

**ԲԱԲԱԵՎ ՄԻԽԱՅԻԼ**

Իրավագիտության դոկտոր, պրոֆեսոր, Ռուսաստանի Դաշնության վաստակավոր գիտնական, Ռուսաստանի արդարադատության պետական համալսարանի գլխավոր գիտաշխատող

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**ՊՈՒԴՈՎՈՉԿԻՆ ՅՈՒՐԻ**

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ՔՐԵԱԿԱՆ ՕՐԵՆՔԻ ԱՆՈՐՈՇՈՒԹՅՈՒՆՆ ԱՆՈՐՈՇՈՒԹՅԱՆ ԺԱՄԱՆԱԿԱՇՐՋԱՆՈՄ. ԻՐԱՋԵԿՎԱԾՈՒԹՅՈՒՆԸ, ՌԻՍԿԵՐԸ ԵՎ ԱՐՁԱԳԱՆՔՄԱՆ ՈԱՋՄԱՎԱՐՈՒԹՅՈՒՆԸ***THE UNCERTAINTY OF CRIMINAL LAW IN THE ERA OF UNCERTAINTY: AWARENESS, RISKS AND RESPONSE STRATEGY*****НЕОПРЕДЕЛЕННОСТЬ УГОЛОВНОГО ПРАВА В ЭРУ НЕОПРЕДЕЛЕННОСТИ: ОСВЕДОМЛЕННОСТЬ, РИСКИ И СТРАТЕГИЯ РЕАГИРОВАНИЯ***

Uncertainty can be viewed either from the viewpoint of the cognitive theory (as instability and relativity, incompleteness and scarcity of our knowledge of the world) or from the position of the doctrine of being (as an objective characteristic of any phenomenon and process occurring in society as a characteristic of a society itself). Within the framework of the present study, the approach in which the uncertainty of law is examined as some kind of independent phenomenon in its ontological aspect is taken as the basis. We note at once that with all the inseparable connection between law and society (the law is created by society, reflects its problems and ideals, really changes society, acts as its subsystem, etc.) for research purposes it is reasonable (up to certain limits) to consider them independently. And in this respect, proceeding from the declared subject, it is necessary to distinguish the uncertainty of the social environment that produces the law and in which the latter functions, on the one hand, and the uncertainty of the law itself, on the other. Such dismemberment will allow a better idea of the uncertainty of the operation of an uncertain law in an uncertain society.

So, the objective uncertainty of a society. In the ontological sense, most often uncertainty is understood as a condition adopted to compile a more accurate forecast of the future situation. In this

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case, the notion of risk is close in content. Research goals of uncertainty in such an instance are often reduced to attempts to calculate the degree of uncertainty¹. In relation to our study, we should speak of uncertainty of a society as such characteristic of the economic, political, cultural, criminal and other processes taking place in it, which creates tangible risks in the formation and implementation of the legal strategy in general and criminal policy, criminal law in particular. Three aspects are important here: what are these characteristics, what risks they generate and what kind of criminal-political and legal strategy of society should be in view of these circumstances.

UNCERTAINTY AS A CHARACTERISTIC OF A SOCIETY

It appears that one of the most successful definitions of the present state of a society was given by Professor Z. Bauman when he described it using a category "fluid modernity." (Russian society in this case is no exception, rather, on the contrary, written earlier on the materials of Western society, his works today largely characterize Russian society, of course given the known differences in the comparative rates of development of Russia and Europe).

One of the key messages to all reasoning of Z. Bauman about contemporary society and the situation of a individual in it is the idea that today's society is in a state of constant and rapid transformability. According to the figurative expression of the professor, it is the state of "melting" of the old "solid" public order and the formation of new "solids" from the "fluidity" of the modernity (we would perhaps only argue that the "new bodies" are no longer so "solid" " like before). Wherein, "among the first solid bodies intended for melting, and the first sacred principles to be rejected, is the fidelity to traditions, habitual rights and duties that bind people by hand and foot, impeding movement and restricting initiative." "The advent of a modernity introduces human culture and ethics to an unexplored territory that has not yet been mapped, where most of the acquired skills in solving life's problems have lost their usefulness and meaning"².

J.-F. Lyotard even argues that at the heart of the modern period of development of a society is a specific paradigmatic attitude to the perception of the world as not just uncertainty, but chaos³.

In the national criminology Ya.I. Gilinsky can be distinguished – he much and convincingly writes about specific features of modernity and postmodern society⁴. Globalization, virtualization, relativism, criticism, rejection of illusions, fragmentation, consumerization of consciousness, acceleration of time – these are just some of the characteristics singled out and analyzed by him.

Ovchinsky further develops the criminological analysis of a modern society. "Fast time," he writes, "divides not only countries and continents, but also societies, groups and even families. It makes our world increasingly unpredictable, turbulent and impetuous "; "Looking at the world dynamics during the last quarter of a century, one can not but conclude that destructive processes have prevailed in the world, leading to an increase in contradictions, instability and uncertainty"⁵. We would add that uncertainty is not only a consequence, but also the cause of these destructive processes, and one of the possible characteristics.

¹ Dorozhkin A.M., Sokolova O.I. The concept of "uncertainty" in a modern science and philosophy // Bulletin of Vyatka State Humanitarian University. - 2015. - No. 2. - P. 5 - 12.

² Bauman Z. Fluid modernity / trans. from English., Ed. Yu.V. Asochakova. - St. Petersburg: Peter, 2008. - P. 10.

³ Lyotard J.-F. The state of postmodernism / trans. from French N.A. Shmatko. - St. Petersburg: Aleteya, 1998.

⁴ See, for example: Gilinsky Ya.I. Criminological basis of a criminal law in the era of postmodern // Materials of the X Russian Congress of a Criminal Law, held in May 26-27, 2016 / chief ed. V.S. Commissarov. - Moscow: Prospekt, 2016. - P. 294 - 298; Gilinsky Ya.I. Crime and social control over it in a modern postmodern society: the view of the criminologist // Criminologist - 2016. - No. 1 (18). - P. 3 - 8.

⁵ Larina E.S., Ovchinsky V.S. The crime of the future is already here. ("Collection of the Izborsk Club") - Moscow: Book World, 2017. - P. 22, 26.



The criminogenic role of uncertainty is also recognized by philosophers. E.A. Pozdnyakov notes: "When basic rules cease to function normally, the concepts of good and evil are blurring to the state of uncertainty, and everyone, by their own will, starts interpreting them and delineating the boundary between them, then society falls into a state known in sociology and criminology as a state of anomie - a state not yet of anarchy, but already not of order"¹.

Uncertainty is an uneliminated procedural component of human existence - in various situations, uncertainty can characterize the condition, cause, reason, purpose or content of it. At the same time, uncertainty can have a positive, negative, determinative, indifferent influence on a person in the context of the interconnection of the past, present and future².

Probably, there is not much point in continuing citation, nor is it necessary to examine in detail all the known and potentially imaginable features of a modern society on the pages of this article. In the light of the issues we are discussing, it is much more important, basing on an understanding of these features, to state two important statements:

a) Today, there are no more absolute values, strong and reliable rules and standards of conduct, no clear guidelines for the development of each individual and a society as a whole³. "Suggested and already used vital meanings can not be sorted into "right" or "wrong", true or fraudulent. Separation of "right" vital meanings and formulas from "wrong" is a task that is not only questionable, but, in the case of an attempt to solve it, is doomed to failure"⁴.

b) The strategic decisions that we are taking today, mostly relying on our successful previous experience, are becoming less effective tomorrow, because they do not take into account the fluidity and variability of the present and the future. The theory of a "black swan" (N. Taleb), focuses on the unpredictability of events as the determining factors of our future state, it confirms that only unpredictability can be predictable. Situations in which the processes develop in such way arise increasingly; or such events occur that almost immediately devalue all the previously learned standards and rules, deprive the value of experience and force to develop new, previously unproven and sometimes unthinkable decisions.

The lack of reliable standards among the set of possible standards of behavior in unpredictably changing living conditions is the background on which the processes of legal and, what especially difficult, criminal regulation should be developed. In the context of a political science, this "background" was successfully described by I.A. Bidzhev: "The situation of uncertainty is a specific moment of the functioning of the political system and its subsystems, within which there are no stable guidelines for their further development. This is a situation of extremely diffuse forecast's background, in which conditions there is a dysfunction of the main subjects of public administration and an increase in the role of the factors that are situationally significant under specific conditions and at a certain moment of time. It is their activity that contributes to the choice of the vector of political development in the situation of openness of a fate"⁵. This is fully applicable to the characterization of criminological, political-legal and legal processes.

¹ Pozdnyakov E.A. The philosophy of a crime. - Moscow: B.I, 2001. - P. 51.

² Faber V.O. The problem of uncertainty in the structure of philosophical knowledge: dis. ... of a Ph.D. candidate - Saratov, 2004. - P. 10 - 12.

³ As applied to the law, this thesis has, at least, a dual meaning: on the one hand, the law has nothing to use as a foundation and a fundamental principle, since there is no consensus in the society about the ideal order; and on the other hand, the law itself loses the ability to play the role of an order model.

⁴ Bauman Z. Individualized Society / trans. from English., Ed. V.L. Inozemtseva. - Moscow: Logos, 2005. - P. 4 - 5.

⁵ Bidzhev I.A.G. The situation of uncertainty as a factor of the Russian political process: author's abstract. dis. of Ph.D. in Political Science - Stavropol, 2009. - P. 10 - 15.



AN EXPRESSION OF UNCERTAINTY IN A CRIMINAL LAW

As one can judge, the issues of interpretation of the law in the postmodern society started to attract the attention of domestic specialists relatively recently, moreover, such attention is unjustifiably rare event (against this background, the notable exception are the works of I.L Chestnov); needless to say about the works devoted to the postmodern interpretation of criminal law and criminal policy. Meanwhile, intuitively each of the specialists realizes that in the sphere of criminal law there are certain processes that destroy classical, traditional idea of this branch of law, about its tasks, principles, legal constructions, etc. It would probably be a big mistake to connect all these processes directly with postmodern, but it is also impossible to deny this connection.

In any case, the fluid modernity repeatedly reinforced the importance of criminal law issues such as:

- extreme dynamics of criminal legislation and the "rapidity of fire" in the appearance of decisions on the adoption and abolition of criminal laws (this thesis is on the level of an axiom and does not require special evidence and additional examples);

- an instant response to almost any social deviation by the desire to adopt a criminal law on this matter (only a few examples in this connection - we can recall the history of changes in the Article 148 of the Criminal Code of the Russian Federation on responsibility for violation of freedom of religion, the story of the enactment of the Article 280.1 of the Criminal Code of the Russian Federation on liability for calls for violation of the territorial integrity of the country, etc.);

- the significant increase in the volume of sources of criminal law and sources of criminal-legal information (even the Constitutional Court of the Russian Federation has quite definitely recognized the binding nature of the decisions of the Plenum of the Supreme Court of the Russian Federation - see Resolution No. 29 of December 23, 2013, as well as the special, almost universally binding value of the decisions of the Presidium of the Supreme Court of the Russian Federation (even if only for civil cases) - see Resolution No. 24-P of October 17, 2017);

- inconsistency of criminal legislation with foreign-made legal acts, including international level (as of unquestionable interest here is the history with the definition of the legal significance of the decisions of the ECHR and the Resolution of the Constitutional Court of the Russian Federation No. 21-P of 14.07.2015, initiated among other things by the "Markin's case");

- the loss of reference points in determining the threshold of a public danger, sufficient and necessary for the criminalization of acts (what in this context worth just a story with the Article 212.1 of the Criminal Code and the case of "Dadin", which became the reason for the Resolution of the Constitutional Court of the Russian Federation № 2-P from 02.10.2017.);

- the refusal of a strictly fixed normative assessment of the public danger of acts, the widening of the boundaries of judicial discretion (the meaning of part 6 of Article 15 of the Criminal Code of the Russian Federation is not to be discussed here; the Supreme Court of the Russian Federation is actively working on a draft resolution of the Plenum on the application of this rule);

- numerous and not always justified borrowings of foreign law against the general tendency of universalization of law;

- frequent deviations from the principles of criminal law, masked by their interpretation and development (let's recall how the principle of humanism "justified" mixing of the institutions of liberation from criminal punishment and release from criminal responsibility - the story with paragraph 26 of the Resolution of the Plenum of the Supreme Court of the Russian Federation "On the application by courts of legislation regulating the grounds and the procedure for exemption from criminal liability", which was abolished on November 29, 2016, by Resolution No. 56);



- the emergence of unpredictable structures (court fine) simultaneously with the resuscitation of long-obsolete (administrative res judicata).

Probably, this list can be continued if desired. The general assessment is that the criminal law, trying to achieve ambiguous goals, changes chaotically in the "manual control" regime, combining old (inadequate) and new (unverified) tools in the process of counteracting acts whose danger is sometimes assessed quite arbitrarily.

RISKS, GENERATED BY UNCERTAINTY

It is also important to note that this situation is characterized by an extremely high level of risk (both for subjects of criminal policy and criminal law and for citizens) and the high degree of vulnerability of a criminal law itself. Using and correcting the definition given by I.A. Goryacheva, under the vulnerability of criminal law in this case it is possible to understand the feature of a criminal law, characterizing its sensitivity, susceptibility to the influence of destabilizing factors of external and internal nature, which can lead to a change in the final state of law¹. There is no doubt that such a vulnerability is directly related to the sustainable development of law, its reliability, effectiveness, and ultimately, the security of a society.

Talking about the risks, then all of them, basically, consist in a high probability of making ineffective (deliberately refrain from using the word "wrong") political-legal decision (about criminalization, qualification, sentencing, etc.).

Here are just a few potentially dangerous consequences of the uncertainty of a criminal law:

- imbalance in the system of division of powers,
- ineffectiveness of judicial protection,
- denial of the dignity of the individual,
- infringement of the equality of citizens,
- abuse of the right,
- the fall in the trust of citizens towards the law and the actions of the state,
- violation of the balance of constitutionally protected values,
- the possibility of arbitrary interpretation of the law by the law enforcer,
- the possibility of repeated bringing to responsibility,
- disproportionate restriction of rights and freedoms which contraries to the constitutionally significant goals,
- inadmissible, inefficient, unfair differentiation of responsibility,
- injustice and inhumanity of law-enforcement decisions.

Along with this, the ambiguity and unpredictability of the law conceals the possibility of a mass of other consequences that extend deep into the field of social and other relations: the impossibility of predicting business strategies, psychological anxiety, nihilistic attitudes toward law, and so on.

As a result, the law is no longer perceived as a universal phenomenon capable of ensuring the completeness of regulation of public relations, stability and predictability of criminal-legal and criminal-political decisions.

RESPONSE STRATEGIES TO AN UNCERTAINTY OF A LAW

On the question of whether the role and opportunities of law in the uncertain society remain the same as those already formulated in the distant era of positivist thinking and mathematical forecasts, only a negative answer can be given, for the law itself has become different. A.V. Demin, noting the properties of the uncertainty of all elements of modern society, rightly observes that the system of legal relations is no exception. "Radical complexity, instability, permanent development are inherent in the modern object of legal regulation. The latter, on the one hand, determines the growth of the

¹ Goryacheva I.A. Development of a methodology for managing logistics processes in conditions of uncertainty: author's abstract. dis. of Dr. of Economics - Saratov, 2015. - P. 10.



volume of legislation, and on the other hand - the usual legislative mechanisms do not keep pace with accelerating changes in the object of legal regulation. At the end of the day, the zones of uncertainty in the law expand, and attempts to cope with them through legislative solutions alone resemble patching holes, rather than solving a problem. Hysterical appeals of positivist consciousness to the legislator to ensure the triumph of formal certainty are doomed to failure from the very beginning"¹.

It should be noted that such "hysterical appeals" constitute a preferential reaction not only towards the law, but towards much that occurs in the greater part of Russian society, which in this respect can be safely attributed to the traditionalist (such an epithet is in no circumstances can and should be perceived as a reproach, insult or belittling of the status).

As political scientists observe, "the situations of institutional uncertainty inherent in the Russian political process at the initial stage of political modernization caused the emergence in the mid-2000s of the phenomenon of "escape from uncertainty" on the part of Russian society as a striving for "tough" political stability, which stimulated the formation authoritarian and neototalitarian trends in the Russian political process"². We are certain that the criminal-political trend is its direct reflection (increased attention to the protection of "traditional values", the active use of anti-extremist rhetoric to suppress diversity, the protection system from international influence, endless clarification of the law, etc.). Inattention or neglect to the uncertainty problems in legal science is a trace of the same trend, because the priority theme of researches today is not uncertainty, but on the contrary - the certainty of law (as a feature, principle, etc.). The development and implementation of a response strategy to an uncertainty of a law through the improvement of known legal constructions is, as we see it, the answer of domestic jurisprudence to the challenge of modernity. It seems that such answer is incomplete and due to this also not entirely correct.

The need to diversify strategies for the development of a law in a society of uncertainty has already been repeatedly pointed out in the scientific literature. Moreover, the elements of these other strategies already manifest themselves in a law, although they are not always perceived as a new answer to the conditions of uncertainty. Let's consider some of them:

a) In the conditions described above, the adoption of any legal decision is in fact a risky task, the most characteristic feature of which is the presence of uncertainty, i.e. the outcomes that will be obtained by the decision-maker depend on events that can not be foreseen with full certainty³. With this in mind, the law increasingly appears as a model that has not been repeatedly tested (following the traditional view that law is the rules elaborated by society, embodied in the mind as effective ways of behavior and communication), but as a prognostic judgment, as a future behavioral setting, due to which behavior patterns are not fixed, but are modeled. In this respect, law becomes one of the means that are constructing the future.

b) Since such a forecast can not be built on the basis of a generalization of the past, using extrapolation methods, the goal of a legal and political-legal solution acquires the most important, much more significant than before role in legal constructions. Discussion on the problems of the purpose of a criminal law⁴ by the scientific community, for all its unquestionable importance, firstly,

¹ Demin A.V. "Soft law" in the system of social regulation // Questions of Jurisprudence - 2014. - No. 1. - P. 155 - 156.

² Bidzhev I.A.G. The situation of uncertainty as a factor of the Russian political process: author's abstract. dis. of Ph.D. in Political Science - Stavropol, 2009. - P. 10 - 15.

³ Kornilova T.V. The principle of uncertainty in the psychology of choice and risk // Psychological research. - 2015. - T. 8, No. 40. [Electronic resource]: <http://psystudy.ru> (date of circulation: August 17, 2017).

⁴ Category "purpose" in criminal, criminal-executive law and criminology: materials of the IV Russian congress of a criminal law (May 28-29, 2009) / chief ed. V.S. Commissarov - Moscow: Prospekt, 2009.



did not lead to the development of a coordinated professional position, and secondly, what is more important, did not become a daily practice of law-making and law enforcement decisions. Nevertheless, in a number of cases the discussion of the purpose of adopting a particular criminal law (for example, creating a special, preferential criminal liability regime for representatives of the business community) or making a certain decision (for example, in the case of Pussy Riot or in the Khodorkovsky case) leads to the idea that the social, socio-psychological, political effect of such a decision was much more important for the subjects of criminal policy than the actual legal basis, the legal essence and the legal consequences of the latter.

c) Given the increasing probability of legal regulations (such a probability of criminal law manifests itself, first of all, in the possible sufficiency of the public danger of the act to bring one to justice and in the possible sufficiency of the modeled sanction), though the severity of the prescriptions themselves reduces. It's not just about reducing the maximum size of sanctions and mitigating punishments (although today this vector is justified by the idea of humanization, it can also be understood as the manifestation of the authorities' doubts about the adequacy of the sanction and complexity in determining the danger of the act, which naturally leads to a reduction in punishments as insurance against reevaluation of danger). The reduction of the severity of a criminal law finds itself also in the expansion of the dispositivity grounds, in the establishment of not mandatory but only probabilistic criminal prosecution for certain crimes, increasing the number of alternatives sanctions and evaluation categories, widening the limits of judicial discretion, etc.

d) Slowly but surely so called in the theory "soft law" is emerging within the area of national criminal law relations. It is, as they say, a kind of "penumbra" between the standard, classic, hard-binding law and other social regulators in the form of morals, corporate norms, etc.¹ The features of the "soft criminal law" can be seen in the decentralization of the subjects of lawmaking (along with the traditional parliament international organizations, courts, scientific advisory councils actively manifest themselves), increasing the sources of law and the number of documents involved in legal discourse, development of model criminal norms, the growing importance of recommendations, as well as of political-legal documents (concepts, strategies, etc.), the active use of methods of compromise and mediation. The development of the "soft criminal law" can be compared with the reduction in unit costs for the production of "legal products", since in some cases "the investment strategy aimed at reducing production costs is often more preferable than the expansion strategy"².

e) The introduction and dissemination of a communicative type of understanding, the formation of the ability and willingness to negotiate became logical satellites for the development of the "soft criminal law". In this context the dialogue of the Supreme Court of the Russian Federation with the scientific community should be considered today, and not limited only to dialogue with the much enlarged Scientific Advisory Council, but also such dialogue exposes itself in mandatory Supreme Court reviews of draft laws on introducing amendments to the Criminal Code of the Russian Federation, in activation of the practice of adopting resolutions of the Plenum of the Supreme Court of the Russian Federation to express the agreed position of all law-enforcement officials on the interpretation and application of law matters and etc. A similar value has the dialogue between the

¹ See, for example: Fogelson Yu.B. Soft law and the rule of law // Journal of the Russian Law. - 2014. - No. 11 (215). - P. 22 - 33; Demin A.V. "Soft law" and "hard law": general features and criteria for differentiation. // Tatishchev Readings: Actual Problems of Science and Practice: Materials of the XII International. scientific-practical. conf. : in 4 T. - Samara: Volzhsky University named after V.N. Tatishchev, 2015. - P. 98 - 102.

² Akinfiyev V.K. Modeling of investment strategies of companies in conditions of uncertainty // Management of large systems. - 2016. - Issue. 61. - P. 137.



criminal and the victim within the framework of mediation procedures, the criminal's agreement with the state as a concerted understanding and assessment of the wrongful act.

f) The tendencies of an uncertainty in a society and in a law, crossing with each other, lead (of course together with other factors) to an increase in the volume of situations requiring legal authorization and in the judicial burden. This fact, in turn, generates so called in science "the tendency of industrialization of law", which is expressed in the loss of an individual nature in the process of law application. "The court work presupposes (in the era of postmodernity) an increase in the number of forms of adversarial papers, the formation of a standard procedure for resolving a case, and, as a consequence, a reduction in the amount of time allotted to a trial. The authorities are trying to organize a conveyor, which produces acts of law enforcement. ... increasing in the load results in the need to reduce the time allocated to this or that law enforcement activity"¹.

The noted hardly exhausts all external manifestations of the new strategy of the development of a law in conditions of an uncertainty based on the desire not to contain and eliminate uncertainty, but to adapt to it and use its positive potential in the interests of the development both of a law and a society. Another matter is that these manifestations are not understood as the formation of a new strategy, and therefore they manifest themselves without proper theoretical justification, sporadically and sometimes contradictory. Hence - rather sharp criticism and rejection of each of these innovations. They are criticized not because they are bad, but because they do not correspond to the worldview of the opponents. The discussion itself is not a fight between the bad and the good, but merely a reflection of the well-known confrontation between the old and the new.

Ամփոփագիր՝ Հոդվածում նշվում է, որ անորոշությունը փիլիսոփայական իմաստ ունի և միաժամանակ զգալիորեն ազդում է ժամանակակից գրեթե բոլոր երևույթների և հասարակական հարաբերությունների վրա: Այս հանգամանքն, իր հերթին, ազդում է օրենքի, դրա վիճակի, միտումների և ճանաչողության վրա: Իրավունքի ուսումնասիրությունը ոչ կայուն հասարակությունների պայմաններում բոլորովին նոր և նշանակալից հետազոտության օբյեկտ է, որն, իհարկե, կապված է վերլուծության երեք ոլորտների հետ՝ ա) ոչ կայուն հասարակության առկայության՝ որպես օրենքի ձևավորման պայմանի, բ) ինքնին օրենքի անորոշության, գ) անորոշության պայմաններում իրավունքի զարգացման ռազմավարության ստեղծման:

Аннотация: В статье отмечается, что неопределенность имеет философское значение и в то же время оказывает значительное влияние практически на все современные и общественные отношения. Это обстоятельство оказывает влияние на закон, на его состояние, тенденции и познание. Изучение права в условиях нестабильных обществ является совершенно новым и значимым объектом исследования, что, конечно, связано с тремя областями анализа: а) существование нестабильного общества как условие формирования закона, б) неопределенность самого закона, в) создание стратегии развития права в условиях неопределенности.

Հիմնարաներ՝ քրեական օրենքի անորոշություն, ռիսկեր, անորոշության հաղթահարում, անորոշության ազդեցության ռազմավարություն, քրեական իրավունքի մեթոդաբանություն:

Key words: uncertainty of criminal law, penal risks, overcoming the uncertainty, the strategy of affecting uncertainty, the methodology of criminal law.

Ключевые слова: неопределенность уголовного закона, пенальные риски, преодоление неопределенности, стратегия воздействия неопределенности, методология уголовного права.

¹ Platonova N.V. The philosophy of a Law in the Age of Postmodern // Culture. Spirituality. Society. - 2015. - No. 19. - P. 83.