

National Research University
Higher School of Economics

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SYMBOLS IN LAW AND IN LEGAL SCIENCE

PhD Dissertation Summary for the purpose of obtaining
academic degree Doctor of Philosophy in Law

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Moscow – 2021

The thesis was completed at the Faculty of Law
of the National Research University 'Higher School of Economics'

The text of the thesis is deposited and available on the website
of the Higher School of Economics: <https://www.hse.ru/sci/diss/>

12.00.01 – Theory and history of law and state;
history of law and state doctrines

GENERAL DESCRIPTION OF THE RESEARCH

Relevance of the research theme. The category of symbol is a cornerstone of reflection and interpretation of reality, due to what neither knowledge field can do without this concept and, respectively, without generation of methods of its comprehension. The legal science is not an exception. This topic is understudied; besides, there are no methodological criteria distinguishing non-identical approaches to its investigation; that is why this issue is especially topical.

The use of the category of symbol in the legal science definitely needs focused comprehension, which is preconditioned, first of all, by the goals and scopes of the legal regulation, as well as by the requirements to the unity of terminology, stability and consistency of its application. Rapid development of legal symbols (both public and private) in our country against the background of renaissance of this topic during the post-Soviet period is an evidence of spontaneous character and opportunism of their legal mediation without any support by the solid theoretical background. This process results in, including but not limited to, the revision of the initial legislative concepts (for instance, concerning the unofficial use of the State Flag and then the Coat of arms of the Russian Federation, the state registration of symbols of non-commercial organizations), complicated law enforcement (up to the exceptional cases of cancellation of valid judgements; contrary viewpoints of the Supreme Court of the Russian Federation on cases with similar subjects), and numerous gaps in the legal regulation.

Up to now the denotation of a ‘legal symbol’ has not been thoroughly studied from the point of view of the phenomena (forms) imagined within. As a rule, consideration of legal symbols *in general* is related to the highest possible level of conceptual generalization, which sometimes borders on terminological controversies, dangerous both for the scientific doctrine and for the positive law.

Extent of previous research of the theme. In the Russian legal science some issues of legal symbols were touched upon by pre-revolution scholars (P.D. Kolmykov, M.I. Kulisher, A.P. Kunitsyn, F.I. Leontovich, D.I. Mejer, N.P. Zagoskin, and others), however, the most of them concentrated on the early forms of law using papers of foreign scholars and with references to them (in most cases J. Grimm's 'German Legal Antiquities' are mentioned).

The article 'Legal symbolism' by N.N. Voplenko¹, where the scholar assigns to the symbols the role of a specific supplementary aid of the legal regulation to express the necessary information on legal details of some situation in the shortest symbolic form, was in many aspects determinative for the contemporary Russian research. This position supported by the other scholars (for example, A.Yu. Glushakov, A.A. Kolesnichenko, A.V. Nikitin) caused the shift of a focus to the idea of solving the issues of information oversaturation in the legal area by means of symbols. However, we believe that for scientific comprehension of the concept of a 'symbol' in legal science it has had certain negative consequences caused by the serious terminological muddle and the total conceptual confusion of the categories of a symbol and a sign. There is a good reason to the fact that foreign scholars (for example, B. Bergmans, C. Brunschwig, F. Lachmayer, K.F. Röhl) use the concept of 'legal visualization' ('visual law') as a category mediating a wide range of different forms of expressing of the legal matter (including the ones for comparable cases in terms of the context).

Legal scholars frequently analyze some kinds of legal symbols within the purely sectoral context, where studies of state symbols within the scope of the constitutional law are prevailing (for example, in works of K.V. Nuzhin, V.I. Opryatov, and others), which makes it impossible to analyze the category of a symbol general-theoretically.

It should be noted, that up to the present moment the Russian legal science has not worked much on historiography of the legal symbols studies, and the issue of the first attempts of lawyers to work on this matter is close to transition to the

¹ Voplenko N. N. (1995) Legal symbolism. *Pravovedenie*, no 4–5, pp. 71–73 (in Russian).

category of ‘historiographical mythology’²: in 1999 A.V. Nikitin basically repeated the names of the ‘pioneers’ mentioned by P.D. Kolmykov 160 years ago (G. Vico, J. Grimm). Historiographical surveys of the other contemporary Russian lawyers do not cover the period prior to the 19th century as well, though we have established that the first special studies of lawyers deals with the symbols within the legal context appeared as early as in the 18th century. One of the first places in the historiography of the issue belongs to the 14th century lawyer Bartolus de Saxoferrato and his *Tractatus de insigniis et armis* (before 1357), which is accessible and translated into Russian, but practically not taken into account by the Russian legal experts.

In legal science only some isolated attempts of general theoretical studies of legal symbols have been made (in particular, in works of A.Yu. Glushakov, R. Kevelson, A.V. Nikitin, P.D. Shalaginov). Together with that, the scientific basis of our research includes works of legal history (N.V. Akchurina, M. Bartošek, I.G. Danilov, G.F. Dormidontov, T.N. Il'ina, I.A. Isaev, M.A. Isaev, M.N. Kharuzin, N.N. Kharuzin, A.S. Konovalova, A.A. Kotlyarevsky, A.V. Marey, J. Michelet, V.V. Momotov, D. Munzel-Everling, K.A. Nevolin, S.V. Pakhman, N.P. Pavlov-Silvansky, D.Yu. Poldnikov, C. Sanfilippo, A.K. Sarkisov, T.V. Shatkovskaya, M.C. Schürmann, E.I. Yakushkin, and others), works of legal theory (M.I. Abdulaev, S.S. Alekseev, S.A. Avak'yan, V.K. Babaev, V.E. Chirkin, M.L. Davydova, V.B. Isakov, R. von Jhering, T.V. Kashanina, S.A. Komarov, V.M. Korelsky, V.V. Lazarev, S.V. Lipen, A.V. Malko, G.V. Maltsev, M.N. Marchenko, N.I. Matuzov, A.V. Melekhin, R.T. Mukhaev, V.D. Perevalov, L.I. Petrazhitsky, A.S. Pigolkin, F.C. von Savigny, and others), as well as dedicated studies (V.G. Aleynichenko, E. Beck, V.A. Belov, R.I. Bodrov, N.Kh. Buzarova, N.A. Chuyko, N.F. Davidenko, V.A. Dmitriev, V.N. Dodonov, T.V. Drobyshevskaya, A.M. Erdelevsky, E.P. Gavrillov, G.K. Gins, S.M. Il'in, O.S. Kapinus, Ya.A. Karunnaya, N.F. Kovkel, M.A. Kuzmin, S.V. Lukashevich,

² This phrase is used by Professor O.N. Naumov (q.v. Naumov O. N. (2004) *Russian historiography of heraldry (18th-20th centuries)*. Doctor of Historical Sciences Thesis. Moscow, 661 p. (in Russian).

A.A. Makushin, M.N. Maleina, D.V. Mazaev, A.N. Pavlov, A.I. Prokop'ev, A.A. Reshetnikova, E.S. Rogachev, A.S. Ryabchikova, M.A. Selyukov, A.P. Sergeev, A.A. Shestimirov, I.D. Shutak, L.B. Sitdikova, Yu.V. Sorokina, O.E. Spiridonova, R. Strel, V.S. Tolstoy, E.E. Tonkov, F. Tribolati, B.M. Wedell, V.D. Zorkin, M.N. Zubkova, and others), where symbols and (or) adjacent categories are in many cases a separate subject of investigation.

Apart from the works conducted by the previously mentioned authors, the scientific basis of the research includes studies on philosophical, philological, culture-related and sociological comprehension of the category of a symbol and the adjacent categories (works of N.D. Arutyunova, S.S. Averintsev, A.V. Azbukina, A.V. Babaytsev, R. Barthes, J. Baudrillard, E. Cassirer, G. Deleuze, A.L. Dobrokhotov, U. Eco, E.G. Grigor'eva, G.G. Khazagerov, I.M. Kobozeva, G.I. Korolev, E.F. Kosichenko, Ju. Kristeva, N.A. Lebedev, G.W. Leibniz, A.F. Losev, Yu.M. Lotman, V.V. Mantatov, N.B. Mechkovskaya, A.A. Morozov, C.K. Ogden, C.S. Peirce, I.A. Richards, P. Ricœur, N.N. Rubtsov, V.A. Ryzhova, E.M. Spirova, K.A. Svas'yan, S.G. Sycheva, Yu.P. Ten, M. Tomberg, G.I. Tsareva, E.G. Zinkov, and others), as well as works of historians, political experts, researchers of heraldry, vexillology, sigillography as special historical disciplines (E.A. Agafonova, V.V. Andreev, Yu.V. Arsen'ev, V.A. Artamonov, G.V. Belova, A.P. Chernykh, V.S. Drachuk, S.V. Dumin, E.I. Kamentseva, V. Karamanchev, V.Ya. Kiyashko, V.B. Kobrin, G. Kocher, E.A. Komarovskiy, P.K. Kornakov, A.A. Kuznetsov, A.B. Lakier, G.A. Leont'eva, V.K. Lukomsky, M.Yu. Medvedev, D.A. Misyurov, O.N. Naumov, O. Neubecker, M. Pastoureau, V.V. Pokhlebkina, A.P. Pronshtein, P.Yu. Shamara, P.A. Shorin, S. Slater, I.S. Smetannikov, N.A. Soboleva, G.A. Tunik, G.V. Vilinbakhov, P.P. von Winkler, A.Yu. Zhuravkov, and others).

The object of the research is the symbols as a legal category reflected and developed in legal science and perceived in the legal norms. **The subject of the research** is the theoretical sources and normative legal acts related to symbols and the adjacent categories.

The purpose and objectives of the research. The main purpose of this research is to reveal topical issues of comprehension of symbols in the legal science, shortcomings of the legal regulation of social relations arising from establishment, use and protection of legal symbols, as well as to formulate suggestions for solving these problems.

To achieve this purpose we were to find solutions for the following principal objectives determining the structure of the research:

- systematize scientific ideas of the legal symbols with consideration of the historical and comparative-legal aspects;
- analyze the current legislation system (both public and private) of symbols and the adjacent categories;
- define the ways of further development of concepts of symbols in the legal science.

The methodological base of the research. This research is based on the comprehensive use of the basic general theoretical and special methods traditionally used in theoretical and historical-legal studies: the dialectical method of scientific cognition, methods of analysis and synthesis, the systematic approach, formal and logical tools. Our desire to verify conclusions and theses from scientific literature made us use the method of the critical analysis of sources.

The following methods taking into consideration the specific character of the research object are widely used: the historical method allowing a researcher to follow the dynamics and trends of development of legal symbols studies; the comparative-legal method based on the use of foreign doctrinal and legal sources³; the linguistic method, the goal of which is to comprehend multidimensionality of meanings of the analyzed concepts.

The author also applies the method of the legal experiment conducting practical tests of viability and quality of elaboration of the certain legal norms

³ It should be noted that the available general theoretical dissertations of legal symbols (A.V. Nikitin, P.D. Shalaginov) do not refer to the legislation of foreign countries.

(entering a personal coat of arms in the heraldic register of a subject of the Russian Federation).

The empirical base of the research includes the international law sources, the Russian normative legal acts, as well as the legal acts of 14 foreign countries (Austria, Belarus, Belgium, France, Georgia, Germany, Italy, Latvia, Moldova, South Africa, Sweden, Switzerland, Turkmenistan, Ukraine).

The approaches of solving certain issues are analyzed within the historical retrospective (including the application of the legislation of the Russian Empire and the USSR), as well as with account of the regional and municipal aspects (including the normative legal acts of the subjects of the Russian Federation, of the territorial entities of foreign countries and the municipal legal acts). When necessary, drafts of the normative legal acts are considered.

Apart from that, empirically the research is based on the Russian and foreign law enforcement practice. To increase the reliability level of the research conclusions we involve corporate acts, public initiatives, statistical data, messages from the media, other sources.

The scientific novelty of the research is as follows:

- it is the first attempt of a complex analysis and separation of non-identical approaches to comprehension of symbols in the legal science;
- for the first time the concept of a ‘symbol’ is analyzed within the system of legal norms of both public and private law; we have analyzed the whole system of the current Russian legislation where the legislator uses the concept of a ‘symbol’ and the adjacent phenomena;
- it is the first suggestion to comprehend the category of legal symbols within the scope of the special juridical discipline called ‘Legal symbolism’;
- for the first time in the scientific practice we apply before unused sources, academic literature and normative legal acts of the foreign countries.

The basic propositions to be defended:

1. The existing general theoretical approaches to study the symbols in legal science restrict the scope of their comprehension within the historical-legal and

technical-legal paradigms; sectoral approaches are usually limited to studies of the state symbols within the scope of public law branches. This confirms the need for further development of studies on symbols in law.

2. The historical-legal approach to study the symbols restricts the scope of the respective research works to the issues of the legal form building (beyond the historical context, the category of legal symbols frequently loses all and any legal significance).

3. Within the scope of the technical-legal approach symbols are considered just as a supplementary tool of the legal regulation, a tool of the juridical technique or a non-typical form of the regulatory direction. Here the concept often loses the subject certainty and the terminological boundaries ('legal symbols' include a very wide range of phenomena, from diagrams and tables to the Internet).

4. Substantive analysis of the category of legal symbols, which has both theoretical and practical significance for improving the current legislation⁴, is optimal within the scope of the author's institutional-legal approach. Here the symbols are analyzed as an object of legal relationships and a separate legal institute.

5. As objects of legal relationships legal symbols have no distinct sectoral character, which was not taken into account in previous special studies. There is quite a compact line of phenomena associated in the normative legal acts with the notion of a 'symbol' (coat of arms, emblem, flag, standard, pennant, anthem), which is applied in the legal norms of both public and private law and related to both public and private entities. This allows us to speak for the first time about the concept of an intersectoral legal institute of legal symbols (law subjects symbols) and about the corresponding integrated branch of legislation in future.

6. A promising area of further development of studies on symbols in law is their scientific comprehension within the scope of the new special juridical discipline of 'Legal symbolism'. The general section of this discipline should

⁴ The suggestions for improving the current legislation are given in the propositions of the second and third chapters of the dissertation research.

include issues related to historiography, the basic methods of understanding of the symbols, notion and parameters of the legal symbols and some other theoretical issues and the special section of the discipline should include the complex of topical theoretical and practical issues, which should be comprehended from the legal point of view.

7. The structure of the special section of the discipline of ‘Legal symbolism’ offered by the author includes following sections:

- syntax of the legal symbols (to be studied rules of formation of the legal symbols, which, at the same time, can be used as criteria for categorizing an object into a certain group);

- semantics of the legal symbols (to be studied issues of interpretation of the legal symbols with consideration of their polysemy and going into the broad spectrum of semantic vectors);

- pragmatics of the legal symbols (to be studied complex of issues of the juridical mediation of the legal symbols related to their existence and realization of their functions), an important component of which is the issue of their establishment, use and protection.

The theoretical and practical significance of the research is determined by its scientific novelty and orientation at deeper theoretical and historical-legal views on symbols in law and at solving of a number of practical issues related to perfection of the current legislation.

The materials of the research can be used as an element of scientific and educational supplies on the theory of law and state, history of law and state of Russia and of the foreign countries, history of law and state doctrines, constitutional law, administrative law, civil law as well as an element of interdisciplinary modules aimed at interaction of the legal studies with philosophy, history and politics on the basis of the common subject of studies – that of a symbol.

The study offers the way to eliminate gaps and contradictions in the current legislation to improve its efficiency. In particular, we mention that the concept of

the ‘symbols of the state’ cannot be identical to the concept of the ‘symbols of the state power’; comprehension of the State flag and coat of arms of the Russian Federation cannot be reduced to the targeted legislative interpretations (‘symbols of the state power’, ‘symbols of the judicial power’, etc.). We give examples of the cases where the use of the concept of a ‘symbol’ (‘symbolism’) by the legislator fails to correspond to the rules of systemacy and uniformity (including the legislation on physical training and sports). We highlight the disputable character of legislative regulations on acceptability (and obligatory character!) of the Russian State coat of arms reproductions without a heraldic shield, which breach the heraldic doctrine recognized at the supranational level.

Working on the issue of correlations between the concept of symbols of private persons (companies and individuals) and the conceptual framework of the civil law has demonstrated the whole lot of the fields for perfection of the latter (including the elaboration of the system of means of individualization of legal and natural persons, of the system of the objects of personal non-property rights and mechanisms of their legal protection, etc.).

The veracity of the research results is confirmed by the high scope of the applied scientific literature and a set of the primary sources (we have used not only the dedicated works by legal scholars, but general scientific works as well), a large set of empirical materials, as well as a complex of methods corresponding to all the set objectives of this research.

We have **approbated the research results** at scientific conferences, in which the author participated, and some research materials have been published in twelve articles. The basic propositions and summaries of the research have been discussed at the methodological seminar of the Department of Theory and History of Law under the School of General and Interdisciplinary Legal Studies of the Faculty of Law of the National Research University ‘Higher School of Economics’.

The structure of the research stays in line with objectives set by the author, allowing us to analyze the related research problems in the systematic and

consequent way. The work consists of an introduction, three chapters, a conclusion, a list of references, and eighteen attachments.

BRIEF CONTENT OF THE WORK

In the **introduction** we substantiate the relevance of the research theme, analyze the extent of previous research of the theme, define the purpose and objectives of the research, its theoretical, methodological, empirical basis, and the scientific novelty, formulate the basic propositions to be defended, reflect the theoretical and practical significance of the work, give evidence of the veracity of the research results and its approbation, as well as we set forth the research structure.

In the **first chapter** titled ‘**Symbols in general scientific and legal concepts**’ we consider the main scientific approaches to comprehension of a symbol and the adjacent phenomena as categories, analyze the etymological aspects and diversity of the existing definitions. A wide range of the scientific approaches and notions of symbols confirms the topicality of this phenomenon in various fields of science and in different historical periods.

In the **first paragraph of the first chapter** we analyze the general scientific concepts, which constitute the theoretical and methodological basis for subsequent consideration of the category of symbol in the legal science. We observe the existing priority of the philosophical elaboration of the issue; however, the range of studies on symbols includes practically all fields of humanities sciences (and legal sciences) as well. Alongside with that, there is nearly no information on the legal field of elaboration of the concept of a ‘symbol’ in the studies on complex comprehension of this phenomenon, which is an evidence of the lack of attention to the focused elaboration of this issue in studies of lawyers, as well as of the ‘departmental’ localization of those studies.

The author highlights the necessity to assign the equal right of each academic area to be an element of the whole comprehension of a symbol with

account of its special characteristics depending on the field of application and warns against the arbitrary extraction of scientific conclusions from the targeted guidelines.

We note that the use of such concepts as ‘symbol’, ‘sign’, and ‘emblem’ in general theoretical concepts and in the social practice demonstrates the unlimited variability in both comprehension of each of these phenomena and in interpretation of relationships between these concepts. The scholars’ points of view are different both in historical and branch aspects; however, each of them contributes to comprehension of these supratemporal and common-cultural values.

In the **second paragraph of the first chapter** on the main approaches to comprehension of symbols in the legal science we attempt to extend the traditional historiographical boundaries of studies of this phenomenon currently existing in the Russian legal science. According to our domestic legal researchers, the earliest examination of symbolical phenomena in law happened in the 19th century (in most cases J. Grimm’s ‘German Legal Antiquities’ are mentioned).

The author proves that the first special studies of lawyers deals with the symbols within the legal context had appeared at least a hundred years prior to the well-known book by J. Grimm, and the ‘pre-Grimm’ period of their studies was represented by at least 10 works practically unknown to the Russian legal science, which can obviously be the material for further dedicated studies. The research discourse starts to consider the earlier works of the lawyers dating back to the 18th century, devoted to symbols within the legal context (works of J.U. Cramer, C.U. Grupen, J.T. Hoffmann, J.W. Hoffmann, B.L. Mollenbeck, E. Otto, J.G. Schaumburg, J.G. Scherz, and some other authors). One of the first studies analyzing the meaning of symbols for the law in general is J.T. Hoffmann’s thesis on *symbolical jurisprudence* – ‘Dissertatio Jvridica De Jurisprudentia Symbolica’ (1726), where the scholar demonstrated his position on application of symbols in both private and public law, in ecclesiastical and feudal law. We note also that with account of the civilistic approach considering the issues of the *symbolic tradition*, historiography can be extended to the papers of such lawyers of the 16th – 18th

centuries as A. Alciato, I. Calvinus, I.T. Freigius, N.H. Gundling, J. Mejer, and some other authors.

Apart from P.D. Kolmykov's work 'On symbolism of law in general and Russian in particular' (1839), the Russian pre-revolution literature has no specialized monographic papers or thesis with the focus on *symbolical jurisprudence*; however, some issues of legal symbolism were regularly touched upon in works of such scholars as P.S. Efimenko, M.N. Kharuzin, M.I. Kulisher, A.P. Kunitsyn, F.I. Leontovich, D.I. Mejer, K.A. Nevolin, S.V. Pakhman, E.I. Yakushkin, N.P. Zagoskin, and others. In our research we analyze the basic propositions from those works.

The civilistic line of the legal symbols research was the most widespread in the Russian science of law in the 19th century. We suppose that a significant role herein played both the teaching of lawyers aimed at the work within the popularity of the Roman civil law and accumulation and description by social anthropologists and archaeologists of that period rich in empirical material related to private legal relationships.

The further development of studies of symbols and signs in the science of law in the 20th – 21st centuries has considerably shifted the vector from historical-legal to technical-legal, which is evidenced by the works of M.L. Davydova, A.Yu. Glushakov, I.F. Kazmin, A.V. Nikitin, O.I. Sharno, I.D. Shutak, A.A. Ushakov, N.A. Vlasenko, N.N. Voplenko, and others.

The author gives critical assessment of unsystematic or unreasonably wide use of the terminology of signs and symbols in law literature and suggests not using the concept of 'legal symbols' for a wide range of non-typical forms of expression of the legal matter to solve the problem of information oversaturation in the legal field. With account of the studies of foreign scholars (for example, B. Bergmans, C. Brunschwig, F. Lachmayer, K.F. Röhl), within the given context it seems more appropriate to speak about the integrating potential of the concept of '*legal visualization*' or '*visual law*'. Dating back to the second half of the 20th century, the time of active development of the legal informatics and didactics, this

concept is currently more frequently used in legal studies of the wide range of issues: from studies of pictures illustrating the text of the *Sachsenspiegel* up to the traffic rules. A special area of the legal visualization is represented by the analytical-legal methodology, within the scope of which V.B. Isakov has developed even the special graphic language ‘Grafento 1’⁵.

The historiographical analysis has made the author focus on the issue of sampling of non-contextual legal symbols, which remain symbols across the full range of contexts, preserve the ability to be defined through this generic concept in scientific literature and dictionary entries, as well as the potential for their correct use in normative legal acts.

In the **second chapter** titled ‘**Symbols in normative legal acts**’ the specific character of the scope of a concept of a ‘symbol’ and a set of the constituting phenomena (forms) with legal meaning are analyzed from the point of view of the positive law, because, in contrast to the language of the legal science, which is rather capacious, rich in content, but sometimes subjective and rhetoric, the language of legal acts (according to S.S. Alekseev, *the ‘tangible’ reality of law*⁶) is more demanding in terms of the terminology uniformity, consistency and stability of its use.

The author attempts to systematize all usage cases of the concepts of ‘symbol’ and ‘symbolism’ in normative legal acts of the Russian Federation at the level of federal constitutional laws and federal laws with topic approach. We have exposed that the majority of phenomena analyzed by some authors as legal symbols are not comparable with the concept of a ‘symbol’ in the current legislation.

The **first paragraph of the second chapter** is devoted to symbols within the system of the public law. We see evident uniformity of forms, which the concept of a ‘symbol’ is related to, in laws on judicial authorities of the Russian Federation; however, enumeration of the legally approved characteristics of state

⁵ Q.v. Isakov V. B. (2016) *Grafento 1: Graphic language of the legal analytics*. Moscow: Higher School of Economics, 50 p. (in Russian).

⁶ Alekseev S. S. (1982) *General theory of law*. In 2 vols. Vol. 2. Moscow: Yuridicheskaya literatura. P. 197 (in Russian).

symbols in the titles of some articles is a clear evidence of the lack of the required consistency and systemacy of their comprehension by the legislator. The concept of the ‘symbols of the state’ cannot be identical to the concept of the ‘symbols of the state power’; comprehension of the State flag and coat of arms of the Russian Federation cannot be reduced to the targeted legislative interpretations (‘symbols of the state power’, ‘symbols of the judicial power’, etc.), and the legal norms (titles of the articles) of the corresponding federal constitutional laws need adjustments.

With account of dynamics of the legal norms related to certificate of employment of a judge, as well as to separation of the concepts of ‘document’ (certificate of employment being here a specific element) and ‘symbol’ in the legislation, the author proves that these concepts cannot and should not be equated. Against the background of such terminological separation, the exclusion of the Constitution of the Russian Federation from the enumeration of phenomena characterized through the concept of a ‘symbol’ in the positive law seems completely correct.

The list of topical issues includes development of departmental symbols in the Russian Federation; however, there is no systemic position of the legislator regarding this matter; the legal norms on the own symbols of the bodies of executive power, the state authorities and organizations are included in some federal laws merely selectively; the issues of the departmental symbols typology need further elaboration. For instance, the legislation lacks both the requirements to the state authorities where existence of their own standards is acceptable and legal definitions of the concept of ‘standard’ with indication at the subjective composition of the bearers. In a number of cases it is impossible to detect systemic differences between ‘heraldic signs – emblems’ and simply ‘emblems’ of certain authorities, when differentiation depends neither on the type of a federal authority of executive power, nor on subordination, nor on the field of activity, nor on the type of the normative legal act adopting the emblem, nor on the formal details of its composition.

The author suggests looking at such basic state and legal issues, as, for instance, the state mechanism or the principle of the powers separation from the perspective of official symbols. If we use the ability of symbols to pass the most essential information on objects and phenomena in the concentrated form and suppose that exactly this information, including that considering the functional ‘quintessence’, was encoded in the heraldic signs – emblems of the state bodies, these symbols could become one of the keys of the structural-functional analysis of the state mechanism (there is a hypothesis on overlapping of the functions of some state bodies of executive power with account of their symbols content). Through the example of the Accounts Chamber of the Russian Federation we demonstrate that within a definite context the system of departmental symbols delivers important information on implementation of the principle of the powers separation and on the special legal status of some state bodies, which do not belong to the legislative, executive or judicial state authorities.

In the **second paragraph of the second chapter** we analyze symbols within the system of the private law, study the issues practically untouched in the Russian legal science related to symbols of companies and individuals. We note that the scope of issues related to symbols of legal persons is not a subject of the civilians’ dedicated studies yet, because scholars focus mostly on the analysis of the legislatively approved means of individualization of legal persons, goods, works, services, and business enterprises (brand name, trademark and service mark, appellation of origin, commercial designation). However, the system of means of individualization of legal persons lacks the fixed area for various forms of their own symbols, and the legislator’s handling of this issue is one-legged: the right to symbols given to non-commercial organizations only has left open the question of the subjective right of all legal persons, regardless of their legal form, to their own symbolism. Apart from that, up to now symbols have not found their place in the system of protectable civil means of individualization of legal persons, that is why organizations possessing their own symbols are frequently forced to register them as trademarks, which leads to appearance of the wrong law-enforcement practice

of mixing up phenomena of different legal nature. The author highlights that within the system of means of individualization a characteristic of the legal nature of trademarks (service marks) is their explicit connection with the objects of law (with goods, works or services respectively) and only indirect connection with the subjects possessing exclusive rights to these marks (symbols have exclusive legal connection exactly with the subjects of law).

The question on sampling of some symbols of natural persons (including those normally not designated as such for public entities or legal persons) is disputable, as both from the point of view of the positive law and from the point of view of doctrinal sources this area is practically unstudied. The author's opinions are reflected as exemplified by the detailed analysis of such phenomena designating natural persons, as passport, signature, seal, name, and coat of arms.

The **third chapter** titled '**Symbols as subject matter of special juridical discipline**' explains the necessity of further scientific comprehension of this category and of the adjacent phenomena within the scope of a special juridical discipline.

The research reveals disputable issues of juridical mediation of legal symbols, gives examples spontaneity and discrepancy, as well as it demonstrates gaps of the legal regulation of social relations arising from establishment, use and protection of such symbols in the Russian Federation, its regions and municipalities conditioned by the lack of the firm research and theoretical basis. The author supposes that scientific comprehension of legal symbols and the adjacent phenomena within the scope of the special juridical discipline called «Legal symbolism» based on the methods of the legal science should be an important step towards construction of such basis.

Heraldry, vexillology, sigillography, and some other disciplines, the subject of study of which includes the certain forms of symbols, are generally referred to the 'auxiliary' or 'special' *historical* disciplines. The author pays attention to the fact that this situation does not correspond to the nature of these symbols as *living legal substance*. V.K. Lukomsky before substantiated the theory of the coat of

arms exactly as a historical source⁷, as a phenomenon of the past, which will remain in the past, but this opinion was expressed in the conditions of the total political struggle with the monarchical system and its attributes. At present we see that the legal symbols are not ‘frozen in history’: such symbols are actively used in everyday practice and need protection in case of wrongful acts. Finally, we have a constant need to create and approve the new symbols.

These processes, of course, require the comprehension in legal science, especially as because the legal symbols have not only purely applied value, but are associated with a whole range of the theoretical and historical legal issues.

The general section of this discipline should include issues related to historiography, the basic methods of understanding of the symbols, notion and parameters of the legal symbols and some other theoretical issues and the special section of the discipline should include the complex of topical theoretical and practical issues, which should be comprehended from the legal point of view. The structure of the special section of the discipline offered by the author includes sections related to syntax, semantics and pragmatics of the legal symbols to be studied: rules of formation of the legal symbols, which, at the same time, can be used as criteria for categorizing an object into a certain group; issues of interpretation of the legal symbols with consideration of their polysemy and going into the broad spectrum of semantic vectors; complex of issues of the juridical mediation of the legal symbols related to their existence and realization of their functions.

The **conclusion** offers brief summaries of the research and suggests promising fields of further cognition of symbols in the legal science.

Within the scope of the institutional-legal approach the author gives a working definition of the legal symbols as unique, stable, valued, expressed in a special form objects conventionally representing the subjects of law at different semantic levels, established, used and protected in accordance with the rules of law.

⁷ Lukomsky V. K. (1947) Coat of arms as a historical source. KSIIMK, issue XVII, p. 50 (in Russian).

**LIST OF THE PUBLICATIONS
REFLECTING THE MAIN SCIENTIFIC RESULTS
OF THE DISSERTATION RESEARCH**

**Publications in the editions included in the list of HSE recommended
journals:**

1. Maltsev I. V. On the concept of legal symbols within scope of the institutional legal approach // Law. Journal of the Higher School of Economics. 2019. No. 4. P. 100–121. (1,00 p.s.).

2. Maltsev I. V. Syntax and semantics of legal symbols // Russian Juridical Journal. 2019. No. 3. P. 32–41. (0,50 p.s.).

3. Maltsev I. V. Early historiography of legal symbols research // Proceedings of Voronezh State University. Series: Law. 2019. No. 3. P. 63–74. (0,60 p.s.).

Other publications:

4. Maltsev I. V. Coats of arms in the system of symbols of natural persons: legal aspects // Gerbovedenie [Science of Heraldry] / Ed. by O.N. Naumov. Vol. 7. Moscow : Staraya Basmannaya, 2018. P. 9–25. (0,85 p.s.).

5. Maltsev I. V. Legal issues of the development of departmental symbols in the Russian Federation // Gerbovedenie [Science of Heraldry] / Ed. by O.N. Naumov. Vol. 6. Moscow : Staraya Basmannaya, 2017. P. 274–288. (0,75 p.s.).

6. Maltsev I. V. Legal protection of official symbols of Russian Federation entities and municipalities // Gerbovedenie [Science of Heraldry] / Ed. by O.N. Naumov. Vol. 4. Moscow : Staraya Basmannaya, 2015. P. 34–53. (1,00 p.s.).

7. Maltsev I. V. Modification of territorial coats of arms in the Federal Republic of Germany // Gerbovedenie [Science of Heraldry] / Ed. by O.N. Naumov. Vol. 1. Moscow : Staraya Basmannaya, 2011. P. 65–73. (0,45 p.s.).

8. Maltsev I. V. Normative legal acts of the Russian Federation on the official symbols (1991–2004) // Gerboved [Scientist of Heraldry]. 2005. No. 6. P. 125–136. (0,60 p.s.).

9. Maltsev I. V. To the problem of legal regulation of the official symbols in the Russian Federation // Gerboved [Scientist of Heraldry]. 2002. No. 3. P. 64–79. (0,80 p.s.).

10. Maltsev I. V. State and national symbols: on the problem of the relationship of concepts // Modern problems of perfection of the Russian legislation: collection of articles. Barnaul : Altai State University, 2002. P. 99–101. (0,15 p.s.).

11. Maltsev I. V. Legal aspects of the use of official symbols for commercial purposes // Economy. Business. Information Technology: materials of the conference. Barnaul : Altai State University, 2001. P. 273–276. (0,20 p.s.).

12. Maltsev I. V. Legal issues of establishment, use and protection of the official symbols // Law: new approaches in creativity of young scientists: collection of articles. Barnaul : Altai State University, 2000. P. 54–61. (0,40 p.s.).