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The Place and Role of Right Depriving Legal Facts in the Legal Regulation Mechanism of Civil Property Relations

El lugar y el papel de los derechos que privan los hechos legales en el mecanismo de regulación legal de las relaciones de la propiedad civil

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ABSTRACT

The paper shows that the basis for termination of property relations in civil circulation can be identified by the integrity of the legal system of a state. The author emphasises that right deprivation is used in the existing legislation not only as a measure of enforcement or realisation of state interests but also as a measure of deregulation of socio-economic development. In particular, it is specified that court relations can be realised only with the participation of progressively recognised legal facts.

Keywords: Legal facts; property relations; right limitation; right termination.

RESUMEN

El documento muestra que la base para la terminación de las relaciones de propiedad en la circulación civil puede ser identificada por la integridad del sistema legal de un estado. El autor enfatiza que la privación de derechos se utiliza en la legislación existente no solo como medida de cumplimiento o realización de los intereses del estado, sino también como medida de desregulación del desarrollo socioeconómico. En particular, se especifica que las relaciones con los tribunales solo pueden realizarse con la participación de hechos legales progresivamente reconocidos.

Palabras clave: Hechos legales; relaciones de propiedad; limitación de derechos; terminación de derechos.

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INTRODUCTION

The advancement of modern society is connected to increasing importance and role of law as means of regulating social relations and guaranteeing subjective rights. In this aspect, the study of methods of legal impact on the behaviour of subjects of law that defines the essence of legal effect is relevant. Complex, multi-faceted behaviour of citizens requires regulation primarily by legal provisions. The state uses law when resolving conflicts in society, which becomes the most important means of exercising social control. To realise control, law uses particular instruments – means of legal impact on social relations, which in turn are divided into two groups – legal incentives and legal limitations. This predetermines theoretical and practical relevance of the analysis of legal limitations.

The purpose of this article is to analyse legal limitations as a category of legal means by their characteristics; justification for the classification criteria of legal limitations; definition of their functional role and their place in the system of other means of legal influence.

Legal limitations influence the behaviour and interests of subjects not only indirectly through limiting subjective law but also directly (for example, through the threat of punishment). That is, legal limitations not so much limit subjective rights, as individual freedoms and the process of satisfying their interests. Therefore, the application of legal limitations of subjective rights is secondary, they need to be examined in regards to specific interests of particular legal subjects. A conclusion can be drawn that the term "legal limitations" includes a number of limitations, among which are limitations on rights of physical and legal entities, interests of individuals, authorities, the state, etc.

LITERATURE REVIEW

Legal limitations were first studied at the branch level, reflecting their necessity in specific spheres of living (Maydell, 2008). In branch legal literature, limitations are understood differently depending on the need of a particular kind of social relations and the corresponding legal means of influence over them (Martin, 2015). Initially, legal limitations were applied by Roman jurists who identified servitudes aimed at limiting the owner in their rights (Durrant, 2017). The most prevalent were land servitudes. The owner of an estate that, as a result of servitude establishment, was subject to certain limitations, according to Roman law, had to endure the subject to the servitude taking certain actions, not to interfere with the use, etc. Provisions of the current law (civil, land) contain elements of the servitude. Categories of legal limitations were studied within spheres of family, labour, environmental, administrative, criminal and constitutional law (Collins, 2017).

It is necessary to pay attention to a number of aspects in the general-theoretical understanding of the category "legal limitation". First, legal limitation acts as an external factor affecting the interests of legal subjects (Schreiber, 2013). The basis for legal limitations is the close interrelation between external legal conditions and the internal structure of an individual.

Second, legal limitation is information-oriented, meaning it has the purpose of conscious change of subject's behaviour in the legal sphere. It is important to note that legal limitations are established to regulate social relations, ensure their proper functioning, while also acting as strong deterrent factors (Lee, 2016).

Third, on the informational-psychological level, legal limitations act solely as negative means (prohibitions, obligations, penalties, etc.) that do not include positive means (Staff, 1972). However, legal limitations. providing negative motivation regarding the interests of their own subject, act as the necessary means of influence on the interests of society as a whole and the interests of certain counter-subjects because they are aimed at ensuring socially useful purposes. Their importance for educational and social influence they exert should be stressed (Planzer, 2014).

Fourth, the specific (primary) legal means, such as penalties, prohibitions, obligations, termination, and not legal norms, institutions, branches, in which these legal means are secured and which acquire right

deprivation meaning owing to primary legal means, it is necessary to view legal limitations in their informational-psychological sense (Staff, 1973).

Thus, legal limitation – is legally enshrined content of the subject of legal relations against the wrongful act, the purpose of which is to satisfy interests of the counter-subject and public interests in security and protection in general (Langemeijer, 1955). Legal limitations act as established in law boundaries, within which subjects must operate, without violating legitimate rights of other subjects, that is, they perform specific acts of certain individuals to satisfy the interests of society (Kiikeri, 2001).

The main features of legal limitations as a theoretical category are such:

- they are connected with negative conditions for the exercising self-interests of the subject through directing them to the content and at the same time to satisfaction of interests of the opposing party and public interests in their security and protection;
- report about the decrease in volume of opportunities, freedoms, and, consequently, the rights of individuals, achieved through obligations, prohibitions, punishments, etc.;
- represent the negative legal motivation;
- their main purpose is to reduce the negative activity of subjects in the field of law;
- aimed to protect public interests since they perform the function of public relations in general.

Legal limitations – are statutory exceptions to the legal status of citizens, which are preventative in nature, protect subjects, to whom these limitations apply, and other individuals against possible adverse effects (Kiestra, 2014).

MATERIALS AND METHODS

The work uses standard legal methods of analysis and partially realises elements of economic analysis since application of provisions of the civil legislation in this case will be determined by vectors of development and formation of a further focus area by separate forms and phenomena of the social-economic environment.

As a reason for the choice of directions of state legislation formation, it is beneficial to examine the possibility of historical modelling and deciding the basis for the further successive relation on the part of public education. We think that this should be reflected in development programmes and state forecast of a general state of the legal system. This work uses the method of historical synthesis combined with a forecast of further development and the possibility of stratification by state authority. Additionally, the work takes into account that legal regulation can be performed by authoritative action.

RESULTS AND DISCUSSIONS

In the pre-revolutionary period (before 1917), domestic civil law, despite the non-democratic monarchical regime, was expanded on the basis of private law and took the European tradition.

Since the current civil law is formed on top of private law, when transitioning to the formation of civil law in a legal state, it is necessary to attempt to find and analyse traditional, common for our state limitations of property rights of individuals that are inherent to the private law tradition of the domestic civil law.

The doctrine of limitation of property rights in imperial times was based mainly on the analysis of Roman law and its sources – European countries that embraced it (Germany, France). Alongside it, domestic limitations in the imperial legislation were studied, which had certain unique features and identity and were surveyed in special studies and mentioned in theoretical works of that time.

Pre-revolutionary (before 1917) period of establishing limitations on property rights of physical entities in the Russian Empire is highly important. In that period, limitations of ownership rights to real property were for the first times studied on the level of monographic works, this legal category became widely employed in science.

Limitations of ownership rights in that period were determined by the provision stating that with the great authority provided to the owner, it is concerning that the existence of a right without any limitation can have an adverse impact on the interests of other members of the same society or on the interests of society itself. These circumstances encourage the positive legislation to establish limitations on ownership rights. Thus, the conditions that led to the establishment of limitations of ownership rights in the Russian Empire were the interests of other authorised entities and society. Further, the priorities that led to the imposition of limitations in socially useful interests were defined. In particular, public health, public debt, the facilitation of communications between settlements, etc. In these areas of public life, free passage and travel through a someone's land were allowed, sanitary, construction, fire norms were established that limited the abuse by the owner. Indeed, violations of, for example, fire code by the owner can lead to the destruction of not only their property but also the neighbouring estates, when a fire can spread to them because of wind and will cause harm to others. Therefore, it is reasonable to limit the owner's wilfulness by the requirement to comply with the relevant building codes, fire codes, sanitary rules. It will correspond with general benefit and safety requirements. The latter is actually a part of the legal regulation mechanism containing appropriate limitations.

Complete control of a person over a thing is not done through establishment of property rights since there are appropriate limits. It is evident that the establishment of limitations on ownership rights leads to a situation where the right of ownership does not exist in full, and the removal of such limitations extends the scope of property rights. It is important to highlight the idea that limitation of the ownership right does not eliminate the right of a person (for example, alienation of a thing is not limitation), it only reduces its volume, which may also be temporary.

Some scientists of that time did not isolate limited property rights and limitation of ownership rights as separate legal categories. They attributed servitudes to the ownership limitations established in the interests of the neighbours, and at the same time noted that the legislation of that period uses the majority of well-established principles of "neighbouring law". Thus, limited property rights in the Russian Empire were regarded as limited ownership rights by some researchers. However, this approach is too superficial.

A more significant position was held by the scientists who separated limitation of property rights (in particular, participation rights) and the right over other property. Concerning the above positions about whether limited property rights relate to limited ownership rights or pose as a separate category, it should be noted that during the pre-revolutionary period a strong foundation for their careful distinction in legal thought was established. The basis for the isolation of limited property rights and limitation of ownership rights as separate legal categories is the following: the former provided a person with the right to another's item (for example, the right to use), the latter, through a specific limitation on the owner, did not provide them the opportunity to fully exercise their ownership right.

In particular, they distinguished the limitation of the right of ownership for the benefit of the state because the property should serve the interests of the state, not just individuals. Because the estate belongs to a person, the state declares it inviolable for others, but since this estate is part of the national territory, control over the land is limited (to maintain communication, freedom of movement, etc.) These limitations were usually divided into the general participation right, established for the benefit of everyone, and the private participation right, established in the interests of individuals. The specified division of the participation rights can be found in the idea that the general participation right acts as limitation of property rights, which was established for the benefit of all, but a private participation right was established in the interests of separate individuals. It is important to explain that the right to participate only infringes the owner, but does not grant

the right to use the property to other individuals. This highlights sustainability of the category of limitation of ownership rights during that period of participation rights, which were to a certain extent ignored by civil law scholars of the Soviet period, most likely because of total nationalisation of property and as a consequence – lack of demand for this legal category.

A widely accepted participation right was the inability to place windows on the border of adjacent estates. But under the agreement with the neighbour that removed this limitation, it was allowed to place windows on the border of neighbouring areas. Such limitations can be eliminated by consent (agreement) of a person. In addition, the participation right manifests in refraining from road ploughing, pit digging and other actions that would prevent passage, travel, transportation using the road. On the basis of this position, a limited property right, such as a servitude, granted the right to use other's property (passage, travel on an estate, etc.). In turn, the participation right limited the owner as they could not prevent the use of property, that is, they could not take actions that impede realisation of a servitude (refrain from digging pits, making fences or ploughing the estate on which the other person has a limited property right, meaning – not to interfere with its realisation).

In addition to the owner's limitations in the form of participation rights, the limitations on property rights that are not participation rights are also identified. The latter included limitations on ownership, use and disposal of property. In this regard, it was emphasised that limitations may relate to each of the constituent parts of the ownership right – possession, use and disposal – and may extend not only to one but also to other components of the ownership right. Considering this distribution helps to better understand separate limitations of ownership, it is worth inspecting it in greater detail.

Limitation of the ownership right consisted in the fact that the owner, who had departed from the Orthodox religion or brutally treated the serfs, was deprived of the right of entry in the estate. Custodianship was appointed over their property, and instead of the owner, it was owned by a custodian. At the same time, the owner received income from that estate and was able to sell it, therefore the use and disposal of property were not limited. Obviously, such limitations were aimed at preserving property, protecting and securing principles of that time (in particular, religious) and proceeded from the principle of reasonableness (it is foolish to allow a person who destroys or harms the estate to keep ownership over it).

Limitation of the right of use included a prohibition on the forest owner to perform devastating exploitation that render reafforestation impossible; in the case of hunting, the owner of the land was prohibited by law from hunting certain animals and during off-season; in the case of subsoil, the owner must conduct development at the mine or the digging only under projects that were drafted and approved by the mining administration.

It is obvious that such limitations have survived to this day and they are established by the special environmental legislation, while the civil legislation affirms them at the general level in norms on the exercise of property rights. It should be noted that legal limitations are of dual nature, being on the verge of public and private law (in the latter aspect they concern the interests of the owner). It is obvious that such limitations are established for the sake of public benefit and are dictated by it.

By the order, the owner was limited in cases of establishing custody over their property (minor, insane), during arrest, prohibition of property acquisition. This was explained as the limitation over the owner's property for the peasants' need (used for agricultural production). Since the community viewed the property as the source of income from peasant production, the sale of a house that represented a peasant's need was prohibited, but the community was asked to pay its price. The freedom of private property transaction is largely restricted here for the sake of the economic interest of the communities themselves. This resembles a specific manifestation of limitations for the public needs that existed in pre-revolutionary law, in particular, there are reasons to regard this as a prototype of the modern preemptive right.

These and other limitations were borrowed from German and French law. However, there were strictly Russian limitations on the property rights of individuals. There was a distinction between ancestral and

acquired property. The former was considered to be inherited real estate, but it was impossible to dispose of it arbitrarily since it should pass to the heirs. There were limitations on alienation of ancestral estates. This should be attributed to certain limitations in the disposal of real property, generated by the peculiarities of family and ancestral structure of that epoch. Consequently, the validity of such limitation at that time was predetermined by the protection of the interests of other individuals – heirs of the owner, for which the law took measures for the safety of the relevant property.

Limitations on the transferability of items could relate to certain fine arts that were limited in transferability and could only be acquired with a permission from the Ministry of Public Education. The priorities here were societal interests and preservation of cultural heritage, which allowed limiting the circulation of certain things.

Some scientists classified expropriation as limitation of ownership. Manifestation of such limitations sometimes seems very strange from the modern standpoint, though it was quite understandable at that time. In the conditions of total lack of building materials, the owner had to tolerate dismantling parts of their buildings for the purpose of construction of workshops, access roads, construction of railways etc. Thus, the property right to a real estate was limited in the interests of public needs through expropriation of building materials from which it was built. The person could accept these public interests and sacrifice their property rights, which deprived the real estate of its useful properties. Since the legislation sometimes allowed compulsory acquisition of property, the compensatory approach to expropriation that existed in the pre-revolutionary times deserves some attention. In fact, the civil legislation only indicates that the repurchasing price of property that is being alienated (historical or cultural monuments) is determined by an agreement of the parties, and in the case of a dispute – by the court. At the same time, the modern legal regulation neglects special rules on forced repurchase, the evaluation criteria of property that is being alienated, therefore some aspects of the pre-revolutionary experience of compensatory criteria in this matter should be taken into account.

In pre-revolutionary law, there were limitations in contract law along with other limitations. Despite the fact that the supreme principle in the sphere of private autonomy, the exercise of individual's active freedom, is the principle of contractual freedom, the contractual sphere is subject to certain limitations. Consequently, limitations in contract law predetermine the possibility of the state's influence on civil circulation, regulating the possibility and procedure of conclusion of certain transactions and their content. Certainly, the limitation of the free sale of weapons affects civil circulation and complicates the ability of a physical person to conclude respective contracts.

By the way, some pre-revolutionary scientists highlighted the freedom of the contract from a negative party (nobody is obliged to enter into the contract against their will), which involved establishment of limiting obligations concerning monopolies (for example, railways) upon the conclusion of public contracts. They had to enter into contracts that were in the sphere of their activity, while the refusal to provide professional services could serve as grounds for a claim for damages. It was proposed to extend this responsibility to all enterprises providing services to the public – pharmacies, shops, carriers etc. After all, everyone has the right to expect that the services offered to the public in general, will be provided in particular to him. Indeed, such an approach deserves support and today continues to be actively realised in legal life. Such limitation in contract law is socially useful and necessary since it promotes normal civil circulation, serves its provision and satisfies the needs of consumers in goods, so there are grounds for its existence.

The positive freedom of contract (the right of persons to enter into contracts of any kind) has also been subject to limitations. The law cannot authorise contracts for murder, rebellion against the authorities, which would mean the destruction of public order. Consequently, limitations on contractual freedom may be aimed at preserving the rule of law in the state.

It is important to mention that the category of "flexibility of contractual freedom" affirmed that while limitation established by law narrowed contractual freedom, the lifting limitations could extend it. This approach allowed to see the degree of limitations imposed by law on contractual freedom and, as a

consequence, to ascertain the extent to which a person could voluntarily enter into contractual relations and how free it was. At that time, public interest could clearly be traced in the limitations of contractual freedom, in particular, the protection of the natural environment. Thus, in order to protect the fauna, the International Convention for the Protection of Birds Useful in Agriculture (1902) was adopted, where under article 1, it was prohibited to import, export, transport, sell, purchase and offer for sale nests, eggs and broods of birds on the approved list. Consequently, the transferability of this property was limited for the sake of public benefit.

Another important category is the limitations of unjustified enrichment by virtue of the concluded contract. It was thought that the party which had been mistaken and subsequently (to the performance of the obligation) found its mistake, should compensate the other party for the costs of the contract but has no grounds to demand the performance of the obligation in respect of which there was a mistake. As a result, if we agreed on the sale of a picture, believing that this is a copy, while it is actually a valuable original, the seller must compensate the buyer the cost of transporting it but had no grounds to demand the transfer of the picture. This approach is considered to be reasonable even in relation to the present: limits the execution of a transaction concluded under the influence of a misconception of significant importance.

At the same time, the negative contractual interest is limited to the actual costs incurred in connection with such a contract, but there are no grounds to exceed the sum the contractor would have received under the full validity of the contract. With regard to the responsibility of the person who was wrong, everyone entering into business negotiations with other persons or inviting into a business relationship takes the risk for all the losses that may come for the latter for their incorrect statements. This approach deserves attention and is quite useful, but unfortunately, it has not been sufficiently developed in modern jurisprudence, although it received coverage in the pre-revolutionary times.

The aspect of limitations on the property liability of persons under obligations due to injury was investigated. It was stressed that when determining the amount of property liability, the estate autonomy and the property status of both parties to the obligation should be taken into account. By the way, this approach has been preserved in modern legislation because civil law establishes that the court can reduce the amount of compensation for harm caused by a natural person, depending on its material situation, except cases when the harm was caused by committing a crime. Indeed, such an idea is relevant and continues to exist in modern law, and it is clearly justified by the principles of fairness and reasonableness. It would be unfair to impose penalties, which can leave a person without means of subsistence or housing (which besides property value also has a social value), and it is unreasonable to impose such a penalty that the person in their life would obviously not fulfil.

In pre-revolutionary times, the limitations on inheritance were primarily aimed at determining the circle of persons – inheritors. According to the Russkaya Pravda, inheritance rights were limited to one descending line. That being said, no unity of approaches to such limitations were observed. Thus, according to the Pskov judicial certificate of 1397, the right of inheritance was no longer limited to one descending line but extended to all relatives of ascending, descending and collateral lines. All this confirms the necessity of having a basis, a common approach for establishing limitations in inheritance law, in particular, concerning the circle of heirs. By this time, and this is confirmed by the history of advancement of domestic law, they are not properly developed.

Summarising previously said, it should be noted that the difference between limitations on the property rights that existed in ancient Rome and those that were applied in pre-revolutionary Russia, were successfully explained in a number of works that noted that the social side of law receives advancement in various spheres of legal life (limitations in contract law, limitation of owners of real estate, development of the institution of compulsory acquisition for state needs etc.). Finally, the idea of protection and development of civil circulation, as opposed to the individualism protected by the Roman law, was widely accepted. Universal values began

to acquire proliferation and respect when establishing limitations, which have also appeared at the international level. This is illustrated by the 1907 Hague Convention respecting the Limitation of the Employment of Force for Recovery of Contract Debts, article 1 of which established the non-use of armed force for the recovery of contract debts claimed from the government of one country by the government of another country.

Thus, the pre-revolutionary Russian civil law, unlike strict Roman law with its formulas and a clear logical, mathematical approach to law, has already embraced social theories, which, in particular, has affected the limitations of property rights of individuals. The consequence of this was the development of limitations in public interest (in particular in the interests of society), and not only the limitations in favour of neighbours, which were developed in ancient Roman law and partially accepted by the Russian law of pre-revolutionary Period.

The Soviet period of setting limitations on the property rights of individuals is important for the study because restrictive measures in regards to property rights of individuals, their rationale basically did not belong to a strictly legal plane. The limitations in the form of "participation rights", started in the pre-revolutionary period, were not actually needed by the Soviet civil law because of significant nationalisation of property, lack of servitude structures, emphyteusis and superficies in the Soviet civil law. During the existence of the administrative-command organisation of the society, civil law was predominantly state-governed and was primarily built on the basis of public law rather than private law. The establishment of limitations on the property rights of individuals was not clearly justified from the point of view of private law: they were often caused by purely ideological motives, because of available expediency. Such limitations included, for example, the Soviet-era limitation on the number of living space in the house, owned by a citizen. Based on the idea of achieving universal equality, the ability of an individual to own the means of production, enterprises etc was limited for the sake of public needs. In modern conditions, such limitations are eliminated in accordance with the construction of a legislation on the legal principles.

In times of totalitarian Soviet rule, people were turned into "cogs" of the state machine, and the rights that were recognised for them were protected by law only when they were realised for their purpose in the Soviet society, which was building Communism. There was a clear disregard for the rights of individuals because the right was exercised in the pursuit of ideological interests of a state, which were far from a purely legal rationale.

The study of approaches to the limitation of property rights that existed during the Soviet period will allow us to better understand their nature, to identify the prerequisites for establishing such limitations and the priorities they were intended to adhere to, to determine whether it is possible to recognise them as inapplicable today. The Soviet era deserves attention because the state had a different economic and, as a consequence, legal system. At that time, other priorities were at the forefront than today, when civil law embraced the ideas of European private law. In particular, non-legal regimes are characterised by a high level of human rights abuses, administrative limitations against the human right and the priority of public interests over private ones. At the same time, it should be noted that the accounting of approaches to limitations on the property rights of individuals during the Soviet era is necessary to form a holistic view of the nature of such limitations. The study of limitations on the property rights of individuals under conditions of state infringement, administrative regulation of civil relations will provide an opportunity to reveal an unjustified approach to establishing these limitations and their legislative regulation. These are important to study in order to avoid modern law embracing these limitations, which have appeared in it since Soviet times without being substantiated.

In Soviet times, the state was considered primary, and the law was secondary. As a result of this, during Soviet times the primacy of collective interest over personal was affirmed. Thus, the basis of limitations of property rights during the Soviet times was not a private interest but interests of the State that were based on ideological motives, from which ideas nationalisation of real estate and means of production, limitation of

transactions of this property, conclusion of economic contracts according to planned acts on distribution of products were introduced into civil law. Much attention was drawn to limitations of the rights of participants in the contractual process and to limitation of the right to early delivery in particular. This limitation was justified by the fact that the material funds were distributed according to a plan and were in effect, as a rule, for a year. Such limitations on parties of the contract derive from the planned nature of the Soviet economy, which in those conditions was efficient.

It is worth noting that currently there have already been conducted significant studies on limitations of property rights, which investigated limitations of property rights in the Soviet period. However, general approaches to the contemporary limitations of property rights of individuals remain not quite clear. The questions of what legal relations limitations of property rights of individuals were in and how they were established, what their prerequisites were, what priorities were presented have still not been explored, no periodisation of such limitations was conducted, although the complications of property rights of individuals were not the same in different periods of development of the Soviet legal system.

In general, the basis for limitations on property rights of individuals in the Soviet era was the state interests as a priority, while development of the rights of individuals and private interest was of secondary importance. The priorities for which limitations were set in those days were: seizing the means of production from private ownership, the security of the state, preventing surplus property in the ownership of citizens, avoiding housing speculation, combating generation of non-labour income, social justice, social protection of individuals. Some of these priorities, for which limitations on the property rights of individuals were established in Soviet times, are quite legitimate from today's standpoint: limitations on property rights of individuals to ensure human health, public safety and the rule of law.

It should be noted that periodisation of limitations on property rights of individuals in the Soviet period has its peculiarities depending on the increase or reduction of pressure on private relations, their consolidation at different levels of normative regulations. As a result, separate periods of establishment of such limitations should be specified.

The main types of legal limitations are legal fact-limitations that fit into the hypothesis of a legal norm, obligation, prohibition, suspension that are provided by disposition of legal norms and penalties, which characterises the sanction of legal norms.

In their activities, people take into account that the conditions of emergence of their rights and duties, privileges and prohibitions, desired or not desired legal consequences are determined by specific legal facts. Therefore, in some cases, subjects seek their beginning, while others would rather prevent their occurrence. Thus, legal facts that impose limitations are characterised as constraining circumstances, which are stipulated in the hypothesis of the legal norm.

Legal obligations, prohibitions, suspensions are specified in disposition of legal norms, but it is important to pay attention to different meanings of these factors (Wiberg, 2014).

Legal obligations – variants of necessary conduct that restrain the obliged party from committing certain actions aimed at satisfying their own needs and thus provide an opportunity to act in the interests of an authorised party. The characteristics of legal obligations are that they allow a person to act in a manner that is clearly specified in law, thus ensuring the limitation of an act of the obliged person, that is, they deter persons from all other acts that are contrary to subjective law.

In addition, it should be noted that legal obligations act not only as legal limitations. They also act as positive obligations, directing subjects to the need for a lawful act. As the general analysis of the psychological mechanism of legal regulation shows, positive obligations are still more connected to embarrassment rather than to stimulation of people's behaviour.

However, scientists pay more attention to the understanding of legal obligations as a negative factor. Even Hegel wrote that "an obligation is a limitation". In the legal literature, legal limitations are rightly linked to the narrowing of permits, establishment of prohibitions and additional positive obligations, since the obligation is a necessity that is (in case of its non-compliance) liable to punishment (Madsen, 1992).

Suspension – a temporary prohibition that regulates the ability of officials to use their functional duties. Suspension does not act as a legal obligation because it does not contain a final assessment and only suggests a further solution to the arising issue. At the same time, suspension contains elements of coercion on the part of a superior, controlling, supervisory agency that supervises or judicial body that temporarily suspends the existence of legal relations, thus preventing the occurrence of possible socially harmful consequences. Suspension also has a strong regulatory capacity (Qian, 2017).

Prohibitions – state-controlled deterrent means that, under the threat of obligations, are capable of preventing possible undesirable, wrongful acts that cause harm to both personal and public interests. Prohibitions act as passive obligations. By imposing prohibitions on the commission of certain acts, legislators thus impose on the citizen an obligation to refrain from prohibited acts. By creating obstacles to satisfaction of the interest of the individual against whom they act, prohibitions are aimed at realising interests of the opposite party.

The next element in the structure of the legal norm is sanction, where various kinds of punishments can be established as the most significant right-limiting means. Legal punishments are a form and a means of legal conviction of the guilty, wrongful conduct, as a result of which the person is necessarily limited in or loses something. There are many grounds for classification of legal punishments:

- depending on the branch, legal penalties are classified as constitutional, administrative, criminal, land, financial, etc.;
- depending on the scope of use – international, domestic and municipal;
- depending on the range of persons to whom they apply – general and individual;
- depending on the legal act containing said legal punishments – normative and enforcement;
- depending on the content, legal obligations are divided into substantive, moral, organizational;
- depending on the rights and obligations that are limited: limitations on civil and political rights and limitations on economic, social and cultural rights.

The classification of legal limitations broadens the understanding of their system, hierarchy, and gives much more opportunities to determine their functions and goals for society.

The objective of establishing legal limitations can be viewed on several levels. First, goals of limitations for all legal subjects (physical and legal entities, states) consist in ensuring the common good, development and functioning of the social system and its structural units. Legal limitations are universally recognised installations necessary for the organisation of life in any civilized society and to regulate relations between all legal subjects (Perlmutter, 2002).

Secondly, the limitations on the State (its bodies and officials) are intended to minimize arbitrariness and other abuses from officials, which is achieved by means of restraining state power by law and that is an obligatory attribute of a legal state (Bongar, 2017).

Thirdly, the goals of legal limitations and freedoms of a citizen tend to cause special concern in society. This happens because the rights and freedoms of a person and a citizen are of the highest value.

In general terms, the problem of legal limitations is a problem of limits of human freedom in society. After all, the freedom of each person extends only to the bounds from which the freedom of other people begins. However, the limitation of human rights is an acute problem for any society and state, since the normal process of functioning, life and development of society creates situations that require the state to establish certain limitations in the process of citizens exercising their rights. But the right to limit opportunities, freedoms,

to take away from people a part of their rights belongs only to the relevant state bodies as legitimate representatives of the whole society. It should be noted that the process of applying limitations requires a holistic system that guarantees their legal and justifiable application (Koszowski, 2016).

Guarantees in establishing legal limitations are necessary to ensure that legal limitations (at the level of norms) do not turn into obstacles to the exercise of the rights and freedoms of the individual (at the level of their realisation), so that from legitimate means they would not turn into socially harmful and illegal means.

Functions of legal limitations – main directions of impact of the right-terminating funds on the interests of legal subjects.

The main function of legal limitations is creation of conditions for satisfaction of interests of counter-subjects and public interests in protection and security. In exercising this function, legal limitations are intended to prevent illegal, antisocial activity. Right-terminating factors stabilize social processes, which illustrates their positive role. The function of protection and security, acting as a secondary function of the informational-psychological effect of law, is the basis for the function of public relations development.

In the functioning of the law enforcement mechanism, it is obligations and prohibitions that play the most crucial role. If obligations and prohibitions do not trigger, other limiting instruments come into effect, namely – the means of protection and responsibility that belong to the rights protection mechanism.

Essentially, legal limitations hold a subordinate position since they are a supporting form of the legal impact. At the special legal level of legal impact (at the level of legal regulation), the main means are subjective rights and legal obligations, permissions and prohibitions. However, in the informational-psychological aspect of the law, legal limitations are the leading means, together with legal incentives (because they are paired instruments that interact), and cover everything that is aimed at preventing illegal acts by exercising negative legal motivation. In this sense, everything that reduces the scope of opportunities and diminishes diversity of subjects' behaviour to a specific "limit" state is certainly a legal limitation (Mommers, 2009).

In society and state, the need to apply legal limitations is undeniable. However, it is necessary to pay attention to the fact that full application of the whole range of legal limitations without the functioning of legal incentives will not make a positive contribution to the development of social and legal relations in society. In the state there arises a need not only in socially active motivation for people but also in the presence of certain limiting, deterrent means, such as legal obligations, prohibitions, suspensions, punishments etc.

CONCLUSION

The need for legal limitations is the basis of their functional purpose, the impact they have on society at this stage of its development and their importance, which sometimes acts as more important legal incentives. However, in our opinion, they should not be the leading means of legal impact, rather the necessary, supporting means. Although, exceptionally positive obligations, meaning the effect of legal incentives in the process of legal stimulation, cannot exist without legal limitations. It is this close relationship that the impact of law on society is built on.

It is believed that without the need to limit certain activities, the existence and functioning of law in society will be impossible. Nevertheless, it should be noted once again that only justified, legitimate legal limitations positively affect the protection and security of both interests of the authorised subject and society as a whole. That is, legal limitations should match the interests existing in the state and society and should only be established by legitimate state bodies.

Unfortunately, some legal limitations are connected to lobbying of certain interests; they are unlawful and established exclusively to satisfy the goals of certain groups of population, and sometimes – of separate individuals. Such legal limitations cannot be useful to the State and society as a whole. Therefore, if such

legal limitations are located among legitimate and necessary legal limitations, they have a negative legal motivation for society and reduce the positive impact that must be made by legal limitations.

The purpose of legal impact is to form the most desirable personal conduct for modern society and the state. However, to achieve this, it is important to establish limitations on actions of subjects of legal relations since it is necessary to remember that rights of one person can limit and prevent rights of other persons.

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