
Legal analysis of the appraisal of evidence based on the rules of sound judgement

Análisis jurídico de la valoración de la prueba en base a las reglas de la sana crítica

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Received: October 03, 2023
Approved: February 12, 2024

Ávila, G., Cárdenas K. (2024) Legal analysis of the valuation of evidence based on the rules of sound criticism. *Espiraless Multidisciplinary Journal of Scientific Research*, 8 (49), 1-20.

Abstract

The legal analysis of the evaluation of evidence in the Ecuadorian context focuses on the application of sound criticism on the evidentiary means provided by the parties against the decision adopted by the judges. The main objective of the study is to analyze the lack of normative and doctrinal development regarding the rules of sound criticism, by establishing its clarification and definition to ensure an objective evaluation of evidence in judicial proceedings. In Ruling No. 305-17-sep-cc case No. 1597-16-ep (2017), the Constitutional Court highlighted the importance of applying sound criticism in a consistent and motivated manner, through the support of prudential rules of a legal nature. The case law, in this case, highlights the correct application of the rules of sound criticism by the judges of the Labor Chamber of the National Court of Justice. The judgment illustrates the importance of clearly motivating judicial decisions, ensuring transparency and legitimacy. It concludes that the absence of clear criteria for the implementation of sound criticism in Ecuadorian law highlights the need for legislative revision. The importance of establishing specific parameters to guarantee a well-founded, objective and impartial evaluation of evidence in the judicial sphere is emphasized.

Keywords: Justice, reasoning, sound criticism, evidence assessment

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Resumen

El análisis jurídico de la valoración de la prueba en el contexto ecuatoriano se centra en la aplicación de la sana crítica sobre los medios probatorios dispuestos por las partes frente a la decisión adoptada por los jueces. El objetivo principal del estudio es analizar la falta de desarrollo normativo y doctrinario respecto a las reglas de la sana crítica, mediante el establecimiento de su clarificación y definición para garantizar una evaluación objetiva de la prueba en los procedimientos judiciales. En la Sentencia N.º 305-17-sep-cc caso N.º 1597-16-ep (2017), la Corte Constitucional destacó la importancia de aplicar la sana crítica de manera coherente y motivada, mediante el respaldo de normas cautelares de carácter jurídico. La jurisprudencia, en este caso, resalta la correcta aplicación de las reglas de la sana crítica por parte de los jueces de la Sala de lo Laboral de la Corte Nacional de Justicia. La sentencia ilustra la importancia de motivar de manera clara las decisiones judiciales, asegurando transparencia y legitimidad. Se concluye que la ausencia de criterios claros para la implementación de la sana crítica en la normativa ecuatoriana resalta la necesidad de una revisión legislativa. Se destaca la importancia de establecer parámetros específicos para garantizar una evaluación fundamentada, objetiva e imparcial de la prueba en el ámbito judicial.

Palabras clave: Justicia, motivación, sana crítica, valoración de la prueba

Introduction

When addressing the procedure for conflict resolution, it is crucial to consider the mechanisms that the judge evaluates when issuing various resolutions, as well as the precepts on the basis of which such evaluation is carried out. Evidence, as a fundamental legal instrument used in the evaluation of facts, has been the subject of study over time and is distinguished by specific characteristics, such as its usefulness, relevance and conduciveness. In Ecuadorian law, as established in the General Organic Code of Proceedings (COGEP), it is specifically classified into documentary, testimonial and expert evidence.

Taruffo (2008) has pointed out that it is crucial for the courts to confirm the veracity of the facts in dispute, and that such veracity should be assessed by considering the relevant and admissible means of evidence. Consequently, evidence should be considered as the means capable and necessary to verify the authenticity of the relevant facts, in order to achieve one of the primary objectives in the administration of justice.

In order to understand the purpose of the evidentiary means, it is essential to analyze the grounds on which the judge relies to administer justice. This purpose is not limited only to resolving the problem in question, but to ensure that such resolution is based on an adequate analysis of the evidence presented to arrive at the truth of the facts, always considering the application of procedural principles.

Thus, the judge, as the highest authority in charge of guaranteeing an adequate procedure, is responsible for applying the legal regulations and, in particular, the rights of individuals, as established in the Constitution of the Republic of Ecuador. The judge must ensure respect for the parties involved and apply the legally granted tools. In the context of the evaluation of evidence, the judicial authority is responsible for applying the pertinent mechanisms when carrying out the corresponding evaluation of each of the evidentiary means presented by the parties. However, when referring specifically to the system of valuation of evidence in relation to Sound Criticism, a lack of development has been identified in the COGEP, in Article 164, has established the obligation of the valuation of evidence based on the rules of sound criticism of the judge.

Sound criticism is, in addition to logic, the correct appreciation of certain propositions of experience that every man makes use of in life. These conclusions do not have the strictness of traditional logical principles, but are contingent and variable in relation to time and place. The progress of science is made of a series of maxims of experience repealed by other more exact ones; and even in the face of the principles of traditional logic, modern logic shows how human thought is in constant progress in the way of reasoning (Gonzales Castillo, 2006, p.97).

Although these parameters are not expressed in said normative body, the doctrine, court decisions and jurisprudence have seen the need to regulate them, thus, it is important to analyze the lack of normative development with respect to the sound criticism of the judge, and the rules inherent to this system, such as rationality, objectivity, experience and coherence, it is necessary to deepen the knowledge about its implication in the way of assessing the evidential means to be requested, practiced and incorporated in the different types of procedures. This is necessary to prevent subjectivity and, therefore, arbitrariness at the time of such evaluation.

García (2011) has emphasized that, when stating the concept of objectivity, it is essential to consider the normative. In other words, objectivity is approached from a legal perspective, but it is also linked to the general interest. The administration of justice responds to the needs in accordance with what is established by law, which implies that the jurisdictional authority is responsible for imparting justice, basing its decisions normatively and disregarding parameters that could be resolved through subjectivity or valuations from a personal perspective. For this reason, it is considered one of the most important principles, such as legality, which is also correlated with impartiality.

When examining sound criticism, it is essential to take into account its foundation in rationality, as indicated in the study by Gonzales Castillo (2006). The evaluation and persuasion within this framework must be supported by logic, which clearly differentiates it from the conviction that arises from feelings, emotionality or subjective impressions. The arguments presented by the judge must be logically interconnected, so that they lead naturally and without forcing towards a specific conclusion, and his decisions must be comparable with the standards of logic.

This gives rise to the identification of a problem in the evaluation of evidence, evidencing a gap in the lack of a legal precept that regulates the scientific methodology

to be followed by the judge when evaluating evidence in non-criminal matters. This lack could be affecting the adequate application of the sound criticism system.

The main objective of the research is the analysis of the principle of sound criticism of the judge, where through various criteria, it seeks to establish a doctrinal development, which is justified by the need to have an adequate regulation and parameters on which judges can be based. Furthermore, it is intended that this research serves as a reference for the legislator to consider the need to integrate these criteria to the procedural norm, thus facilitating a correct evaluation of the evidence and, consequently, the resolution of conflicts.

Evidence today has been the result of a significant development throughout history, since it has been necessary to highlight the different periods of it in order to define the origin, usefulness and relevance of what the doctrine has expressed about the means of proof. In ancient times, the Roman Law had a great influence on evidence, since in the different procedures that were carried out at that time, evidence was born as a mechanism that not only had as a fundamental objective to clarify the facts, but also had the need to regulate what was ethically allowed. Taking into account that Roman Law formed its system also based on custom, different means of evidence qualified as licit that could be practiced in the pertinent procedural phase are manifested and expressly defined.

a) witness (testis), whose declarations were the testimonies (testimonia) or depositiones testium b) the documents (documenta or scripta) that have, as modalities, the writing (scriptura) and the books (codices); c) the declarations of the parties; d) the oath (iuramentum); e) the confession (confessio or confessio); f) the interrogation (interrogationes or inquisitio); g) the judicial inspection (inspectio); and h) the expertise (pericia). (Pinto, 2000, pp.765-766)

Throughout the years, the conception of evidence in the judicial sphere has undergone several modifications, despite the fact that since Roman Law there was already a clear conception of the usefulness and the means of proof that were legal. In the Middle Ages, certain means of proof were established that had a significant influence of the Catholic Church, even the result of a fact being considered true or false depended on actions that involved cruel treatments as a means to reach the truth of the facts, based on a divine judgment as a result of God's will. On the other hand, mechanisms that had already been used in ancient times were maintained, as determined by Guijón (1961) these were "the witnesses, the oath, the document, the ordeals and the inquiries" (p. 27). Thus, when it came to a trial, those who were being the accused party in the process had the power to prove their innocence through these means. However, clearly, depending on the means determined for the resolution of the case, it was not always objective, which did not evidence the end of justice of the Law.

Etymologically, the word proof - as well as probatio - derives from the Latin word probus, which means good, honest; therefore, what is proven is good, correct, authentic. We can conclude at this point that the conception of proof lies in a special procedural activity, whose product of such activity is, to produce the set of motives or reasons,

which, from the means provided by the parties, are deduced and which provides the judge with the knowledge of the facts, for the purposes of the process (Artavia & Picado, 2018, p.1).

When approaching the context of evidence today, the different periods of history stand out, since the establishment of evidence and the various means of proof presented over time have represented a significant evolution in law. This is one of the most important factors that make up the process. In this case, when referring to the analysis in non-criminal matters, although the guilt of the person in the process is not discussed, a question arises as to the responsibility or not of the parties involved.

According to Taruffo quoted by Cárdenas Paredes (2022), it is considered that: judicial evidence develops a demonstrative function, in that it provides a cognitive and rational basis for the selection that the judge makes by individualizing an attestable and truthful version of the relevant facts of the case, and rationally justifying such choice (p. 176).

The main function of the evidentiary means, therefore, is to convince the judge of the facts established in the claim or answer to the same, so that, through the practice of the evidence, the judges evaluate and analyze all the evidence as a whole, and, based on sound criticism, make a reasoned, substantiated and justified decision.

The evidence evidences an important aspect of possibility, that is to say, it grants the parties the opportunity to have the tools to defend themselves against the facts alleged against them. In this context, the evidence contributes to the process, not only helps to support the theory of the parties, but also provides knowledge to the jurisdictional authority, who is the substantial party that directs the process, the knowledge of the legal truth.

It is important to mention that the etymological birth of the word evidence demonstrates the importance of evidencing the alleged facts. Therefore, Ecuadorian law must be in accordance, not only to the COGEP but also to the Constitution, as the highest hierarchical norm in the country; to which the procedural activity must adhere.

No one disputes the importance of evidence in the legal system. Without an evidentiary system, disputes would be at the whim of the judge; this would mean that the subjective rights of individuals would have no external effectiveness. A fair process, the right of defense and the guarantee of rights in general, would be practically impossible without a system of evidence; indeed, it would give rise to anarchy and insecurity, especially with regard to commerce. Evidence gives character to the process and supports the subjective right of individuals (Rivera, 2011, p. 30).

Having understood this, it is important to point out the purpose that the legislator in Ecuador has given to the evidence, through the COGEP (2015) where it is established "The purpose of the evidence is to lead the judge to the conviction of the facts and circumstances in dispute" (art. 158). Therefore, this mechanism directly seeks that the jurisdictional authority, through the different evidentiary means, determines whether the facts presented are true or false. That is to say, its purpose is to convince the facts, since

there is a latent possibility that a series of questions surrounding the fact or situation may arise.

Due to these circumstances that may arise, the judge must evaluate each and every one of the evidentiary means duly integrated in the process, as long as they comply with the provisions of the Law. Among these means are Documentary Evidence, Testimonial Evidence and Expert Evidence, which are established within the COGEP. These means, according to their nature, must attend to the specific nature of the fact that seeks to be proven, as long as they comply with the requirements of usefulness, pertinence and conduciveness. These characteristics are fundamental, since they must support the evidence, helping the judge to establish his decision in the case.

The valuation of evidence is one of the most relevant aspects to be debated, in view of the fact that, within COGEP (2015) limits only to the following:

In order for the evidence to be appreciated by the judge, it must be requested, practiced and incorporated within the terms set forth in this Code. The evidence must be appreciated as a whole, in accordance with the rules of sound criticism, leaving aside the solemnities prescribed in the substantive law for the existence or validity of certain acts. The judge will have the obligation to express in his or her decision, the evaluation of all the evidence that has served to justify his or her decision (art. 164).

It is important to mention that the regulations expressly determine the treatment of evidence, since it is necessary to ensure its legality. Requesting, practicing and exhibiting, not only confers to the process characteristics of transparency, but, for this same reason, different constitutional principles are complied with, paying special attention to due process. This allows the opposing party to exercise its right to contradict, since it has had knowledge of the evidence in a timely manner, within the legally established time.

Although the evaluation of evidence has not been expressly regulated, the judge recognizes that the criteria to be applied must meet the characteristics of impartiality. The aim is to have the ability to consider the evidence, both of the plaintiff and the defendant, and not simply apply personal criteria that may influence the decision making, affecting the resolution of the case, which is why:

The evaluation of the evidence should not be the expression of a simple subjective belief of the judge, but such "that the facts and evidence that have been submitted to his judgment, if put to the consideration of any other disinterested and reasonable citizen, should result in the same certainty that they produced for the judge. This is what we call the social character of conviction". This function is perhaps the most delicate of the process, especially for the judge to whom it is entrusted, because the parties are in this respect mere collaborators. The fate of justice depends on the rightness or wrongness of the appreciation of the evidence, in most cases (Escobar, 2010, p.46).

The author clearly identifies the need for the judge not to base his decision on criteria of subjectivity, but rather, this assessment should be made in such a way that results are obtained in a specific way in order to administer justice, to avoid this subjectivity,

parameters should be taken into account that govern the assessment of evidence on criteria that should be based on Sound Criticism.

However, when speaking of the valuation of evidence based on Sound Criticism, parameters are determined which, in an exhaustive manner, have not been contemplated in the norm and, therefore, the possibility of establishing considerations that may be open to arbitrary decisions is opened. This implies that the judge may base his decision solely on his own considerations. The need for the existence of regulated parameters in the law would avoid the existence of legal loopholes, since, as mentioned above, the COGEP only mentions that the evidence must be assessed as a whole and in accordance with the rules of sound criticism, here is where the main question arises: What are the rules of sound criticism?

Despite the fact that the Ecuadorian procedural law, although it has identified the treatment of evidence for its presentation in the process and has established the mechanism by which it must be evaluated, it only establishes the "rules of sound criticism" without subsequent legislation that determines what these rules are. This may imply the existence of a legal problem and, therefore, of a legal vacuum that provides openness and freedom to the judge for the evaluation of the evidence. However, it is important to determine the relevance of an adequate preparation of the judge, based on the principle of *iura novit curia*. Although this possibility is open, it should be regulated, beyond establishing a system with facts that give a specific result, so it is essential that these rules are adjusted to the sense and purpose of law.

Given the infinite number of possibilities and, therefore, the endless number of results, it would not be possible to establish a scientific method as such. However, it is possible to establish parameters on which the rules should govern the evaluation of evidence. This would provide certainty that the jurisdictional authority will not only apply the rule correctly, but will also take into account such parameters for its decision. Doctrinally, it has been determined in such a way that several authors have pronounced on sound criticism and the rules inherent to it:

The Sound Criticism, on the other hand, is an advance since it leaves the necessary freedom to the judge so that he can find out and assess what is necessary to rule according to reality, of course, without this meaning arbitrariness, since he is bound to the rules of logic, psychology, technique and the rules of experience and, in addition, he must motivate his ruling (Angulo, 2016, p. 52).

The system of valuation of evidence according to sound criticism is one of the fundamental pillars, which gives way to the motivation, being important its existence as a system, and its use, as the way in which it can be verified that those parameters used by the judge have been made in such a way that, not only can support this decision, but that, when executing it, mechanisms that surround the fact technically and that, through experience, allow to be motivated, must be immersed. It has also been established that:

It is a method of valuation of evidence and substantiation of the sentence in which the judge will eventually apply, depending on the case, certain laws of nature, rules, principles and maxims of human knowledge, to ascertain the truth or certainty of the

fact, with which the decision will be made and explained in the sentence (Alvarenga Vásquez, 2017, p. 34).

Sound criticism goes beyond a simple scientific application, as would other systems of evidence assessment that have been developed over time, this system incorporates various methods, which also integrates an intuitive assessment by the judge, related to the "laws of nature". This refers to principles inherent to logic and morality, closely linked to experience. Sound Criticism is presented as a broader and more flexible approach, which not only relies on scientific aspects, but also incorporates intuitive elements and fundamental ethical principles related to logic and morality, in close connection with human experience, a criterion that is also related to that mentioned by Couture (1958) determining that:

The rules of sound criticism are, above all, the rules of correct human understanding. In them, the rules of logic interfere with the rules of the judge's experience. Both contribute equally to the magistrate's ability to analyze the evidence (whether of witnesses, experts, judicial inspection, confession in cases where it is not plain and simple) according to sound reason and an experimental knowledge of things. The judge who must decide according to sound criticism is not free to reason at will, discretionally, arbitrarily. This way of acting would not be sound criticism, but free conviction. Sound criticism is the union of logic and experience, without excessive abstractions of intellectual order, but also without forgetting those precepts that philosophers call mental hygiene, tending to ensure the most accurate and effective reasoning (p. 271).

Therefore, the evaluation of evidence beyond a general statement, should support important parameters, being logic and experience criteria on which they interrelate with each other, to correctly conclude the usefulness, relevance and conduciveness of the evidence provided to the case, with these parameters the doctrine relates these rules of sound criticism, even pronouncing on the development of the different systems of evaluation of evidence existing over time, determining that:

(...) the sound criticism arises as a middle ground or eclectic solution, against the arbitrariness of the laws and the judge, being conceived to technically grant the capacity to the administrator of justice to value the evidence in all its spectrum. However, certain rules are imposed, which will be of strict compliance and observance by the judge, such as logic, experience and scientific knowledge (Jara Vásquez, 2021, p.30).

The importance given to sound criticism as a system for evaluating evidence evidences the need to regulate even these criteria, which apparently could determine that the judge, in a free manner, can make such evaluation. However, it is important to establish this system as an intermediate between what would have been, to value the evidence strictly according to what is established by law and to grant total freedom to the judge for the issuance of these criteria. Once the Sound Criticism has been understood in the procedural sphere as a system of valuation of evidence, it is possible to determine the existence of rules inherent to it. When analyzing the similarities they share with the definitions mentioned by legal scholars, it can be mentioned that the rules of sound

criticism integrate with greater relevance logic, experience, reasonableness and objectivity.

Materials and methods

In the context of sound criticism, it constitutes the proper appreciation of propositions of experience and recognizes the flexibility of conclusions based on facts. In addition, a balance is sought between logical rigor and the contingent nature of legal conclusions, so that it is possible to recognize the constant evolution of human thought and progress in the way of reasoning. For Pillajo (2017):

Legal logic postulates that any interpretation that leads to absurdity must be rejected, and the most rational decision must be chosen, that is to say, to convert an abstract general right into a concrete right. This concrete right is issued by the Judge in a sentence and for this it is necessary to make a legal logical analysis, a work of interpretation, apply the law and analyze that this law moves in the Legal System.

Thus, in order to apply logic on evidence it is necessary to examine how traditional logical principles interact with applied logic in the assessment of evidence, in other words, how does one balance logical rigor with the contingent nature of conclusions based on experience?

Experience, on the other hand, links the consideration of previous knowledge and lessons derived from life. Now, in a legal environment, this action implies the application of maxims of experience to evaluate the credibility and relevance of the evidence presented. Judges use these maxims to discern the veracity of the facts and in order to recognize the evolution of knowledge that adapts to scientific development, so that it can affect the perception of experience over time. (Coloma and Agüero, 2014). In this case, the judges ask themselves the question: How is the evolution of knowledge and science considered in the evaluation of experience?

Reasonableness encompasses the application of logical and fair criteria to evaluate the validity and consistency of the evidence presented. Thus, judges must determine whether the conclusions drawn from the evidence are logically plausible and consistent with the facts presented. This approach ensures that judicial decisions are fair and based on a rational evaluation of the available evidence. The purpose of ensuring compliance with this approach is to avoid arbitrary or subjective judgments (Rivera and Rojas, 2020). Because of the above, reasonableness serves as a safeguard for the integrity of the judicial process.

Objectivity in the evaluation of evidence implies impartiality and the application of normative criteria in judicial decision-making. From the legal perspective, objectivity is related to conformity to the law and the general interest. Judges must base their decisions on normative criteria, which allows them to dispense with subjective judgments or personal assessments. This approach ensures that the administration of justice responds to needs in accordance with the law and thus contributes to the fairness and legitimacy of the judicial system.

In Ecuador, the expert evidence is raised by an expert with sufficient legal and scientific knowledge that allows him to perform his work with complete impartiality and objectivity, his tasks do not involve the interpretation of the facts nor does he introduce new ones to a debate room, on the contrary, it is limited to the technical presentation of the evidence through a clear document. (Cárdenas and Cárdenas, 2022).. For this reason, the persons in charge of this work must be accredited according to the COGEP.

The relevance attributed to sound criticism as a method for evaluating evidence highlights the need to establish certain standards even for these criteria, which apparently could allow the judge to make this evaluation in a fairly free manner. However, it is essential to consider this system as a balance between strictly applying the laws in the valuation of evidence and granting the judge total freedom in his criteria. Once the concept of Sound Criticism is understood in the procedural field as a system of evidence evaluation, rules inherent to this approach can be identified. When compared with the definitions of legal experts, it is evident that the rules of sound criticism emphasize the importance of logic, experience and reasonableness.

As for motivation, it refers to the obligation of judges to explain the reasons behind a specific decision. Motivation is essential in judicial rulings, as it allows the parties to understand the reasons for a decision and, if necessary, to challenge it. Motivation must have sufficient legal grounds and an adequate factual basis, which implies that judges must clearly and coherently explain why they made a particular decision.

Although sound criticism and motivation are different concepts in procedural law, both are related insofar as they require judges to use logic and reason in their actions, to be consistent and to maintain impartiality. In the case of sound criticism, judges must use logic and reason to evaluate the veracity of the facts presented in a judicial proceeding and be consistent and impartial in that evaluation. Similarly, in terms of motivation, judges must use logic and reason to justify their decision and be consistent and impartial in their explanation, such that:

The judge is not a teacher, he is an authority that has the power to validate or annul a judicial decision, with all its consequences for the persons involved, depending on whether or not the guarantee of motivation is satisfied. Consequently, the use of the guidelines established in this judgment must be reasonable (Constitutional Court of Ecuador, 2021, p.17).

Therefore, sound criticism and motivation in the field of procedural law are essential, since it requires judges and magistrates to apply logic and reason consistently and objectively in their analysis. Sound criticism stands as a valuation method aimed at weighing the evidence presented in the context of a judicial process. In parallel, the motivation implies the jurisdictional obligation to explain in a thorough and well-founded manner the bases that support the making of a specific decision. These principles seek to ensure consistency and impartiality in the jurisdictional exercise, and promote the integrity and transparency of the judicial process.

Results

The relevance of the means of evidence lies in its capacity to verify the authenticity of the relevant facts, thus contributing to the fundamental objectives of the administration of justice. In this context, sound criticism stands as one of the essential pillars in the assessment of evidence, according to which the judge, in his role as the highest authority, must apply legal principles and constitutional rights. Despite the lack of doctrinal development in the system of sound criticism, jurisprudence and doctrine have had to regulate it, highlighting its importance in the prevention of subjectivity and arbitrariness in the evaluation of evidence.

The COGEP (2015), as the legislation that regulates the procedural field in Ecuador, integrates in its articles one of the most important parameters within the process, the Evidence. When analyzing Article 164 of this normative body and its subsequent ones, an important problem arises, which leaves to the free disposition of the judge the valuation of the evidence. Although it has been established that this exercise is carried out based on the rules of sound criticism, it has not been determined what these rules are, much less has this precept been defined as such. Despite the fact that both the COGEP and the Constitution of the Republic of Ecuador have determined the existence of this precept, it has not been possible to reach an exact conception.

It is taken into account that, through the different criteria established by the doctrine, the importance of analyzing which are the rules that are integrated to the Sound Criticism and that entails its application and essence is determined. When analyzing parameters that avoid subjectivity and arbitrariness of the judge for a correct evaluation of the evidence, aspects such as logic, maxims of experience, scientific methods, psychology, morality, precepts of mental hygiene, among others, are mentioned. It is important to take into account general parameters that allow the judge to evaluate the evidence adequately and, therefore, to reach a correct motivation of the decision through the sentence.

The legal criteria issued in an exhaustive manner in Ecuador have been nonexistent, so it is necessary to refer to the doctrine and analyze the application of the Sound Criticism not only as a system of evaluation of evidence, but as the mechanism by which the legal truth is found, so that the Logic and Experience as those rules that should integrate the procedural rules in Ecuador are necessary for the jurisdictional authority to have parameters on which to perform this exercise and issue their decisions.

It should be emphasized that sound criticism is not a system of free evaluation of evidence, but is based on the application of prudential rules of a legal nature that regulate the activity of weighing the evidence by the judge. These rules of sound criticism are called to specify the concept of sound criticism from a non-formalized perspective, beyond the legal tariff, and are based on logic, the maxims of experience, scientific methods, psychology, morality, precepts of mental hygiene, among others. It is necessary to refer to the doctrine and analyze the application of the sound criticism not only as a system of valuation of evidence, but as the mechanism by which the legal truth is found. Logic and experience are those rules that should integrate the procedural norm in Ecuador, since they are necessary for the jurisdictional authority to have

parameters on which it can carry out this exercise and issue its decisions. (Constitutional Court of Ecuador, 2021)..

The Constitutional Court of Ecuador, in Ruling No. 305-17-sep-cc case No. 1597-16-ep. (2017), determined that the judges of the Labor Chamber of the National Court of Justice had correctly applied the rules of sound criticism when assessing the evidence in the case in question. The Court highlighted that the assessment of the evidence was carried out as a whole and according to the rules of sound criticism, and that the decision made by the judges ad that it was motivated in a consistent, logical and coherent manner. This concrete example illustrates the importance of the proper application of the rules of sound criticism in the evaluation of evidence in a court case. Sound criticism, as a system of evidence evaluation, must be applied rigorously and consistently to ensure objectivity and impartiality in the evaluation of evidence. In addition, clear and precise criteria must be established for the application of sound criticism in the legal field, in order to avoid subjectivity and arbitrariness in the evaluation of evidence.

The lack of doctrinal development, as explained by Cusi (2022) in the system of sound criticism in the Ecuadorian legal context has generated the need to resort to jurisprudence and doctrine to understand and apply this guiding principle in the evaluation of evidence.

Jurisprudence and doctrine have a key link in the regulation and interpretation of sound criticism in the Ecuadorian legal sphere, as explained by Macías (2023). Through the different criteria established by the doctrine, the importance of analyzing which are the rules that are integrated to the sound criticism and that entail the application and essence of this is determined. It is essential to establish clear and precise criteria for the application of sound criticism in the legal field, in order to avoid subjectivity and arbitrariness in the evaluation of evidence.

Sound criticism, as a guiding principle in the assessment of evidence, is based on logic and experience, without excessive intellectual abstractions, but also without forgetting the precepts that ensure accurate and effective reasoning. In the legal context, sound criticism stands as one of the essential pillars in the evaluation of evidence, according to which the judge, in his role as the highest authority, must apply legal principles and constitutional rights. Despite the lack of doctrinal development in the system of sound criticism, jurisprudence and doctrine have had to regulate it, through the revaluation of its importance in the prevention of subjectivity and arbitrariness in the evaluation of evidence (Escobar, 2018).

In this sense, Valenzuela (2020) in his study on the approach to the due motivation of judgments, mentions that it is necessary for the doctrine and jurisprudence to continue with the clarification and development of the criteria that make up the sound criticism, in order to provide judges with clear and precise parameters for the evaluation of evidence in the Ecuadorian legal environment. Sound criticism, as a guiding principle in the evaluation of evidence, must be understood as a system that seeks to guarantee objectivity and impartiality in the evaluation of evidence presented in a judicial process.

Conclusions

In the approach to the conflict resolution procedure, the evaluation of evidence emerges as an essential component in the judicial process. Evidence, understood as a legal instrument, is the subject of analysis over time, highlighting its usefulness, relevance and conduciveness in Ecuadorian law, specifically in the COGEP.

In the Ecuadorian regulatory framework, the COGEP, integrates in its articles within the process the parameter of evidence. When analyzing article 164 of this body of law and its subsequent articles, a problem arises that leaves the evaluation of evidence to the free disposition of the judge. Although it has been established that this exercise is carried out based on the rules of sound criticism, it has not been determined what these rules are, much less has this precept been defined as such. Therefore, clear parameters must be established to allow the judge to evaluate the evidence in an adequate manner and, therefore, to arrive at a correct motivation of the decision through the sentence.

Sound criticism, as a system of evaluation of evidence, must be understood as the mechanism by which legal truth is sought to be achieved, by avoiding subjectivity and arbitrariness in the evaluation of the evidence presented in a judicial process. Sound criticism seeks to ensure that the judge evaluates in a fair and equitable manner the credibility and evidentiary weight of the elements presented in the process, without incurring in both the rigidity of legal evidence and the arbitrariness of free conviction. In this sense, the motivation of judicial decisions must clearly and precisely reflect how this guiding principle has been applied in the process of evidentiary assessment, which results in the parties involved understanding the basis on which the judgment has been rendered.

The lack of an adequate motivation that reflects the use of sound criticism in the assessment of evidence may lead to questions about the validity and reasoning of the decision, which affects the legitimacy of the judicial process. Thus, in Ruling No. 305-17-sep-cc case No. 1597-16-ep. (2017) it is emphasized that judges, when issuing their rulings, not only apply the sound criticism in the assessment of evidence, but also, motivate the reasons that support their conclusion, which gives rise to the consistency and soundness of their decisions. In this way, the transparency, legitimacy and validity of judicial decisions are guaranteed, which strengthens the justice system and the protection of the rights of the parties involved.

Therefore, the lack of legal criteria issued in an exhaustive manner in Ecuador has generated the need to resort to doctrine and jurisprudence to understand and apply sound criticism in the evaluation of evidence. It is important to establish clear and precise criteria for the application of sound criticism in the legal field, in order to avoid subjectivity and arbitrariness in the evaluation of evidence. In view of this situation, it is imperative that a legislative review and update be carried out to address in a precise and detailed manner the rules governing sound criticism in the Ecuadorian legal system. The creation of a clear regulatory framework would provide judges and lawyers with specific tools to carry out an informed, objective and impartial evaluation of evidence.

In conclusion, the present legal analysis on the valuation of evidence based on the rules of sound criticism reveals the importance, in the Ecuadorian legal context, of the due application and consideration of such aspects at the time of sentencing. Throughout the study, it has become evident the need to clarify and develop the criteria that make up the sound criticism, which have been insufficiently defined in the regulations, which generates a space for jurisprudence and doctrine in its regulation.

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