DOI 10.5281/zenodo.3291547

DO PROBLEMÓW OKREŚLENIA GRANIC NADZWYCZAJNEJ REGULACJI PRAWNEJ

Serhii Kuznichenko
Doktor habilitowany nauk prawniczych, profesor
Prorektor Państwowego Uniwersytetu Spraw Wewnętrznych w Odessie
(Odessa, Ukraina)
e-mail: kuznichenko@ukr.net
ORCID ID: 0000-0002-5837-9880

Streszczenie. Artykuł poświęcony jest badaniom współczesnych doktrynalnych podejść do granic nadzwyczajnych regulacji prawnych. Przeanalizowano główne europejskie doktryny nadzwyczajnych regulacji prawnych i stan ich badań w dziedzinie nauk prawnych. Ustalono związek między stosowaniem nadzwyczajnych regulatorów prawnych a możliwością zarządzania procesami społecznymi w sytuacjach kryzysowych. Określono cechy granic prawnych nadzwyczajnych regulacji prawnych jako czynników zapewniających prawa i wolności człowieka i obywatela. Uzasadnione jest, że możliwość prawna i dopuszczalność stosowania nadzwyczajnych organów regulacyjnych jest ściśle związana ze zdolnością do zarządzania procesami społecznymi w sytuacjach kryzysowych. Określono główne międzynarodowe akty prawne ustanawiające kryteria ograniczania ingerencji państwa w prawa i wolności obywateli podczas wdrażania nadzwyczajnych regulacji prawnych. Udowodniono, że granice nadzwyczajnej regulacji prawnej są granicami natury obiektywnej i subiektywnej, które określają ustawodawstwo i międzynarodowe akty prawne, w których dokonuje się szczególny i wyłączny wpływ prawny na stosunki społeczne w nadzwyczajnych okolicznościach.

Słowa kluczowe. Regulacja prawna, nadzwyczajne tryby administracyjno-prawne, nadzwyczajne regulacje prawne, doktryny nadzwyczajnych regulacji prawnych, prawne ograniczenia nadzwyczajnych regulacji prawnych.

PROBLEMS OF THE DEFINITION OF BOUNDARIES OF EMERGENCY LEGAL REGULATION

Sergìj Kuznìchenko
Doctor of Law, Professor
Odessa State University of Internal Affairs, (Odessa, Ukraine)

Abstract. The research deals with the modern doctrinal approaches to the boundaries of emergency legal regulation. The main European doctrines of emergency regulation have been analyzed as well as their development in the legal science. The interrelations between the application of emergency legal regulators and control of the social processes in crisis have been defined. The features of the legal boundaries of emergency regulation have been defined through the prism of the rights and freedoms of a person and a citizen. The basic international legal acts establishing the criteria limiting the state's interference with the rights and freedoms during the implementation of extreme legal regulation have been listed. The boundaries of extreme legal regulation have been defined as the limits of objective and subjective nature which are determined by the national and international legislation which stipulate special legal influence on social relations in extraordinary circumstances.

Keywords. Legal regulation, administrative and legal regimes of emergencies, emergency legal regulation, doctrines of emergency regulation, legal boundaries of emergency regulation.

ДО ПРОБЛЕМ ВИЗНАЧЕННЯ МЕЖ НАДЗВИЧАЙНОГО ПРАВОВОГО РЕГУЛЮВАННЯ

Сергій Кузніченко
доктор юридичних наук, професор, Проректор Одеського державного університету внутрішніх справ, (Одеса, Україна)

Анотація. У статті проведено дослідження сучасних доктринальних підходів до меж надзвичайного правового регулювання. Проаналізовано основні європейські доктрини надзвичайного правового регулювання та стан їхнього дослідження у правовій науці. Встановлено взаємозв’язок застосування надзвичайних правових регуляторів із здатністю управління соціальними процесами у кризових ситуаціях. Визначено риси юридичних меж надзвичайного правового регулювання як чинників що забезпечують права та свободи людини і громадянина. Обґрунтовано, що правова можливість та допустимість застосування надзвичайних правових регуляторів тісно пов’язана з питанням здатності управління соціальними процесами у кризових ситуаціях. Визначено основні міжнародні правові акти, що встановлюють критерії обмеження втручання держави в права та свободи громадян при здійсненні надзвичайного правового регулювання. Доведено, що межі надзвичайного правового регулювання – це межі об'єктивного та суб’єктивного характеру, що визначаються законодавством та міжнародними правовими актами, у рамках яких здійснюється спеціальний та винятковий юридичний вплив на суспільні відносини в надзвичайних обставинах.

Ключові слова. Правове регулювання, надзвичайні адміністративно-правові режими, надзвичайне правове регулювання, доктрини надзвичайного правового регулювання, юридичні межі надзвичайного правового регулювання.

Introduction. Significant socio-political transformations that have taken place in Ukraine over the last five years significantly change the nature of legal regulation of social relations, influence the development of law, and require legislation to be updated. The armed conflict in eastern Ukraine and the consequences of its prolonged existence contribute to the need to update certain segments of national legislation. The need for an adaptive transformation of law is a requirement of the national interests of the state as one of the means to eliminate the threats to its national security.

Effective legal regulation of relations arising in the context of various socio-political and military conflicts, natural disasters, man-made disasters and catastrophes, is usually carried out through the application of emergency measures that are different from those used in the usual conditions. Legal regulation in such conditions is connected with the notion of extraordinary administrative-legal regimes, the development of which is closely linked with the development of the modern doctrine of national security of Ukraine and entered into the legal science under the name "extraordinary legal regulation", in particular administrative - as "administrative- legal regulation".

Given that the extraordinary administrative regimes are a powerful legal instrument that, together with other legal phenomena, provide the necessary regulatory influence on all social relations in crisis situations, the need for their scientific understanding as a legal regulator does not lose its relevance.

The purpose of the article is to study modern doctrinal requirements to the limits of extraordinary legal regulation.

Proceeding from the stated goal, the following tasks are defined: to carry out an analysis of recent studies of extraordinary legal regulation; to analyze the basic doctrines

of extraordinary legal regulation, as well as to establish legal features of the limits of extraordinary legal regulation.

The research of extraordinary legal regulators (regimes) in the administrative-legal science was undertaken by such scholars as O.M. Bandurka, V.V. Beljevtseva, MV Bilokin, Yu.P. Bityak, V.V. Bogutsky, O.G. Bratel V.V. Govorukha, V.O. Golub, D.O. Goryachov, P.V. Derevyanko, D.O. Yezersky V.Ya. Kastyuk, S.V. Kivalov, T.O. Kolomoets, A.Ya. Kolinko, O.O. Krestyaninov, O.G. Kushnirenko, V.A. Lapty, V.A. Lipkan, S.O. Magda, R.I. Melnik, V.Ya. Nastyuk, K.K. Protasenko, A.M. Sychevskaya, A.S Spassky, A.S. Filippenko N.V. Harechko and others. The authors in their research and intelligence raised the constitutional and legal aspects of extraordinary legal regimes, organizational and legal, and, of course, administrative-legal. The essence of the concept of "extraordinary legal regime" was clarified (S.S. Alekseev, D.M. Bakhrach, B.Ya. Blichoman, E.F. Shamsumova and others); investigated the administrative and legal nature of the phenomenon of extraordinary legal regulation (V.M. Zavgorodnya, Z.R. Kisil, O.I. Ostapenko and others); determined the branch affiliation of one or another extraordinary legal regime (V.M. Komarnytsky, V.Ya.Nastyuk); They carried out their classification (A.T. Komzyuk, O.V. Makovskaya), and others like that.

At the same time, given the "youth" of extraordinary legislation for Ukrainian law, one can not fail to note the lack of scientific research of this institute. Most works are devoted to the specifics of the activity of law-enforcement bodies, or the peculiarities of limiting the constitutional rights and freedoms of citizens.

Presenting main material. The boundary is a certain spatial or temporal boundary of something; what restricts; Apogee (Ivchenko, 2002, p. 93). In international legal acts that provide for the restriction of human rights, several terms are used that reflect such a phenomenon as the limits of the discretion of state intervention in the field of human rights. Thus, in the Universal Declaration of Human Rights, the Covenant on Economic, Social and Cultural Rights, the Copenhagen Conference Document on the CSCE Human Dimension Conference uses the term "limits", "restrictions", while in the International Covenant on Civil and Political Rights, the term " departing from their obligations ", the American Convention on Human Rights - the" suspension of guarantees "- in the European Convention for the Protection of Human Rights and Fundamental Freedoms - both of the above-mentioned concepts *(Strekalov, 2007, p. 193).*

The restriction of human rights is an inalienable attribute of their validity, as indicated directly by the provisions of articles 3, part three of article 8 and article 64 of the Constitution of Ukraine. Recognizing as the highest social value of human dignity, the Constitution of Ukraine in Article 3 establishes that the establishment and guarantee of human rights and freedoms is the main duty of the state. It is in the Constitution of Ukraine that determines the grounds and limits of the implementation of human rights that can not be arbitrarily expanded or supplemented by current legislation.

Emergency legal regulators are a complex, multifaceted legal phenomenon, consisting of a specific set of methods and means of regulation. It is fixed in the normative and closely connected with the regime-functional group of social relations, which is the subject of legal regulation itself *(Nastjuk, 2009, p. 16).*

Modern legal science does not raise the debate about the application of extraordinary legal regimes as extraordinary legal regulators. The existence of the

relevant legislation, which entered into science under the name of "extraordinary legislation" is considered as a habitual and natural phenomenon. However, theoretical discourse requires answers to individual questions.

In particular. What are the conditions and limits of extreme legal regulation? What are the regulatory features of emergency law in the context of its application? To what extent is extreme legal regulation possible?

The answer to these questions will allow to extrapolate the theoretical concept into a practical model of extraordinary legal regulation, provide it with a scientific basis for the further development of extraordinary legislation and its application.

In the modern legal science of Ukraine, the term "extraordinary legal regulation" is not popular. Instead, the following are used in Ukrainian legislation and legal literature: "extraordinary law", "state of emergency", "legal regulation in emergency situations", "emergency law", etc. For all the similarity of these categories there are serious differences between them. Combines these concepts only with the fact that it is a question of legal aspects of the state's activities in extraordinary circumstances.

In our opinion, the term "extraordinary legal regulation" should be used in the broadest sense as legal regulation in an extraordinary situation that threatens the political, economic, social, spiritual, informational and other security of society and the state. In favor of such a broad understanding of extraordinary legal regulation, a number of arguments can be called.

Extreme legal regulation, as a form of legal regulation, can be defined as the legal effect of using exceptional legal means on social relations in extreme conditions in order to ensure security and restore order and organization in a social life in which the application of general legal principles and norms is limited or abolished *(Schmidt, 2014, p.36).*

Extraordinary legal regulators are characterized by a significant change in the legal status of subjects of legal relations. At the same time, the competence of public authorities significantly expands, mainly due to the restriction of rights and freedoms. The legislator extends the competence of the management apparatus, gives him additional powers to intervene in the direction of reduction in the scope of rights, while extending the permissive type of legal regulation. The purpose of such a reorientation of types of legal regulation is to achieve the most effective possibilities of control of social order.

Let us note that generalization and standardization are characteristic of law, since it is not regulated by a specific legal situation, but by the types of social relations, which are typical both for typical and for the difference.

The law, designed to regulate ordinary social relations in exceptional, unusual, abnormal, different from normal conditions, beyond the usual limits, that is, extraordinary, may prove to be inadequate to ensure proper regulation. Therefore, the localization, minimization or complete elimination of negative legal consequences can be ensured by providing to the public authority powers which, although coming out of the law, are, however, based on such means as would normally be regarded as non-legal.

The basis for the present doctrine of legal regulation in extraordinary circumstances began to emerge in the second half of the nineteenth and early twentieth centuries. and scientifically substantiated by the fundamental works of such lawyers as VM Hessen, V.F. Deryuzhinsky, Ya.M. Shopper, B.O. Kistyakovsky N.M. Korkunov and others. However, the works of these scholars did not appear in the empty space, but

were based in turn on the teachings and philosophical thoughts of John Locke, Charles Louis Montesquieu, Ernest Lening, and others.

The content of the doctrine listed by the scholars is that, under normal circumstances, public authority acted exclusively and clearly with the requirements of the law. However, in a situation when the state or society faces social or natural threats, the state may apply extraordinary measures that go beyond the law to eliminate them.

It should be noted that the German interwar philosophical and legal thought was dominated by the vision of the need for the use of rigid regulators to ensure social order. Thus, the political philosophy of Walter Benjamin, which was first presented by the scientific article "On Criticism of Violence", was based on the aspirations to justify the demands for the establishment of violence and its true meaning (characteristic of the Frankfurt school students - Max Gorkheimer, Theodor Adorno, Herbert Marcuse).

The theory of the possible granting of unlimited discretionary power to public authorities in extraordinary circumstances became practically implemented in the pre-war period in the doctrines created by Nazi Germany's lawyers such as Karl Rudolf Werner Best, Hans Michael Franck, Carl Schmitt "On Legal Aid to the State in a State of Emergency," " about the necessary defense of the state ". However, the implementation of these doctrines led to the transformation of temporary extraordinary norms into permanent management technology, which completely distorted the right, the form and method of its application, created conditions for the arbitrariness of power, usurpation of its powers for 12 years, as well as the elimination of most democratic institutions and preferential resolution of crisis situations by force.

At the same time, refusal to provide the state with certain discretionary powers in extraordinary circumstances creates conditions for delaying the resolution of the crisis in time, provokes a radical confrontation with the solution of problems, and complicates controllability of social relations, which in aggregate pose a threat to national security. Examples are the organizational and legal inactivity of the Salvador Allende government in Chile during the 1972-1973 crisis, and, consequently, the loss of controllability by the state, which led to a coup d'état.

On this occasion, T.N. Schmidt rightly pointed out that the problem of the possibility and the admissibility of extraordinary law is closely linked with the question of controllability of social processes in crisis and transitional states. In an extreme situation, the possibilities of not only the right, but also state power, affect the stabilization of the emerging social relations. World history knows a lot of cases when crises led to chaos, civil wars, revolutions, revolutions and uprisings, and power turned out to be an ineffective tool for solving this situation *(Schmidt, 2014, p. 43).*

Regarding the theories of Carl Schmitt, it should be noted that this outstanding German scientist, although he built his scientific career during the reign of the Nazis, was, however, a consistent supporter of the national conservative philosophical and political-ideological course of the "conservative revolution". This scientist defends the theory of "exceptional circumstances" (German - Ernstfall (literally "unpredictable") and "Solution" (German - Entscheidung), which tries to prove that the approval of all legal and social rules takes place precisely in "exceptional circumstances" and initially based on a solution spontaneous and simultaneously predetermined *(Nazmutdinov, 2016, p.156-158).*

Karl Schmitt believed that not the law provides for the overcoming of the crisis in extraordinary circumstances, but the willful decision of the nation, which is based on

traditions, historical past, cultural determinants. At the same time, such a solution shows a divergence between existing and formed legal norms. Over time, the extraordinary norm turns into a permanent rule, and eventually into law, forming and developing in this way the right. (Schmidt, 2014, p. 43).

The French followers of Schmitt, creating their doctrine of extraordinary legal regulation, even developed a special term "desyzonizm" (French "decision" - a decision), which emphasizes precisely in exceptional circumstances in situations where society is threatened by social or natural disasters, and for the establishment of order is not enough the usual means of control on the basis of the law (Dugin, 1994, p.12).

It should be noted that in the modern French and Italian legal doctrines the concept of "extraordinary legal regulation" is realized through the notion of "urgent decrees", as well as the administrative-legal regime "state of siege" political or fictitious *(Agamben, 2011, p.12).* And Anglo-Saxon predominates the terms "martial law" and "emergency powers".

The work of Swedish lawyer and political scientist Herbert Tingsteen "Absolute powers. The expansion of government powers during and after the Great War "is also dependent on the teachings of Carl Schmitt. The book outlines the view of the transformation of democratic regimes as a result of the continued expansion of executive powers, as well as the state of emergency during and after two world wars, when the "state of emergency" became a rule. Tingsthen dwells in detail on the problem of the evolution of contemporary democratic regimes, as a result of the extension of powers of the executive power into the field of legislation through legislative means, and also as a result of delegation to the authorities under the laws of "absolute authority" *(Tingsten, 1934, p. 33).*

Polish researcher of the phenomenon of extraordinary legal regulation, Krzysztof Prokop built his theory on the concepts and institutions of Roman law, in particular on such a product as iustitium, which literally means "temporary suspension of law", but broader its interpretation in one of the options is considered as a stop of legal proceedings and public works declared by public authorities in times of disaster, dangers and public disturbances (Latin decernere, edicere, indicere) which the Italian philosopher Dorjo Agamben extrapolates into modernity as a "suspension" the action of law is needed in order to overcome the turmoil in the state "*(Agamben, 2011, p.101).*

By its nature, extraordinary circumstances, in the vast majority, are atypical, and sometimes rare and unique phenomena. Therefore, modeling the task of regulating social relations in extraordinary circumstances through the application of general legal rules should take into account the fact that: it is almost impossible to predict and determine in advance the nature and course of extraordinary circumstances in advance; extraordinary circumstances beyond the normal life of a person, social groups or society, generating new and previously unknown relationships and social implications; methods of crisis management and overcoming its consequences, as a rule, are individual in nature and can not be precisely planned for all details in advance and calculated.

Thus, legal norms, such as social regulators, designed for law enforcement in normal relationships, can be ineffective in an emergency, and even impotent. Therefore, the emergence of a crisis situation, ineffective or powerless law can only be secured by providing certain public authorities with discretionary powers provided by coercive institutions. Thus, the legal possibility and the admissibility of the use of extraordinary legal regulators is closely linked to the ability to manage social processes in crisis

situations, since they (in crisis situations) significantly narrow the possibilities of ordinary - not a special right.

The acuteness of the legal assessment of the problems of legal regulation in extraordinary circumstances, the application of legal measures aimed at limiting the rights and freedoms of man and citizen, expressed in the establishment of certain prohibitions, which are used to eliminate those circumstances that led to the introduction of a special regime, in law science sometimes gives rise to attempts to name these legal regulators discriminatory *(Kolinko, 2011, p.14; Melnik, Chubko, 2016, p.127).*

The boundaries of extraordinary legal regulation are one of the characteristics of the doctrine, since the application of extraordinary legal measures raises the question of limiting the rights and freedoms of man and citizen.

The legal aspect of the state is to clearly define the legal procedures, the forms and limits in which it should exist and should operate. Legal limits are, first of all, human rights *(Kozyubra 1995, p 36).*

In accordance with international treaties, the use of human rights should not be limited. Nevertheless, when necessary, they establish clear justifications, specific limits to the imposition of restrictions on the rights and the purpose of possible derogations from those rights protected by international agreements. On the one hand, it allows the state, with reference to the operation of the relevant international legal norms, to introduce compulsory restrictions on the use of certain rights, and, on the other hand, protects citizens from arbitrary actions by the state to restrict their rights *(Vozhrin, 2013, p. 52).*

Consideration of this issue should be made by referring to the International Covenant on Civil and Political Rights of December 16, 1966, adopted by the General Assembly of the United Nations, ratified by the Decree of the Presidium of the Supreme Soviet of the Ukrainian SSR No. 2148-VIII of October 19, 1973, the content of Article 4 of which is to oblige the state to apply extraordinary legal regulators only to the extent that it is dictated by the severity of the situation, provided that such measures are not incompatible with their other obligations under international law and do not entail discrimination in exclusion but on the basis of race, color, sex, language, religion or social origin. The Pact eliminates possible derogations concerning: guarantees of the right to life, the adoption of genocide, restrictions on the use of the death penalty, the prohibition of torture, slavery or detention of a person in a state of incapacity, restrictions on deprivation of liberty for failure to fulfill contractual obligations, confiscation solely on the basis of a decision the court and on the basis of the law, the prohibition of violations of the right to recognize the personality of a person, guaranteeing the right of conscience.

The Convention on the Protection of Human Rights and Fundamental Freedoms (European Convention) stipulates only four restrictions: the inviolability of the right to life, the prohibition of torture, the prohibition of forced labor, and the prohibition of the use of punishments not specified by law.

Criteria for the use of extraordinary legal regulators have been developed at the Paris Conference of the International Bar Association as "Minimum Standards for Basic Human Rights in Exceptional Situation", among which: emergency regulators are used exclusively in a critical situation based on the norms set forth in the law; the procedure and minimum time limits for the introduction of emergency regulators should be established by constitutional rules; the introduction of emergency regulators is carried

out exclusively by the legislature for a term that can not go beyond the period of time necessary for normalization of the situation; the legislature should have the right to cancel the extraordinary legal regimes and to extend it; in conditions of emergency legal regimes, the immunity of a representative body of power should be guaranteed; elections can be postponed to restore order; a ban on the transfer of restrictions on the rights of individuals within the limits of the International Covenant on Civil and Political Rights; the assessment of the legality of the use of emergency regulators and the proportionality of restrictions on the rights and freedoms of citizens is carried out by the courts; the abolition of emergency regulators is carried out without a special announcement; after the abolition of emergency legal regulators of the right and freedom to recover in the same volume.

We would like to pay special attention to the principle of proportionality of the use of extraordinary legal regulators, which came from the Prussian legal system in the second half of the 18th century and became widespread in European law through the practice of the European Court of Human Rights. The principle of proportionality is one of the most important criteria for determining the inadmissibility of state intervention in the essential content of fundamental rights and freedoms, even with the cover of the need to protect the viability of the nation.

In this context, it is worth pointing out the Syracuse principles for interpreting the restrictions and derogations from the International Covenant on Civil and Political Rights adopted by the UN Economic and Social Council.

However, the practice of the European Court of Human Rights, despite the above circumstances, suggests that, even in case of derogation from their international legal obligations, the state should take all necessary measures to restore the constitutional order , including human rights and freedoms.

Undoubtedly, the fact that the limits of the discretion of state interference in the sphere of human rights must be defined in laws in one way or another. But the legal nature of the laws itself is not sufficient evidence that the state is legal. A clear mechanism of compliance is needed, since the state can apply an anti-legal form of influence. Since the legal constraints on the content of the law deal with the legal (regulatory) activity of the state, one should conclude that the relation is discussed: the boundaries of state influence are somewhat wider than the limits of legal regulation.

The domestic legislation of the boundaries of extraordinary legal regulators establishes Article 64 of the Constitution of Ukraine by stipulating the prohibition on limiting the rights and freedoms provided for in Articles 24, 25, 27, 28, 29, 40, 47, 51, 52, 55, 56, 57, 58, 59, 60 , 61, 62, 63 of the Constitution of Ukraine. This means that the state can not refuse its certain responsibilities, even when departing from its obligations to ensure human rights and freedoms.

Among the constitutionally stipulated principles regarding the limits of state intervention in the sphere of human rights, include: 1) the inadmissibility of narrowing the content and scope of existing rights and freedoms in the process of adopting new laws or amending existing ones; 2) the inadmissibility of restrictions of a discriminatory nature, that is, on the basis of race, color, political, religious and other beliefs; 3) inadmissibility of the subordinate restriction of fundamental rights and freedoms; 4) the impossibility of any restrictions on individual rights and freedoms expressly provided for by the Constitution; 5) the inadmissibility of introducing such amendments to the Constitution of Ukraine, which imply restriction of human rights and freedoms.

As one sees the legitimacy of state intervention in the sphere of human rights, despite the relative appreciation and ambiguity of the question, it is an independent and important element within the Institute of Human Rights and Freedoms. Its importance is observed both in the context of significance for the mechanism of legal protection of the individual, and within the framework of building a rule of law with the actual, rather than declarative, law.

M. Savchyn, defining, in a constitutional sense, the measure of state interference with the rights and freedoms of man and citizen, distinguishes three elements of such interference, which actually form the essence of the principle of proportionality: intervention should be based on the law, it must be necessary in a democratic society, and the measures to be implemented must be sufficient and appropriate *(Savchyn, 2016, p. 215).* In this case, as a rule, under the need to understand, the softest among several equally effective means.

In determining the permissible limits of human rights restrictions when applying extraordinary legal regulators, it is important to determine the suitability of the means used to ensure legitimate goals - the protection of human rights and freedoms, the sovereignty and territorial integrity of Ukraine. In international law, such circumstances are defined by the phrase "life threatening the nation", which at the same time serve as the basis for the introduction of extraordinary legal regulators *(Goryachiv, 2016, p.91).*

The limits of emergency legal regulation can not be reduced to the limits of the restriction of human and civil rights and freedoms.

The appeal to domestic sources of emergency legal regulation, namely, the Laws of Ukraine "On the Legal Regime of Emergency" No. 1550-III and the Law on the Legal Status of Wives, No. 389-VIII, makes it possible to distinguish between other legal boundaries, namely the territorial boundaries of the operation of extraordinary legal regulators - the territory specified by the relevant legal act, as well as temporal (time) limits of emergency legal regulation - the period of validity of the legal regulator.

As we see, the legal limits of emergency regulation are the legal framework for the application of emergency regulation, which the state restricts interference with the life of a person and society.

The boundaries of extreme legal regulation, formulated by the legal science, but lacking practical consolidation in the law, can be distinguished in a separate group. By the way, they are most clearly seen in Syracuse principles.

Such restrictions and deportations are based on the principle of proportionality, which is based on the concept of "the exceptional and inevitable danger that threatens the life of the nation", "the state, by imposing restrictions, must prove that they do not harm the democratic life of society", "only then, when there are sufficient guarantees and effective remedies against abuse "and others.

Conclusions Thus, the boundaries of extraordinary legal regulation are the limits of objective and subjective nature, which are determined by the legislation and international legal acts, in which the special and exclusive legal influence on social relations in extraordinary circumstances is exercised.

References:

1. Ahamben, Dordzho. HOMO SACER. Chrezvychaynoe polozhenye / Dzh. Ahamben. - M.: Yzd-vo «Evropa», 2011, - 148 s.

2. Voz·hrin, S.YU. Mezhi svobody ta zaborona obmezhennya prav i svobod lyudyny: natsional'no-pravovyy ta mizhnarodno-pravovyy aspekty / S.YU. Voz·hrin // Naukovyy visnyk Mizhnarodnoho humanitarnoho universytetu. Seriya: Yurysprudentsiya. - 2013. - №6-3. - Tom 1. - S.51-54.
3. Horyachov, D.O. Systema nadzvychaynykh zasobiv zakhystu konstytutsiyi. dys. … kand. yuryd. nauk … 12.00.02 / D.O. Horyachov, - Uzhhorod, 2016. - 180 s.
4. Duhyn, A.H. Konservatyvnaya revolyutsyya. - M.: Arktoheya, 1994. [Elektronnyy resurs]. – Rezhym dostupu: http://arctogaia.com/public/konsrev/
5. Ivchenko, A. Tlumachnyy slovnyk ukrayins'koyi movy / A. Ivchenko. - Kharkiv : «Folio», 2002. - 543 s.
6. Kozyubra, M.I. Mezhi diyal'nosti derzhavnoyi vlady / M.I. Kozyubra // Ukrayins'ke pravo. - 1995. - №2. - S.35-39.
7. Kolinko, YA.A. Nadzvychaynyy stan yak osoblyvyy derzhavno-pravovyy rezhym: konstytutsiyno-pravovyy aspekt: dys. … kand. yuryd. nauk / YA.A. Kolinko. - Kharkiv, 2011. - 216 s.
8. Konstytutsiyne pravo Ukrayiny: pidruchnyk / avtor. kol. - 8-e vyd., pererobl. i dop. - Uzhhorod:Vydavnychyy Dim «Hel'vetyka», 2016. - 476 s
9. Mel'nyk, R.I. Problemy obmezhennya prav i svobod lyudyny v umovakh diyi spetsial'noho pravovoho rezhymu / R.I. Mel'nyk, T.P. Chubko // Visnyk Luhans'koho derzhavnoho universytetu vnutrishnikh sprav im. E.O. Didorenka. - 2016. - Vyp. 1. - S.125-134.
10. Nazmutdynov, B.V. Ot normy k poryadku: évolyutsyya pravoponymanyya Karla Shmytta / B.V. Nazmutdynov // Yzvestyya vysshykh uchebnykh zavedenyy. Pravovedenye. - 2016. - №1. - S.150-165.
11. Nastyuk, V.YA. Administratyvno-pravovi rezhymy v Ukrayini : monohrafiya / V.YA. Nastyuk, V.V. Byelyevtseva. - KH.: Pravo, 2009. - 128
12. Strekalov, A.YE. Mizhnarodno-pravovi standarty shchodo obmezhennya osnovnykh prav i svobod lyudyny i hromadyanyna / A.YE. Strekalov // Aktual'ni problemy prava: teoriya i praktyka. - 2012. - № 25. - S. 507-513.
13. Shmydt, T.N. Chrezvychaynoe pravovoe rehulyrovanye: obshcheteoretycheskoe yssledovanye: dys. ... kand. yuryd. nauk: 12.00.01 / T.N. Shmydt; Yuzhno-Ural'skyy hosudarstvennyy unyversytet. - Chelyabynsk, 2014. - 191 s.
14. Tingsten, Herbert. Les pleins pouvoirs: L'expansion des pouvoirs gouvernementaux pendant et après la Grande Guerre. Paris, 1934.