

Balance Between Public Interests and Human Rights in the Context of Applying Pro Rata Principle

 Nataliia Mykolaivna Onishchenko¹,  Vladyslav Ivanovych Teremetskyi^{2*},  Olesia Oleksandrivna Otradrnova³,  Mykola Oleksiiiovych Stefanchuk⁴,  Oleksii Oleksandrovych Fast⁵

¹V.M. Koretsky Institute of State and Law of National Academy of Sciences of Ukraine, 4 Triochsvyatitelska st., Kyiv, 01001, Ukraine.

²Department of Modernizing Commercial Law and Law, State organization “V. Mamutov Institute of Economic and Legal Research of the National Academy of Sciences of Ukraine”, 2 Marii Kapnist st., Kyiv, 03057, Ukraine.

³Taras Shevchenko National University of Kyiv, 60 Volodymyrska st., Kyiv, 01033, Ukraine.

⁴Department of Private Law Problems, Academician F.H. Burchak Scientific Research Institute of Private Law and Entrepreneurship, National Academy of Legal Sciences of Ukraine, 11 Kazymyra Malevicha str., Kyiv, 03150, Ukraine.

⁵Department of Branch Law and General Legal Disciplines, Institute of Law and Social Relations, Open International University of Human Development “Ukraine”, 23 Lvivska st., Kyiv, 04071, Ukraine.

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Abstract. The purpose of the article is to analyze pro rata principle as universal legal mechanism for ensuring the balance between public interests and human rights, in particular in crisis situations. The conceptual aspects of pro rata principle, its essence, place in the legal system of Ukraine and international law have been studied. Methodology of the research is based on the systematic, comparative and legal, as well as functional approaches that assisted to assess the efficiency of applying pro rata principle while ensuring human rights, as well as to carry out empiric analysis of Ukrainian courts' decisions and judgements of the European Court of Human Rights. The main conclusions of the research are determination of the role of pro rata principle in legal precedents, in particular in the context of regulating such restrictions of human rights as ensuring security, territorial integrity, state sovereignty and repelling armed aggression. The importance of integrating this principle into the national legal system, taking into account international standards, has been emphasized. The practical significance of the research is to formulate suggestions for improving national legislation and judicial practice in ensuring a fair balance between the interests of the state and human rights.

1. INTRODUCTION

The issue of ensuring the balance between public interests and human rights is becoming increasingly relevant in modern society. It is related to dynamic changes in public life, accompanied by the emergence of crisis situations such as the COVID-19 pandemic, armed conflicts, environmental disasters, and more. Furthermore, the issue of public interest in legal precedents is of great importance, given that there are certain specific features in administrative legal proceedings for hearing and resolving cases of significant public interest.

Considering this, some countries have enshrined the criterion “in the interests of society” in their Constitutions as an exception for restricting certain constitutional human and civil rights and freedoms. The relevant provisions of international legal documents are the basis for this. Thus, the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms of 4 November 1950 ([Council of Europe, 1950](#)) refers to the possibility of state authorities to interfere into private and family life of a person when such an interference is carried out in accordance with the law and is necessary in a democratic society in the interests of national and public security or the economic well-being of the country. In addition, according to the Art. 18 of this Convention, as well as to paragraph 2 of the Art. 29 of the Universal Declaration of Human Rights of 10 December 1948 ([United Nations, 1948](#)) in the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

At the same time, there is still a debate among scholars about the proportionality, fairness, and exclusivity of applying restrictions on certain constitutional human and civil rights and freedoms within the activities of authoritative power entities. The main tool and empirical basis of this discussion is the case law of the European Court of Human Rights. Particular attention is paid to the analysis of national judicial practice, as well as recommendations for improving legal regulation to ensure effective human rights protection. The theoretical basis of this controversy is the pro rata principle, in particular its importance as a criterion for maintaining the necessary and fair balance between public and private interests.

Therefore, the purpose of the article is to analyze the pro rata principle as a universal legal mechanism for ensuring the balance between public interests and human rights, particularly in terms of crisis situations such as martial law, extraordinary circumstances, and emergencies. The main task is to find legal tools for guaranteeing a fair balance that should be established between the competing interests of individuals and society.

2. LITERATURE REVIEW

Attention to the problems of protecting human rights has recently focused mainly on studying the pro rata principle. This principle is considered a tool for ensuring a fair balance between public (state) interests and human rights, as well as a mechanism for restricting the actions of the state in relation to an individual ([Ucaryilmaz, 2021](#)). At the same time, issues related to the nature, content, and place of this principle in

the legal system, in particular its meaning in the system of legal principles and standards, still remain the subject matter of scientific discussions (Kubko, Turchynov, Chudyk, Vladymyrov, & Matviichuk, 2024).

Scholars mainly focus their attention either on the independent meaning of proportionality as a standard of international legal protection of human rights and freedoms in the practice of international institutions (Pohrebniak, 2012) or interpret it as a specific, derived principle that is based on the fundamental principle of the rule of law and is its component (Pohrebniak, 2006). There is an opinion in scientific and practical publications that the pro rata principle belongs to the generally recognized principles of international law, which reflects the need to maintain the necessary balance of interests in the case of state intervention in the private law sphere (Scientific and Practical Commentary on the Civil Procedure Code of Ukraine, 2018).

At the same time, the prevailing point of view is that the pro rata principle is a fundamental, yet unwritten principle of law, aimed at ensuring the balance of interests. It is constantly changing, dynamic, and adapts to the conditions of a particular state. In this context, the issue of the expediency of its consolidation at the regulatory level is periodically raised. It should also be taken into account that an important condition for ensuring the proportionality of interference in a particular right is its temporary nature. Some researchers emphasize that the pro rata principle requires that the duration of the derogation from guaranteed fundamental rights and freedoms should not be excessive in relation to the legitimate needs and interests that serve as the basis for such an intervention (Sutko, 2018).

There are also scientific publications focused on determining the conditions for ensuring a fair balance between the requirements of public interests and the protection of fundamental human rights (Raimov & Pasichnik, 2018); identifying the absence of an effective mechanism for national protection and implementation of the granted rights and freedoms in the field of property rights protection, particularly the potential risk of deprivation of property rights as a result of nationalization or reprivatization (Teremetskyi, Avramova, & Andriiv, 2020); analyzing the case law of the ECHR as an effective tool for restoring a violated right (Kurylo, Teremetskyi, & Duliba, 2020); and existing judicial or extrajudicial methods of compensation for damage using the example of national legislation (Onishchenko, Teremetskyi, Bila, Chechil, & Kostenko, 2023).

However, it should be noted that the issue of the balance between public interests and human rights in the context of applying the pro rata principle remains insufficiently addressed. Therefore, the indicated factor became decisive in choosing the topic of this scientific research.

3. MATERIALS AND METHODS

The research is based on a systematic approach to the analysis of the pro rata principle as a universal legal mechanism for ensuring the balance between public interests and human rights. The authors of the article have used an interdisciplinary approach that includes the analysis of legal, philosophical, and sociological literature, as well as the application of modern methods of legal research. To achieve the set purpose, the following methods have been used.

- Comparative and legal – to analyze the international experience of applying the pro rata principle in the legal systems of the European Union countries, in particular in the case law of the ECHR, as well as its implementation in Ukrainian legislation.
- Systematic – to study the pro rata principle as a component of the legal system of Ukraine and its relationship with other legal principles, such as the rule of law and justice.
- Functional – to assess the role of the pro rata principle in regulating restrictions on human rights in crisis situations, particularly in terms of martial law.
- Legal analysis – to consider the norms of the current legislation of Ukraine regulating restrictions on human rights, as well as their compliance with the criteria of proportionality.
- Empirical – to analyze specific cases from Ukrainian judicial practice, in particular, decisions made in the context of restrictions on citizens' rights during the COVID-19 pandemic and martial law.

The research materials were: international and legal acts, such as the European Convention on Human Rights (hereinafter referred to as the Convention); ECHR judgements that determine the application of pro rata principle; regulatory legal acts of Ukraine that regulate human rights and their restrictions; doctrinal studies by Ukrainian and international authors on pro rata principle; caselaw of Ukraine, including decisions of the Constitutional Court and other courts related to restrictions of the rights and freedoms of citizens.

The complex application of the specified methods allowed us to comprehensively consider the essence of the pro rata principle, its significance for the legal system of Ukraine and the international community, as well as to identify the problems of its implementation in the context of modern challenges.

4. RESULTS AND DISCUSSION

4.1. Pro Rata Principle and Its Significance for the Legal System of Ukraine

Since the end of World War II, humanity has significantly rethought approaches to ensuring fundamental human rights and freedoms. Since then, a number of generally accepted legal documents have been adopted at the international level, recognizing the life, health and freedom of every person as the highest social value. However, with the declaration of many human rights, complex issues of their practical implementation have arisen, including the balance between public (social) interests and the rights of individuals (Sokurenko, Morhunov, & Ablamskyi, 2023).

The issue of understanding and adhering to pro rata principle as a criterion for ensuring a fair balance between public and private interests is extremely complex both in theoretical and legal enforcement aspects (Bernazyuk, 2021). The efforts provided by the ECHR are also aimed at finding a fair balance between the requirements of the society's general interest and the need to protect individual fundamental rights (European Court of Human Rights, 2005).

It is well-known that pro rata principle is a fundamental principle of law aimed at ensuring the legal regulation of the balance of interests. The main essence of this principle is the reasonable correlation of the goal of state influence with the means of achieving it while ensuring the balance of private and public interests (Pohrebniak, 2008).

It is fairly noted in the scientific literature that pro rata principle is based on the constitutional principles of the constitutional state and the rule of law (the Articles 1, 8 of the Constitution of Ukraine) and can be defined as a general principle of law aimed at ensuring a reasonable balance of interests in legal regulation, according to which the goals of restrictions of rights must be substantial, and the means of achieving them must be justified and minimally burdensome for persons whose rights are restricted (Pohrebniak, 2009). Luspennyk (2017) defines the pro rata principle as the achievement of a balance between the interests of an individual and society in lawmaking. The scholar notes that public authorities should not impose obligations on citizens that go beyond the limits of public necessity. Maidanyk (2016), analyzing the pro rata principle, emphasizes that the modern liberal approach to law is based, in particular, on the idea of achieving a balance between opposing interests. Moreover, the scholar highlights the importance of improving existing mechanisms to ensure a fair balance between the fundamental rights of individuals and public interests.

We should support the opinion of M. A. Beihul that the main elements of pro rata principle are such categories as “restriction”, “exclusivity” and “balance” (Beihul, 2019). Herewith, the category of “restriction” involves the application of restrictions on certain procedural rights of the process participants within judicial legal proceedings in order to achieve an optimal balance between public and private interests. The category of ‘balance’ should be understood as ensuring the ratio between public and private interests. When making a judicial decision, it is manifested in the fact that the court must take into account both the rights and interests of the process participants and the importance of ensuring a fair, lawful, and timely hearing and resolution of any category of cases. The category of ‘exclusivity’ means that any restriction on the rights and freedoms of a person and a citizen is allowed only under exceptional conditions and must meet clearly defined legal criteria. It also refers to the possibility of restricting the rights and freedoms of an individual only in exceptional cases when vital circumstances require it (e.g., ensuring national security, public order, health, extraordinary circumstances, or emergencies, etc.).

It is well-known that the concept of a balance between private interests and public needs has been reflected in the case-law of the ECHR. It is confirmed by both the very fact of the systematic use of the term “balance of interests” in its judgements, and understanding pro rata principle as a necessary tool for ensuring such a balance. Moreover, the court assesses whether the state has managed to ensure an optimal balance between the conflicting interests of individuals affected by legal restrictions and society in general. Attention is also paid to the fact that state intervention should not impose an excessive or disproportionate burden on a person (Sadykova, 2017).

The pro rata principle is important in determining the limits of state influence on human and civil rights and freedoms, while equally ensuring the proper protection of public interests. Thus, the ECHR emphasized in the case of *Sadocha v. Ukraine* that interference must correspond to the gravity of the committed offense in order to recognize it as proportionate, and the imposed sanction must be commensurate with the gravity of the crime (European Court of Human Rights, 2020). Compliance with this principle ensures that the restrictive measures introduced by the state are lawful, justified, and necessary to achieve the intended aim, and do not go beyond the limits that would be sufficient to fulfill the tasks of legal regulation. It ensures a fair balance between public interests and human rights. It is particularly important that such measures are adequate and do not restrict human rights beyond what is necessary, which serves as an effective mechanism for preventing arbitrary restrictions of rights by the state.

Besides, the ECHR in the case of “*Intersplav v. Ukraine*” (European Court of Human Rights, 2007a) recognized a violation of the Article 1 of the First Protocol, since the virtually constant delays in restitution and compensation, combined with the lack of effective means of preventing or terminating such administrative practices, as well as the status of uncertainty in regard to the terms of returning the applicant’s funds, violated the “fair balance” between the requirements of the public interest and the protection of the right to peaceful possession of property.

Pro rata principle in the national legal system of Ukraine is an integral part of the constitutional legitimacy, which ensures both a balance between human rights and public interests, and minimization of interference into the rights of a particular person, which is an important guarantee against arbitrariness on the part of state authorities. It ensures that restrictions on human rights are necessary, grounded, justified, adequate and consistent with the importance of the protected public interests.

Thus, proportionality is defined in paragraph 8, Part 2 of Article 2 of the Code of Administrative Proceedings of Ukraine as a balance between adverse consequences for human rights, freedoms, and legitimate interests, and the goals pursued by the actions or decisions of the authority (Verkhovna Rada of Ukraine, 2005). Besides, the court in accordance with the Art. 11 of the Civil Procedural Code of Ukraine determines, within the limits established by the Code, the procedure for conducting proceedings in a case according to pro rata principle, in particular, taking into account the provision of a reasonable balance between private and public interests (Verkhovna Rada of Ukraine, 2004). Therefore, pro rata principle can be considered as a separate general legal principle and as an independent sectoral principle applied in various types of national judicial legal proceedings.

The pro rata principle is one of the key standards in the legal system of Ukraine. It is applied not only in terms of martial law but also in various crisis situations requiring a prompt response from the state. This principle includes the following main elements: requirements and criteria.

1) The provision of restrictions on human rights by law. Restrictions on rights must be provided for in the relevant regulatory legal act, which guarantees the legality and legitimacy of such actions. It is not only about the presence of legal grounds for restricting human rights and freedoms, but also about the compliance with the procedural manner of such restriction established by law.

2) The legitimacy of the purpose of restricting human rights is crucial. The pro rata principle involves assessing the correspondence between the purpose of restricting human rights and the restriction itself. Such a restriction can be considered justified only if the purpose of its application is legitimate and necessary to achieve the public good. For example, restrictions during the introduction of a state of emergency or in conditions of an emergency may be aimed at ensuring national security, maintaining public order, or protecting public health.

It should be noted that pro rata principle in the European Union practice is mostly considered through the prism of searching for the optimal balance between public interests that justify the interference into human rights and the consequences that such a person may suffer as a result of such an interference. The European Court of Human Rights, by analyzing cases in regard to the proportionality of restrictions, assesses whether the state could have achieved a legitimate aim by using less burdensome measures for a person. At the same time, the interference with human rights should not be excessive or go beyond what is necessary to achieve the aim pursued (Tsvina, 2018).

The ECHR concluded, in the case of *Stankova v. Slovakia* (European Court of Human Rights, 2007b) related to the violation of the right to respect for one’s home, that violation of the balance between private and public interests occurs when interference on exercising this right imposes an excessive burden on a person. The Court noted that even in case of the termination of the legal right to occupy a dwelling, a person is entitled to a judicial assessment of the proportionality of his or her eviction, taking into account the relevant principles enshrined in the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

3) The necessity of such actions (measures) means that any restriction or interference with human rights must be duly justified and is admissible only in compliance with a fair balance between the requirements of the general interest of public safety and the interests of individuals (Paskar & Savchyn, 2022). Thus, the ECHR draws attention in the case of *Saviny v. Ukraine* (European Court of Human Rights, 2022) to the fact that determining a specific interference as “necessary in a democratic society” involves the assessment of the relevance and sufficiency of the reasons given to justify the interference and their compliance with the aims set out in paragraph 2 of the Art. 8 of the Convention for the Protection of Human Rights and Fundamental Freedoms.

Besides, the restriction of the rights must be the least burdensome of all possible means that can be effective in achieving a legitimate aim. The state must choose a measure that is the least restrictive of human rights, but at the same time allows achieving the set aim. For example, restrictions on freedom of movement in the context of the COVID-19 pandemic should be applied only to the extent necessary to prevent the spread of the disease.

4) Proportionality (adequacy) of the interference. The applied restrictions must correspond to the declared aim of the restriction of rights and ensure a balance between the private interests of a person and the general public interest. The ratio between the negative consequences of the restriction of the rights and the positive results for society is important in this case. It means that the interference with human rights must be proportional to the set aim and should not exceed the limits necessary to achieve the public good.

The proportionality of procedural actions with the declared procedural aim in accordance with pro rata principle must be ensured while

carrying out judicial legal proceedings. Thus, the ECHR, applying the Art. 5 of the European Convention on Human Rights, emphasizes that the placement of a minor in a custodial institution must be proportionate to the purpose of implementing “supervisory educational measures”. Such a measure should be considered as a last resort one, applied exclusively in the interests of the child and aimed at preventing serious threats to his / her development ([European Court of Human Rights, 2016](#)).

Judicial authorities in Ukraine actively apply pro rata principle when assessing the legality of restrictions imposed by state authorities or officials. It is due to the need to maintain a balance between the negative consequences of the application of restrictive measures and the positive results expected from achieving the set goal.

Thus, the application of proportionality as a component of the pro rata principle assists in ensuring an appropriate balance between public and private interests in a specific legal situation, as well as avoiding excessive interference with human rights.

The pro rata principle is one of the main standards applied when restricting human rights and freedoms, both at the level of national legislation and in international law. The ECHR, in its judgments, has repeatedly emphasized the need to observe the pro rata principle when applying restrictions, even if they are aimed at ensuring public safety. Thus, the court in the case of *Trosin v. Ukraine* noted that countries should develop their own systems for assessing proportionality, which would allow state authorities to balance the interests of individuals and the state, taking into account the peculiarities of each specific case ([European Court of Human Rights, 2012](#)).

Having studied the issue of the compliance of applied state restrictions on the rights and freedoms with the human rights guarantees established by the Convention, the ECHR assesses whether such restrictions are lawful, whether they are applied in the public interest, and whether these restrictive measures are proportionate. That is, the pro rata principle serves as a criterion for assessing the admissibility of measures restricting human rights, regardless of the lawfulness of such restrictions and their focus on achieving a legitimate aim. The ECHR has noted that even if measures restricting human rights and freedoms are lawful and are carried out in the public interest, such measures must always meet the criterion of proportionality ([European Court of Human Rights, 2013](#)). In the context of the ECHR’s caselaw on hearing cases on the basis of the Convention for the Protection of Human Rights and Fundamental Freedoms, pro rata principle is universal and is applied by the ECHR when interpreting the entire range of provisions of the Convention and its Additional Protocols and when assessing the compliance of restrictive measures of the state with these provisions.

This principle is recognized as the standard of legality for restricting human rights under any conditions of the state’s functioning. However, its application in the context of the emergency and quarantine related to the COVID-19 respiratory disease caused by the SARS-CoV-2 coronavirus, or the martial law imposed because of the military aggression of the Russian Federation against Ukraine, acquires specific features that require theoretical justification and appropriate legal regulation.

4.2. Peculiarities of Applying Pro Taya Principle in Terms of Martial Law

It should be noted that the issue of applying the pro rata principle has acquired special importance after the start of the full-scale armed aggression of the Russian Federation against Ukraine. Herewith, the interests of the state during martial law are focused on protecting sovereignty, territorial integrity, and the security of citizens. This implies the possibility of applying restrictions on certain rights and freedoms in order to ensure public interests. However, such restrictions must be justified; they should meet legitimate goals and should not contradict the key principles of a democratic state based on the rule of law.

The issue of determining the permissible limits of restricting human rights requires a special approach under martial law. Public interests such as national security, defense capability, and territorial integrity take priority. However, it is important that such measures do not contradict the fundamental rights of citizens, in particular the right to life, personal integrity, and freedom of expression. It is also necessary to take into account compliance with international human rights standards, which are the basis for maintaining a democratic system and the rule of law.

The issue of the balance between human rights protection and public interests becomes particularly acute in terms of armed conflict and martial law. The state is forced to introduce certain restrictions to ensure national security, protection of state sovereignty, and territorial integrity. These may include restrictions on freedom of movement, economic activity, use of property, as well as certain aspects of freedom of speech.

The application of the pro rata principle under martial law allows us to assess how the imposed restrictions are justified, necessary, and proportionate to the goals set. Any interference with human rights must be justified and correspond to a legitimate aim. Such an approach minimizes the risks of arbitrary actions by state authorities and contributes to the protection of citizens’ rights even in crisis situations. In this context, the pro rata principle plays a key role in maintaining democratic standards and ensuring the balance between public interests and fundamental human rights.

4.3. Application of Pro Rata Principle in the Judicial Practice of Ukraine

The application of pro rata principle in the judicial practice of Ukraine is an important element of human rights protection. As a rule, the need to maintain a balance between the private interest of a person, which consists in the desire to resolve a case as soon as possible, and the public interest, which consists, first of all, in conducting the trial in accordance with the regulations of procedural law and in fulfilling the tasks of the judiciary, as well as in the need to take into account the complexity of the case and other objective circumstances that the court may encounter ([Kotviakovskiyi, Kunda, & Tarasenko, 2022](#)).

In particular, the courts, in cases related to the restriction of citizens’ rights because of the COVID-19 pandemic, emphasized the need to take into account pro rata principle in relation to measures applied to combat the spread of the disease. Namely, while assessing quarantine restrictions on movement, the courts analyzed whether such restrictions were necessary to protect the health of the population and whether they did not excessively violate the rights of individuals. Indeed, modern studies prove the negative impact of quarantine restrictions on the mental health of the population ([Leifheit et al., 2021](#)).

The application of this principle in criminal proceedings of Ukraine causes a negative reaction by the ECHR in the context of the absence or inadequate justification of the lawfulness of a person’s detention by national courts. The ECHR has repeatedly noted that court decisions repeat a standard list of grounds for keeping an applicant in custody and, at the same time, do not in any way examine the plausibility of these grounds in view of the specific circumstances of the applicant’s case ([European Court of Human Rights, 2010a](#)).

Non-compliance with pro rata principle is also observed when Ukrainian courts extend detention periods. The ECHR emphasizes that such an extension can only be justified if there are specific indications that it is required by the needs of the public interest. These needs, despite of the existence of the presumption of innocence, must prevail over the requirement of respect for personal liberty.

In order to extend the period of detention, judges and prosecutors must duly justify the grounds for choosing this preventive measure in their decisions. Such grounds must be ‘relevant and sufficient’ and cannot be reduced to a mere reference to the necessity of choosing it. In addition, national authorities are primarily obliged to consider the possibility of choosing another preventive measure, alternative to detention. This aspect was noted in the ECHR judgment in the case of *Buryaga v. Ukraine* of 15 July 2010 ([European Court of Human Rights, 2010b](#)).

Another interesting example is the case concerning mandatory vaccinations for certain categories of employees in connection with the COVID-19 pandemic, which was heard by the courts of Ukraine during 2021–2022. In this case, the courts emphasized the need to comply

with pro rata principle when introducing such requirements, given that the restriction of the right to work must be justified, duly substantiated and must not lead to excessive consequences for the individual. Thus, the Grand Chamber of the Supreme Court, in its decision of 14 December 2022, recognized that the application of restrictive measures against an employee, in particular suspension from work due to lack of vaccination, is ill proportioned. It is due to the fact that the specific circumstances of his / her work and the degree of risk to others were not taken into account, which made the suspension unjustified ([Grand Chamber of the Supreme Court, 2022](#)).

The Grand Chamber concluded that the application of such measures was not accompanied by any individual assessment of the circumstances (employee's obligations), which contradicted the requirement of proportionality. Therefore, state measures to protect public health must take into account the individual circumstances of a specific person and do not cause excessive harm to the rights of employees. This demonstrates the importance of individualizing nature of human rights restrictions even in emergencies.

The proportionality criterion is also applied by the Constitutional Court of Ukraine when assessing the compliance of legislative regulations with the Fundamental Law of Ukraine that restrict the rights, freedoms and legitimate interests of a person and a citizen. For example, the decision of the Constitutional Court of Ukraine of 21 July 2021 No. 3-p(II)/2021, declared the provisions of the Art. 471 of the Customs Code of Ukraine unconstitutional ([Constitutional Court of Ukraine, 2021](#)). Those provisions provided for the mandatory confiscation of goods as a sanction for violation of customs rules. The Constitutional Court of Ukraine emphasized the need to ensure a fair balance between public interests and the property rights of a person, which is the basis for applying pro rata principle.

4.4. Change of Priorities in Legal Regulation of Pro Rata Principle in Favor of Public Interests

A specific feature of applying the pro rata principle in terms of martial law is the change of priorities in legal regulation. The war changes the nature of public interests that require protection and their correlation with human rights. Public interests that used to have priority in peacetime (for example, freedom of economic activity or the rights of employees) may lose their priority over the interests of defense and national security.

It can be illustrated by the example of amendments in labor legislation. The Law of Ukraine "On Organization of Labor Relations in Terms of Martial Law" ([Law of Ukraine No. 2136-IX, 2022](#)) introduced special regulations in regard to the conclusion of employment contracts, dismissal of employees, length of working hours, etc. Those amendments are aimed at adapting the economy to war conditions, ensuring the effective use of labor resources, and eliminating the personnel shortage. In this context, there is a certain restriction of employees' rights in order to achieve more important social goals, in particular, employers are given the opportunity to respond more promptly to challenges related to the war and to ensure economic stability.

Another example of the reassessment of public interests in favor of more prior ones during martial law is the prioritization of the interests of state protection in the field of defense and security over traditional private interests, such as the obligation to fulfill civil duties. It is especially noticeable in relation to the introduction of a moratorium (ban) on the fulfillment of monetary and other obligations to citizens and legal entities of the Russian Federation ([Resolution No 187, 2022](#)) entered into force in Ukraine in March 2022. Such measures are justified in wartime, since they are aimed at preventing the aggressor state's funding.

4.5. Problems of Applying Pro Rata Principle in Terms of Martial Law

There is a risk of exceeding the limits of permissible restrictions on human rights by state authorities in terms of martial law. The risk of exceeding the limits of permissible restrictions on human rights by state authorities in terms of martial law is growing. That is why the pro rata principle plays a key role in preventing arbitrary actions by the authorities and in upholding legal standards. At the same time, its application in practice is accompanied by a number of difficulties, namely, the complexity of assessing the proportionality of restrictions, the lack of clear criteria for determining their legality, as well as the need to respond promptly to national security threats.

Another problem is ensuring effective judicial control over compliance with the pro rata principle. Courts must quickly and objectively assess the eligibility of restrictions on rights and freedoms applied by the state. This requires highly qualified judges, their ability to analyze complex legal situations, as well as guaranteeing the independence of the judicial branch of power, which is especially important in crisis situations.

5. CONCLUSION

The pro rata principle remains the main criterion for assessing the eligibility of restricting human rights regardless of the terms of the state's functioning, particularly during the legal regime of martial law. It ensures the necessary balance between the protection of public interests and the observance of fundamental human and civil rights and freedoms. However, its application under certain conditions acquires specific features related to the restriction of human rights in achieving legitimate state goals, such as ensuring national security and defense, territorial integrity, state sovereignty, and repelling armed aggression.

The armed aggression that Ukraine is experiencing forces the state authorities to resort to measures that could be considered disproportionate in peacetime. It is manifested in the introduction of a number of restrictions on the personal rights and freedoms of citizens, as well as special regulations in the field of economic activity, financial transactions, labor relations, and civil law obligations.

However, it is important that these measures comply with pro rata principle, i.e. they are necessary, balanced, grounded, justified and adequate (Commensurate) with the goal aimed at protecting the state and its citizens. Only the compliance with this principle can ensure the proper balance between the protection of national interests and the observance of human rights and freedoms, which is a key condition for the functioning of a legal state in modern conditions.

Given the challenges faced by Ukraine, the pro rata principle (as opposed to discrimination) is an important legal mechanism that ensures compliance with democratic standards, even in terms of the armed aggression by the Russian Federation against Ukraine. It helps to minimize the negative consequences of restrictive measures by ensuring justice and respect for human rights, preventing arbitrary actions by state authorities. This surely increases the level of trust in the national legal system, both among citizens and the international community.

Therefore, further improvement of applying pro rata principle at the national level in accordance with international human rights standards is an important task for preserving democratic values and strengthening the rule of law. Perspective areas of further scientific research are the study of mechanisms for implementing pro rata principle in various branches of law and a detailed analysis of specific features of restricting procedural rights of the participants of court proceedings within various types of national judiciary.

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Transparency:

The authors state that the manuscript is honest, truthful, and transparent, that no key aspects of the investigation have been omitted, and that any differences from the study as planned have been clarified. This study followed all writing ethics.

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All authors contributed equally to the conception and design of the study. All authors have read and agreed to the published version of the manuscript.

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