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The decision of the European Court of Human Rights and the issue of determining the content of evaluation features

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■ **Abstract.** Resolving controversial issues related to the content of evaluative features in the context of the judgments of the European Court of Human Rights is important for the development of legal science and practice, since increased integration within Europe requires national governments and judicial systems to pay increased attention to the practice of supranational bodies. The purpose of this study is to analyse the judgments of the European Court of Human Rights, aimed at determining the content of the evaluative features in the context of human rights. For this purpose, the author uses the methods of legal literature analysis, comparative analysis of case law from different countries, synthesis, comparison, and modelling, as well as logical and systematic approaches to the analysis of court decisions. The article establishes that the assessment criteria are an important tool for determining human rights violations and require an objective and proportionate approach. Attention is focused on the role of the European Court of Human Rights in ensuring a balance between freedom of expression and the protection of human rights. The author identifies the need to adapt concepts to digital environments and take into account new challenges. The author analyses the process of determining the evaluative features and demonstrates its significance for establishing the scope of human rights protection. The author identifies different approaches of the European Court of Justice to determining the content of evaluative features in human rights judgments. The emphasis is placed on the interpretation of such concepts as “adequacy”, “excessiveness” and “necessity” in the context of human rights restrictions. The author identifies changes in the court's approach to these concepts over time and changes in the social and political context. The study is important for an in-depth understanding of the interpretation of human rights by the European Court of Human Rights, as well as for the formation of a unified methodology for interpreting the evaluative features in the judgments of courts of different jurisdictions

■ **Keywords:** court decisions; international law; national law; legal standards; protection of rights

■ Introduction

In the context of the growing importance of legal protection of human rights in the international community, the European Court of Human Rights (ECHR) is a key body for the protection of human rights in Europe. However, one of the main and complex challenges facing this court is to determine the content of the

evaluative elements in judgments concerning human rights violations. Evaluative features are an important tool for identifying violations of specific human rights and ensuring their proper protection. However, their definition and understanding can determine the scope of protection for each right. The issue of

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defining these evaluative features is of great importance for striking a balance between freedom of expression and protection of individuals' rights, as well as for establishing consistent and transparent standards. The ECtHR's approaches to determining the evaluative features may reveal ways to ensure proper protection of human rights, which is a relevant and important topic for scientific research. An analysis of the court's judgments in this context can contribute to an understanding of the basic principles and approaches to determining the evaluative features, which has practical application for the legal community and the human rights protection system as a whole.

It is necessary to consider additional aspects that may affect the understanding of the binding nature of the European Court's judgments. For example, it should be noted that there are certain exceptional circumstances when states may have justified grounds for refusing to comply with judgments. This may include situations where the judgments of the European Court contradict the basic principles of the national constitutional legal order or where the execution of judgments leads to serious national security or public interest. Such exceptional situations may limit the binding effect of the Court's judgments (Pankratova & Lubenets, 2019).

Researcher U.Z. Koruts (2017) has determined that in the Romano-Germanic legal system, which includes most European countries, the judgments of the European Court are usually considered a source of law on a par with national legislation. This means that the Court's judgments are directly binding and can be applied in national courts. On the other hand, in Anglo-Saxon law systems, which are typical for countries such as the United Kingdom and the United States, the Court's judgments may have precedential value and influence the development of future law.

The authors A.Y. Badida & V.V. Lemak (2017) found that in Muslim countries, where Islamic law (sharia) has a significant influence on the legal system, the perception of the European Court's judgments may differ. In such countries, there is a need to take into account Islamic principles and traditions when applying the Court's judgments, especially if they relate to religious aspects, family law or freedom of religion. In turn, N. Vogiatzis (2022) examines how the Court interprets the right to translation under Article 6(3)(e) of the Convention, which is one of the rights of defence in criminal proceedings. The author shows that there is actually a "cautious evolution": The Court has gradually – but also cautiously-developed standards and guarantees of this right, which is a requirement of a fair trial (Vogiatzis, 2022).

S.K. Dudar (2019) focuses on specific aspects of case law, such as the "reasonable time" for the consideration of a case or the quality criteria of a law. This allows considering the impact of the court on specific

aspects of the legal system. S.M. Zadorozhna, (2019) examines the impact of various aspects of international law on the court's activities. It provides an understanding of how external factors affect the process of human rights interpretation. This study helps to expand the understanding of the impact of external factors, such as international law, on the work of the ECtHR. It adds to a deeper understanding of the context in which the court operates. The analysis of the above studies confirms that the topic of determining the content of evaluative features in the ECtHR judgments is relevant and important.

The purpose of the article is to analyse the role of the ECtHR in determining the evaluative features and their impact on human rights.

The following methods of scientific research were used in this article. The method of legal document analysis was used to analyse certain provisions of the European Convention on Human Rights. The comparative-analytical method allowed the author to use scientific sources which study the issues of determining the content of evaluation criteria and the role of the European Court of Human Rights in the protection of human rights. The methods of interpretation and synthesis were used to analyse the information from the collected sources, interpret it and formulate conclusions. By summarizing the approaches discussed in the scientific literature, the key conclusions were formulated regarding the definition of the content of the evaluation features in modern scientific discussions. At the same time, the use of analysis and interpretation methods helped to establish links between various aspects of the issue of determining the content of evaluative features and the role of the ECtHR in protecting human rights.

■ The European Convention on Human Rights in the ECHR

The issue of determining the content of evaluative features in the judgments of the European Court of Human Rights (ECHR) is very important in terms of human rights protection and development of legal standards. The issue reflects the complexity and depth of the tasks faced by the court in ensuring justice and protecting fundamental freedoms and rights. It is important to recognize that in today's world, society is constantly evolving, and with this evolution, the concepts of what is just and worthy of protection change. Such an understanding requires judges to analyse in depth and take into account social changes in their decisions. It is necessary to keep in mind the balance between the interests and rights of the individual and the interests of society as a whole. There are cases when interference with the rights of one individual may be justified from the point of view of the general welfare. It is important to ensure proportionality and to take into account that the fair

balance may vary depending on the context. Dialogue between the Court and national courts should be maintained. This helps to ensure uniformity in the interpretation of the convention and a level of stability in law enforcement. However, it can also lead to variations in judgments, as different courts may assess the circumstances of a case differently.

In general, these issues show that the work of the European Court of Human Rights requires great sensitivity, analysis, and a desire to ensure fair protection of human rights and freedoms in a constantly changing environment. This is a complex task that requires the involvement of various branches of government, legal experts and the public to achieve an optimal balance between the interests and protection of human rights. The European Court of Human Rights is the judicial body responsible for hearing cases of violations of human rights and fundamental freedoms under the European Convention on Human Rights. This court is of great importance for the protection of human rights in the member states of the Council of Europe.

With regard to the issue of determining the content of evaluative features in the ECtHR judgments, it is worth considering some general principles and approaches applied by the Court:

1. Principles of universality and development of human rights. The European Court recognizes that the content of human rights may evolve over time. It emphasizes the need to interpret human rights in the light of modern realities and social changes.

2. Application of interpretation in the spirit of the Convention. The Court tries to find solutions that are in line with the general spirit and objectives of the European Convention on Human Rights. ¹It proceeds from the assumption that human rights should be interpreted in such a way that their protection is as effective as possible.

3. The principle of proportionality. The ECtHR adheres to the principle of proportionality when assessing interference with human rights. It analyses whether the interference was necessary and appropriate in a democratic society.

4. The right to broad access to the courts. The Court emphasizes the importance of ensuring that human rights violations can be challenged. This includes the ability of citizens to go to court and receive adequate compensation.

5. Judicial precedent. The judgements of the European Court of Human Rights set precedents that may influence the further consideration of similar cases. The Court tries to ensure unity in the interpretation of the Convention and to provide a certain degree of stability in law enforcement.

6. Dialogue with national courts. The ECtHR maintains cooperation with national courts and recognizes that they play an important role in the protection of human rights at the domestic level.

To summarize, the European Court of Human Rights decides cases based on the above-mentioned principles and those laid down in the European Convention on Human Rights. The court's judgments often become important legal precedents that influence the protection of human rights in the Council of Europe member states (Tarasenko *et al.*, 2023). It is recognized that international organizations are a form of cooperation between states that combines respect for their sovereignty with restrictions on their independence in some areas of their domestic policy (Grigorenko, 2019).

The annual growth in the volume of social relations regulated by both domestic and international legal norms increases the importance of adapting national institutions of individual states to the requirements of international law. At the same time, the role of international bodies and political mechanisms is increasing, as states become interdependent, there is a need to improve the efficiency of governance within international relations and the development of European regional and sub-regional integration. All of this requires the regulation of behaviour, coordination of actions and interests, establishment of a hierarchy between national and international bodies and institutions, definition of their competence and development of a mechanism for distinguishing between national and integrated law. Furthermore, the uniqueness and independence of national legal systems, which determines state sovereignty, requires the integration and unification of national legal norms based on a thorough study of national legal practice and international experience (Antoniazzi, 2019). This is the reason why in some countries, generally accepted international legal norms are not part of national law and do not have greater legal force than the constitution. However, there are countries, such as the Netherlands, where the Convention is given higher legal force than national laws, including the Constitution (Dmitrieva, 2020).

Analysis of an international legal instrument involves identifying its provisions. These provisions can be expressed as declarations, recommendations, principles, or binding generally recognized principles and norms. In the case of decisions in a particular case, the issue of compliance with the principles and norms of international law becomes important. The principles and norms of international law, when consistent with national law, retain their international legal specificity. They are incorporated into the legal

¹ Convention on the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights). (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

system on the basis of the general principles inherent in this system, and are consistent with the national constitution and constitutional norms. All of the above also applies to the Convention¹. There are international institutions that make decisions based on international law, which creates precedents and authoritative interpretations of international law. Despite this, questions arise about the binding nature of these precedents and interpretative acts for national legislation, their place, and incorporation into the legal system (Zavhorodniy, 2020; Jafarov *et al.*, 2022).

The legal effect of a judgment of the European Court, in accordance with the principles of public international law, is directed primarily at the state party to the Convention. The Convention itself is not intended to directly interfere with the national legal system and is neutral with respect to national legal systems. The Convention does not provide for internal mechanisms to ensure its legal force – this is the task of the States Parties, which must establish internal procedures to ensure its implementation. The principles and norms of the Convention cannot be effectively implemented without external support. The mechanisms for integrating the Convention's provisions into national legal systems may vary. Conflicts between the provisions of the Convention and national law are theoretically possible. The problem lies in the restriction of states in granting additional rights that are not provided for in the Convention, especially in those areas where the rights of different parties will collide in such a way that the expansion of the rights of one party will necessarily lead to the restriction of the rights of the other (Zadorozhna, 2019).

In all legal systems where the national constitution takes precedence over international law, international law has a lower status. From the standpoint of international law, national courts that give priority to the national constitution in a conflict with the provisions of an international agreement violate international law. In the case of a conflict between the provisions of the Convention and the national constitution, international law requires that the constitution comply with the Convention. Otherwise, there is a conflict between the two legal systems for which there is no clear solution (Zadorozhna, 2019). The decisions of the European Court are subsidiary in nature, so its interaction with the highest judicial bodies of European states cannot be viewed as a unilateral process. The problem of implementing the judgments of the European Court into the practice of national courts remains a subject of debate. According to some foreign scholars, the current understanding of the “implementation of the European Court's

judgments” is based on the fact that its judgments are not only advisory in nature, but also have the form of “soft law” (Karavatsyka, 2019b).

It is worth noting that the judgments of the European Court are placed on a par with the Convention. The legal implications of such qualification of the European Court's judgments are not defined. The assertion that the judgments of the European Court are a source of law without any restrictions and clarifications is not sufficiently substantiated, although the Court interprets the provisions on human rights and freedoms enshrined in the Convention and is the judicial body that establishes the facts of violations by the respondent states. It is noted that the problem can be solved only by amending the Convention or its interpretation, which would oblige member states to introduce procedures for the implementation of the European Court's judgments in case of violations of the Convention by the state or its bodies, including the courts (Karavatsyka, 2019a). It is also generally accepted that the principles and norms of international law have legal force only when they are implemented (legitimized in some form) in national law. Thus, the legal force of the principles and norms of international law depends, in particular, on the legal force of the act that officially recognizes their binding nature.

The importance and role of the European Court's case law is determined by the status of the Convention. According to Article 32 of the Convention², the European Court has the right to decide on the interpretation and application of the provisions of the Convention and its Protocols. If a violation is established, the relevant acts must be cancelled or officially promulgated in accordance with the decision of the European Court. The situation that existed before the acknowledged violation of the Convention should, if possible, be restored, and the ongoing violation should be stopped (Koruts, 2017).

In a Romano-Germanic legal system, the European Court's reasoning should have the same weight as the law. In the Anglo-Saxon system, they should be considered alongside the precedents of the highest force, and in systems where doctrine is the main source of law, they should be equated with doctrine. As national legal systems are subject to internationalization, the judgments of the European Court should take precedence. In the current context, it is premature to consider the judgments of the European Court as part of national law; the formula “part of the legal system” is more appropriate (Horobets & Leleka, 2023). At the same time, the specifications of national and international legal systems are preserved. Instead,

¹ Convention on the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights). (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

² *Ibidem*, 1950.

the emphasis is on finding the optimal interaction between them within the national legal regulation mechanism. The legitimacy of the European Court's judgments in the national legal system depends on the bodies that conclude and ratify the relevant treaty. In countries where the judiciary operates independently of the executive and legislative branches, the effect of the European Court's judgments is determined by the judiciary (Garasimiv, 2017).

According to the Convention¹, the activities of the European Court are a subsidiary mechanism for the protection of human rights and freedoms, and the main responsibility for guaranteeing them lies with national governments. States parties have an obligation to ensure the rights and freedoms enshrined in the Convention to everyone within their jurisdiction. In this regard, States have wide discretion to choose the means and ways of implementing and protecting the rights set out in the Convention, taking into account their particular circumstances, such as their historical, economic, political and cultural context. In making this choice, states cannot ignore the requirements of the Convention and the judgments of the European Court.

■ The process of determining evaluative features in the practice of the ECtHR

The European Court of Human Rights is one of the most influential and prestigious international legal institutions specializing in the protection of human rights in Europe. Founded on the European Convention on Human Rights, the ECtHR has an important task of ensuring that the rights and freedoms enshrined in the Convention are respected. One of the main objectives of the European Court of Human Rights is to resolve complaints filed by individuals from Council of Europe member states regarding alleged violations of their rights. This includes cases related to violations of freedom of expression, the right to private and family life, the right to a fair trial, freedom of thought, conscience and religion, and many other rights guaranteed by the Convention. In addition to hearing specific cases, the ECtHR sets standards and interprets the norms contained in the European Convention on Human Rights. These standards influence the national justice systems of member states and provide guidance to courts and authorities in the application and interpretation of human rights at the national level (Denysova *et al.*, 2022).

The judgments of the European Court of Human Rights have an impact on the development of legal standards in Europe. They are taken into account as precedents in further proceedings before the ECtHR, as well as in the national courts of member states

(Bilius *et al.*, 2021). This contributes to a unified and progressive interpretation and application of human rights in the region. The ECtHR also plays an important role in enhancing dialogue and cooperation between Council of Europe member states. The Court's judgments are a mechanism that promotes mutual respect for human rights and reforms in national justice systems to improve the protection of human rights. However, it is important to note that the ECtHR has limited powers. It cannot amend the European Convention on Human Rights itself, but it can interpret and apply its provisions. Final judgments of the European Court of Human Rights can be appealed only to the Supreme Court of Europe (Dudar, 2019). Overall, the European Court of Human Rights plays an indispensable role in ensuring the protection of human rights in Europe. Its influence helps to maintain a high level of human rights protection and contributes to the development of a just and humanitarian society. The problem of determining the content of the evaluative features is one of the challenges faced by the ECtHR.

Evaluative indicators are an important tool for determining whether specific human rights have been violated in a given situation. They help to assess the information, circumstances and other factors related to the case and establish the degree of violation of rights. The court must distinguish when a statement is of an evaluative nature. Evaluative statements involve conclusions, judgements, or assessments of a particular situation or behaviour. This can be important for determining the scope of protection afforded to a particular human right (Zavhorodny, 2016).

In the process of determining the evaluative features, the Court pays attention to several factors. Firstly, the form of the statement plays an important role. Evaluative statements are often subjective in nature and express the author's view or opinion, as emphasized by V. Kosovych & T. Pashuk (2022). In addition, the context in which the statement is used matters. Determining whether a statement is evaluative requires an understanding of the purpose, intentions, and circumstances in which the statement was made. To establish the evaluative nature of a statement, the Court also looks at the perception of the audience. If a statement is considered a generally accepted way of expressing an opinion or is a known fact, it may be considered a statement rather than an opinion. But if the statement contains a subjective judgement or conclusion, it will be considered an opinion. Determining the content of an opinion is important for determining the scope of protection afforded to a particular human right. This may affect decisions on the liability of parties, the application of restrictions on freedom of expression or the protection of the

¹ Convention on the Protection of Human Rights and Fundamental Freedoms (with Protocols) (European Convention on Human Rights). (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

interests of persons who may be subjected to an opinion (Karaman & Kozina 2015). This problem is only exacerbated by the metaphorical wording of some articles of the Convention (Slosser, 2019; Borzovic, 2022).

The problem of defining evaluative features is complex due to their subjective nature and potential differences in interpretation. This can be a source of disputes and misunderstandings in cases. However, by analysing the context, intentions and other factors, the Court tries to find a rational and objective solution to these issues. A comprehensive study and analysis of the definition of the content of evaluative features will contribute to the development of legal practice and ensure a more accurate and transparent interpretation of human rights. This is an important aspect in protecting human rights and ensuring fairness in court decisions.

The process of determining the content of evaluative features requires careful analysis of factors such as the linguistic context, the author's intentions, audience perception and relevant legal standards. This is a difficult task, as the assessment can be subjective and dependent on individual beliefs and cultural characteristics. The decisions of the European Court of Human Rights on the definition of the content of evaluative features are of great importance for the development of legal standards and the protection of human rights. They influence the national justice systems of member states and set precedents that are used in future cases. This contributes to stability, uniformity of interpretation and protection of human rights in Europe. With the growth of technological development and social challenges, the issues of determining the content of evaluative features are becoming particularly relevant. The ECtHR must take these challenges into account to ensure adequate protection of human rights in a changing world and to promote the development of a just and equal society (Manukyan, 2019).

Continuing the study of the issue of defining the content of evaluative features, it is important to note that this raises the need to strike a balance between freedom of expression and protection of the interests and dignity of persons who may be subject to evaluation (Fuley, 2015). On the one hand, freedom of expression is one of the core values of a democratic society and should be protected. This includes the right of citizens to express their opinions, ideas, criticisms, and assessments of various aspects of public life. Protecting freedom of expression contributes to the disclosure of truth, debate, and the progress of society. On the other hand, it is necessary to ensure that individuals are protected from unfair, offensive or harmful statements that may violate their dignity, cause harm or promote discrimination. Such statements can affect a person's psychological state, individual and group identity, reputation and social integration (Tsyukalo, 2014).

Striking this balance requires an objective and proportionate approach to defining the evaluative characteristics. Legislation and jurisprudence should take into account the specific circumstances of the case, the context of the statement, its purpose, the intention of the author, as well as the possible consequences for the persons who may be subjected to evaluation. When considering cases, the ECtHR should be open to different approaches and opinions, adhering to the principle of proportionality and the need for restrictions on freedom of expression when justified in order to protect the rights of others or public order (Slobodianyuk, 2023). One of the challenges is adapting concepts and standards that have evolved in the context of traditional media to modern digital environments. The growing importance of social media and online platforms as a source of information raises the question of their responsibility to control the evaluative statements disseminated through them (Sydorenko, 2015). In the future, the ECtHR should continue to analyse new challenges and trends related to the definition of the content of evaluative features, in particular in the field of digital media. A proper balance between freedom of expression and protection of human rights is the basis for the sustainable development of a democratic society in Europe.

Therefore, an analysis of the context and other factors helps to find rational solutions to the definition of evaluative features. The role of the European Court of Human Rights in this process is important, as its judgements influence the development of standards and the protection of human rights in Europe.

■ Problems of evaluative features in scientific literature

In the study on determining the content of evaluative features in the judgments of the European Court of Human Rights, several aspects have been identified which mark the similarities and differences between this work and the studies of other authors. Many studies, including those by K.P. Gromovenko (2016), M.M. Dmitrieva (2020), U.Z. Koruts (2017), follow a common direction, which focuses on the role of judgments of the European Court of Human Rights (ECHR) in influencing national legislation and case law. This approach clearly demonstrates the importance of determining the content of evaluative features in court decisions to ensure compliance of national norms with international standards, which is also emphasized by V.I. Tsyukalo (2014), M. Kravchuk (2018).

T. Sever (2018), T. Altwicker (2018) and T.M. Slobodianyuk (2023) consider how the ECtHR judgments influence the formation and improvement of national laws and legal practice. They emphasize that the court's judgments can influence the development

of new regulations or the revision of existing ones, directing national legislation to ensure the protection of human rights in accordance with international standards. This approach emphasizes that the content of the evaluative features in the ECtHR judgments is not only an academic aspect, but has direct implications for legal practice and legislative activity in the Council of Europe member states. These studies remind us that judgments in this context function as a mechanism that not only establishes norms, but also influences the formation of legal culture and the legal environment.

D. Voorhoof *et al.* (2016) focuses on the role of the European Court of Justice in the protection of freedom of speech in Europe. The author analyses the principles and criteria that guide the Court in determining the limits of this important legal freedom. The author examines the role of the European Court of Justice in protecting freedom of speech, which is one of the key legal guarantees in the European context. The researcher analyses the principles and criteria used by the Court to determine the limits of freedom of expression. This analysis may include legal standards, case law and approaches to dispute resolution. The author also points out that the Court takes into account the context and circumstances of each case. This indicates the importance of an individual approach to the consideration of cases and determining the scope of freedom of speech in each case. Thus, the importance of flexibility and adherence to an individual approach to the consideration of cases in the context of this right is emphasized (Voorhoof *et al.*, 2016).

Studies by authors such as A.Y. Badida & V.V. Lemak (2017), A.O. Grigorenko (2019) aim to consider the state's obligations to protect human rights. This focus of research emphasizes the urgency of the problem of national and international requirements for the state to ensure an adequate level of protection of citizens' rights and fulfilment of its obligations. The researchers analyse how state bodies are accountable to national and international human rights norms and standards. O.A. Pidoprigora & E.O. Kharitonov (2022) and G. Yurovska (2021) examine whether adequate guarantees are provided to citizens at the state level, and whether the obligations stipulated by laws and international agreements are fulfilled. This approach helps to highlight the importance of the state's role as a guarantor of human rights. It emphasizes that the protection of human rights is not only the task of the court, but also the task of the state, which is obliged to ensure these rights at the national level. This approach also reveals the relationship between international norms and domestic legislation, and emphasizes the need for state authorities to fulfil their obligations to citizens and the international community.

In the study by K.P. Gromovenko (2016) found that the legal system of each particular state plays a major role in the perception of the European Court's judgments. Different legal systems, such as Romano-Germanic or Anglo-Saxon, have different approaches to the interpretation and adoption of external decisions. For example, in the Romano-Germanic legal system, the judgments of the European Court may be considered alongside the law, while in the Anglo-Saxon system they may have the value of a precedent of the highest force. It is also worth taking into account the peculiarities of perception of the European Court's judgments as a source of law in Muslim countries, where special cultural and religious perspectives on human rights may arise.

S.B. Karavatsyka (2019) emphasizes the importance of the court's interpretive activity as an important aspect of determining the content of evaluative features in judgements. This approach reflects the importance of interpreting and specifying various concepts, especially those with elements of subjectivity, to ensure an adequate level of human rights protection. The author emphasizes that evaluative features such as "appropriate", "reasonable", "relevant", etc. may contain different subjective connotations depending on the context and circumstances. This can lead to different interpretations and understandings. Therefore, the court's interpretive work becomes a key point in order to avoid misunderstandings and ensure that the content of these evaluative features is in line with international standards and ensures proper protection of human rights. The analysis of this paper emphasizes that the interpretive work of the court requires judges not only to understand the text, but also to take into account the context, goals, and values underlying a particular decision. This helps to ensure that the court's decisions are consistent with international standards and that their decisions truly comply with the spirit and letter of human rights. In conclusion, this paper emphasizes the role of the court's interpretive activity as an important element in determining the content of evaluative features in the judgments of the European Court of Human Rights.

■ Conclusions

The study of the issue of defining the content of evaluative indicators provides an in-depth insight into the complexity of this issue and its significance in the context of human rights guarantees. Evaluative features are a key means of establishing violations of rights and ensuring an appropriate level of protection. The analysis has shown that the European Court of Human Rights (ECtHR) uses an objective and proportionate approach to determine the evaluative features in its judgments. The Court skilfully distinguishes between factual statements and value

judgements by analysing in detail the context, form of the statement and the perception of the audience. This approach helps to establish the limits of protection of rights and strike a balance between freedom of expression and protection of the interests of individuals. This strategy allows the court to determine when a particular statement is in the nature of an opinion or is actually a verifiable fact. Such a division helps to reduce the risk of undue restrictions on freedom of expression and avoid excessive interference with the rights of individuals. The analysis of the context and the perception of the audience emphasizes that the determination of the evaluative features must be reasonable and objective, in particular, taking into account the diversity of public perceptions and interpretations. This approach of the ECtHR reflects the court's efforts to maintain a balance between freedom of expression and protection of the interests of individuals and society. This demonstrates that the ECtHR is an understanding and responsible body that makes every effort to ensure that human rights are preserved and that their interpretation is in line with modern realities.

The author identifies the importance of the impact of the ECtHR judgments on the development of legal standards in Europe. The Court establishes standards and interpretations of the Convention that affect the national justice systems of its member states. It promotes consistency and unity of interpretation of human rights, ensuring stability and fairness in court decisions. The ECtHR judgments and the issue of defining evaluative features are relevant and complex.

The study points to the need for further analysis and development of this topic to ensure a clear, fair and consistent interpretation of human rights, as well as to address new challenges that arise, in particular in the digital environment. This will contribute to the development of legal standards and ensure effective human rights protection in Europe.

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■ Conflict of Interest

None.

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Рішення Європейського суду з прав людини та питання визначення змісту оцінних ознак

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■ **Анотація.** Вирішення спірних питань, пов'язаних зі змістом оцінних ознак, у контексті рішень Європейського суду з прав людини має важливе значення для розвитку юридичної науки та практики, адже посилення інтеграції в межах Європи вимагає від національних урядів і судових систем посиленої уваги до практики наднаціональних органів. Мета цього дослідження – здійснити аналіз рішень Європейського суду з прав людини, спрямований на визначення змісту оцінних ознак у контексті прав людини. Для цього використано методи аналізу юридичної літератури, порівняльного аналізу судової практики різних країн, синтезу, порівняння, моделювання, а також логічний та системний підходи до аналізу судових рішень. У статті з'ясовано, що оцінні ознаки є важливим інструментом для визначення порушень прав людини й потребують об'єктивного та пропорційного підходу. Увагу зосереджено на ролі Європейського суду з прав людини в забезпеченні балансу між свободою висловлювання та захистом прав осіб. Визначено необхідність адаптації понять до цифрових середовищ і врахування нових викликів. Проаналізовано процес визначення оцінних ознак, засвідчено його значущість для встановлення обсягу захисту прав людини. Виявлено різні підходи Європейського суду до визначення змісту оцінних ознак у рішеннях з питань прав людини. Акцентовано на тлумаченні таких понять, як «адекватність», «надмірність» і «необхідність» у контексті обмежень прав людини. Встановлено зміни в підходах суду до цих понять з плином часу та зміною соціального й політичного контексту. Дослідження має важливе значення для поглибленого розуміння тлумачення прав людини Європейським судом з прав людини, а також для формування єдиної методології тлумачення оцінних ознак у рішеннях судів різних юрисдикцій

■ **Ключові слова:** судові рішення; міжнародне право; національне право; юридичні стандарти; захист прав