

THE EVALUATION CONCEPTS – A NECESSARY MEANS OF ACHIEVING THE CONSTITUTIONAL IDEA OF LEGAL CERTAINTY OR A FACTOR LEADING TO ITS VIOLATION?

Svetlana S. Burtseva

Dostoevsky Omsk State University, Omsk, Russia

Article info

Received –

2023 May 17

Accepted –

2023 October 10

Available online –

2023 December 20

Keywords

Dynamics of legislation, uniform understanding of legal norms, constitutional justice, the Constitutional Court of the Russian Federation, evaluative categories, evaluative concepts, legal certainty, judicial interpretation

The subject of the research is the study of evaluative concepts included by the legislator in legal norms in order to ensure dynamic legal regulation of social relations. The problem of using evaluative concepts is of scientific interest, since the unreasonable inclusion of such concepts in the content of a legal norm can lead to a violation of the constitutional idea of legal certainty, and their interpretation and practical application to specific situations largely depends on the level of legal awareness of the law enforcer.

The author aims to analyze approaches to understanding the category of “evaluative concepts”, identifies signs that characterize this category, its role in the legal regulation of social relations.

The methodology of scientific research is represented by a complex of private scientific, formal legal, systemic and structural methods.

The main results. The author establishes the features of the inclusion of evaluative concepts in the legal norms based on the analysis of the practice of the Russian Constitutional Court, provides interesting cases considered in the framework of the constitutional proceedings. In particular, the author provides examples of the inconsistency between established judicial practice and the practice of the Russian Constitutional Court, and also establishes the need to apply evaluative concepts in both private and public law.

Conclusions. The inclusion of evaluative concepts in legal norms is relevant for many areas of law, which is due to the need to ensure the flexibility and dynamism of legal regulation. However, the possibility of their application should not be unlimited, since this may lead to a violation of the fundamental principles of law, including the principle of legal certainty.

1. Introduction. Legal certainty is a multifaceted constitutional and legal idea that includes extensive content: requirements of formal certainty, predictability of legal regulation and foresight of legal consequences, stability, property of *res judicata*, the main purpose of which is to prevent arbitrary interpretation and application of a legal norm, protection of the rights of participants in relevant legal relations and immutability of their legal status [1, p. 166, 178]. At the same time, possible “deviations” from legal certainty that do not subject this idea to violation are not excluded. One of such deviations is the use of evaluative concepts, necessary for ensuring the dynamism of the development of legislation.

The relationship between the categories of “legal certainty” and “evaluative concept” is reflected in the practice of the Constitutional Court of the Russian Federation (hereinafter referred to as CC RF): “...the requirement of certainty of legal regulation, obliging the legislator to formulate legal prescriptions with a sufficient degree of accuracy, allowing the citizen (association of citizens) to conform their behaviour to them... does not exclude the use of evaluative or generally accepted concepts, the meaning of which should be accessible for perception and understanding by the subjects of legal relations...” (see, e.g., the decision of CC RF of 30.09.2021 № 2115-O)¹.

However, the issue of drawing a “line” between the achieving of legal certainty and the using of evaluative concepts is relevant today, since incorrect or excessive inclusion of these concepts in legal norms may be a cause of violation of the idea of legal certainty. In addition, compliance with legal certainty should be ensured by the law enforcer when interpreting and applying evaluative concepts to specific cases, which is undoubtedly influenced by the established law enforcement practice and the level of legal awareness of the person applying the relevant norms of law.

The study of evaluative concepts is devoted to the works of several authors who studied them both in general perspective (Vlasova L.V.,

Kashanina T.V., Fetisova O.E., etc.), and in relation to specific branches of law (for example, evaluative concepts contained in the norms of civil law were studied by Bogdanovich S.P., Lukyanenko M.F., Fioshin A.V., in the norms of criminal law - Aryamov A.A., Korobets B.N., Shumilina O.S., etc.).

The aim of this research is to analyze the prevailing scientific views and practice of CC RF in order to establish evaluative concepts in legislation that can have both positive and negative impact on compliance with legal certainty.

The tasks are to study:

- approaches to understanding the category of “evaluative concepts”, their role in legal regulation;
- features of using evaluative concepts in various spheres of law based on the analysis of practice developed within the framework of constitutional justice.

The methodology of scientific research is represented by a complex of private-scientific, formal-legal, system-structural methods.

2. Approaches to understanding the category of “evaluative concepts”. Evaluative concepts play an important role in legal regulation of public relations. Although in legal science there are views that the presence of a multitude of evaluative concepts in legislation leads to a deterioration of the quality of Russian legislation, since it allows courts to create a kind of law enforcement arbitrariness, which leads to a violation of the constitutional principle of equality of citizens before the law [2], most legal scholars believe that evaluative concepts have a positive impact on the state of Russian legislation. For example, according to Abdrasulov E.B. generalizations and abstractions in legal regulation are often a necessary measure allowing to ensure the legal regulation of the greatest number of life circumstances and subjects entering into various types of public relations [3, p. 1022]. Kozhokar I.P. in his theoretical and legal research notes that evaluative concepts are one of the effective legal-technical tools for combating legislative inflation, since they act as a link between the abstract normative model and the reality of everyday life [4, p. 177].

At present, there is no unified approach to understanding the category of “evaluative concept”

¹ In this article all legal acts of the Constitutional Court of the Russian Federation are listed on the official website of the Constitutional Court of the Russian Federation.

URL: <https://ksrf.ru/ru/Decision/Pages/default.aspx>.

in legal science. Thus, a number of authors (Belousova K.A., Belyaeva G.S., Umarova M.A.), using the term “evaluative category” instead of “evaluative concept”, proposed the most general definition of it: this is a legal concept reflecting the most general properties of objects, phenomena, actions, concretized by its evaluation within a specific law enforcement situation [5, p. 61]. A similar and most complete definition of the term in question is the definition given by Kashanina T.V. and supported by the majority of state scholars [6, 7]: “An evaluative concept is a provision (prescription) expressed in the norms of law, in which the most general signs, properties, qualities, connections and relationships of various objects, phenomena, actions, processes are fixed, not explained in detail by the legislator so that it can be concretized by evaluation in the process of applying law and allowed to carry out within its fixed generality individual sub-normative regulation of public relations” [8, p. 8].

Among the features of evaluative concepts in the literature one can also find: abstractness, lack of detail by the legislator [9], relative certainty and open structure of evaluative concept [10], formation of evaluative concept in the process of interpretation [11, p. 849], performance of various functions by evaluative concepts in relation to certain relations [12, p. 69].

Some scholars consider this term in a comparative aspect with other objects or phenomena of the surrounding reality. For example, Fioshin A.V. compares the category of “evaluative concept” with a press-form - a device by means of which products of different configurations are made from various materials (metal, plastic, rubber, etc.). “Like the material placed in a press-form,” the author writes, “the content of evaluative concept can be different. It can embrace various life circumstances. At the same time, the construction of evaluative concept, as it seems, has boundaries. In other words, the volume of evaluative concept is not limitless. It is impossible to include anything in it” [13, p. 93].

Besides, the authors often give a definition of the concept in question in relation to certain branches of law, taking into account their specificity. In particular, with regard to criminal law,

Korobets B.N. notes that evaluative concepts are concepts used by the legislator when constructing a criminal law norm with an open structure, the content of which is not defined in the criminal law with a sufficient degree for understanding by the law enforcer, who, evaluating the factual circumstances of the criminal act, concretizes the content of such concepts [14, p. 9]. Bogdanovich S.P. proposes to understand an evaluative concept in civil law as a formally indefinite provision fixed in the sources of normative (sub-normative) civil regulation, in which various phenomena of legal (extra-legal) reality are generalized in the most general form, the content of which is not defined in detail so that it is concretized by interpreting and evaluating of a specific situation taking into account the possible variability of its content within the limits established by legal (social) norms [15, p. 167]. Stepanova E.A. characterizes an evaluative concept of labour law as a concept, the content of which does not allow to exhaustively define in a normative legal act containing norms of labour law all cases of its use, which gives the subject implementing the legal norm the opportunity to take into account the individual characteristics of the case in compliance with the functional purpose of the normative prescription [16]. Considering the above, it seems that the main features of evaluative concepts are:

- their expression (fixation) in legal acts;
- open, non-concretized content of evaluative concepts, allowing their application in different cases individually;
- the content of evaluative concepts depends on the level of legal consciousness of the subject of law enforcement (cited from: [17, p. 91]).

In the literature, there is also a designation as a characteristic of evaluative concepts the absence of fixation in the legislative norms of their content [7, p. 117; 18, p. 134]. However, the allocation of this feature is questionable. For example, CC RF in its decision dated 28.02.2023 № 337-O recognizes as an evaluative concept the term “immovable things”, which according to paragraph 1 of article 130 of the Civil Code of the Russian Federation means land plots, subsoil plots and everything that is firmly connected with land, that is, objects that cannot be moved without disproportionate damage to their purpose, including

buildings, structures, objects of unfinished construction. According to CC RF, “the specified evaluative criterion allows courts within their discretionary powers to establish correspondence of specific objects to the concept of “immovable property”, involving experts and specialists if necessary”. Similarly, part 3 of article 327 of the Criminal Code of the Russian Federation provides for the concept of “official documents”, examples of which are listed in this norm as passport of a citizen and identity card.

In addition, it is difficult to agree with attributing to the number of specific features of evaluative concepts participation of law enforcer in forming their final content [13], since, as we have pointed out above, the distinctive feature of this category is openness of its content, which is filled depending on the circumstances of a particular case. Taking into account the dynamics of development of public relations and accordingly the emergence of new situations falling within legal field, it is possible that final content of some evaluative concepts may not be achieved in principle.

3. Evaluative concepts in the sphere of public law. Despite the fact that branches of public law largely incorporate imperative norms, often do not allow the application of analogy of law and statute, which, accordingly, requires increased attention of the legislator to compliance with standards of certainty when establishing legal prescriptions, public legislation contains a considerable number of provisions that include evaluative concepts. It should be noted that more than 60 percent of complaints received by CC RF containing arguments about the unconstitutionality of legal norms that include evaluative concepts, fall on public branches of law. Among the most considered evaluative concepts in the practice of CC RF contained in the norms of public law, it is necessary to highlight the following:

- the concept of “insignificance”, used in the Administrative Code of the Russian Federation, the application of which is allowed when the action or inaction, although formally contains signs of an administrative offense, but taking into account the nature of the committed act and the role of the offender, the amount of harm and the severity of

the consequences does not represent a significant violation of protected public relations (e.g., decisions dated 31.05.2022 № 1186-O, dated 20.07.2021 № 1648-O);

- the concept of “significant violation of rights and legitimate interests” contained in a number of articles of the Criminal Code of the Russian Federation. At the same time, as CC RF has repeatedly pointed out, when evaluating significant violations of rights and legitimate interests, law enforcer must necessarily specify what exactly such a violation consists of (e.g., decisions dated 24.02.2022 № 276-O, dated 28.12.2021 № 2715-O);

- the concept of “misdemeanour discrediting the honour of an employee of the internal affairs bodies”, the commission of which is the basis for dismissal from service. The establishment of such a ground for dismissal is aimed at the realization of public interests, conditioned by the performance by the police officers of constitutionally significant functions to ensure law and order and public safety (e.g., decisions dated 20.04.2017 No. 751-O, dated 24.03.2015 No. 474-O).

It seems that the establishment of evaluative categories provides a certain degree of flexibility of public legislation [19, p. 92], which positively affects on the application of an individual approach taking into account the specifics of the situation. However, the use of evaluative concepts should be carried out in such a way as to ensure their proper implementation by law enforcer within the limits of legal discretion so that the rights and legitimate interests of participants in public relations are not violated.

Based on the analysis of practice that has developed as a result of constitutional justice delivery, three key provisions can be identified which should correspond to fixing evaluative concepts in the legal norms regulating public relations:

- the use of an evaluative characteristic by legislator should pursue the goal of effective application of norm to an unlimited number of specific legal situations, which is conditioned to the variety of factual circumstances, the fixing of an exhaustive list of which is not possible (decisions dated 31.05.2022 № 1866-O, dated 28.09.2021 № 1710-O);

- the use of evaluative concepts should ensure their uniform understanding and application to the same circumstances (decision dated 27.10.2015 № 2365-O);

- the use of evaluative concepts in legislation should ensure the possibility to foresee the relevant consequences of one's actions or inaction, including by identifying a more complex relationship of legal prescriptions and taking into account the interpretation of legislative terms in law enforcement practice (decisions dated 30.01.2020 № 237-O, dated 27.09.2018 № 2221-O, dated 27.06.2017 № 1411-O).

It is noteworthy that in some cases CC RF seeks to supplement or clarify the explanations regarding certain evaluative concepts. For example, refusing citizen Pozdeev E.M. in accepting his complaint for consideration on violation of his constitutional rights by part 5 of article 86 of the Criminal Code of the Russian Federation (decision dated 31.03.2022 № 809-O), CC RF actually gave an interpretation of the evaluative concept of "impeccable behaviour", subject to evaluation by courts in cases of early removal of conviction from the convicted person. CC RF pointed out that "the impeccable behaviour of a person can be evidenced by data from the place of residence, confirming, among other things, the presence of strong social ties (marriage, birth of children, their proper upbringing, care for elderly parents, etc.), positive characteristics from the place of work or study, other information about the person". These conclusions of CC RF were retransmitted in the resolution of the Plenum of the Supreme Court of the Russian Federation dated 07.06.2022 № 14 "On the practice of application by courts in criminal cases legislation regulating the calculation of the term of extinguishment and procedure for removal of conviction" two months after the adoption of the considered decision.

In addition, in the decision dated 28.03.2017 № 665-O the body of constitutional control, in addition to those listed criteria for determining public calls in subparagraph 3 of paragraph 4 of the resolution of the Plenum of the Supreme Court of the Russian Federation (hereinafter - SC RF) dated 28.06.2011 № 11 "On judicial practice in criminal cases on crimes of

extremist orientation", additionally pointed out another criterion that should be taken into account when resolving the issue of public calls - the nature of actions to which such appeals are directed. Meanwhile, unlike the case discussed above, it did not receive its fixation in the above-mentioned resolution of the Plenum of SC RF, which, as confirmed by established judicial practice, entails not taking into account this criterion when qualifying relevant unlawful acts (e.g., decision of Moscow City Court dated 23.03.2023 on case № 7-7470/2023, resolution of October District Court of Lipetsk city dated 27.01.2023 on case № 5-2/2023 and others).

In the practice of CC RF, interest is also aroused by situations in which the body of constitutional control, although refuses to accept the complaint for consideration due to its inadmissibility, but "hints" to the legislator about the need to consider the possibility of making appropriate changes to legal regulation. Among such situations, it is necessary to refer to the case on the complaint of LLC "VUMN" on violation of constitutional rights and freedoms by the provisions of part 2 of article 20 of the Law of the Russian Federation dated 21.02.1992 № 2395-1 "On Subsoil", which allows early termination of the right to use subsoil in case of violation by the subsoil user of the essential conditions of license (decision dated 09.03.2017 № 565-O). CC RF did not agree with the assertion of LLC "VUMN" about the legal uncertainty of the concept of "essential conditions of license", since "due to the features that may be inherent in each subsoil plot (geological, geographical, climatic, economic, etc.), it is not possible to give a uniform normative definition of the term "essential conditions of license". However, it was noted that "such an approach allows to regard any conditions of license agreement as essential", and also pointed out to the right of federal legislator to clarify legislation in part concerning this evaluative concept. It should be noted that part 2 of article 20 of the Law of the Russian Federation dated 21.02.1992 № 2395-1 "On Subsoil" in edition of Federal Law dated 30.04.2021 № 123-FZ indicates the early termination of the right to use subsoil in case of violation by subsoil user of the conditions of the license for subsoil use, a single failure to comply with which in accordance with such license is a basis

for early termination of the right to use subsoil. It seems that this approach best ensures the rights and legitimate interests of subsoil users, since it allows license holders to foresee consequences of their behaviour with a greater degree of certainty.

Based on the above, it can be concluded that despite the nature of public legislation, the presence of evaluative concepts in it in some cases is a “necessary arsenal” for its application to different situations arising in life. Fixing a more precise list of characteristics and cases instead of using evaluative concepts may lead to a large number of gaps in the legal field, continuous law-making by legislator, which, undoubtedly, will have a negative impact on the level of certainty of legal regulation and redundancy of law-making.

4. Evaluative concepts in the sphere of private law. The dispositive type of legal regulation of private legal relations, consisting in the predominance of permissive norms, as a result of which participants of such relations act as right holders [20, p. 88; 21, p. 79], the possibility of eliminating gaps in law through the application of the analogy of law and statute are the reasons for extensive use of evaluative concepts in private law relations. According to Golubtsov V.G., evaluative concepts in civil law are a natural and necessary attribute of legislation, intrinsically inherent in civil law as one of the means of constructing its legal norms [22, p. 46]. A similar position is held by M.F. Lukyanenko, considering that “they (evaluation categories – - author’s note) are a vivid example of the manifestation of dispositive nature in law” [23, p. 47].

Among the most evaluative concepts considered in the practice of CC RF are the requirements of reasonableness and fairness, taking into account which, during the consideration of the case, the judge makes a decision within the limits of freedom of discretion granted to him by law, which cannot be considered as a violation of any constitutional rights and freedoms of citizen (e.g., decisions dated 24.02.2022 № 378-O, dated 28.11.2019 № 3255-O).

According to legal positions of CC RF evaluative concepts fixed in the norms of private law should also correspond to those key provisions that were highlighted by us above in relation to the

norms regulating public relations (see, e.g.: decisions dated 28.12.2021 № 2801-O, dated 21.06.2011 № 811-O-O). However, a feature in relation to private law norms is also that evaluative concepts are filled with content depending on how they are interpreted not only by law enforcement practice, but also by participants of civil turnover (in particular, based on decision of CC RF dated 08.06.2004 № 226-O). In addition, it is noted in the literature that the possibility of variability of content of evaluative concept by agreement of parties is also not excluded regardless of existing judicial practice or customs of business turnover [22, p. 40], which is certainly related to the effect of the principle of dispositive nature in private law relations. Therefore, in the vast majority of cases, the existence of evaluative concepts in private relations does not create the uncertainty that is sufficient to recognize norm as unconstitutional.

However, CC RF still adopted a number of resolutions in which legal interpretation is given to private law norms containing evaluative concepts.

Thus, in 2020 CC RF adopted resolution dated 26.11.2020 № 48-P, by which paragraph 1 of article 234 of the Civil Code of the Russian Federation was recognized constitutional in part concerning definition of good faith of a person's ownership of a land plot transferred to him by former owner under transaction with the intention to transfer his owner's rights to immovable property. Not excluding the possibility of the fixing by legislator the evaluative concept “good faith”, CC RF pointed out that it should ensure the stability of civil turnover, that is, there is an objective opportunity for any participant in civil turnover to count on the predictability of the civil consequences of the actions committed [24, p. 50].

The conclusions reached by the CC RF in the resolution of 22.06.2017 № 16-P on the case of checking of constitutionality of the provision of paragraph 1 of article 302 of the Civil Code of the Russian Federation in connection with the complaint of citizen Dubovets A.N. are also interesting. According to the applicant, the considered paragraph does not comply with the provisions of the Constitution of the Russian Federation insofar as it allows law enforcers to arbitrarily interpret the concept of “good faith acquirer” and, accordingly, to

seize immovable property that was abandoned from its last acquirers, whose right of ownership and legality of all preceding transactions for acquisition of this right were recognized by the state within the framework of state registration of rights to real estate and transactions with it.

As a result of consideration of the complaint of Dubovets A.N., CC RF, on the one hand, recognized paragraph 1 of article 302 of the Civil Code of the Russian Federation constitutional in that part in which it provides for the right of owner to demand property belonging to him from a good faith acquirer in the case when this property left the possession of owner without his will, and on the other hand - unconstitutional to the extent that it allows the reclamation, as from someone else's illegal possession of a dwelling that was abandoned property, from its good faith acquirer, who registered the ownership right to it in accordance with the procedure established by law, in the case when corresponding public-law entity did not take timely measures to establish it and properly formalize its ownership right on this property. At the same time, on the basis of article 79 Federal Constitutional Law "On the Constitutional Court of the Russian Federation" CC RF did not prescribe the legislator to make appropriate changes to the Civil Code of the Russian Federation.

In connection with the adoption of this resolution persons whose property was seized on the basis of paragraph 1 of article 302 of the Civil Code of the Russian Federation in the revealed unconstitutional interpretation began to appeal to state bodies for the return of their property (which corresponds to parts 3 and 5 article 79 of the Federal Criminal Code "On the Constitutional Court of the Russian Federation"), but were refused to fulfil their requirements. The legality of such refusals was confirmed by courts of different instances, motivating it by fact that resolution dated 22.06.2017 № 16-P does not contain a direct indication on the necessity of revision of judicial acts on cases of persons who were not participants constitutional court proceedings. In particular, this problem affected the citizens Odnodvortsevs who had been under threat of eviction for 12 years. In connection with the non-execution of the above-

mentioned resolution they appealed with complaint to CC RF which indicated that such revision is conditioned by purposes the observance of the principles legal certainty in disputed material legal relations and the stability of civil turnover (resolution CC RF dated 26.06.2020 № 30-P).

Thus, the above examples demonstrate possible difficulties in the application of private law norms containing evaluative concepts, despite the fact that private legal relations due to their specificity more absorb their use. In confirmation of this, we can also cite position Musarsky S.V., who does not agree with the opinion CC RF that "evaluative concepts are not so uncertain that they do not ensure a uniform understanding and application of the relevant legal provisions". Considering the civil law category "abuse of right" as an evaluative concept, the author argues that "on the same issues that are related to the abuse of right, Russian courts take different (often diametrically opposed) positions" [25, p. 13]. It seems that such situations cannot be excluded, taking into account a different level of the legal consciousness of judges and the inevitability of application of an individual approach.

5. Conclusion. The inclusion of evaluative concepts in legal norms is relevant both for the branches of private and public law. At the same time, their use should be justified by the need to ensure flexible, dynamic legal regulation of public relations, the most susceptible to changes, or the by the inevitability of the applying of formally defined concepts in certain cases. It should be deliberately not specified by the legislator in order to ensure the possibility of its application to changing realities. However, the possibility of applying of evaluative concepts should not be unlimited, since it may lead to negative consequences, related to violation of the principles of law, including the fundamental principles of legal certainty, rule of law, justice, exerting a negative impact on the level of trust of citizens to laws, improper protection of their rights and legitimate interests. This is the fine line between certainty and uncertainty of legal regulation, the "bridge" between which evaluative concepts act, which causes interest in further research of both this legal category in general and specific evaluative concepts in particular.

REFERENCES

1. Shishkina O.E., Burtseva S.S. Legal certainty in the practice of the Constitutional Court of the Russian Federation. *Aziatsko-Tihookeanskii region: ekonomika, politika, pravo = PACIFIC RIM: Economics, Politics, Law*, 2021, no. 3, pp. 166–182. DOI: 10.24866/1813-3274/2021-3/166-182. (In Russ.).
 2. Kondrashev A.A. Tendencies of the constitutional development of Russia within the framework of the 2020 constitutional reform. *Konstitutsionnoe i munitsipal'noe pravo = Constitutional and Municipal Law*, 2021, no. 11, pp. 15–25. (In Russ.).
 3. Abdrasulov E.B. Constitutional bases of legislative and supplementary legal regulation in the Republic of Kazakhstan: Practical issues and doctrinal interpretation. *Vestnik Sankt-Peterburgskogo universiteta. Pravo = Vestnik of Saint Petersburg University. Law*, 2022, vol. 13, iss. 4, pp. 1022–1040. DOI: 10.21638/spbu14.2022.412. (In Russ.).
 4. Kozhokar I.P. Legislative inflation: a theoretical legal study. *Vestnik Permskogo universiteta. Yuridicheskie nauki = Perm University Herald. Juridical Sciences*, 2022, iss. 2 (56), pp. 158–186. DOI: 10.17072/1995-4190-2022-56-158-186. (In Russ.).
 5. Belousova K.A., Belyaeva G.S., Umarova M.A. Concept and the essence of the appraisal categories in law. *Pravo i gosudarstvo: teoriya i praktika = Law and State: the theory and practice*, 2020, no. 8 (188), pp. 59–62. (In Russ.).
 6. Zarzhitskaya L.S. On the legal nature of evaluation concepts in labor law. *Mirovoi sud'ya = Magistrate judge*, 2019, no. 7, pp. 37–40. (In Russ.).
 7. Onosov Yu.V. Theoretical aspects of the relationship between «evaluative concept» and the concept of «discretion in law». *Vek kachestva = Age of Quality*, 2020, no. 4, available at: <http://www.agequal.ru/pdf/2020/420008.pdf>. (In Russ.).
 8. Kashanina T.V. *Valued notions in Soviet law*, Cand. Diss. Sverdlovsk, 1974. 185 p. (In Russ.).
 9. Usol'tsev E.Y. Problems of Legal Certainty and Judicial Discretion when Applying Legal Provisions on Abuse of Right. *Rossiiskii sud'ya = Russian Judge*, 2020, no. 10, pp. 46–50. (In Russ.).
 10. Demin A.V. *Principle of tax certainty*, Monograph. Moscow, Statut Publ., 2015. 368 p. (In Russ.).
 11. Belov S.A. Characteristic of legal communication: Addressees of legal acts. *Vestnik Sankt-Peterburgskogo Universitet. Pravo = Vestnik of Saint Petersburg University. Law*, 2022, vol. 13, iss. 14, pp. 841–859. DOI: 10.21638/spbu14.2022.401. (In Russ.).
 12. Grachyova Y.V. Violence as an evaluative concept. *Lex Russica*, 2011, vol. 70, no. 8, pp. 68–78. (In Russ.).
 13. Fioshin A.V. On the valuation concepts of private and public law. *Vestnik grazhdanskogo protsessa = Herald of Civil Procedure*, 2022, vol. 12, no. 5, pp. 90–113. (In Russ.).
 14. Korobets B.N. *Evaluative concepts in Russian criminal law (social conditionality and legal essence)*, Cand. Diss. Moscow, 2007. 165 p. (In Russ.).
 15. Bogdanovich S.P. The concept and features of evaluative concepts in property and liability law. *Vlast' zakona*, 2011, no. 4 (8), pp. 166–171. (In Russ.).
 16. Stepanova E.A. *Evaluative concepts of labor law*, Cand. Diss. Rostov-on-Don, 2005. 187 p. (In Russ.).
 17. Truntsevskiy Yu.V. Formal and evaluative characteristics of crimes committed in the sphere of economic activity. *Vestnik Tomskogo gosudarstvennogo universiteta. Pravo = Tomsk State University Journal of Law*, 2021, no. 41, pp. 86–97. DOI: 10.17223/22253513/41/8. (In Russ.).
 18. Vlasova L.V. Legal evaluative concepts as a particular case of legal concepts. *Nauchnoe mnenie = The Scientific Opinion*, 2014, no. 11, pp. 133–136. (In Russ.).
 19. Vlasenko N.A. *Reasonableness and certainty in legal regulation*, Monograph. Moscow, Institute of Legislation and Comparative Law under the Government of the Russian Federation Publ., INFRA-M Publ., 2019. 157 p. (In Russ.).
 20. Rybakov V.A. On permissible method and dispositive type of legal regulation. *Yuridicheskaya nauka = Legal Science*, 2016, no. 4, pp. 88–89. (In Russ.).
 21. Gordeev P.A. Dispositivity in the Regulation of Civil Legal Relations. A Theoretical and Methodological Analysis. *Rossiiskoe pravo: obrazovanie, praktika, nauka = Russian Law: Education, Practice, Researches*, 2018, no. 4 (106), pp. 79–85. (In Russ.).
 22. Golubtsov V.G. Evaluation concepts in Russian codifications of civil law. *Lex Russica*, 2019, no. 8, pp. 37–50. DOI: 10.17803/1729-5920.2019.153.8.037-050. (In Russ.).
- Law Enforcement Review
2023, vol. 7, no. 4, pp. 86–95

23. Luk'yanenko M.F. *Evaluative concepts of civil law: reasonableness, conscientiousness, materiality*, Monograph. Moscow, Statut Publ., 2010. 423 p. (In Russ.).
24. Eremenko V., Koida O. Stability of civil circulation versus protection of participants in legal entities. *Korporativnyi yurist*, 2014, no. 4, pp. 50–56. (In Russ.).
25. Musarskiy S.V. Duty of the court of cassation to review the findings of the lower-level courts on the cases of abuse the right. *Vestnik arbitrazhnoi praktiki*, 2021, no. 5, pp. 12–17. (In Russ.).

INFORMATION ABOUT AUTHOR

Svetlana S. Burtseva – Postgraduate Student, Faculty of Law
Dostoevsky Omsk State University
55a, Mira pr., Omsk, 644077, Russia
E-mail: burtseva.ss.dvfu@gmail.com
RSCI SPIN-code: 8332-5206

BIBLIOGRAPHIC DESCRIPTION

Burtseva S.S. The evaluation concepts – a necessary means of achieving the constitutional idea of legal certainty or a factor leading to its violation?. *Pravoprimerenie = Law Enforcement Review*, 2023, vol. 7, no. 4, pp. 86–95. DOI: 10.52468/2542-1514.2023.7(4).86-95. (In Russ.).