



## Administrative, Financial, Criminal-Legal and Theoretical-Methodological Aspects of Regulating Social Relations\*

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### Abstract.

The purpose of the research is determined as theoretical, administrative, and civil law aspects of the regulation of social relations are defined. Main content. The article defines the means of social regulation, which include legal, moral, corporate, customs, etc. It has been proved that legal regulation of social relations is defined by the author as a purposeful action on people's behavior and social relations with the help of legal (juridical) means. Methodology: The methodological basis of the research is presented as comparative-legal and systematic analysis, formal-legal method, interpretation method, hermeneutic method, and methods of analysis and synthesis. Conclusions. It has been proved that since legal regulation is presented as social relations, legal regulation is determined by some objective and subjective factors. The following aspects of social relations have been resolved: level of economic development of the society; social structure of the community; level of maturity and stability of social relations; level of legal culture of citizens; level of certainty of the subject of social relations, means and methods of legal regulation etc.

**Keywords:** Social Relations; Legal Regulation; State Model; Legal Phenomena; Legal Norms

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## Aspek Administratif, Keuangan, Kriminal-Hukum dan Teoritis-Metodologi Pengaturan Hubungan Sosial

### Abstrak.

Tujuan penelitian. Artikel ilmiah dikhususkan untuk cakupan dana perlindungan lingkungan sebagai komponen keuangan nasional dan keamanan lingkungan. Isi utama. Dibuktikan bahwa untuk mencapai efektivitas kebijakan regulasi di bidang perlindungan lingkungan hidup menuntut negara untuk mengintensifkan bentuk-bentuk pelaksanaannya, salah satunya adalah kegiatan dana perwalian ekstra anggaran. Selama analisis dana ekstra-anggaran ekonomi dan sektoral, penyatuan peraturan hukum tentang prosedur untuk mengalokasikan dana yang disediakan untuk dana lingkungan diidentifikasi sebagai tindakan yang diperlukan, yang akan memungkinkan regulasi terperinci dari aturan tersebut dan membangun mekanisme pertanggungjawaban atas pelanggaran. Metodologi: Pertimbangan bahan dan metode berdasarkan analisis bahan dokumenter untuk dana perlindungan lingkungan sebagai komponen keuangan nasional dan keamanan lingkungan. Kesimpulan. Kemanfaatan sistematisasi undang-undang yang mengatur dana ekstra-anggaran diperdebatkan untuk tujuan elaborasi lebih lanjut dan adopsi Hukum Ukraina "Pada Dana Publik".

**Kata kunci:** Hubungan Sosial; Peraturan Hukum; Model Negara; Fenomena Hukum; Norma Hukum

## Административные, Финансовые, Уголовно-Правовые И Теоретико- Методологические Аспекты Регулирования общественных отношений

### Аннотация.

Цель исследования определяется тем, что определяются теоретические, административно-правовые и гражданско-правовые аспекты регулирования общественных отношений. Основное содержание. В статье определяются средства социальной регуляции, к которым относятся правовые, нравственные, корпоративные, обычаи и др. Доказано, что правовая регуляция общественных отношений определяется автором как целенаправленное воздействие на поведение людей и общественные отношения с помощью юридические (судебные) средства. Методология: Методологическую основу исследования составляют сравнительно-правовой и систематический анализ, формально-юридический метод, метод интерпретации, герменевтический метод, а также методы анализа и синтеза. Выводы. Доказано, что поскольку предметом правового регулирования являются общественные отношения, правовое регулирование определяется некоторыми объективными и субъективными факторами. Определены следующие факторы социальных отношений: уровень экономического развития общества; социальная структура общества; уровень зрелости и стабильности социальных отношений; уровень правовой культуры граждан; степень определенности предмета общественных отношений, средств и методов правового регулирования и т.д.

**Ключевые слова:** Общественные Отношения; Правовое Регулирование; Модель Государства; Правовые Явления; Правовые Нормы

## A. INTRODUCTION

Society is characterized by a certain degree of organization and regularity. This is caused by the need to reconcile the needs and interests of an individual and a specific community of people (large or small social groups). Social regulation (i.e., purposeful action on people's behavior) is carried out to achieve such an agreement. Regulation can be both external in relation to a person (someone influences him/her in some way) and internal (self-regulation). Society has developed a diverse system of means and methods of regulating people's behaviour. This means answer how people's behavior is regulated, and methods determine how this purposeful action is carried out. The means of social regulation include social norms: legal, moral, corporate, customs, etc. But the norm is never the only means of influencing people's behavior, since such means also include individual orders, authoritative commands, measures of physical, mental, and organizational coercion, etc. ([Kopeichykov, 2002](#))

Based on this, legal regulation can be defined as a purposeful effect on people's behavior and social relations with the help of legal (juridical) means ([Petryshyn, 2002](#)). Based on this definition, it is appropriate to conclude that regulation is only an action in which sufficiently marked goals are set. For example, to regulate the use of land, ensure its preservation, and improve the efficiency of land use, the legislative body adopts a law on land use. And the action of land legislation is the basis for the legalization of goals set and can be determined as legal regulation. If the influence of a legislative act or its norms causes consequences not provided for by the legislation, and in some situations are contrary to the legislator's goals, then such an action cannot be considered a legal regulation. So, under the influence of land legislation, the price of land plots has grown, and the number of speculative land transactions carried out for profit and the inefficient use of land resources has increased. The negative impact of the land law on social relations cannot be determined as legal regulation since it was not a part of the legislator's goals but was intended to regulate the life of the society, to ensure the fair, reasonable nature of the use of such a value as land.

## B. METHODS

The research is based on the works of foreign and Ukrainian researchers on methodological approaches to understanding the theoretical, administrative, and civil law aspects of regulating social relations. With the

help of the epistemological method, the essence of preventing professional deformation among penitentiary personnel was clarified, thanks to the logical-semantic process, the conceptual apparatus was deepened, and the importance of theoretical, administrative, and civil law aspects of regulating social relations was determined. To get an idea about the extent of professional deformation among penitentiary personnel during the last five years, we analyzed statistics, which is not, unfortunately, based on all canons of statistical generalization since we could not access all blocks of information. However, we analyzed theoretical, administrative, and civil law aspects of regulating social relations thanks to the existing data.

### C. RESULTS AND DISCUSSION

An action carried out by non-legal means cannot be considered a legal regulation. Thus, influencing people's consciousness and behaviour through the mass media, propaganda, agitation, ethical and legal education, and training cannot be referred to legal regulation as a unique legal organizing activity. Influence over social relations and people's behavior caused by special legal means and methods, in turn, affects spiritual, ethical, and ideological aspects of a person's life. The law cannot regulate all social relations and connections between members of society. Therefore, at each concrete historical stage of social development, the sphere of legal regulation must be defined with sufficient precision ([Petryshyn, 2002](#)).

In conditions of a narrowed sphere of legal regulation in society, there is a threat of arbitrariness, chaos, and unpredictability in those areas of human relations that can and must be regulated with the help of law. And in cases of unjustified expansion of the sphere of legal regulation, especially at the expense of centralized state-authority action, created are conditions for strengthening totalitarian regimes, regulation of people's behaviour, which leads to social passivity, lack of initiative of members of the society.

The sphere of legal regulation should include those relationships with the following characteristics ([Petryshyn, 2002](#)). The reflection of individual and general social interests of society members; realization of mutual interests of their participants, each of whom narrows their interests to satisfy the interests of others; agreement-based formation of implementation of specific rules and recognition of their obligatoriness; compliance with regulations obligatoriness of which is supported by a sufficiently effective legal force. The nature and type of social relations, components and the subject of legal regulation determine

the degree of intensity of legal regulation, that is the breadth of legal action, the degree of the bindingness of lawful orders, forms, and methods of legal coercion, the degree of detail of charges as well as the intensity of legal action on social relations ([Oliinyk, 2001](#)).

Despite different approaches to its definition, a particular understanding of the essence of legal regulation has been formed in literature sources. The term "regulation" comes from the Latin word «regulo» (rule) and means ordering, adjusting, and bringing something into line with something else ([Oliinyk, 2001](#)). Legal regulation is an action on social relations with the help of specific lawful means, including primarily legal norms. In forming the basis of a legal state, the role and importance of legal regulation of social relations acquire particular relevance. It is about those social relations that cannot function without lawful means (economic, political, and socio-cultural). However, not everything in social relations is regulated by law. For example, the following aspects are not regulated by law: in the sphere of economic relations - production processes; in the sphere of political considerations - development of party programs and statutes; in the spiritual and cultural sphere - religious relations, etc. ([Oliinyk, 2001](#))

Legal regulation presupposes normalization, legal consolidation, and protection of social relations through lawful means. The regulatory influence of law on social relations consists of the fact that the law, in its norms, constructs a model of mandatory or permitted behavior of various subjects of these relations.

Most authors understand legal regulation as a set of techniques and means of legal influence over the behavior of subjects of social relations. According to S.O. Sarnovska, particular legal regulation of social relations is carried out precisely from the publication of the respective normative legal act ([Sarnovska, 2003](#)). A somewhat different point of view is held by P.M. Rabinovych, who believes that the rule of law begins to regulate the behavior of subjects not from the moment the rule of law is issued, but from the time of occurrence of legal facts provided for by this rule ([Rabinovych, 2001](#)).

Since legal regulation consists of social relations, legal regulation is determined by some objective and subjective factors. Such factors may include the following: 1). level of economic development of the society; 2). The social structure of the community; 3). level of maturity and stability of social relations; 4). level of legal culture of citizens; 5). level of certainty of the subject means and methods of legal regulation ([Kravchuk, 2002](#)).

Most modern scientific works are devoted to legal regulation and, therefore, to its spheres and boundaries as one of the types of legal influence. In this regard, O.M. Melnyk notes that some authors equate the concepts of legal influence and regulation, although the boundaries of these concepts do not coincide. Others do not take into account different forms of legal regulation. Hence we have the statement of some scientists that legal regulation begins with the adoption of a legal norm and is confined to it, and the opinion of others that it starts with the entry into force of the model or with the occurrence of a legal fact provided for by the respective standard of law [4, p. 22]. At the same time, research on the issue of the sphere of legal influence is not only of theoretical but also of practical significance because, having defined the realm of legal influence, we will be able to answer the question about what relations are subjected to such influence, and we will establish the limit of legal influence.

The sphere of legal influence, as well as the sphere of legal regulation, cannot remain constant. In this aspect, N.M. Onishchenko and S.V. Bobrovnyk note that changing the scope of legal regulation is a complex process in which opposite trends (expansion and narrowing of legal regulation) coincide (Onishchenko, 1995). The scope of legal regulation can expand due to the emergence of new relationships of social reality (those previously unregulated by law). The narrowing of this sphere occurs due to society's refusal to use the law and due to replacing legal regulation with other means of social regulation. Such a tendency is caused by the social nature of legal norms, and their interrelationship with norms of social regulation.

In this regard, M.P. Orzikh notes that "the scope of the regulatory influence of law is limited to the normatively established variants of person's behaviour in each typical situation" and "the wider the range of these variants is, the more meaningful legal freedom of an individual is, and the wider the framework of the sphere of regulatory influence becomes." (Orzikh, 2009)

According to P.M. Rabinovych, the sphere of legal regulation can be defined as a social space regulated by law or one that can be controlled by law. But such social space is always limited. (Rabinovych, 2001)

In Ukraine, the sphere of legal influence is in constant and somewhat contradictory movement following the pace of legislation formation and improvement. However, many legal norms do not find their consistent application and implementation. At the same time, legal awareness of Ukrainian citizens remains at a low level, and activities of state bodies often do not meet the standards of a law-governed state. Unfortunately, essential

changes in law often have a chaotic nature, so they remain disordered and lack system-defined connections.

Thus, changes in the sphere of legal influence, as well as those in the sphere of legal regulation, depend on a significant number of factors, among which the following ones can be singled out: degree and level of general assignment of law; changes in the legal system as a whole; priority of public and individual interests; progressive changes in the society associated with the emergence of new social relations; increase or decrease in the level of legal awareness and legal culture of the organization; progressive changes in the current legislation in the country, both in the direction of expansion and reduction of the regulatory framework; expanding rights and freedoms of citizens and creating favourable conditions for their implementation ([Leheza ect, 2022](#)).

Problems in the sphere of legal influence are inextricably linked with the need to study the issue of legal influence limits. Any influence or regulation cannot be performed without boundaries and indefinitely; therefore, a such effect must have a certain limit; if this limit is crossed, such influence acquires new features and turns into another substance. So, S.V. Bobrovnyk emphasizes that limits of legal regulation constitute an optimal completeness of legal mediation of social relations due to the need for state influence over spheres of social life, which cannot be regulated otherwise than with the help of law ([Bobrovnyk, 2001](#)).

When analyzing the above, first, it is necessary to clarify the essence and meaning of the "limit" category to research the notion of "legal influence limits". Given that there are several types of definitions in science, first of all, it is necessary to analyze the concept of legal influence limits and choose the most optimal approach. In the process of forming a definition due to the closest genus and species difference, it breaks up into two relatively independent cognitions: description of the meaning of the very concept of "limit"; establishment of the most significant distinguishing features of legal influence limits from all other subtypes of limits ([Leheza ect, 2022](#)).

It should be noted that the word "limit" is used for such entities (phenomena) that can be imagined in clear or unclear, but always specific units, parameters, or characteristics. Thus, in researching the issue of legal influence limits, we consider limiting aspects of the action of law and the actual and potential possibilities of its influence over social relations and interests ([Leheza ect, 2020](#)).

Considering the above, in our opinion, it is possible to distinguish two main approaches to understanding legal influence limits: an objective approach related to objectively existing conditions that do not depend on the will of social subjects or the state, cannot be changed at their will and are capable of limiting legal influence in a certain way. Such conditions may include certain regularities of social development (for example, cultural, economic ones, etc.) and laws resulting from nature. This subjective approach consists of one's worldview and self-assessment by social subjects of their capabilities and legal capabilities. Thus, the dynamic approach to understanding legal influence limits is revealed through own perception, assessment, and representation.

It should be noted that this approach to characterizing the marginal indicators of legal influence depends on the level of legal awareness and legal culture of a particular society at a certain stage of its development. Therefore, the mechanism of legal effect will depend on how adequately the law in its essence, will be perceived. Like any theoretical category, "legal influence limits" do not receive a full-fledged academic study without characterizing their main features. As noted by O.M. Melnyk legal regulation limits are determined by non-legal factors. They come from the very nature of human activities. They are determined by culture and civilization and by the existing system of relations, economic, historical, religious, national, and other circumstances ([Melnyk, 2000](#)).

A peculiar place among subjective factors influencing the determination of legal influence limits is taken by the dominating in the society and the state legal consciousness, which is tightly related to particular common philosophic and world outlook views of the society and can determine limits of influence over legal awareness of a definite social subject. The law acts as a certain level of personality freedom in society, determines limits of such space, and sets responsibility for violating the respective limit.

Factors of subjective nature determining legal influence limits may also include propaganda of law, legislator's intentions, motivation of law, and legal innovations as far as they do not perform direct regulation and never initiate definite legal relations. Still, they influence the subconsciousness of subjects of law and determine possible limits of their behaviour ([Leheza et al., 2021](#)). Similarly to objective factors, subjective factors are not exhaustive and may change under the influence of objective reasons. Such changes are presented as narrowing or vice versa, expanding possible legal influence limits ([Leheza, 2022](#)).



## D. CONCLUSIONS

Legal regulation demonstrates interference of the state in the vital activity of society in general as well as that of each separate personality. This interference in the modern democratic society must have its limits, i.e. limits of dictatorial interference of the state and its bodies to the system of social relations. And violation of these limits by the state, the application of prohibited methods of influence over social relations should be viewed as interference of the state to insubordinate spheres of social regulation.

In a modern democratic state, the nature and types of these means are determined by a complex of factors; among these factors, we can, first of all, highlight patterns of development and principles of the legal system, as well as the level of declared and effective rights and freedoms of human and citizen established both in national legislation acts and international acts ratified by the legislative body of that state. In addition, the legal, democratic, and social states should recognize the priority of a separate person's rights, freedoms, and legally protected interests over its interests. Despite the declarativity of this statement, it has significant importance for the choice of priority guidelines and means for the legal regulation of social relations.

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