власний розсуд розцінювати діяння*

*виходячи з особистої філософії про мораль. В статті запропонована нова категорія «правове хакерство» та відображені деякі антиномії моральних положень адвокатської діяльності. Визначено ряд принципів (внутрішніх імперативів) адвоката, при дотриманні яких «правове хакерство» ніколи не вийде за рамки аморального та незаконного, а репутація адвоката буде залишатися добропорядною.*

**Ключові слова:** *адвокат, адвокатська етика, мораль, правове хакерство, антиномія.*

**Аннотація.** *В статье рассматриваются некоторые проблемные места выполнения адвокатами правил адвокатской этики. Современный век знаменуется как «эпоха лозунгов и превозглашений прав человека», что, в итоге, обязывает уделять значительное внимание этическим стандартам адвокатской деятельности. Однако, реальность нашего времени предоставляет адвокату одновременно как и новые возможности, так и новые опасности, что завязывается в целый узел глобальных проблем, которые создают угрозу как моральному и физическому здоровью человека, так и его имуществу. На сегодня, коренные изменения и становления целого комплекса нравственных ориентиров адвоката - это глубоко социальный процесс, ведь адвоката воспринимают как «сверхчеловека» - непосредственную «руку помощи», производительную силу общества. При этом общество же и устанавливает рамки общей морали, и минимумы «повышенной» морали адвоката, одновременно закладывая перспективы для адвокатской морали в будущем, исходя из определенных представлений о том, каким должен быть адвокат, каким общество его желает видеть. При этом, стремясь «улучшить адвоката» общество допускает существенные ошибки: мало уделяет внимания внутренним качествам лица, желающего стать адвокатом; прибегает к искажению «образа адвоката» на фоне общего упадка морали, и в результате получает*

непоправимый вред. Достаточно указать на такие моменты адвокатской практики когда клиент для адвоката становится финансовым или рекламным объектом, а участие в судебном процессе превращается в фарс. В статье делается упор на неопределенности в законодательном поле некоторых категорий, касающихся моральных стержней адвокатской деятельности, что к сожалению, оставляет свободное пространство для размышлений, позволяя каждому по своему усмотрению расценивать действия исходя из личной философии о морали. В статье предложена новая категория «правовое хакерство» и отображены некоторые антиномии нравственных положений адвокатской деятельности. Определен ряд принципов (внутренних императивов) адвоката, при соблюдении которых «правовое хакерство» никогда не выйдет за рамки аморального и незаконного, а репутация адвоката будет оставаться добропорядочной.

**Ключевые слова:** адвокат, адвокатская этика, мораль правовое хакерство, антиномия.

**Formulation of the problem.** In the modern world, the modern stage of legal morality in general and advocacy ethics, in particular, are increasingly subject to philosophical understanding. The modern century can be described as an "era of slogans and shouts of human rights", which, in the end, imposes additional moral obligations on lawyers in relation to man. However, the reality of our time carries both new opportunities and new dangers, which is tied to a whole node of global problems that threaten both the moral and physical health of man and his property.

Today, radical changes and the formation of a whole set of moral guidelines of a lawyer is a deeply social process during which over the centuries of its development developed complex rules and principles of interaction between lawyer and client, lawyer and society. In an era of heightened attention to human

rights, the lawyer is perceived as a "superman" - a direct "helping hand", a productive force in society. At the same time, society itself establishes the framework of general morality and the minimums of "increased" morality of a lawyer, while laying the prospects for legal morality in the future, based on certain ideas about what a lawyer should be, what society wants to see him. At the same time, a society that seeks to "improve the lawyer" makes significant mistakes: it pays little attention to the internal qualities of a person who wants to become a lawyer; resorts to the "image of a lawyer" against the background of the general decline of morality, which results in irreparable damage. It is enough to point out such moments of legal practice when a client becomes a financial or advertising object for a lawyer, and participation in a lawsuit turns into a farce.

**Analysis of recent research and publications.** Many scholars have devoted their time to the issue of legal ethics. Among the latter are the scientific achievements of NM Bakayanov, R. Tokarchyk, IB Vasylyk, TB Vilchuk, VB Cherevatyuk and others.

**Part of the general problem has not been solved previously.** Philosophical analysis of the problems of lawyer ethics can not be limited to the study of its principles, because today there is an open question of controversial ethical issues in the activities of a lawyer, which today remain unresolved.

**Formulating the goals of the article** to investigate the issues of modern controversial ethical issues in the activities of a lawyer. To offer one's vision of the construction of "legal hacking" and "antinomy of lawyer hacking". Make suggestions.

**Presentation of the main research material.** The Law of Ukraine "On Advocacy and Advocacy" explicitly states the obligation of all lawyers to comply with the Rules of Advocacy, which should serve as a guarantee of the integrity of the lawyer, increase the reputation and encourage the improvement of advocacy. The requirements of lawyer's ethics serve as a moral tool for correcting the lawyer's behaviour, as the bar association has undertaken to monitor the lawyers'

compliance with its principles. St. 12-1 of the Rules of Advocacy Ethics "Honesty and good reputation" does not disclose the concept of "good reputation", but only states that "a lawyer must be honest, honest and dignified in their professional duties" [1]. In principle, in Art. 12 of the Rules already states that a lawyer must assert respect for the legal profession, which he embodies and contributes to the preservation and enhancement of respect for it in society, which can be understood as "reputation". However, it is not the definition of this term in the bosom of the bar allows to create certain gaps - "dark spots" in the practice of a lawyer, because society in general and each citizen in particular at its discretion considers this term based on their assessment of moral norms. Today, the statement of EV Vaskovsky, who claimed back in 1895 that no profession morally reveals as many temptations as advocacy, and a lawyer as a specialist in jurisprudence, can dress in legal form any cunning, any trick [2, p. 58]. However, it is not the definition of this term in the bosom of the bar allows to create certain gaps - "dark spots" in the practice of a lawyer, because society in general and each citizen in particular at its discretion considers this term based on their assessment of moral norms. Today, the statement of EV Vaskovsky, who claimed back in 1895 that no profession morally reveals as many temptations as advocacy, and a lawyer as a specialist in law, can dress in legal form any cunning, any trick [2, p. 58]. However, it is not the definition of this term in the bosom of the bar allows to create certain gaps - "dark spots" in the practice of a lawyer, because society in general and each citizen in particular at its discretion considers this term based on their assessment of moral norms. Today, the statement of EV Vaskovsky, who claimed back in 1895 that no profession morally reveals as many temptations as advocacy, and a lawyer as a specialist in law, can dress in legal form any cunning, any trick [2, p. 58]. who claimed back in 1895 that no profession morally shows as many temptations as advocacy, and a lawyer as a specialist in law, can put in a legal form any trick, any trick [2, p. 58]. who claimed back in 1895 that no

profession morally reveals as many temptations as the bar, and a lawyer as a specialist in law, can put in a legal form any trick, any trick [2, p. 58].

An experienced lawyer can be considered a legal hacker because the meaning of the word in its original sense originated in the 1960s long before the widespread use of computers and it was part of local slang and originally meant a simple but crude solution to any problem regardless of computer techniques in general. Hacker, from to hack - to cut, to make a notch [3], and Jargon File offers the following definition: a hacker is an expert or enthusiast in any activity [4]. And the real slogan of modern hackers: "a hacker is not the one who breaks, but the one who studies." [5] Thus, we believe that this term is quite appropriate for the activities of a lawyer, especially since the lawyer in his work is often looking for weaknesses "in the law, makes suggestions on their elimination or only uses them in favour of the client. And thus, there is a general social opinion: "which of the lawyers is the most ingenious, the better." The question of morality here seems to "hang" in the space of law. In this regard, it is appropriate to mention the famous A. Schopenhauer, who believed that it is difficult to justify morality than to preach it, and the moral value of the act is not in the purpose for which the act was done, but in the rule that man followed [6].

Continuing this issue, we note that Art. 31 of the Law of Ukraine "On Advocacy and Advocacy" provides for the imposition of disciplinary action on a lawyer in the form of suspension of the right to practice law in case of "repeated disciplinary misconduct within a year" and "systematic or gross one-time violation of legal ethics" [7]. Based on this provision, it can be concluded that a lawyer allegedly has the right to a "one-time" or "unsystematic" violation of the rules of legal ethics - that is - a violation of morality. In our opinion, this is not true because this state of affairs helps in the implementation of immoral acts, incites to debate about the category of regularity, and so on. Also, the category of "gross violation" is not defined in the legislation, and for the application of Art. 31 of the Law of Ukraine "On Advocacy and Advocacy" in terms of qualification

of this disciplinary offence based on the analysis of the circumstances of the case in each case. Thus, the understanding of a "gross" one-time violation will always be an evaluative concept that requires justification and specificity in each case.

As a result, we get such a phenomenon as the antinomy of legal (lawyer) hacking: a lawyer does not have the right to an immoral act - allowed unsystematic non-gross violation of morality by a lawyer (a lawyer may violate a little). And also: a lawyer must clearly act within the law - a good lawyer will always use the loopholes in the law. " If we recall, the term "antinomy" was originally legal and meant a real or imaginary contradiction between two legal laws, or a situation where a legal law contradicts itself [8]. Thus we have the following "antinomies of lawyer hacking": the lawyer should not delay the case - the lawyer should not rush to close the case; a lawyer is a free person with his character - a lawyer must be endowed with honesty and integrity even if he is not inherently a human being. Thus, the general meaning of the imperative here is a moral act: the lawyer must carry out its activities in such a way that his behaviour becomes a model of virtue for others. Here it is worth mentioning the famous philosopher Kant, who stated "ethics gives laws, not for actions, but only for maxims of actions" [9, p. 430]. That is, the lawyer must, within the existing moral imperatives, force himself in the bosom of his motives, and thus comply with the moral law. Such coercion will be directly related to honesty and integrity. Morality acts as a good deed, as a duty. The reputation of a lawyer (legal hacker) from here is an intangible benefit, which is expressed in the assessment of society,

Legal hacking will never go beyond the immoral and illegal, and the reputation will be decent if the internal imperatives of the lawyer are:

1. The principle of self-determination: the lawyer himself sets a goal in achieving results;
2. The principle of charitable motivation: the idea of an action or deed must be a priori checked for legality and morality before the deed itself, ie a good



motive must correspond to a good deed and deed and at the same time satisfy the client's position;

3. The principle of formal will: the freedom of the lawyer within the law and the imperative of morality is to build his behaviour so that it is oriented to the general idea of good, choosing for this moral and legal means and adequate actions.

**Conclusions.** It is very difficult to imagine another legal profession that has more ethical "uncertainty", because on the one hand, a lawyer is obliged to protect the interests of his client, and on the other hand when providing qualified legal assistance, of course, there is a public interest that must be taken into account. The uncertainty of many categories in the legal field regarding the moral core of advocacy, unfortunately, leaves room for reflection, creates gaps, allowing everyone to judge the actions at their discretion based on their philosophy of moral norms. The proposed category of "legal (lawyer) hacking" provides an opportunity for a more accurate perception of reality and the true reflection of the modern lawyer.

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