

LEGAL CONSTANTS FOR ENSURING NATIONAL SECURITY IN THE CONTEXT OF THE CRISIS IN INTERNATIONAL RELATIONS

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Annotation. This article examines the fundamental legal principles – the ‘constants’ that underpin the functioning of the state as the guarantor of national security in conditions of international tension, armed conflict, and the undermining of the global legal order. The article identifies the legal principles that must remain in force even in a state of emergency, such as public interest, the rule of law and the constitutional duty to defend the state. The article analyses the problems arising from the deformation of international law and violations of the principles of sovereignty and the inviolability of borders, as well as the transformation of the internal legal order under the influence of external threats.

The article provides a comprehensive scientific analysis of the key legal principles that determine a state’s institutional capacity to ensure national security amid crises in the international legal order. Focusing on the Constitution of Ukraine, the study examines provisions that remain inviolable during martial law, such as the protection of sovereignty and territorial integrity (Article 17), the rule of law (Article 8), the legality of public authority actions (Articles 6 and 19), and the prioritization of public interest in times of threat (based on the Constitutional Court of Ukraine’s practice). The article argues that these provisions form the legal core that guarantees the stability, predictability, and legitimacy of public administration in extreme circumstances.

In the context of modern public law theory, the stabilizing, legitimizing and integrating functions of legal constants are revealed. Considering the academic contributions of V.B. Averianov, O.F. Andriiko, O.V. Skrypniuk, S.V. Golovaty, Yu.S. Shemshuchenko, I.V. Lutsy and other scholars, the author presents a theoretical model of the state’s legal response to threats. This model encompasses legal certainty, institutional continuity, and the accountability of the executive branch.

The author emphasizes that, in wartime, law performs regulatory, guaranteeing, mobilizing and value-oriented functions. Particular attention is paid to analyzing the doctrinal approach to public interest as a criterion for the legitimacy of restrictions on constitutional rights. The author formulates conclusions regarding the need to maintain the internal legitimacy, legal continuity and organizational accountability of the public administration system in conditions of existential threat.

Key words: national security; legal constants; rule of law; Constitution of Ukraine; public interest; administrative law; legitimacy; sovereignty; international law; legal system; constitutional order.

1. Introduction.

Since 2014, and particularly following Russia’s full-scale invasion of Ukraine in 2022, the principles of international law that had long been considered the foundation of stability and security have been severely undermined. The principles of sovereignty, territorial integrity, the inviolability of borders, and the prohibition of the use of force have been flagrantly violated. In these circumstances, it has become necessary to reconsider the national legal order as an autonomous guarantor of security.

Over the past decade, international legal order has undergone a profound transformational crisis affecting both the structure of global governance and the nature of sovereignty and the relationship

between state interests and the norms of international law. Russia's armed aggression against Ukraine, the destruction of multilateral security control mechanisms and the undermining of the principles of collective responsibility and consensus in the UN all demonstrate that the world has entered a phase of crisis in the regulatory system of international law. In these conditions, national public law acquires new functional importance, serving as the basis for state resistance, legal order, and survival.

In legal theory, public authority is generally perceived to be exercised through a set of constitutionally defined functions. However, in times of crisis, these functions must be based not on flexible instruments of adaptation, but on immutable legal guidelines – the so-called 'legal constants'. These should be understood as fundamental principles that determine the integrity and viability of the legal system, even in conditions of profound external shocks. They act as a filter for legal chaos, limiting the arbitrariness of governance and the fragmentation of legislation, as well as the risk of destruction of the constitutional order.

According to administrative and legal doctrine, a state loses its legitimacy as a public authority if it abandons key elements of its legal nature during a crisis. Such elements include public interest as a governing imperative, the rule of law as a method, constitutionally mandated action, accountability of the executive branch and stability and legal predictability, even in states of emergency.

In the context of a full-scale war in which not only Ukraine's territorial integrity has been violated but also the effectiveness of the international security regime has been called into question, the need for internal legal support becomes even more pressing. In such circumstances, the national legal system must not only facilitate administrative mobilization, but also provide society with trust, stability, and normative guidance.

Therefore, the subject of scientific analysis is legal constants – the legal principles, norms and institutional provisions that remain in force under martial law, during the destruction of international arbitration or the termination of international treaties. These include: the supremacy of the Constitution over other sources, including temporary administrative decisions; public interest as the overarching goal of legal restrictions and actions; institutional continuity of government branches, even in the event of a breakdown in external relations; unity of state authorities when making security and defense decisions; and the legitimacy of exceptional decisions (e.g. requisitioning, mobilization, and the introduction of martial law).

Additionally, ensuring national security in the context of a crisis in international relations requires a deeper reinterpretation of classical legal categories. For instance, the principle of separation of powers cannot be applied literally in situations where the effectiveness of defence management requires consolidation. Likewise, the presumption of non-interference by the state in the economic sphere must give way to the duty to establish control over critical infrastructure.

In this sense, legal constants are not a manifestation of dogmatism; rather, they establish the normative limits of acceptable compromises and provide guidance in political chaos and legal uncertainty. Even under conditions of restricted human rights in a state of emergency or martial law, for instance, the state cannot violate core constitutional guarantees such as the right to life, protection from torture and the independence of the judiciary.

In addition, it is doctrinally justified to adopt an approach whereby, during a period of external aggression, the legal system of a state should strengthen the institutional mechanisms of democracy rather than erode them. This requires legal restraint and a high level of organizational discipline from the executive branch, as well as clear coordination between the President, the Cabinet of Ministers, and the Verkhovna Rada. Public accountability within the framework of security strategies is also necessary.

2. The main purpose of this article is therefore to identify and analyze the legal constants that form the core of the Ukrainian legal order during war and international security crises. It also aims to propose a systematic model of legal thinking that would enable the state to maintain its institutional legitimacy, even during periods of strategic destabilization of the external environment.

As V.B. Averianov rightly pointed out, 'In conditions of external instability, it is national law that must ensure the integrity of public authority, the continuity of legal governance, and the implementation of

the state's basic functions.' Therefore, doctrinal analysis should focus on the constants of legal regulation – the provisions that cannot be repealed even in a state of emergency, during military aggression, or in the absence of international security.

Scientific approaches to ensuring national security: doctrinal positions of domestic scholars.

Ensuring national security is a complex task encompassing defense and law enforcement, as well as public authority, legal certainty and institutional effectiveness. In this context, the scientific contributions of leading Ukrainian scholars, who have played a key role in shaping the modern security doctrine in the fields of administrative, constitutional and information law, are of particular importance.

3. Analysis of publications.

Considering the scientific positions of V.B. Averianov, O.F. Andriiko, O.V. Skrypniuk, S.V. Golovaty, Yu.S. Shemshuchenko, I.V. Lutsy and other scholars, it can be concluded that the problem of national security is multi-vector in nature, determined by the sectoral aspects of state authority activities.

O.V. Skrypniuk defines security as a constitutional value. He consistently considers national security to be a component of the constitutional order. His works emphasize that security is not only a defense tool, but also a constitutionally significant value whose protection is one of the mandatory tasks of public authorities. He argues that a state cannot be considered legal if it is unable to guarantee security as a prerequisite for the realization of fundamental human rights and freedoms.

O.F. Andriiko considers the administrative and legal mechanisms for ensuring security through state control. In her work, she highlights the importance of the executive branch's functional integrity in the security system. She believes that the security system requires effective management as well as law enforcement agencies: strategy formation, resource control and public administration accountability. She defines administrative law as an instrument of institutional mobilization in times of threat.

V.B. Averyanov defined the limits of legitimate government intervention. He was one of the first to emphasize that, in times of crisis, such intervention must be both effective and legally legitimate, as well as procedurally defined and controlled. He pointed out that, without legal regulation, actions taken in the name of national security could become a source of destabilization. Without clear legal guidelines, public authorities would lose their sense of legal responsibility, the scholar warned.

Y.S. Shemshuchenko considered a systematic approach to security law. He proposed the concept of a systematic approach to national security as a legal regime. He emphasized that national security cannot be solely a matter of politics or strategy; it must have a clear legal basis that allows for the unification, coordination, and control of the actions of various public authorities.

4. Presentation of the main material.

Legal constants in the field of national security are stable legal provisions that are imperative and unconditional in nature, and which remain in force regardless of the political regime, external circumstances, or the economic situation. In the context of national security, these constants serve as the foundation for legal system stability in the face of external and internal threats.

These constants include:

- the constitutional duty of the state to protect sovereignty and territorial integrity (Article 17 of the Constitution of Ukraine);
- the inviolability of the constitutional order and the rule of law (Articles 8 and 19);
- the principle of the subordination of state authorities exclusively to the law (Articles 6 and 19);
- the priority of public interest over private interest in times of threat (practice of the Constitutional Court of Ukraine).[7]

The constitutional obligations of the state to protect sovereignty and territorial integrity are the basis for the legal and stable foundations of national security (Article 17 of the Constitution of Ukraine). Article 17 of the Constitution of Ukraine states that protecting Ukraine's sovereignty and territorial integrity, and ensuring its economic and information security, are the most important functions of the state and the responsibility of all Ukrainians. This norm has an absolute constitutional imperative nature and serves as a coordinating postulate that determines the entire scope of public authority in the field of security.

Doctrinally, this article forms the basis of defense, mobilization and national unity strategy. As O.V. Skrypniuk notes, Article 17 of the Constitution legitimizes any state actions in conditions of military aggression aimed at protecting fundamental constitutional values.

The following are implemented on this basis: martial law; mobilization measures; the activities of the National Security and Defense Council in crisis situations; and legislative restrictions on certain economic or property rights.

As V.B. Averianov emphasizes, this norm not only establishes the state's obligation, but also the executive public-legal mission of the authorities, who must act in accordance with the law and within the limits of their responsibility to society for the loss of sovereignty.

Ensuring the stability of the functioning of the state's executive authorities is part of upholding the inviolability of the constitutional order and the rule of law (Articles 8 and 19 of the Constitution of Ukraine). Article 8 proclaims the rule of law as a fundamental principle and Article 19 stipulates that state authorities and their officials must act only within the powers granted to them by the Constitution and laws of Ukraine.

We believe that these two articles are fundamental legal constants and cannot be repealed, even during a period of martial law. They ensure legal predictability of state action, limitation of public authority within the framework of the law, and inadmissibility of arbitrariness in governance.

According to S.V. Golovaty, the rule of law is not merely a slogan, but rather a prerequisite for the existence of the state as a public institution. During wartime, these articles are particularly important because they strike a balance between security objectives and respect for human rights. [3]

O.F. Andriyko rightly points out that the use of extraordinary measures must remain within the bounds of legality, since an internal destruction of the legal order poses a threat that is no less significant than armed aggression.

The principle of the subordination of state authorities to the law exclusively (Articles 6 and 19 of the Constitution of Ukraine) forms part of the legal framework that ensures the rights and freedoms of individuals and citizens.

Article 6 establishes the separation of state power into the legislative, executive and judicial branches, while Article 19 defines the accountability of all branches of power to the Constitution and laws of Ukraine.

Together, these principles guarantee that no authority can usurp power, that the actions of authorities cannot be based on expediency without a normative basis, and that any competence is only a function of powers delegated by law.

In wartime, there is a tendency towards the centralization of executive power, but it is these articles that set the limits of what is permissible. As Academician Y.S. Shemshuchenko observed, effective public authority in a crisis must be both strong and lawful.

The Constitutional Court of Ukraine's ruling on the distribution of powers between the National Security and Defense Council and the President confirmed that the extraordinary nature of the situation and public anxiety are not grounds for deviating from the obligation to act within the limits of the Constitution.

Prioritizing public interest over private interest in times of threat is the judicial aspect of ensuring societal stability in times of challenge and threat.

The Constitutional Court of Ukraine has made many decisions that clearly reflect the principle of the primacy of public interest in situations that pose a threat to the state, particularly in cases concerning

the imposition of martial law, the protection of national minorities, or public restrictions on rights during times of crisis.

In Decision No. 6-rp/2005, the Constitutional Court stated that restrictions on citizens' rights are permissible only to the extent necessary to achieve legitimate goals such as preserving national sovereignty, public order and protecting citizens' lives.

This is consistent with the provisions of Article 15 of the European Convention on Human Rights, which allows for derogation from obligations in the event of an extraordinary threat, provided that the principle of proportionality is observed.

Academician O.V. Skrypniuk emphasizes that, in a state of martial law, public interest becomes an institutional filter through which every administrative or legal decision must pass.

Ukraine's constitutional doctrine states that public interest should be determined not by administrative expediency, but by the state's constitutional duty; that it is the highest form of protection of society's rights in conditions of systemic threat; and that it must be implemented in a controlled and public manner, with the application of legal procedures.

This analysis shows that legal constants are not merely declarations; they are a system of real legal obligations that govern the behavior of public authorities in challenging circumstances. These obligations ensure the normative continuity of statehood, serve as a measure of the legitimacy of political and administrative decisions, and establish a legitimate framework for the state's response to external threats.

During a crisis in international law, the state's legal system must fulfil stabilizing, legitimizing and integrating functions. The constants of internal security in such situations are:

- the stability of the public administration mechanism (to prevent the collapse of the executive branch);
- unity in law enforcement (to eliminate legal pluralism in war zones);
- legal certainty of emergency measures (e.g. presidential decrees, Verkhovna Rada and Cabinet of Ministers actions);
- formalized procedures for mobilization, requisitioning and resource management.

The functional aspects of legal constants stabilize, legitimize and integrate as elements of public administration in the sphere of national security.

The stabilization function involves the legal system's ability to guarantee the continuity of public administration, predictability of state policy, and regulatory protection during systemic threats. This function is particularly important during war or a state of emergency when society is in a state of legal uncertainty and expects decisiveness and legality from the state.

According to O.F. Andriyko, the stabilizing function of administrative law is a manifestation of the state's institutional capacity 'not to dissolve in a crisis, but to ensure the normal functioning of executive bodies through the legal fixation of procedures and responsibilities'.^[2]

From V.B. Averyanov's perspective, legal stability is not rigidity, but 'a system of flexible yet structured mechanisms that allow public goals to be preserved in conditions of strategic instability'.^[1]

Practice confirms that, even during the full-scale invasion of 2022, the state did not lose its ability to create norms (adopt laws, resolutions and decrees), maintain social guarantees, implement budgetary policy and provide judicial protection of fundamental rights, thanks to the legal mechanism of martial law.

In this context, the stabilizing function is manifested in the state's ability to act within the law without violating the principle of constitutional supremacy and the legal accountability of the authorities.

The legitimizing function is the ability of the law to inspire public trust in the authorities. In conditions of war or loss of sovereignty, legitimacy takes on the meaning of real public support for legal governance mechanisms rather than formal recognition of authoritative decisions.

As S.V. Golovaty notes, 'legitimacy is not a reflection of power, but a result of legal justice'. Constitutional norms, which remain in force even during wartime, confirm that the state has not lost its ability to act within the limits of its fundamental law. Thus, the state undergoes legal self-verification, confirming its status as a body that operates within the confines of its legitimate authority.

During wartime, this legitimizing function is performed through transparent procedures for introducing emergency measures, publicizing presidential decrees and NSDC meetings, securing support from parliament and civil society, and ensuring the active involvement of local government bodies.

However, as O.V. Skrypniuk warns, abusing the 'reasonable threat' procedure without a real connection to public interest undermines legitimacy. Therefore, the state must not only act in a crisis but also act in such a way that every citizen recognizes these actions as legitimate.[8]

The integration function in wartime is realized through the law's ability to unite various social institutions around the public goal of preserving statehood. This includes coordinating the actions of the legislative, executive, and judicial branches of government; integrating local government bodies into a single security space; interaction between the state, businesses, volunteer initiatives, and international partners; and legally formalizing mechanisms for strategic reserves, supporting the Armed Forces of Ukraine, and logistical mobilization.

According to I.V. Lutsy, 'War destroys horizontal ties in society, but it is the law that can restore them if it acts not as a punitive mechanism but as an instrument of social contract'.[5] The function of integration is not forced union, but legal cooperation based on public interest.

It is particularly important to integrate the security sector with economic, agricultural, humanitarian and environmental policies. This ensures the synergy of political will and legal order.

The stabilizing, legitimizing and integrating functions of legal constants therefore form a public-legal basis for the state's viability, regardless of the circumstances. These functions reflect the logic of crisis management and the value-based nature of the national legal order. In this order, the state is not merely an instrument of power, but rather a legal community that prioritizes security, trust and cooperation.

Institutional and regulatory instruments for implementing legal constants comprise a system of legally established forms, mechanisms and structures that ensure fundamental legal principles are applied consistently in public administration, particularly in crisis or emergency situations.

Legal constants in the field of national security include legal mechanisms (a set of normative acts), organizational mechanisms (the competences and powers of executive body officials) and the level of communication and internal coordination of actions (unity of actions between the security sector and the legal system).

In the context of national security, risk is defined as the probability of events or conditions that could negatively impact the stability of state institutions, particularly through violations of territorial integrity, social order, economic stability, or information sovereignty.

Threats to legal constants during wartime include excessive delegation of powers without oversight, a lack of transparency in defense planning decisions and abuse of emergency regimes such as martial law and special procurement regimes.

Precautionary measures include procedural certainty, compliance with legislative power limits, parliamentary control (Article 85 of the Constitution) and transparency within permissible security limits.

5. Conclusions.

Legal constants form the institutional core of the legal order and cannot be dissolved, even during times of crisis in international relations. They ensure the immutability of the state's fundamental obligations to society and guarantee the stability and predictability of public authorities' legal behavior. They also form the basis for restoring the rule of law in the post-crisis period.

It is precisely in times of threat that the public legal order should demonstrate its vitality and value by implementing legal constants such as the rule of law, public interest, and the legal responsibility of the state.

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