

## COERCIVE MEASURES APPLIED UNDER THE LEGAL EMERGENCY REGIME

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*The Ukrainian statehood is compelled to assert its right to self-defense in response to the unprovoked armed attack by the Russian Federation utilizing the territory of the Republic of Belarus. The aggressive military tactics employed by the aggressor nation necessitate Ukraine's comprehensive utilization of all available means of resistance [1, c. 153].*

*Since the onset of the full-scale invasion, the Ukrainian government and allied states have confronted significant challenges, addressed in part through the imposition of martial law nationwide. Warfare encompasses not only frontline combat but also countering the intelligence activities of hostile groups, fighting by collaborators, maintaining public safety and law and order, security and traffic regulation in the rear, preventing and detecting cyberattacks, organizing and carrying out the evacuation of the civilian population from danger, social support of displaced persons, etc. The second year of the war revealed certain problems, the resolution of which posed certain difficulties, thereby necessitating legislative changes, particularly in the areas of criminal, administrative, disciplinary, and civil liability, as well as the adoption and formal establishment of new compulsory legal enforcement procedures regarding the implementation of restrictive measures of the legal regime of martial law. Some of these provisions are completely new, provoked by the extreme conditions of martial law, therefore need in the shortest time a thorough scientific analysis and substantiation in order to predict further consequences and possible improvement, to obtain clear mechanisms of implementation and application in practice.*

*The aim of this work is to identify the characteristics and scope of administrative coercion during a state of emergency, and to formulate evidence-based suggestions for enhancing both the legislation and its practical application in this domain.*

*The research relies on a collection of scientific methods and techniques to achieve its objectives, driven by a systemic approach aimed at investigating problems through the integration of their social context and legal framework. The primary method employed is the general scientific dialectical method, facilitating the analysis of current legislation regarding the application of administrative coercion measures during a state of emergency. Additionally, specific methods of scientific inquiry are employed. For instance, the comparative legal method is utilized to explore issues such as the positioning of a state of emergency within the framework of emergency administrative and legal regimes, the responsibilities of various stakeholders in implementing emergency measures, and the normative foundations governing the use of coercion during a state of emergency. Furthermore, systemic and functional methods are employed to analyze the structure of entities responsible for implementing state of emergency measures.*

*Today's reality is marked by significant changes in the life of the country, accompanied by a range of man-made disasters, natural and man-made emergencies, and socio-political phenomena including mass events and attempts to seize state power, which often lead to group violations of public order and mass riots. The progression of these events directly influences the day-to-day functions of state authorities and local self-government bodies, shaping their operational*

*peculiarities and modes of interaction. Amidst these challenges, there arises an urgent need for the socialization of all spheres of public life to ensure reliable public order during emergencies of varying natures and scales, prompting the declaration of special states of emergency.*

*The grounds and procedures for implementing states of emergency and martial law, along with the regulations governing these states, establish a specific framework for the functioning of executive and local self-government bodies. In addressing the consequences of such states, and working to eliminate their causes and conditions, these bodies undertake a series of administrative and legal measures. Foremost among these measures is administrative coercion, wielded exclusively by state authorities and local self-government bodies.*

*The exploration of theoretical and practical challenges related to the implementation of administrative coercion measures during a state of emergency represents a central and prioritized focus of contemporary scientific inquiry within the realm of state authorities and local self-government. This area of study demands a comprehensive integration of knowledge across various branches of legal regulation.*

*It is noteworthy that following Ukraine's independence, discussions regarding the utilization of administrative coercion measures during states of emergency did not receive adequate attention within legal scholarship. Instead, most theoretical and practical developments centered around themes such as economic stability, the application of administrative responsibility, the maintenance of public order, and the organization of internal affairs activities under such conditions.*

*The originality of the research was driven by the imperative to address several key objectives: establishing the position of the legal regime of a state of emergency within the framework of emergency administrative and legal regimes; systematizing the legal provisions governing the use of administrative coercion during a state of emergency; describing the structure of entities responsible for implementing administrative coercion measures during a state of emergency and elucidating the specifics of their authority during this period; classifying various types of administrative coercion applicable during a state of emergency and providing a comprehensive understanding of their essence; clarifying the nuances associated with implementing both primary and supplementary administrative coercion measures in the context of a state of emergency; proposing avenues for enhancing the legal framework governing the application of administrative coercion measures during a state of emergency.*

*These objectives collectively contributed to the originality and significance of the research, addressing crucial aspects of administrative coercion within the unique context of a state of emergency.*

## **Introduction**

Legal regulation of relations that arise during natural disasters, man-made accidents and catastrophes, socio-political and military conflicts, has historically been carried out using state acts that declare the issue of applying legal measures of an extraordinary nature [1, p. 56].

The practical application of administrative coercion measures is always associated with the restriction, often quite significant, of the constitutional rights and freedoms of citizens, as well as the rights and legitimate interests of legal entities. In this regard, it is very relevant and expedient to create effective legal foundations for the application. The effectiveness of the aforementioned activities in many cases

also depends on the perfection of the regulatory regulation of the process of activity of state and law enforcement bodies regarding the application of administrative coercion measures, the clarity of regulations, and the presence of a developed system of legislation. These measures, that is, to ensure their proper legal implementation. In the theory of state and law, legal regulation is considered to be an effective, normative and organizational influence exerted on social relations through a system of legal means (individual regulations, norms, legal relations) with the aim of their protection and development in accordance with social needs [2, p. 89].

The relevance of this work lies in the fact that, on the one hand, in the science of administrative law there is great interest in administrative coercive measures, on the other hand, laws relating to the legal regulation of coercive measures in conditions of emergency and martial law, due to their limited application, are practically imperfect.

The purpose of this work is to study the problems of theoretical improvement, legal regulation and practical application of administrative coercion measures in a state of emergency. Taking into account the set goal, the following tasks should be solved:

- analysis of research on the application of administrative and legal measures in a state of emergency;
- to determine the concept, features and certain content of the legal institution of social relations in the field of application of administrative and legal measures in a state of emergency;
- to develop recommendations aimed at improving the theoretical and legal foundations of administrative coercion under the conditions of legal regimes of emergency status.

Analyzing the state of research into issues related to the legal nature of administrative and legal measures in a state of emergency, at different times these problems were addressed by A.T. Komzyuka, V.K. Kolpakova, T.O. Kolomoyets, A.V. Basov, O.K. Bezsmertny, Yu.V. Drozd, O.K. Bezsmertny, M.I. Yeropkina, R.V. Kisil, B.V. Rossinsky, Yu.M. Starylov, who have prepared scientific works of a monographic nature on this topic. At the same time, the problems associated with the use of coercive measures in the specified circumstances have almost not found their scientific justification in the legal literature. Therefore, with the presence of a significant number of various scientific sources and sources from the mass media, to this there were no scientific works that would explore the full range of extraordinary administrative and legal measures when maintaining the legal regime of a state of emergency.

## **The content of coercion under the legal regime of a state of emergency**

Constitutional and civil rights and freedoms of man and citizen and their guarantees determine the content and direction of the functioning of the state. To fulfill tasks in the field of ensuring the security of the state and citizens from various threats, and in particular emergency situations that lead to the introduction of a state of emergency, the state uses, among other things, various administrative and legal means.

Administrative and legal means establish a mechanism for the implementation of the rights and freedoms of citizens, their implementation is ensured through administrative law enforcement, law enforcement administrative and legal means are used to protect the rights and freedoms of citizens from various kinds of threats (consequences of emergencies, administrative offenses, etc.), the basis of which are measures of administrative coercion.

It should be noted that one of the most dangerous threats to the state and its citizens are emergencies, as their occurrence causes unforeseen material costs, economic burden, human casualties, destruction of infrastructure, and, consequently, an increase in forced unemployment, economic impoverishment, which objectively contributes to the growth of social tension in the country among the population. Regarding the statistics of emergency situations, in 2019, compared to 2018, the total number of emergency situations decreased by twelve percent, while the number of man-made and natural emergencies decreased, while the number of socio-political emergencies increased slightly. Compared to 2018, the number of state-level emergencies remained unchanged, while the number of regional, local, and facility-level emergencies decreased. It should be noted that the number of regional emergencies decreased by two and a half times. During 2019, seven state-level emergencies were registered (in 2018, three state-level man-made emergencies).

In addition to natural and man-made emergencies, the Ukrainian people are prone to the emergence of rebellious socio-political emergencies. This is evidenced by the events that took place in 1998 in Kyiv, during the opposition's actions against the existing government, and in 2004–2005, the organization and conduct of the so-called «Orange Revolution», as well as political and social changes in Ukraine from November 21, 2013 to February 2014, which were caused by resistance to the departure of the country's political leadership from the legally established course of European integration and subsequent opposition to this course. The armed conflict in the region began in mid-April 2014, when armed groups of pro-Russian activists seized administrative buildings and police stations in Sloviansk, Artemivsk, and

Kramatorsk. During the events described above, state authorities used certain legal, organizational, financial measures that should urgently ensure stabilization of the situation. However, the practice of applying these measures shows that the current legislation in regulating many issues lags behind the urgent needs of practical application, it does not meet the needs of today, has a number of shortcomings, legal gaps and conflicts, does not define a clear concept of certain legal categories, which complicates the law enforcement activities of relevant state bodies and local self-government bodies.

This position is supported by the results of a survey of civil servants, among whom more than seventy-six percent are convinced of the need to change the regulatory framework that regulates relations in emergency situations and states of emergency.

The legal basis for the application of administrative coercion measures under the state of emergency regime is the norms enshrined in:

- the Constitution of Ukraine (Article 64, Clause 31 of Article 85, Clause 19 of Article 92, Clauses 20, 21 of Article 106, Clause 10 of Article 138);
- the Civil Protection Code of Ukraine;
- Laws of Ukraine «On the Legal Regime of the State of Emergency», «On the National Security and Defense Council», «On the National Police», «On the Internal Troops of the Ministry of Internal Affairs of Ukraine», «On Mobilization Training and Mobilization», «On the Security Service of Ukraine», «On the Armed Forces of Ukraine»;
- relevant Decrees of the President;
- Resolutions of the Cabinet of Ministers of Ukraine regulating issues arising in the specified conditions;
- orders, instructions, rules issued by relevant state and law enforcement agencies.

When a state of emergency is introduced in a certain territory, emergency measures acquire special importance, which are a combination of administrative and legal prohibitions and obligations for individuals and legal entities and the granting of additional rights to state authorities. These measures are a necessary component of the system of elements of a state of emergency, and their legal form is enshrined in Articles 16, 17, 18, 21 of the Law of Ukraine «On the Legal Regime of a State of Emergency» [3].

The introduction of these measures entails significant changes in the legal status of individuals and legal entities, and therefore the transfer to executive authorities and local self-government bodies of extraordinary powers, which they

are granted to eliminate the security threat that has arisen in a certain territory. At the same time, the competence of the state apparatus is expanded, mainly by restricting the rights and freedoms of citizens and legal entities. In the event of the introduction of a state of emergency, a special enhanced regime of activity of state authorities and administration arises, which allows restricting some constitutional and civil rights and freedoms of citizens and the rights and interests of legal entities.

Measures applied under the conditions of a state of emergency are unacceptable and unconstitutional in normal life conditions, but their application is necessary in the event of an emergency situation that necessitates the introduction of a legal state of emergency [4, p. 71].

The application by the authorities of restrictions on the rights of individuals and legal entities is a forced measure, because to eliminate the security threat to both the state and citizens, unusual legal means are used in the normal conditions of life in the country.

The negative consequences caused by the emergency situation require executive authorities and local self-government bodies to apply adequate measures specified in the Law of Ukraine «On the Legal Regime of the State of Emergency» otherwise, the state is unable to ensure the fulfillment of the functions assigned to it, which are enshrined in the Basic Law of the state, namely, ensuring security in society.

An analysis of the Law of Ukraine «On the Legal Regime of a State of Emergency» shows that a significant place in its content is given to determining the procedure for applying administrative coercion measures under the conditions of a state of emergency [3]. Note that one of the mandatory conditions for introducing a state of emergency on the territory of Ukraine or a separate part of it is the definition in the Decree of the President of Ukraine «On the Introduction of a State of Emergency» a list and limits of emergency measures, an exhaustive list of constitutional rights and freedoms of man and citizen that are temporarily restricted in connection with the introduction of a state of emergency, as well as a list of temporary restrictions on the rights and legitimate interests of legal entities, indicating the period of validity of these restrictions.

The state of emergency significantly expands the scope of legal regulation of individuals regarding the exercise of their rights and freedoms. The administrative apparatus is given the authority to restrict or prohibit the exercise of certain constitutional rights that are protected under normal conditions.

By adapting the types of legal regulation, the most effective opportunity to control the situation is achieved. Citizens should act as necessary at a specific

moment of crisis – everything that is permitted by law is permitted. Thus, the state of emergency creates a certain direction in the realization of subjects' rights and freedoms. Our study, conducted in the course of our research, studying the practical experience of employees of the State Emergency Service during the application of coercive measures, revealed that the absolute majority of rescuers face resistance from the population.

The considered interrelations of the types of legal regulation create a special «restrictive mood» in the mechanism of legal influence. Administrative and legal prohibitions are put forward, which allow directing the behavior of citizens into a «rigid administrative and legal channel». We are faced with the use of administrative coercion, which is regulated by administrative law, where it has been most fully investigated and its regulatory basis has been determined [5, p. 153].

Clarifying the issue of the procedure for applying administrative coercion by state bodies under the conditions of a state of emergency involves, first of all, an analysis of scientific and practical views on the definition of the concept and features of administrative coercion.

The works of administrative scientists (A.T. Komzyuk, V.K. Kolpakova, T.O. Kolomoyets, etc.) have examined the concept of administrative coercion in detail, in this regard, we will focus on a general analysis of this definition.

Some lawyers consider administrative coercion as a system of means of psychological or physical influence on the consciousness and behavior of people in order to achieve clear fulfillment of established duties, develop social relations, and ensure law and order [6, p. 204].

Ukrainian researchers, such as: V. K. Kolpakov, O. V. Kuzmenko, note that administrative coercion is a power-based, unilaterally implemented and applied in cases provided for by legal norms, on behalf of the state to the subjects of legal relations, firstly, preventive measures to prevent offenses, secondly, measures to stop offenses, thirdly, measures of responsibility for violation of prohibitions [7, p. 193].

T.O. Kolomoyets in her dissertation research «Administrative coercion in the public law of Ukraine; theory, experience and practice of implementation» proposed her own definition of administrative coercion in the public law of Ukraine, which should be understood as a special, complex, a polystructural type of state-legal coercion, i.e. methods of official physical or psychological influence of government bodies on individuals and legal entities, defined by public law norms, in the form of personal, property, organizational restrictions on their rights, freedoms and interests in cases of commission of illegal acts by these persons (in the field of relations of a public nature) or in extraordinary circumstances within the framework

of a separate, economical, simplified, operational administrative proceeding in order to achieve a multi-faceted retro-perspective goal (prevention, cessation of illegal acts, prevention and localization of the consequences of emergency situations, ensuring the proceedings in cases of offenses, bringing guilty persons to justice) [9, p. 63].

The most successful definition of administrative coercion is given by the author A.T. Komzyuk in the monograph «Measures of administrative coercion in law enforcement activities of the police: concept, types and organizational and legal issues of implementation». The scientist notes that administrative coercion is the application by relevant subjects to persons who are not under their control, regardless of the will and desire of the latter, of measures of influence of a moral, property and other nature provided for by administrative and legal norms in order to protect social relations arising in in the field of public administration, through the prevention and cessation of offenses, punishment for their commission [10, p. 214].

It is worth noting that this definition is also characteristic of administrative coercion, which is used in conditions of emergency and martial law, but it has its own characteristics. Analysis of scientific, educational, and journalistic sources allows us to trace a certain trend - administrativeists formulate definitions of administrative coercion, and then characterize the most important, most significant features. The definition alone, together with the study of its features, provides a general idea of administrative coercion, and in particular, of administrative coercion applied under the legal regimes of emergency and martial law.

It should be noted that administrative coercion applied under the conditions of the state of emergency regime is characterized by all the features of administrative coercion, namely: official, state-authority character; multiplicity and diversity of subjects of application (state bodies, and in some cases, public organizations); number of persons to whom the application is made; lack of official subordination between the subjects of application and the persons to whom the relevant application is made; specifics of the legal and factual grounds(both the presence and absence of an illegal act); multivariate external forms of manifestation; coercive nature; simplicity, efficiency, economy of the procedural regime of application; administrative coercive measures are established, changed, canceled by administrative acts depending on the need [9, p. 211].

It should be noted that administrative coercion, which is applied under the conditions of a state of emergency, is characterized by certain features. Firstly, administrative coercion measures under the state of emergency are applied only for the period specified in the Law of Ukraine «On the Legal Regime of the State of Emergency», namely up to thirty days on the territory of Ukraine, and up to

sixty days in some of its regions. That is, administrative coercion applied under the state of emergency is temporary in nature.

Secondly, executive authorities and local self-government bodies, under the conditions of the state of emergency, in order to eliminate the consequences of the emergency situation, may apply only those measures of administrative coercion that are directly provided for in the Presidential Decree of Ukraine «On the introduction of a state of emergency» and in the Law of Ukraine «On the legal regime of a state of emergency». It should be noted that during the elimination of an emergency situation, the occurrence of which led to the introduction of a state of emergency, state bodies may apply other measures of administrative coercion, however, their use is typical for the daily activities of these bodies. Therefore, the procedure for their use is not regulated by the Law of Ukraine «On the Legal Regime of a State of Emergency». Thus, in the event of mass unrest or other emergency situations of a socio-political nature, employees of internal affairs bodies may use physical force, special means, and weapons in order to resolve this situation. However, the legal grounds for applying these measures are directly provided for in Articles 42, 43, 44, 45, 46 of the Law of Ukraine «On the National Police».

Thirdly, the effect of administrative coercion measures applied under the conditions of the state of emergency applies to individuals and legal entities who are located or reside in the territory of the special regime.

The above analysis of the concept and features of administrative coercion makes it possible to use the concept of administrative coercion, which is applied under the conditions of the state of emergency, in particular, its application by relevant entities to individuals and legal entities that are not under their subordination, on the territory and during the state of emergency, temporary, special restrictive measures of moral, economic and other nature are imposed in order to protect national security.

This definition of administrative coercion, which is applied in the conditions of the state of emergency, has several positive aspects. First, the objective necessity of administrative coercion in the conditions of the state of emergency to solve the tasks of ensuring the activities of some state bodies (for example, internal affairs bodies) is clear, ensuring the security of citizens, the normal functioning of the national economy, state authorities and local self-government bodies, and the protection of constitutional order. This is the essence of administrative coercion in the process of interaction between state authorities and individuals and legal entities. Secondly, with this understanding of administrative coercion applied

under the conditions of the state of emergency, its content is relatively easy to separate from other administrative and legal means of coercion in the aspect of legal regulation. Thirdly, the presented understanding of administrative coercion applied under the conditions of the state of emergency allows us to fundamentally re-examine the application of coercive measures in the mechanism of the state of emergency. Fourth, indicating the understanding of administrative coercion applied under the conditions of the state of emergency regime makes it possible to understand the nature of relations and the specifics of this subject of regulation.

### **The content of coercion under the conditions of a state of emergency**

When analyzing the content of administrative coercion applied in the aspect of the state of emergency, it is necessary to examine a very debatable issue, namely the grounds for the application and classification of administrative coercion measures.

Today, there are several views on the grounds for applying administrative coercion measures. One group of scientists believes that administrative coercion is applied only to persons who have committed administrative offenses, The second group of scientists believes that administrative coercion can be used not only as a reaction of the state to offenses, but also, if necessary, to protect public order and ensure public safety in special and extraordinary conditions. Let's analyze the above.

Representatives of the first group believe that administrative coercion necessarily has the character of administrative punishment and is carried out only in connection with an unlawful and socially dangerous act. R.V. Kisil, B.V. Rossinsky, Yu.M. Starylov note that state coercion is carried out as a reaction of state bodies to unlawful, socially dangerous behavior of people. Its application is due to the conflict between the state will, which is expressed in a legal act, and the individual will of the persons who violate it.

The view of the above-mentioned scholars regarding the restriction of citizens' rights and freedoms in the context of an emergency situation is debatable. These measures are not coercive measures, regardless of the «unfavorable» consequences that occur for the person. Not all «unfavorable» consequences, even if they are provided for by law and arise as a result of conscious actions of individuals, are the result of coercion. Coercion applies only to a specific legal subject who has violated the rules of law and has a personified individual character. The same measure may be coercion in one case and not in another, depending on whether the behavior was unlawful. Therefore, the use of administrative coercion is associated with the presence of an administrative offense [11, p. 32].

However, we consider the positions of those scientists who insist that administrative coercion measures can be applied to both offenders and persons who have not committed an offense to be convincing [12, p. 31]. As A.V. Basov aptly notes, the basis for lawful restriction of the administrative and legal status of citizens, in addition to offenses, can also be legally significant events, such as emergencies of a technogenic or natural nature, social conflicts, military actions and armed riots, etc. [5, p. 162].

Scientist O.K. Bezsmertny in his dissertation research «Administrative preventive measures applied by internal affairs bodies» notes that administrative coercion as a whole performs the tasks of protecting, developing and strengthening normal administrative relations and eliminating offenses, eliminating their consequences that may harm public or state interests. It is a legal means of protecting public relations from unlawful actions, restoring the lawful state, ensuring the protection of public order and ensuring public safety in normal conditions of life and in the event of emergency situations [13, p. 175].

A rather interesting definition of administrative coercion was provided by Yu.V. Drozd. In his opinion, the criterion of administrative coercion is the method of administrative influence of the state in the person of state bodies authorized by law, officials on subjects of social life (individuals and legal entities) in order to prevent and stop illegal behavior in the interests of protecting the rights and legitimate interests of all members of society, ensuring public safety and law and order, and bringing those responsible to legal responsibility [14, p. 94].

As S.O. Kuznichenko aptly notes, among the factors requiring the use of coercive measures in situations not related to the commission of offenses, there may be a state necessity or a social necessity to prevent the occurrence of harmful consequences, protect public order and ensure security. Under such conditions, authorities, using the additional powers granted to them, restrict the possibility of citizens to exercise certain constitutional rights and freedoms. At the same time, this restriction (coercion) is not related to the commission of illegal actions, but is applied in connection with the occurrence of a relevant event [15, p. 79].

Administrative coercion during the state of emergency is the basis of legal regulation of social relations, as it is immersed in various social relations: civil, constitutional, economic, environmental, labor, administrative, etc. In order to eliminate the impact of the negative factor on the population in the relevant territory as soon as possible, emergency legal measures are applied, which cause emergency restrictions on the rights and freedoms of individuals and business entities.

The lawful restriction of the administrative and legal status of citizens, acting as the implementation of the state of emergency regime, became the basis for the allocation of a special form of administrative and legal regulation. Its specificity lies in the nature of legal influence in the specified conditions and is manifested in the establishment of a regime of administrative and legal restrictions. The expansion of the competence of administrative bodies makes it possible to change the nature of coercive influence to a certain extent. The effect of regulations on the restriction of rights and freedoms under the conditions of the state of emergency does not apply to specific individuals, but to the population of the entire territory where the regime operates. In emergency conditions, this type of regulation becomes convincingly predominant [5, p. 169].

An idea of administrative coercion is impossible without analyzing its classification. Recently, this issue has been the focus of great attention of scientists, as evidenced by a number of studies. However, the issue of classifying administrative coercive measures under the state of emergency has not been finally defined in relevant scientific works, despite the significant practical and theoretical importance of clarifying this issue. As O. K. Bezsmertny aptly notes, a clear classification of measures is necessary, first of all, to clarify the essence of various coercive measures applied by executive authorities and local self-government bodies under the conditions of the state of emergency and martial law, to understand the purpose, «legal potential», their correlation and interaction [13, p. 215].

Some scientists believe that all administrative coercion measures should be divided into: liability measures and protective measures. The first group includes enforcement measures, the second – measures of a preventive nature [13, p.152].

Other lawyers express the opinion that administrative coercion does not include administrative preventive measures, arguing that administrative preventive measures are not coercive measures, since they belong to prohibitive norms of law. These norms are not of a personal nature and are applied to an individual, but are addressed to all citizens without exception, therefore they cannot be considered as a measure of administrative coercion. After all, only an individual act of management that has a specific addressee can be such [17, p. 35]

In our opinion, the position of M.I. Yeropkin is very correct, who believes that administrative coercion measures should be divided into the following measures of influence: administrative termination measures; administrative preventive measures, administrative penalties. The proposed classification is supported and used in their works by most modern administrative scientists: V.B. Averyanov, O.M. Bandurka, O.K. Bezsmertny, V.K. Kolpakov, A.T. Komzyuk, T.O. Kolomiets, etc. They believe

that the above groups of coercive measures are applied in cases of: bringing to administrative responsibility persons who have committed administrative offenses, stopping illegal actions, preventing offenses or ensuring security as a result of a natural disaster or other violations of any spheres of society's life.

Regarding the classification of administrative coercive measures provided for by the Law of Ukraine «On the Legal Regime of a State of Emergency» and which are applied under the conditions of this regime, we note that, according to A.V. Basov, some emergency situations caused by the introduction of a state of emergency are unlawful (terrorist acts, mass riots, crossing the state border, etc.) and their elimination requires the country's authorities to take both administrative preventive measures and administrative termination measures.

Taking this into account, A.V. Basov believes that the measures provided for by the Law of Ukraine «On the Legal Regime of a State of Emergency» relate to both administrative preventive measures and administrative termination measures. In the event of the introduction of a state of emergency in a certain territory, the Presidential Decree «On the Introduction of a State of Emergency» will necessarily specify additional measures that will be applied during the state of emergency and are aimed both at preventing the occurrence of unlawful behavior and at its cessation [5].

Of course, this view has the right to exist, but the position of T.O. Kolomojts is well-founded and appropriate, who believes that depending on the factual grounds for introducing a state of emergency, all measures applied by state authorities are aimed primarily at protecting people: preventing death and mutilation [9, p. 341].

Administrative warning measures applied under the state of emergency can be conditionally divided into three groups, combining those with similar legal and procedural properties.

The first group is general administrative and coercive measures of a preventive nature of the legal regime of a state of emergency: strengthening the protection of civil order and facilities that ensure the vital activity of the population; banning strikes; restrictions on the movement of vehicles and their inspection; establishment of a special regime of entry and exit, as well as restrictions on freedom of movement in the territory where a state of emergency is introduced; prohibition of holding mass events, except for events the prohibition of which is established by the court.

The second group is preventive administrative enforcement measures in a state of emergency due to man-made or natural emergencies: evacuation of people from places that are dangerous to live in; introduction of a special procedure for the distribution of food and essential items; removal from work for the period of the state of emergency, in case of improper performance of their duties, heads of state

enterprises, institutions and organizations on whose activities the normalization of the situation in the area of the state of emergency depends; establishment of housing obligations for legal entities for temporary accommodation of evacuated or temporarily resettled population; establishing quarantine and carrying out other mandatory sanitary and anti-epidemic measures.

The third group is administrative coercive measures of a preventive nature under the legal regime of a state of emergency in connection with mass violations of civil order: the introduction of a curfew (a ban on being on the streets and in other public places without specially issued passes and identity cards at established hours of the day); checking citizens' documents, and if necessary, conducting a personal search, inspection of belongings, vehicles, luggage and cargo, office premises and housing of citizens; restrictions or temporary bans on the sale of weapons, poisonous and potent chemicals, as well as alcoholic beverages; special rules for the use of communications and the transmission of information via computer networks; temporary confiscation of registered firearms and cold weapons and ammunition from citizens, etc.

All other measures applied by state bodies under the conditions of the state of emergency and not provided for by the Law of Ukraine «On the Legal Regime of Emergency» can be attributed to other types of administrative coercion measures (administrative detention, use of physical force, use of firearms, etc.), however, most of them are used in everyday life and ordinary living conditions.

It is significant that all administrative coercive measures applied under the state of emergency can be classified according to certain criteria developed in administrative and constitutional law. Thus, depending on the purpose of application, these measures can be divided into: measures of general preventive nature (establishing a special regime of entry and exit, as well as restrictions on freedom of movement in the territory where a state of emergency is introduced; restrictions on the movement of transport and its inspection); measures used to prevent administrative offenses by specific individuals (strengthening the protection of public order and facilities that ensure the vital activity of the population; banning mass gatherings, except for events the ban on which is established by the court; banning strikes).

Depending on the nature of the law enforcement impact, administrative coercive measures applied during a state of emergency are divided into: personal (introduction of a special procedure for the distribution of food and essential items), property (establishment of housing obligations for legal entities for temporary accommodation of evacuated or temporarily resettled population, emergency and

rescue units and military units involved in overcoming emergency situations) and organizational and legal (temporary ban on the construction of new, expansion of existing enterprises and other facilities whose activities are not related to the elimination of an emergency situation or ensuring the vital activities of the population and emergency rescue units). Depending on the object of influence – those applied to individuals (temporary or irreversible evacuation of people from places that are dangerous for living, with the mandatory provision of them with permanent or temporary housing; prohibition of conscripts and those liable for military service from changing their place of residence without the knowledge of the relevant military commissariat); curfew; checking citizens' documents, and if necessary – conducting a personal inspection, inspection of things, cars, luggage and cargo, office premises and housing of citizens; legal entities (changing the operating mode of enterprises, institutions, organizations of all forms of ownership, reorienting them to the production of products necessary in the state of emergency, fulfillment of mobilization tasks and government orders, other changes in production activities necessary for carrying out emergency rescue and restoration work; removal from work for the period of the state of emergency, in case of improper performance of their duties, of heads of state enterprises, institutions and organizations on whose activities the normalization of the situation in the area of the state of emergency depends, and the assignment of temporary performance of the duties of the said heads to other persons); mixed (mobilization and use of resources of enterprises, institutions and organizations, regardless of the form of ownership, to avert danger and eliminate emergencies with mandatory compensation for losses incurred; restrictions or temporary bans on the sale of weapons, poisonous and potent chemicals, as well as alcohol and alcohol-based substances).

By implementation period – those that are implemented by performing certain one-time actions (checking citizens' documents, and if necessary, conducting a personal inspection, inspection of things, vehicles, luggage and cargo, office premises and housing of citizens), not related to the period (prohibition of the production and distribution of information materials that may destabilize the situation), those that are distinguished by the duration of action (introduction of a curfew).

### **Conclusions**

Administrative coercion applied under the conditions of the state of emergency is the application by the relevant bodies of state power and local self-government (to individuals or legal entities not under their control, on the territory and during the state of emergency and martial law, temporary, special restrictive measures

of influence of a moral, property, personal and other nature in order to protect national security and ensure the safety of life of the population of the country and other countries of the civilized world.

This definition of administrative coercion applied under the conditions of the state of emergency has several positive aspects. First, with this understanding of administrative coercion applied under the conditions of the state of emergency, its content is relatively easy to distinguish from other administrative and legal means of coercion in the mechanism of legal regulation. Secondly, the objective need for administrative coercion under the conditions of a state of emergency and martial law is clear, to solve the tasks of ensuring the activities of certain state bodies (for example, the Security Service of Ukraine, the Armed Forces of Ukraine, the State Border Service of Ukraine, the Ministry of Internal Affairs), ensuring the security of individuals, the normal functioning of the national economy and its development, cybersecurity, energy security, state authorities and local self-government bodies, and protecting the constitutional order. This is the advantage of administrative coercion in the process of interaction of state bodies with citizens and legal entities. Thirdly, indicating the understanding of administrative coercion, which is applied in the conditions of the state of emergency regime, to understand the nature of relations, the specifics of the subject of regulation. Fourth, the presented understanding of administrative coercion applied under the conditions of the state of emergency and martial law allows us to show for the first time in a fundamentally new way the use of administrative coercive measures in the mechanism of the state of emergency.

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