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Evaluative concepts in regulatory legal acts: The grounds for usage, rules of realization, implementation and interpretation

Streszczenie

Zwroty szacunkowe w aktach normatywnych: podstawy użycia, zasady realizacji, zastosowanie oraz interpretacja

Artykuł jest poświęcony wyjaśnieniu sposobów użycia zwrotów szacunkowych jako narzędzi do wykorzystania w praktyce prawnej na głównych etapach regulacji stosunków społecznych — podczas tworzenia prawa, jego stosowania i wykładni. W niniejszym artykule autor określił zwroty szacunkowe i podał ich definicję, wskazując na ich cechy główne. Nazwał funkcje zwrotów szacunkowych, które wskazują na celowość ich użycia w treści aktów normatywnych. Ponieważ wśród teoretyków i praktyków prawa występują spory dotyczące funkcjonowania w obiegu prawnym zwrotów szacunkowych w aktach normatywnych, w tekście określone zostały przesłanki ich wprowadzenia do projektowanego na Ukrainie ustawodawstwa. Wśród nich należy wyróżnić: konieczność stworzenia norm prawnych przeznaczonych do regulacji stosunków społecznych, których znaczenie społeczne zmienia się z upływem czasu, a także konkretyzacja norm ogólnych oraz dokonywanie wykładni uściślającej. W artykule został opisany niezbędny system wymogów techniczno-aksjologicznych i prawnych, które są gwarantem odpowiedniego zastosowania norm prawnych z wykorzystaniem zwrotów szacunkowych. Wyróżniony został szereg reguł dotyczący faz stosowania norm formalnie nieokreślonych oraz kluczowych przepisów, które powinny znaleźć swoje odzwierciedlenie w prawnym zastosowaniu aktów przyjętych przez użycie norm prawnych ze zwrotami szacunkowymi. Autor dokonał opisu przesłanek i gwarancji gnoseologiczno-aksjologicznych

oraz prawnych zapobiegających błędom w stosowaniu szacunkowych norm prawnych. Wśród przesłanek i gwarancji prawnych wydzielone zostały normatywne i organizacyjne. Do normatywnych zaliczone zostały: usystematyzowana terminologia, ustalony katalog faktów, konkretyzacja norm prawnych itp.; do organizacyjnych — interpretacja wyroków sądów, glosy prawne dotyczące zwrotów szacunkowych, wyjaśnianie terminów prawnych przez doktrynę prawną. Autor określi też system reguł interpretacji norm prawnych ze zwrotami szacunkowymi, wśród których należy przede wszystkim wskazać na reguły mówiące o tym, że: interpretacja treści identycznych zwrotów szacunkowych w tym samym akcie normatywnym winna być w każdym przypadku jednolita; istotne społecznie czynniki składające się na zwrot szacunkowy powinny być interpretowane zgodnie z aktualną teorią i praktyką prawną (powinny być wyważone i mieć potwierdzenie w praktyce); prawna interpretacja zwrotu szacunkowego powinna być zbieżna z jego odbiorem społecznym i odzwierciedlać świadomość prawną społeczeństwa; do interpretacji treści zwrotów szacunkowych należy wykorzystywać terminologię formalnie określoną i zrozumiałą.

Słowa kluczowe: zwroty szacunkowe, prawotwórczość, praworealizacja, prawostosowanie, interpretacja prawnych norm, społeczna ważność

Резюме

Оціночні поняття у нормативно-правових актах: підстави використання, правила реалізації, застосування та тлумачення

Стаття присвячена з'ясуванню особливостей використання оціночних понять як засобів юридичної техніки на основних стадіях правового регулювання суспільних відносин – правотворчості, правorealizacji, правозастосування, правотлумачення.

Дано визначення оціночного поняття та названі його основні ознаки. Названо ті функції оціночних понять, які вказують на доцільність їх використання у текстах нормативно-правових актів. Оскільки серед науковців та практиків існує чимало застережень стосовно наявності у нормативно-правових актах оціночних понять, визначено підстави (передумови) їх введення у проєктоване законодавство, зокрема: необхідність створення юридичних норм, призначених для регулювання суспільних відносин, соціальна значущість яких швидко змінюється з плином часу; практична складність або неможливість передбачити всі суттєві для справи факти, що можуть мати “задане” у законі значення, зокрема у випадку набуття певними явищами “узаконеної” соціальної значущості лише в сукупності з індивідуальними особливостями кожного конкретного відношення; необхідність створення приписів для впливу на такі відносини та факти, які мають ідентичну соціальну значимість, різні формальні, емпірично фіксовані ознаки у кожній конкретній ситуації і таке інше.

Передбачено систему техніко-аксіологічних й юридичних вимог та правил, виконання яких слугує запорукою належної реалізації правових норм із оціночними поняттями.

Виокремлено низку правил щодо стадій застосування формально невизначених норм. Виділено низку ключових положень, які мають знайти своє відображення у правозастосовних актах, прийнятих шляхом використання юридичних норм з оціночними поняттями. Описано гносеологічно-аксіологічні та юридичні передумови й гарантії запобігання помилкам при застосуванні оціночних юридичних норм. Серед юридичних виділено нормативні та організаційні. До нормативних віднесено: упорядкованість термінології, встановлення переліків і ознак фактів, конкретизацію юридичних норм тощо; до організаційних – тлумачення у постановках Вищих судів, коментування спеціалістами тексту закону, який містить оціночні поняття, роз'яснення термінів правозастосовними органами тощо.

Визначено систему правил інтерпретації юридичних норм з оціночними поняттями, серед яких необхідно виділити насамперед такі, як: роз'яснення змісту тотожних оціночних понять у одному і тому ж нормативно правовому акті повинно бути однаковим; соціально-значимі складові, передбачені оціночними поняттями, повинні пропонуватись інтерпретатором відповідно до існуючих у юридичній теорії та практиці знань про них (бути опосередковані та підтверджені практикою правового регулювання); трактування оціночного терміну повинно бути співвідносним із його сприйняттям та баченням суспільством, відповідати правовій свідомості громадян; тлумачення змісту оціночних понять повинно здійснюватись шляхом використання формально визначених та зрозумілих термінів тощо.

Ключові слова: оціночні поняття, правотворчість, правореалізація, правозастосування, інтерпретація юридичних норм, соціальна значимість

There are several reasons for the topicality of research into the evaluative concepts usage in the contemporary world. Legal scholars still have no unanimous solution to numerous issues, first of all the necessity and viability of usage of the evaluative concepts in legislation. Besides, some authors argue that the occurrence of the evaluative norms (norms which contain evaluative concepts) leads to ambiguity of their usage, thus the smaller the number of such norms, the better the practice of legal regulation. Others consider the usage of the evaluative concepts in legal regulation to be inevitable. The lack of a unanimous viewpoint on this issue may affect the legal practice in different ways. Therefore some experts declare their intent to avoid evaluative concepts during the law-making process as they consider the absence of evaluative concepts as the achievement of the law-making method, but it still remains impossible to completely avoid these concepts in the law-making process. Moreover, it is proven by the analysis of law-implementation mistakes that the greatest number of wrong law-implementation decisions occurs during the usage of legal norms containing evaluative concepts.

The problematics of introduction of evaluative concepts to the texts of legal regulations and of the usage peculiarities of legislative mandate containing evaluative concepts has been and remains the object of the integral study of contemporary

Ukrainian scholars, V.K. Hryshuk, A. Ohorodnyk, P.M. Rabynovych, and S.D. Shapchenko in particular. The main focus of the research carried-out was on evaluative concepts used in specific fields of law. Thus the necessity of the general theoretical universalization of usage of evaluative concepts in diverse legal regulations exists as well as the need to create the methodology of handling evaluative concepts as the means of legal method on the basic stages of legal regulation.

For this purpose we consider providing evaluative concepts with short general theoretical characteristics, identification of the grounds for the integration into the legal regulations bill text, specification of basic rules of realization, implementation and interpretation of the legal norms containing evaluative concepts.

A legal evaluative concept is an abstract characteristic of social (personal, group etc.) relevance of actual and potential facts expressed in the legal norm and which should be obligatorily specified while being implemented or realized. Thus the state legal regulation of all individualized facts endowed with the relevance fixed in legal norm is guaranteed. Evaluative concepts are used in international law, e.g. the *Universal Declaration of Human Rights* or the *Convention for the Protection of Human Rights and Fundamental Freedoms*, as well as in national law, e.g. *Constitution of Ukraine* and *codes of Ukraine*¹. The manifestation of evaluative concepts are the technically not specified concepts given in the second chapter of Ukrainian fundamental law, “atrocious or dishonourable conduct or punishment” (Article 28), “urgent need” (Article 29), “urgent case” (Article 30), “national security interests, social welfare interests and human rights interest” (Article 32), “unfair competition” (Article 42), “an adequate standard of living” (Article 48), “obvious criminals” (Article 60) in particular.

The evaluative concepts peculiarities can be observed in the form of their specific attributes, i.a.:

- only the most general attributes of the phenomenon, reflected in them, are fixed²;
- attributes are not specified and not clarified in the legal norm by the legislator. Such concretization in a number of cases may be done in generalization of court practice or in specific case acts by the high courts of Ukraine;
- they are specified in the law-implementation process in each particular case, they create an opportunity to adopt an individualized approach to each social relation;
- they empower the law-enforcer to evaluate facts “independently” within the limits permitted by the evaluative concepts, i.e. the ample opportunities for their own subject examination during the process of realization and implementation in practice; the necessity of their comprehension and specializing by the subjects of legal relations occurs, by means of which the capabilities, including subjectivism of the law-enforcer, are extended;

¹ V. Kosovych, *Otsinochni poniattia yak zasib yurydychnoi tekhniki*, Lviv 2010, p. 212.

² T. Kashanina, *Otsenochnyie ponyatiya v sovetskom prave: avtoref. dis. ... kand. yurid. nauk: 12.00.01.*, Sverdlovsk 1974, p. 6.

— the content and extent of evaluative concepts may undergo changes in time and may depend on the context of the norm and the peculiarities of a separate case³;

— the essential feature of evaluative concepts is peculiarity of their content structure;

— the content of evaluative concepts has an open form to which the new essential peculiarity may be added at any time. What is the reason for the usage of evaluative concepts and should they be used at all? In some cases actions which are technically identical in fixed, external, empirically fixed attributes, gain different social relevance and vice versa, actions which are different in a formal sense may obtain identical social relevance, determining the objective necessity of the usage of evaluative concepts⁴. Evaluative concepts reflect simple actions, events, phenomena, social relevance without their technically fixed attributes, thus empowering the law-enforcer to take into consideration the existence of different relevance of identically relevant technical actions or the identical relevance of technically different actions.

The expediency of evaluative concepts in the legal norms has been proven by the functions which they perform. The securing of individual law regulation and establishing its limits; legislative economy; surpassing the legislative gaps; promoting the achievement of necessary clarification for legal relations; the prognostic function⁵ are listed among their functions. But their main function is to secure the correspondence between the regulatory impact (the law) and the regulatory object (social relations controlled by them) to full extent⁶.

The evaluative concepts ensure the fulfilling of one of the most significant tasks of the regulatory act, that is, actually, to be legal. Those are the evaluative concepts that, while used appropriately, guarantee human rights in particular relation, and allow the lack of general concepts or rules within the formal definiteness of regulatory directions.

The main argument of the opponents of the evaluative concepts' introduction into statutory documents is the possibility to create a broad and, sometimes, subjective law-enforcement judgment. That demands a thorough work on law preparation in the period of legislative acts' projects development. The system of preconditions (grounds) for the evaluative concepts' use must serve as a guarantee of their application in the projected legislative acts. According to the results of previous research, it is possible to refer to such preconditions as the following:

— the necessity of forming legal norms aimed to regulate public interactions the social importance of which is quickly growing in the course of time;

³ T. Soloveva, „Otsenochnyie ponyatiya i suzhdeniya v ugovolno-protseesualnom prave”. *Pravovedenie* 1986, No 3, p. 69.

⁴ P. Rabinovich, *Sotsialisticheskoe pravo kak tseinnost*, Lvov 1985, p. 17.

⁵ T. Kashanina, op. cit., p. 6.; M. Stoyakin, „Dopolnitelnyie osnovaniya yuridicheskoy kvalifikatsii pravonarusheniy”. *Pravovedenie* 1993, No 1, pp. 90–94.

⁶ V. Pitetskiy, *Otsenochnyie priznaki ugovolnogo zakona (suschnost, funktsii, perspektivy ispolzovaniya v zakonodatelstve)*, Krasnoyarsk 1993, s. 50.

— the practical complexity and impossibility to foreknow the facts that are essential to the case and may have an “indicated” meaning in the law, in particular in case of obtaining “legitimated” social meaning in the aggregate of every specific relation’s peculiarities only;

— the need for creating instructions to influence the relations and facts that have identical social meaning, however, the formal characteristics of which differ in every specific situation;

— the necessity to govern the relations with a pronounced moral-ethical content that may have different variants and “shades” which are impossible to limit by indexes in advance;

— in the event of creating the legal norms that would be concretized, supplemented and specified in the process of further law-making actions. These are norms that are contained in concepts, programs, declarations, and foundations of legislation. Law-making subjects record the general tendencies of statutory regulation of the public interactions’ specific category into the evaluative concepts. While doing this, they leave room (within the limits determined by evaluative concepts) for their further improvement in the process of “law-making concretization”;

— when forming the structural elements of the dispositive legal norm (hypothesis and disposition) that implies the possibility to use it as the circumstance for appearing, changing or ceasing the subjective demands’ relations and the interests of the subject of this relations (on condition that these demands and interests do not infringe on others’ rights and public interests);

— in case of modeling the legal norms that secure the general principles of legal regulation. For instance, Article 3 of the Civil Code of Ukraine records such principles of civil legislation as justice, conscientiousness, and reasonableness (officially undesignated concepts).

Apart from the preconditions, the criteria of the evaluative concepts’ admissible usage are also distinguished in science. They are: the time criterion, the criterion of mutual definitiveness of legal prohibition of adjacent spheres, the criterion of taking into consideration non-legal (moral) regulators⁷.

It is necessary to examine the problem of the verity of normative-legal valuations securing in evaluative concepts also in the light of general demands for legitimacy in law-making activity that have been quite thoroughly described in the juridical works.

The problem of verity of binding of legal and regulatory assessments to evaluation concepts should also be considered in the light of the general requirements of legality in law-making which are quite thoroughly described in legal writings. To our mind, considering positions of axiology these requirements include:

— compliance of the legal bans, incentives and power with the needs and concerns of society members in given historical circumstances; attaining the greatest possible identity between the initial social, moral and legal assessments enshrined in

⁷ V. Ignatenko, *Otsenochnyie ponyatiya i administrativno-deliktnyyi zakon*, Irkutsk 1996, p. 34.

legal acts; approximation of individual legal assessments to secure unitary social values (prevention of contradictions in legal and regulatory acts on common priorities);

— foresight of positive and negative effects in the process of implementation of selected methods, tools, modes of legal regulation of certain social relations;

— the necessity to achieve parity between values protected by the law and individual interests that contradict these values; selection of means that would bind persons who do not recognize social values protected by the law not to realize actions against them;

— focus on the universal human values in the process of legal consolidation of social values.

Successful accomplishment of these requirements largely depends on available knowledge about socially significant phenomena, events, processes, and their possible regulation can be achieved through the ontological and axiological perception. This requires the provision of the law-making subjects with comprehensive knowledge: scientific, expert, sociological, legal and others.

The verity of legal regulations can be examined through their implementation, interpretation and application. Thus, the index of the verity of assessments included in regulatory and legal acts is the measure of realization of fixed empowering, binding and prohibitory prescript by members of the society.

As we know, the realization of legal regulations is the implementation of regulatory and legal prescripts enshrined in the lawful conduct of the subjects of law. Thus, law-realization actions are first of all connected with the subject of implementation of legal prescripts into social relationships. All subjects of the law — different participants of legal relationships, citizens and officials (as individual subjects of assessment) as well as various public organizations and government bodies bearing on regulations of their activity (as collective subjects) — can be considered as the subject of law-realization.

The primary objects of evaluation in the implementation of the legal regulations of assessment are the very assessment concepts and social relationships that are governed by them.

Assessment concepts always create the grounds for subjective judgement. Therefore, the subject of their implementation must meet both requirements for the individuals and for the officials (professionalism, competence, impartiality, integrity, etc.). Personal axiological convictions and orientations are not usually of the main influence on the character of the assessment made by the subject implementing the procedural rules in the process of evaluation. The main criteria for the assessment are their legal affirmations and strict implementations of legal demands into their activity as well as adherence to general principles of the law.

The implementation has a certain sequence including certain stages of the assessment. In axiological perspective such stages of realization of the assessment regulations can be defined as:

— clarification of the necessity in undertaking actions or in passive behavior, in maintaining, changing or keeping of the legal status of a person in certain legal re-

relationships. This necessity can be defined by particular interest caused by respective needs or concerns;

- perception of the main statutes that regulate given activities or the legal status of a person (ontological perception) and clarification of their possible influence on the interests of a person (axiological perception);

- comparison of possible significance of the effects of legal regulations implementation with the significance of lawful or unlawful actions for the interests of a person in a specific legal relationships and choosing of the priority behavior;

- creation of an appropriate attitude to legal regulations that govern specific social relationships and affirmations about their particular realization (proper or improper);

- practical implementation of the findings through specific realization through legal regulation prescripts.

Ignoring the peculiarities of assessments regulations implementation can lead to mistakes in law realization.

The system of the components and rules (that shall be the components of law-realization technique) can prevent the mistakes in legal assessment regulation.

Generally, these requirements can be divided into two groups: gnoseologically-axiological and legal.

We believe that gnoseologically-axiological prerequisites (rules) of the evaluation verity during law realization are:

- accuracy of perception of the legal regulations content as well as social relationship they regulate;

- proper clarification of personal, group and social needs and interests in regulated relationships;

- correct estimation of the importance of the realized legal prescripts for the subject of evaluation and other relationships participants;

- selection of a legal prescript as the main evaluation criteria for the strict observance of the law requirements (in binding or prohibitory regulations) or axiological orientations prevailing in society (if implementing the empowering regulation).

Legal regulations implementing legal assessment regulations are generally concordant with the corresponding law enforcement that will be further considered.

In the scientific literature law enforcement is considered as an activity of specifically authorized subjects, aimed at setting individual rules of conduct of the personified subjects in specific relationships.

First and probably the most important rule of law implementation is legality. Among all its components regarding their evaluative features the choice of an appropriate legal regulation is a specific one because the regulation should govern the actual relationship of the case.

The existence of evaluative concepts in a legal regulation gives the possibility of an individual approach and the most objective and fair resolution of the case; and at the same time the possibility of subjectivism and abuse of the subject's legal relation-

ships. This subjects the law to strict requirements regarding human rights and the need to motivate decisions about their limitations.

The implementation of evaluative legal norm should be done on the condition that sufficient information about availability of socially important factors determined by evaluative concepts is available. Such decision cannot be based on personal discretion of a legislator only.

Available information about social importance of things, actions etc., covered by evaluative concepts has to be researched additionally (one more time) and confirmed by a legislator directly.

Motivation in case of evaluative legal norms application incites a legislator not only to indicate the quality of action a decision was based on, but also the grounds for recognition of certain socially important quality present in an action.

Implementation of evaluative norms conditions not only peculiarities of law-enforcement activity, but also formalization of law-enforcement decisions. Legislative acts, issued as a result of application of legal norms with evaluative concepts, should differ according to:

- in descriptive part of their decisions virtual conditions of case, which are covered and regulated by evaluative concepts, must be outlined;

- in their motivating part additional explanation (argumentation) of certain legal evaluation, which is given on the grounds of and within the limits determined by evaluative concepts, i.e. grounding of correspondence between social importance of qualified action and social importance determined by an evaluative concept, must be included;

- in such acts formally undetermined concepts cannot be used.

As it was already mentioned, law-enforcement mistakes are mostly conditioned by improper application of evaluative legal norms. A number of guarantees for proper law-enforcement evaluation should be created in order to reduce the amount of mistakes or prevent them. Such guarantees can be differentiated into preconditions of proper law-enforcement and its actual guarantees.

Preconditions are divided into gnoseologically axiological and legal. First of all, let us focus on the latter. They can be as follows:

- perfect corporeal legislation (for example, reasonable application of regulatory acts of evaluative concepts in texts);

- perfect procedural legislation (legislation which would allow applying necessary methods for understanding of virtual conditions of a case, impartially evaluating evidence and reevaluating law-enforcement evaluation) and its strict implementation;

- legal competence of law-enforcement subjects;

- collectivity of evaluation during hearing of especially complicated or important cases;

- existence of a supervisory bodies system (bodies authorized to restate law-enforcement evaluations);

— provision of possibilities to state evaluations and secure their consideration by law-enforcement bodies to subjects one or other legal norm applied to.

Legal guarantees of law-enforcement evaluating and evaluations validity are acts which refer to correct understanding of applied legal norms, adequate presentation of social importance of evaluated facts such norms are applied to. Legal guarantees of correct application of evaluative norms can be divided into material and procedural ones. For characteristics of material ones, it is necessary to provide these guarantees classification:

— according to the legal nature — statutory and regulatory, regulatory interpretative, individual legal;

— according to the gnoseological nature — specification of evaluative concepts, interpretation of evaluative concepts, introduction of criteria of evaluative concepts.

Statutory and regulatory guarantees are acts of the law which are a result of regulatory specification of evaluative concepts performed by a legislator directly or other law-making body or body authorized to perform regulatory specification.

Regulatory interpretative guarantees are acts of the law which include official interpretation of evaluative concepts when such concepts are not fully formalized, in other words, because of the reduction of formal uncertainty of evaluative norms (interpretation of evaluative concepts by less abstract but still not fully determined concepts).

Individual legal guarantees are acts of the law which are given as a result of individual specification or interpretation of social relevance, which is foreseen by evaluative concepts in a specific case.

Statutory and regulatory, regulatory interpretative, individual legal guarantees of propriety of law-enforcement evaluation are based on the gnoseological nature. Thus they can be classified, as it was already mentioned, additionally in terms of the gnoseological nature of a corresponding intellectual operation.

The guarantees of the first type appear in the process of specification and detalization of evaluative norms, i.e. operations which can be run in the process of creation and application of rules. These processes make meaning and composition of evaluative concepts more defined and at the same time they do not prohibit a legislator from taking into account individual peculiarities of every specific case.

The guarantees of the second type appear due to the official interpretation (explanation) of evaluative norms (if they are not formalized). They are amended by unofficial interpretations (of experts, scholars) as well. Moreover, an official interpretation limits the possibility of subjectivism of law-enforcement body to occur, while an unofficial one helps prevent mistakes due to the complexity of reliable determination of correspondence of social relevance of matter under investigation to social relevance, which was enshrined in the evaluative norm by a legislator.

Introduction of relations evaluative criteria, which are regulated by evaluative rules or, in other words, criteria of evaluative concepts, may be considered as the third type of guarantees. It provides initial features which construct the composition of evaluative concepts, its core, according to which social and legal relevance of acts

covered by evaluative concepts is to be determined. In this case, the evaluative nature of the latter remains and grounds for determination of social and legal relevance of criminally punishable act foreseen by this notion are specified.

Court duty to motivate its sentences and outcomes, which are regulated in accordance with application of evaluative norms, may be considered as a procedural guarantee. A possibility to overestimate law-enforcement evaluation by other state agencies enshrined in procedural norms is a specific legal (procedural) guarantee. It stems from procedural rights and duties of law-enforcement bodies of different levels (for example, the duty of the court of cassation to examine comprehensively and fully, independently of appeal limits, outcome's justness and reasonableness of court of original jurisdiction).

As we can see, among the guarantees of proper application of evaluative concepts leading position is taken by their interpretation that creates an obligation to distinguish main peculiarities of interpretation of these concepts. According to the results of previously conducted research, we believe that interpretation of norms with evaluative concepts should be done in accordance with the rules listed below:

- the explanation of identical evaluative concepts' meaning in one and the same statutory instrument should coincide;

- the understanding of one and the same evaluative concept used in different statutory instruments may coincide if it is mentioned in the legal norms of the same branch of jurisprudence;

- the interpretation of one and the same evaluative concept in different branches of jurisprudence should differ, taking into consideration the peculiarities of legal regulations on each and every branch;

- socially relevant components, foreseen by the evaluative concepts, should be suggested by an expositor in accordance to the already existing knowledge about them in juridical theory and practice (be mediated and confirmed by the practice of legal regulation);

- the interpretation of an evaluative term should correspond to citizens' legal conscience and correlate with its perception and vision by the society;

- the understanding of the evaluative concepts' sense should be accomplished through the usage of formally determined and comprehensible terms;

- the need to interpret the similar evaluative concepts that are contained in norms of Ukrainian and international law on the basis of uniformity;

- logical interpretation is carried out by the logical broadening and detailing of the evaluative concepts;

- systematic explanation consists in the evaluative concepts' confrontation and their comprehension with the aim of establishment of identical and distinct social relevance of actions that are the same in the form of external fixing but somewhat different in meaning;

- historical interpretation offers the opportunity to trace the differences in the evaluation of socially relevant action in the course of time, the evolution of socially important actions that are restricted by evaluative concepts;

— the aim of purpose-oriented explanation is to establish the accordance between socially relevant targets (tasks, the aim) of social relations' legal regulation and the social importance of definite legal relations that occur in some circumstances.

International legal acts are also full of evaluative concepts. The research on the evaluative concepts, used in the Universal Declaration of Human Rights and the European Convention as well as their comparison with the evaluative concepts in the national legislation has shown some differences in their roles. For example, the determinative aim of using evaluative concepts in the national legislation is the accomplishment of effective legal pressure on social relations that, while being formally identical, may have different social importance (and, in particular, with the aim of the human rights guarantee). On the other hand, international law is aimed at securing the natural rights of man (of worldwide standards) regardless of peculiarities and the level of the state's development and the establishment of appropriate means of people's defense.

Based on the aforesaid, it is possible to draw the chain of general-theoretical conclusions and suggestions.

A legal evaluative concept is an abstract characteristic of social (personal, group etc.) relevance of actual and potential facts expressed in the legal norm and which should be obligatorily specified while being implemented or realized. This definition may be detailed depending on the specificity of the juridical branch in which the evaluative concept is used.

Evaluative concepts act as a specific means of legal technique. This specificity is manifested through the peculiarities of their creation, realization, application and interpretation.

The introduction of the legal norms of evaluative concepts into text can be considered justified if certain preconditions take place. A number of factors of legal nature aimed at ensuring the proper quality of the lawmaking process serve as a means of preventing the process of evaluative legal norms formation from mistakes.

The technique of realization of norms with evaluative concepts should include the system of demands and rules. These can be subdivided into two groups: gnoseological-axiological and legal. Gnoseological-axiological group is aimed at clarification of objective regularities of social being which are in need of a non-formalized legal influence. Legal rules are intended to secure the procedural demands defined by current legislation.

The technique of application of the norms with evaluative concept has its own peculiarities on each stage of law enforcement activity. The execution of decisions regarding law enforcement has to be done according to special structural rules. The main lingual rule concerning law enforcement acts says that a law enforcement act issued because of application of legal norms with evaluative concepts should not include formally ambiguous concepts. Gnoseological-axiological preconditions and warranties can help to prevent the application of evaluative concepts from mistakes. Legal norms here play a crucial role; they include normative and organizational

norms. Terminology ordering, establishment of lists and characteristics of facts, legal norms concretization, etc. are all parts of normative norms, and organizational norms include interpretations in high courts orders, commentary of the text of the law which contains evaluative concepts by specialists, clarification of terms by law enforcement agencies, etc.

Interpretation of law facilitates appropriate law enforcement of evaluative legal norms. The interpretation of norms with evaluative concepts must be carried out in accordance with a special system of rules.

Nowadays, the need for normative backing of generalized and concretized (as in our study) preconditions and warranties of the proper usage of legal norms with evaluative concepts for the legal regulation of social relations is becoming more and more pressing in Ukraine.

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