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QUESTIONS OF THE LEGAL LIMIT IN PUBLIC LAW

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Public legal relations, especially those related to finance, are a developing and complex group of public relations with a long history. All over the world, there is a continuous process of modernization of legislation, the establishment of new rights and obligations of participants in public relations, the formation or abolition of prohibitions, restrictions, permits. Legal regulation mechanisms are also being improved in the world. Society has always had a need for a stable existence, a harmonious and happy life, which the state should provide. Without understanding the clear boundaries of the rights and duties of each individual, associations of citizens and the state as a whole, it is impossible to build a balance between private and public interests. The purpose of the research is a historical, philosophical, political and legal analysis of the category of "legal limit" in public law. Despite the large amount of fundamental research in science, there is no formed concept of the legal limit in public law in general, and in financial law in particular. In the course of the research, the author uses a different methodology. In particular, the historical method allowed us to establish the specifics of the development of limits and limitations as various states develop. The comparative method served as the basis for the analysis of paired or opposed categories: limit and limitation, justice and injustice, certainty and uncertainty, permissibility and prohibition, etc.

Special attention is paid to the theory of public and private law, the aspects of the balance of private and public interests, as well as the boundaries defining these interests, are investigated. The article pays attention to legal principles and legal regimes. In the historical context, the correlation of the limits of the rights of the state and society in relation to each other is analyzed. The issue of legal limits in certain types of financial relations comes to the fore. The conclusion is formulated about the instability of legal limits in public law and the role of political ideologies that change the legal traditions of society. The need of society for stability and confidence in its state, guarantees of legality and clear legal boundaries, objectively built on a fair basis, is substantiated.

The author also concludes that the limit in public law is a unique entity and can be considered as an independent stable category, and can act as a unique and universal tool, helping to reveal the meanings of other legal categories. The article emphasizes that oppositions form an important basis for understanding the essence of legal limits.

There has always been and continues to be a need in society to eliminate injustice, and the uncertain legal limits only reinforce it. That is why certainty is an important component of legislation. Speaking, for example, about the principle of certainty of taxation existing in tax law, one should agree with the words of A. Smith, who emphasized in his writings that uncertainty of taxation is a greater evil than unevenness.

Thus, in conditions of large-scale economic and political challenges, clear boundaries of a public-legal and private-legal nature should be built for the harmonization of public life

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1. Introduction

The essence of the concept of "limit" is an "eternal question" that finds its solution in history, in philosophy, in law, as well as in other scientific fields. The development of the concept of legal repartitions in public law requires generalization and analysis of different scientific approaches, study and arrangement of the terminology used, since every science is a system of terms. The statement is true: "The word is walking and indefinite, forged into a successful term – this means solving the problem posed" [1, p. 245].

The use of the word "limit" in various sciences seems to be so broad and diverse that it is difficult to outline a clear scope of its application in the description of public legal relations.

In the scientific literature there are various versions of understanding the limit. They write about it as an extreme feature of something, as a norm and a prohibition, as a law. The limits are adjacent to the spatial and temporal characteristics of the material world, to mathematical and physical objects, to human existence in general, to natural processes, etc.

The semantic dictionary gives several meanings to the word "limit". Firstly, this concept is defined as the spatial or temporal boundary of something. Secondly, the limit is represented as some kind of framework in the application of restrictions. According to the description of the word limit in V. Dahl's dictionary, it means: the beginning or the end, the con, the boundary, the edge, the edge, the boundary, the end of one and the beginning of the other, in the sense of material and spiritual.

It is appropriate to assume that in public law, the limit specifies the terms, competence, powers, rights and obligations, territory and other narrower categories. It is possible to reveal the essence of the limit by means of a closed reflection on itself. The limit is transparent for comprehension, since it sets the basis for the meaning of concepts, definitions, terminological constructions.

2. Separate issues of the theory of public law and legal limits in it.

The awareness of the need to achieve a balance between private and public interests led to reflections on the limits of the exercise by the authorities and citizens of their rights, fixed and not fixed in legislation.

The state and the limits of its activity are closely related phenomena. The study of the correlation of these categories, as well as the problem of restrictions on the rights of the authorities, are often found in scientific works of various historical eras. In the philosophical thought of G.V. Hegel, one can see reflections on the limit: "The proper boundary of [a given] something, thus posited by him as such an essential at the same time negative, is not only a boundary as such, but a limit." The scientist compared the limit and the ought, and in this comparison pointed out that the limit of the finite is not something external, since its own definition is also its limit. And the limit is himself and the obligation [2, p. 124-125]. As it seems, the mutual obligation of the state and society is the reverse side of setting the limits of these obligations.

Public law regulates many groups of public relations. But all of them involve the state with its power, which is somehow limited by law. However, these restrictions are not equivalent in themselves. Somewhere the scope of authority is wider, and somewhere they are narrowing. It is no coincidence that the concept of one of the general legal principles contains the postulate: "Where the freedom of one begins, the freedom of the other ends there." There are many opinions on this topic. Representatives of various branches of Russian law apply this view, build their own scientific doctrines on its basis.

Roman lawyers also built the concept of dividing law into private and public. The prerequisites for such a division arose in the republican period in Ancient Rome, namely in the Laws of the XII Tables, in which legal norms were grouped according to the logic of regulation regarding similar interests of a private or public nature. For example, table IX included the rules governing public relations on public affairs, and table IX defined private interests in the right of ownership, possession, other property relations and the specifics of contracts related to them (cit. by: [3, p. 7]). This idea dates back many centuries and is only increasing its popularity due to the

development of modern society, the processes of socio-economic interaction within it. Public law is connected with public authority, the bearer of which is the state. Such a state, according to scientists, with its characteristic public power, acts as an official representative not only of the ruling, but also of all other strata of society [4, p. 146].

Ulpian noted: public law is the domain of public affairs, and private law is the domain of private affairs (cit. according to: [5, p.403]). It is noteworthy that, it would seem, the idea of boundaries, limits is already seen in the usual conclusion. In more modern scientific concepts, there is also a judgment: public law is the area of power and subordination, and civil law is the area of freedom and private initiative [6, p. 39].

It should be noted that the division of public and private law is not typical for all countries. For example, in the English legal system there is another division: common law and the law of justice. Moreover, in the XIII-XIX centuries the term "public law of Europe" was widely used, although there was no legal definition of this concept. In terms of meaning, this term is hardly correlated with public law, which is opposed to private law and is associated with state power.

It was understood as international law based on Christian and European traditions [7, p. 178-181]. It is noted that the term of European public law was first used in the Franco-Dutch peace treaty [8, p. 44].

S.S. Alekseev described how the course of historical development is able to erase the boundaries between public and private law and contribute to the emergence of mixed public and private law relations and institutions [10, p.403]. It is also important to pay attention to how S.S. Alekseev emphasized in one of his works, calling public and private law qualitatively different areas of legal regulation, two different "legal continents", different "legal galaxies" [9, p. 83].

Attention is drawn to the words of the philosopher G.V. Hegel, who called publicity the greatest formative means for state interests, as well as an inorganic way of knowing what the people want and think [10, p. 192-193]. Scientists have repeatedly focused attention not only on the categories of public and private law, but also on the need to achieve a balance between them. It is noteworthy that since the XVI century, the idea of the balance of powers, forces, passions, as well as their balance, has spread. The Parliament has become the body that establishes such a balance. Such an action was intended to lead society to the result of internal dynamics. This idea gave rise to other ideas, including the need to adopt the constitution as the main law identical to the separation of powers [11, p. 15].Balance was achieved through discussions and publicity, during which truth and justice were born.

Indeed, justice is a unique phenomenon that can be expressed in the behavior of a particular person (moral aspect) and the whole state (formally defined aspect). In legal theory, it is noted that the peculiarity of legal justice is that it has the clearest, formally defined character in the legal sphere, and is often associated with state coercion (cit. according to: [12, p.168]).

The concept of justice as an integral element of public law is characteristic of the discussions of scientists of all times. Even in the Laws of King Hammurabi, the idea of justice was reflected.

Cicero believed that first there is a natural law corresponding to justice, the social system, the customs of the ancestors, and only then there is a state and a written law. As a lawyer and an experienced administrator , he said: "The state is a society of law. Although it is impossible to equalize wealth, it is impossible to equalize abilities, but at least the rights before the law should be equal" [13, p. 497]. In Plato's philosophy, there are thoughts about the size of an ideal state, where he formed an idea of territorial limits: "Therefore, this would serve our rulers as the limit for the necessary size of the state they are arranging; and according to its size, they will determine the amount of land for it, without encroaching on more." Plato wrote about the increase of the state: to increase it until it ceases to be unified, however, so that it is not too small, but also not too large, since it must be sufficient and unified. The philosopher also reflected on the limits of justice [14].

Among the more modern scholars who emphasize the connection between the state and justice, one can single out G. Spencer, who noted: the state has no other duty than the duty to

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maintain justice [15, p. 491].

The statement of O.V. Martyshin is true, noting that the importance of justice, the need for its restrictive potency increases in the era of breaking old and approving new orders [16, p. 165]. It should be emphasized that such a judgment is seen as an important matter for further understanding of clear and blurred limits in legal relations, i.e. when there is a need in society to eliminate injustice.

In general, speaking about public law in an objective sense, it can be noted that it is a set of norms that define the foundations of the organization and functioning of the state, as well as the foundations of its impact on individuals. It is public law that is characterized by the goal of ensuring a balance of interests of participants in various groups of public relations, despite the fact that one of the subjects of such relations in them is a person with authority.

Public law is multi-component. An important part of it is financial law. It is necessary to refer to the words of P.M. Godme, who called financial law a branch of public law, the subject of which are the norms regulating public finance [17, p. 78].

Like any branch of law, financial law has its own principles, in which its public-legal principles are laid down. The words of S. Montesquieu about the role of principles in the state are noteworthy: "The power of principle conquers everything for itself", "In a state that has not lost its principles, almost all laws are good" [18]. In this regard, one of the fundamental principles of financial law should be highlighted – the principle of priority of public interests in the legal regulation of public relations [19, p. 46], related to the financial activities of the state and municipalities and involving the use of financial and legal institutions for the purpose of state regulation of the economy, based on the generally significant tasks of society.

Undoubtedly, public (in particular, financial) law has gone through several stages of its development, but always cardinal transformations associated with changes in legislation were predetermined by the reforms taking place in the economy. In the reflections of I.I. Yanzhul, the idea of the development of a public character in the financial law of Russia is seen through the prism of the development of the institution of serf (or turnout) duties, which developed with the development of the very acts of strengthening property rights and a special institution of serf affairs [20, p. 526]. I.I. Yanzhul linked the development of serfdom with the development of public law in relation to private law, in other words, the development of formal conditions for the acquisition of property rights.

Pyatkovskaya T.V. notes the narrowing of the limits of imperativeness in the field of public law by dispositive elements since the 90s of the 20th century, which is associated with the establishment of independence in the choice of forms and methods of exercising financial and legal obligations by subjects of financial legal relations [21, p. 67].

Thus, it can be summarized that public law has always been a more stable structure in contrast to private law. Despite the natural nature of the development of personal-property relations, in the history of many states there has been a slight desire to expand the limits of the capabilities of their citizens in the field of private law.

3. The philosophy of the legal limit

E.N. Struk rightly notes that the concept of "limit" acts as a scientific and ideological universal, which, first of all, was clearly not realized in this capacity, although it implicitly functioned in the entire social experience of a person and society, in their activities, interaction and behavior. The author makes a valuable conclusion about the general, universal property of the limit, calling it an attribute of all spheres of nature, society and man [22, p. 91]. Along with this, the scientist draws attention to the semantics of the word "limit", emphasizing that "to define a limit means to limit it, to put a limit/boundary to it." This leads to the essence of the limit falling into the hermeneutic circle of an ontological nature about its essence, however, as the author writes, it is impossible and unnecessary to get rid of it [22, p. 91].

In philosophical science, there is an approach to the relationship between the concepts of "limit" and "measure". Plato, characterizing the good through a measure, introduced the concepts of "boundless" and "limit", the confusion of which

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constitutes a measure. The measure is able to reflect the boundary, the conditions in the plane of which the existence of balance is possible. N.M. Koruknov, describing the problem of the relationship between the state and law, believed that the measure and the boundary of the power of the state depend on the degree of awareness of people of their dependence on it [23, p. 22-23].

Noteworthy are the approaches of scientists comparing the concept of "limit" with the concept of "limitation". In particular, N.O. Travnikov writes about the complication of establishing the unambiguity of the definitions of "limit" and "restriction" by the fact that in addition to the right, other factors affect people: morality, upbringing, traditions and others [24, pp. 104-109].

T.V. Milusheva shares the concepts of "limit" and "restriction", identifying each of them by its own characteristics [12].

Along with this, it is necessary to compare the concepts of "limit" and "due". As already noted above, in the works of G.V. Hegel, such a comparison was reflected [10, pp. 192-193].

Philosophical and political issues often do not agree with each other in many ways. Moreover, the world knows the concept of political and legal reason, which contains the presumption "should" means "can".

However, as noted by some scientists, it turns out that even if "should" implies "can", "should" does not always imply "will" [10, p. 192-193]. For example, the obligation to pay property tax on individuals cannot imply the possibility of doing so by a person who does not have a source of income, which, accordingly, leads to non-payment of tax, despite the fact that such an obligation is established.

This circumstance may indicate that the requirements put forward by the State should be realistic. In the works of foreign scientists on the philosophy of law and justice, there is an interesting reflection on the historical factors of the legality of individual claims: "apartheid was legal, slavery was legal, colonialism was legal" [25, p. 187]. It is difficult not to agree with the author's statement that in various historical epochs, as the history of laws shows, legality was a construction of the "strong", and not justice. This is argued by the fact that the history of laws is always closely connected with the history of power and a constructed law could always be deconstructed. In turn, justice cannot be constructed [25, p. 202].

Ivanov R.L., summarizing the opinions of representatives of legal science, gives a classification of the limits of legal regulation, highlighting the grounds for classification. One of such grounds is the volitional criterion, i.e. the presence or absence of their connection with the will of the subjects exercising special legal influence. This basis serves to divide the limits of legal regulation into objective and subjective. The author points out that objective criteria do not depend on the will of people, they are influenced by natural and social patterns. Subjective boundaries are determined by mental factors and are established at the will of the subjects of legal regulation. According to Ivanov R.L. objective and subjective limits are divided into internal and external. External limits are common to all types of legal regulation, and internal (special) limits are heterogeneous and separate different types of legal regulation from each other. They fix the framework of national and international, sectoral and intersectoral, centralized and decentralized legal regulation [26, p. 7].

The division of internal limits is noted, depending on which aspect of the special legal impact they outline. Thus, the internal limits are divided into temporal, spatial and subjective. Temporal fix the extent of legal regulation in time, spatial fix its territorial framework. Subject boundaries define the circle of persons (people and their organizations) subject to the influence of certain types of legal regulation (address limits), the circle of subjects authorized to carry out legal regulation of a particular type (competence limits). The author writes that the internal boundaries are divided into subject and instrumental. With the help of the subject there is, for example, the delimitation of branches of law. Instrumental limits fix the limits of the use of certain legal [26, p.7].

It seems that the legal limit in various branches of public law is a phenomenon. In a special way, its uniqueness lies in the fact that, on the one hand, everything seems clear and obvious – the limit is a boundary, a measure, a framework related to a particular category, but, on the other hand, from the

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elementary position of "what is good and what is bad", the limit does not just reveal itself as a philosophical, a legal and other category, but through it other elements of legal relations, mechanisms of their legal regulation, etc. are revealed.

For example, in the plane of financial law, reflecting on the income and expenses of citizens and the state as a whole, it can be noted that if a citizen's expenses are higher than income, there are debts for various kinds of payments – this is a negative factor characterizing the financial condition of a citizen. Along with this, if a person's income exceeds expenses by several times, there is an accumulation of funds, their spending or investment in order to increase income, we can talk about a positive component of the personal finances of such a citizen.

However, in the field of public finance, in particular on the issue of the state of the budget through the prism of the ratio of income and expenditure, it can be said that the budget deficit must comply with the established legislative restrictions (the budget deficit of the subject of the Russian Federation should not exceed 15 percent of the approved total annual budget revenues). At the same time, economists note that the budget surplus largely means not the financial well-being of the state, but a strict state policy on collection of payments and incorrect planning of expenditures. Along with this, a surplus can also mean the fact of economic growth in the country, which on the other hand indicates positive development.

In the role of a social phenomenon with limiting qualities, an element of the measure of freedom and justice, the limit, like the law itself, is more characterized as a goal in relation to public relations. However, at the same time, limits can be evaluated as a means (tool) for setting the limit of permissible possibilities.

It seems that legal limits are a kind of legal means due to the ambiguity of the latter. They are able to predetermine new economic and legal phenomena, with the help of which the interests of legal subjects are satisfied, the achievement of socio-economic and other useful goals is ensured, the protection of the interests of the state and society as a whole is guaranteed.

The key issue in studying the problem of the limit of legal regulation in public law can be the question of a socially useful goal pursued by the state by setting such limits. At the same time, as already noted, there is both a restriction of the actions of society, but also self-limitation by the state itself through established legal norms. Mordovets in his reflections "Democracy, law, procedure" notes that the Constitution of the Russian Federation is a political and legal form of expression of democracy, which defines the limits of competence of authorities, administration, justice, as well as the nature of democracy and the ways of exercising state power. It is necessary to agree with the author's important remark that "the essence of democracy is in democracy; rights are in the measure of freedom, social compromise, in achieving democratic organization of society on a normative basis; the procedures are in the nature of the basic social relationship that it serves" [27, p. 448].

A striking example of when limits are not clearly established, but are implied, is the principle of separation of powers, which provides for the independence of legislative, executive and judicial authorities, as well as their ability to provide a mechanism of checks and balances against each other in order to prevent excessive strengthening and elevation over others of any one branch of government, not to allow the appropriation of authority and the establishment of an imperious dictatorship.

Another important principle that, in our opinion, predetermines the concept of limits in public law is the principle of federalism, which establishes that the Russian Federation consists of equal subjects. But it seems that the economic level of development of the subjects differ from each other. In many ways, their successful or insufficiently successful financial (and other) policies are essential.

4. Conclusions.

Summarizing the above, it can be summarized that public law, regulating relations with the dominant power element in them, should strive to ensure a balance between participants in various groups of public relations, adhere to the

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strategy of justice and follow the principles of priority of the interests of society. History has shown that public law, despite the large volume of legal norms that form it, is a thin matter with unstable borders that have repeatedly shifted in favor of the ruling structures and restricted the freedom and rights of citizens. Society needs stability and confidence in its state, guarantees of legality and clear legal boundaries, objectively built on a fair basis.

In turn, the limit in public law is a unique entity and can be considered as an independent stable category, or it can act as a unique and universal tool, helping to reveal the meanings of other legal categories. It is important to note that oppositions form an important basis for understanding the essence of legal limits.

There has always been and continues to be a need in society to eliminate injustice, and the uncertain legal limits only reinforce it. That is why certainty is an important component of legislation. Speaking, for example, about the principle of certainty of taxation existing in tax law, one should agree with the words of A. Smith, who emphasized in his writings that uncertainty of taxation is a greater evil than unevenness [28].

Thus, in conditions of large-scale economic and political challenges, clear boundaries of a public-legal and private-legal nature should be built for the harmonization of public life.

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