

LINK OF TIMES: CHAPTERS OF HISTORY

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EXCLUSION FROM THE TERRITORY OF THE STATE (HISTORICAL AND LEGAL ANALYSIS)

The subject of the article is relevant and interesting for study as legal regulation of relationship on exclusion is not perfect, there is no univalent understanding or interpretation of it. In historical and legal literature, there is no unified opinion on the content of term "exclusion". The work on improvement of present legislation supposes implementation of historical and legal experience.

The aim of present work is definition of peculiarities of legal relationships as for exclusion in Russia on the eve of revolution of 1917 and characteristic features of regulation of exclusion in present days according to the rules of Ukrainian legislation.

According to the law of the Russian Empire of the end of XIX – beginning of XX century, exclusion is a forced removal of foreigners out of state borders or any of its districts on the resolution of relevant authority. The right to implement this measure was and is one of the integral rights of sovereign state.

Exclusion of the foreigners might have personal character (exile of particular person) or mass character (deportation of a group of person).

Exclusion of foreigners from the Russian Empire could have been done due to two procedures – administrative and juridical one.

It should be observed that exclusion was the only kind of punishment

that was provided by criminal law of the Russian Empire exclusively for foreigners.

At present time, banishment out of state borders is not a criminal punishment but is regulated by the administrative law of Ukraine.

The analysis of disposition of Article 24 of the Code of Administrative Offences of Ukraine gives basis to attribute the exclusion of foreigners and stateless persons out of Ukraine to the kind of administrative punishment, as part 3 of the above mentioned article provides possibility of application of banishment to the foreigners and stateless persons for committing gross violation of law and order.

According to the Law of Ukraine "On the Legal Status of Foreigners and Stateless Persons", State Migration Service of Ukraine, state border guard authorities (as for the foreigners or stateless persons which were apprehended by them on the controlled borderland at or after the attempt to break state frontier of Ukraine) or the Security Service of Ukraine can exile foreigner or stateless person only on the basis of legal resolution of administrative court to their lawsuit. The court decision on the compulsory exclusion of foreigner or stateless person can be appealed. The appeal does not abate execution of decision on exclusion.

