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**The Doctrine of the Margin of Appreciation of States in Case Law
of the European Court of Human Rights**

Speciality 12.00.10 - International Law; European Law

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Sciences**

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Information on the defense, the abstract and the dissertation are posted on the official websites of the Higher Attestation Commission of the Ministry of Education and Science of the Russian Federation www.vak.ed.gov.ru and FGAOU VO "Kazan (Privolzhsky) Federal University" www.kpfu.ru.

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General description of the work

The relevance of research. The rules of modern foreign policy of life are such that the state can not remain aloof from the process of establishing of common international and regional friendly spaces, aimed, for example, to raise the standards of democracy and human rights.

When it comes to international standards of human rights protection, it should be noted that not all states-parties to the European Convention for the protection of human rights and fundamental freedoms (the "Convention") have similar cultural and legal traditions. Very indicative in this sense, the example of Russia.

Indeed, it's really hard to impose requirements to the relatively young Russian democracy completely identical to those which are presented to the regimes of European countries, numbering centuries of development of the spirit of freedom. That is to adapt the norms of the Convention to local conditions the Court may confer state certain margin of appreciation. The European Court of Human Rights (hereinafter - the "Court") in its judgments gives the following comments about one of the aspects of differences in cultural-historical terms: "*... the domestic law of the various states do not allow to formulate a uniform definition of "morality". The concept of it, as reflected in some laws are different depending on the time and place.*"

This specificity can not be ignored when considering the international legal obligations of Russia in the sphere of human rights. It appears that in this manner the Court reasoned in one of its judgments, justifying the feasibility of in their practice the doctrine of "margin of appreciation of states" (hereinafter - the "Doctrine"): "*Thanks to the direct and constant contact with the driving forces of the country, each state authorities can clearly easier and more accurate to judge the necessity of a limitation than a supranational judicial body.*"

Practical value of the Doctrine in the Court's practice cannot be overemphasized. The Court comes to a final decision about the presence or absence of violations of the Convention by the state in deciding on the breadth of

the margin of appreciation of the state in the framework of a case, including whether there was a violation of the limits of this freedom.

Precisely because of these reasons, understanding and properly using the practice of application of the Doctrine is possible, firstly, to effectively conduct implementation of norms of the Convention in domestic space, improving standards of human rights in Russia, and secondly, competently protect the rights and interests of the state in the international arena and, in particular, in Court.

It remains only to recall the unfavorable statistics for Russia: in accordance with the information contained in the annual report of the Court for the past 2014 (i.e. as at 31 December 2014), Russia ranked third in the total number of complaints (after Ukraine and Italy) adopted by the Court and pending: 9,900 of the total number of complaints, amounting to 69,900. As of June 30, 2015, according to statistics published by the Court, Russia occupies the second place (after Ukraine): 9,100 complaints of the total number of 63,800.

A significant number of complaints lodged with the Court, may reflect the fact that the Convention, as a way to protect human rights, gained popularity and spread among the citizens of our state. This situation requires urgent attention of Russian lawyers and a detailed knowledge of all the important aspects of the Convention and its practical application, which, as we shall see below, is especially true doctrine.

Extent of Previous Research. We have to admit that the level of illumination of the Doctrine in the Russian legal literature is far from satisfactory. Ironically, the Russian legal scholars mostly refrain from participating in this discussion. Of course, special attention deserves the thesis N.N. Lipking remaining the first and only study in Russia, devoted to the Doctrine. The study appropriately emphasized the issues of its application and highlighted the specific legal position of the Court, but leaves a considerable field for further work to explore how the legal nature of the Doctrine from the standpoint of legal theory and various aspects of the practice of its application by the Court, which appear to be critical to the Court of a decision in a particular case. In addition to the above work of N. Lipking, the works of G. R. Vagizova, B. L., Simonenko, D. V. Krasikova, S. N. Kuznetsova,

Yu. M. Orlov, A. N. Rusov, Yu. V. Samovich, Ya. V. Fedorchukov are devoted to certain aspects of law enforcement practice of the Court. In particular, M. Lobov was engaged in study on protection of certain categories of rights under the Convention.

Among western researchers of the problems of international and European protection of human rights, involving issues of Doctrine, it is necessary to allocate such, as V. J. Ganshof Van Der Meersh, R. St.J. MacDonald, R. Sapienza.

The goals and objectives of the dissertation. The purposes of this dissertation research was the establishing of the legal nature of the Doctrine in the jurisprudence of the Court and the factors determining the breadth of the margin of appreciation of States in the application of the Doctrine by the Court.

To achieve these objectives the following tasks are put within the scope of work:

- to formulate a complete and comprehensive definition of the Doctrine;
- to define the role of the Doctrine in international law;
- to determine the substantive grounds for which the need for the application of the Doctrine;
- to analyze the advisability of the application of the Doctrine in international legal relations;
- to trace the prevalence of the use of the Doctrine in other than the Court, international courts;
- to analyse the role of Doctrine in the jurisprudence of the Court, and formulate its properties based on the dissertation research;
- based on extensive analysis of the practice of the Court to identify specific cases of broad and narrow applications of the Doctrine depending on the particular circumstances of the case;
- to formulate conclusions about the legal nature of the Doctrine in the understanding of the Court;
- to generalize the results of the analysis of the Court practice on the application of the Doctrine.

Scientific Novelty of the Work. The author's work led to the following results that reveal the scientific novelty of the research:

- through analysis of the status of the Doctrine in international law the principle of the margin of appreciation of States as the sectoral principle of the law of international protection of human rights is identified and investigated;

- the dual legal nature of the Doctrine of the margin of appreciation of States in the practice of the European Court of human rights is identified and systematized and on the basis of this a comprehensive definition of the Doctrine proposed;

- based on the analysis of the practice other than the European Court of human rights international organizations a conclusion on the recognition by these organizations of the methodology of endorsing the interpretation and application of international law, taking into account a certain margin of appreciation States;

- necessity and reasonability of the application of the Doctrine in law of the international protection of human rights is argued; and

- an extensive analysis of the practice of the European Court of human rights, the results of which identified the factors that determine the breadth of the margin of appreciation of States was conducted. The obtained data about these factors are systematized in a table.

Theoretical and practical implications. The results and materials of this research may primarily find their application in further research and teaching profession. One of the problems of studying of the Court practice in the framework of such courses as, for example, international and European protection of human rights, is apparent at the first reading of the contradictory of Court judgments. Clarification of the role and purpose of the Doctrine as within the principle of the law of international protection of human rights, as well as the factors affecting the breadth of the margin of appreciation of States in a particular case, would deepen students' understanding of the legal faculties of law of the Convention and the enforcement of the Court's activities, as well as peculiarities of the implementation of norms of international treaties.

It seems advisable to include the topic "The Doctrine of the Margin of Appreciation of States in the practice of the European Court of Human Rights" in existing courses and programs developed by international and European human rights protection.

Conclusions and patterns identified in this study can also be used by legal practitioners. For example, in case when lawyers participate in a particular case before the Court of Justice, an understanding of the representatives of both - the State and the representatives of the applicant - of the factors causing a more or less wide latitude of state discretion in these circumstances, will largely contribute to the successful modeling future decision of the Court and the corresponding formation lawyers' position in the Court.

Especially effective is the use of knowledge about the Doctrine of the margin of appreciation of States in relation to the protection of the interests of the Russian Federation in Court and, ultimately, reduce both the number of complaints filed against Russia, and the number of judgments, confirming the violation by Russia of its obligations under the Convention. Achieving the above objectives is possible, in particular, by way of improving the imperious law enforcement, regulatory, judicial, administrative, medical, penal and other institutions in those areas in which the states are endowed with a limited margin of appreciation. To do this, in turn, an understanding of the role of various factors determining the specific amount of the margin of appreciation accorded to States by the Court is required.

In addition, the investigation of all aspects of the Convention, including the Doctrine, is necessary for the formation of the Russian legislation and the improvement of the Russian judiciary, law enforcement and administrative practices, consistent with the standards established by the Council of Europe human rights protection.

The provisions of the present research in relation to the role of the margin of appreciation of States in the implementation of the international treaty provisions, namely, the role of the mechanism which, by giving a certain flexibility of the international treaty system that allows more efficient to achieve the objectives of international cooperation in the stages of the establishment, implementation and

development, can be used as development of international relations of the Russian Federation, and in improving federal and municipal relations in Russia.

Doctrine can be used to some extent as a principle of construction of a new legal space within the Commonwealth of Independent States. In fact, the provision to states - participants of the international agreement of certain freedom in the implementation of its provisions, while maintaining the possibility of subsequent restriction of this freedom would be in the interests of the progressive and adequate level of each of the participating States in international relations.

The object and subject of the research. The object of research are public relations, developing in the process of enforcement of the Court's activities, namely the provision by the Court to States-parties to the Convention of a certain margin of appreciation when deciding whether one or another domestic measure adopted by the state, constitute a violation of the Convention. The subject of the study are the provisions of the Convention and the protocols thereto, the precedents of the Court for all the past years of its activity, relating to application and interpretation of Doctrine as well as other international legal conventions, agreements, pacts, charters of international organizations, decisions of international courts, and Russian regulatory legal acts and acts of the constitutional Court and the Supreme Court.

Methodical framework of the research. During the work on this research we used the following scientific methods of cognition: deduction, induction, comparative analysis, synthesis, formalisation, analogy. Among private-scientific methods are applied system-structural, functional analysis, historical, political, sociological, statistical, logical. Specially-scientific methods used in this work are: formal-legal, technical-legal analysis, comparative legal.

Theoretical basis of the research. We used researches of A. V. Agafonov, V. V. Lazarev, A. V. Malko, M. N. Marchenko, V. S. Nersesyants, R. L. Ivanov as theoretical basis of research on General theory of law.

In the process of writing the dissertation we used the materials of the works on public international law of such scholars as K. A. Bekyashev, R. L. Beavers, G. M. Danilenko, G. V. Ignatenko, A. V. Kartashkin, D. B. Levin, I. I. Lukashuk, F.

F. Martens, E. G. Moiseev, R. A. Mullerson, E. T. Usenko, O. I. Tiunov, G. I. Tunkin, D. I. Feldman, N. Tsivadze.

The theoretical basis of this research in the context of questions of law for the protection of human rights are the works of G. R. Vagizov, B. L., Zimnenko, D. V. Krasikov, S. N. Kuznetsova, D. G. Kurdyukova, N. N. Lipkina, M. Lobov, L. H. Mingazov, Yu. M. Orlova, A. N. Rusov, Yu. V. Samovic, B. N. Topornin, V. A. Tumanov, J. V. Fedorchukova, S. V. Chernichenko, G. G. Shinkaretskaya, L. M. Entin.

In addition, the particular importance for this study were works in the area of European human rights protection of such foreign authors as E. Benvenisti, E. Brems, R. St. J. MacDonald, M., Melchior, F. Matcher, P. van Dyke, M. de Salvia.

The empirical basis of the study. Due to the nature of the subject and object of the research the empirical basis of the research were: court's judgment, decisions of other international courts, international treaties concluded within the Council of Europe, the UN and other international organizations, legislative acts of the Russian Federation.

Fundamentals issues and results of the research to be defended.

1. Basing on the practical application of the Doctrine by the Court, it is possible to formulate two basic approaches to the determination of the margin of appreciation of States: methodological and functional. According to the methodological approach, it is a principle that states comply with their international legal obligations enshrined in the Convention in determining the scope of authority of the Contracting States. The doctrine in this case is one of the methodological foundations of the decision by the Court. In accordance with the functional approach, the margin of appreciation of states may be perceived as actual States' authority they possess to meet their international legal obligations under the Convention.

These approaches to the definition of the Doctrine are not mutually exclusive, therefore, the legal nature of the margin of appreciation of States is two-fold, becoming, first, the principle determining the scope of states' authority used

in the performance of their international legal obligations, and, secondly, the powers which the state have in this case.

2. The doctrine of the margin of appreciation of States is the law intra-industry principle of international protection of human rights, according to which the Contracting States have a certain freedom in the interpretation and application of international law, the fulfilment of its international legal obligations. The limits of this freedom are not clear and can't be fixed in the contract by definition because of their dependence of the local legal and cultural traditions and specific conditions of implementation of this rule. The state, therefore, independently carry out implementation of international legal requirements, being able not only to choose particular ways of fulfilling their obligations, but also to deviate from them, provided the legality and validity of such deviation, which can be controlled by a supranational Supervisory body, *post factum*.

3. The margin of appreciation of States as the sectoral principle of the law of international protection of human rights is characterized by the following main properties:

- recognition by the international community of States;
- role of development basis and functioning of law;
- role of regulator of public relations and criterion of the lawfulness of conduct;
- reflection of regularities of law;
- versatility;
- law enforcement and positive reinforcement.

4. In the practice of international judicial bodies, there is a trend of rising of recognition of the methodology, endorsing the interpretation and application of international law, with due regard to a certain freedom of appreciation of states. Herewith the factors that affect the amount of the margin of appreciation of States in the individual case are numerous. Their set and strength depend on the specific subjective rights, the implementation of which led to certain measures taken by the state.

5. Analysis of law enforcement practice of the Court in different years, carried out in the order to identify factors that influence the amount of the margin of appreciation of States, allows us to formulate a number of patterns, which are manifested when the Court is considering the circumstances of the case and determining the scope of the margin of appreciation of States. Such laws include, for example, the narrowing of the freedom of discretion in the assassination of the most important foundations of democracy and the extension of the said liberty in the absence of consensus between the member States of the Council of Europe on the issue of regulation of a certain sphere of public relations.

6. The provisions adopted by the Court with respect to Russia, are generally in line with the overall trends in the application of the Doctrine by the Court in cases, when the defendant in the act are another States. Namely, the Court spoke in favor of limited application of the Doctrine for Russian affairs of those categories in respect of which the Court has traditionally restricts freedom of appreciation of states (for example, the case of the recognition of the illegal activities of religious organizations or the criticism of the judiciary). In this case the Court extended the application of the doctrine in cases against Russia, belonging to the category of cases in which the Court spoke in favor of the existence in other States of freedom of discretion (for example, cases involving national security or immigration control).

The degree of reliability and approbation of the research results. The findings obtained from the research, are based on the extensive analysis of the practice of the Court and other international judicial bodies conducted by the author and are confirmed by the effective use of the above methodology and a full, deep study of sources on the Doctrine, including the works of leading Russian and foreign lawyers, and Russian international legal and other acts, publications in periodicals, collections, dissertations and monographs.

The approbation of the results of the present research was carried out in the course of participation in the sixth European summer Academy "European Constitution for the enlarged European Union" (France, Rennes, Grenoble, 5-17 September 2005); in the twelfth Nizhny Novgorod session of young scientists in

the section "Humanities" (the village Tatinets, 21-25 October 2007); international scientific-practical conference dedicated to the 60th anniversary of the adoption of the UN universal Declaration of human rights universal Declaration of human rights and topical issues of its implementation in Russian and international law" (G. Kazan, October 24-25, 2008); in the eighth scientific seminar at the Department of international and European law of Voronezh state University "the International legal readings", (Voronezh, 2009).

The results of this research were discussed at the faculty meetings of the International and European Law Faculty of Law of Kazan (Privolzhsky) Federal University.

The main findings and results of this dissertation research have been published by the author in the form of scientific articles and abstracts a total volume of 2.5 printers sheet.

The structure of the research. The structure of this study is formed in accordance with the objectives and tasks set before it. The dissertation consists of: the introduction, three chapters, divided to thirteen paragraphs in the amount, conclusion, application in the form of tables and bibliography.

The main content of the work

In the **introduction** the actuality of the topic of the dissertation is settled, the degree of elaboration is highlighted, goals, objectives, object and subject of research are set, the methodological, theoretical and empirical basis of research are clarified, the scientific novelty is proved and the practical significance of the research is explained, the main provisions for the defense are formulated, as well as the information about the degree of authenticity and validation of research results are provided.

The first chapter " The Concept and the Place of the Doctrine of Margin of Appreciation in International Law" consists of five sections and is dedicated to the definition of the concept of " Margin of Appreciation of States", the

Doctrine's status in the international law and concerns the feasibility of application of the Doctrine in international legal relations.

In the first paragraph "**The Concept of the Margin of Appreciation of States**", the author conducts a detailed analysis of the notion of "Margin of Appreciation of States," and highlights two approaches to the definition of the concept: a methodological and functional. In the framework of a methodological approach, "Margin of Appreciation of States" is the principle of the right of the Convention, namely, controlled Trial of the ability of Contracting States to determine the most appropriate for the state, society and the actual situation means and measures in the performance of their international legal obligations under the Convention. According to the functional approach, "Margin of Appreciation of States" acts as the actual powers of states using the above-mentioned features.

In the second paragraph of "**The Margin of Appreciation of States as International Legal Doctrine: the formation and development**" the author deals with the question of the status of the Doctrine in the international law and concludes that the Doctrine is neither a "Doctrine" nor a source of law within the meaning of article 38 of the Statute of the International Court of Justice. It acts, rather, the principle of application of international law to determine the scope of authority of States in enforcing international treaties that, in turn, allows to international tribunals to check the compatibility of such decision with the rules of the international Treaty.

In the third paragraph of the "**Differences of Cultural and Historical Type as the Basis of Application of the Doctrine of the Margin of Appreciation of States**" the question of what social need has resulted the appearance of the Doctrine in the legal space is considered. Evidence from the attitudes to sexual minorities, the author demonstrates that existing differences in cultural and legal plan in the Contracting States (that is, the lack of consensus among States on any issue) are the material basis of the necessity of uniform approach to the requirements of the implementation by such States of its international legal obligations. Such a uniform approach in the practice of the

Court is done through granting States a certain margin of appreciation in fulfilling their obligations under the Convention.

In the fourth paragraph, "**The Feasibility of the Application of the Doctrine of the Margin of Appreciation of States in International Relations**" the author analyzes the arguments for and against the application of the Doctrine and comes to the conclusion that application of the Doctrine is appropriate for the strength of international relationships building between the democratic countries are characterizing by significant differences in cultural and legal development. The application of the Doctrine is particularly relevant in international legal relations with the participation of such countries as Russia, being unique in a number of characteristics, such as cultural, historical, and legal.

In the fifth paragraph "**The Use of the Doctrine of the Margin of Appreciation of States in the Practice of International Courts**", author explores whether the Doctrine may be applied not only by the Court, but also by other international court instances. Basing on the examples of the International Court of Justice, EU Court, the Dispute Settlement Body WTO, the inter-American Court of Human Rights, the author comes to a conclusion that in practice these instances have the tools to give some flexibility to the system of international law. In addition, author welcomes the methodology of decision-making by such bodies, approving the uniform interpretation and application of international law. Indeed, the use of the Doctrine allows us to give the decision-making process in the framework of international relations more democratic and to bring the rule of law to reality, because the competent national authorities will be able to apply a particular rule to a particular legal relationship more correctly and efficiently.

However, it is not necessary to forget about some conditions of application of the Doctrine. Firstly, it applies only in respect of the rules, in essence assuming or able to assume uniform interpretation (evaluative standards, goal-setting or enabling norms). Secondly, the margin of appreciation is fickle and changeable in time due to the ongoing public and legal evolution. Thirdly, application of the Doctrine will vary depending on the specific circumstances of the case and the situation at the time of application of a particular rule.

In the second Chapter, **"The Legal Nature of the Margin of Appreciation of States under the European Convention for the Protection of Human Rights and Fundamental Freedoms"**, consisting of two sections, the twofold legal nature of the Doctrine is revealed, that corresponds with two approaches to the definition of "Margin of Appreciation of States" - a methodological and functional - that were identified in the first paragraph of the first Chapter of the dissertation.

In the first paragraph **"The Margin of Appreciation of States as the Sectoral Principle of the Law of International Protection of Human Rights"** an analysis of the legal nature of the Doctrine in terms of a methodological approach to the definition of "Margin of Appreciation of States" is provided. The author gives arguments that Doctrine is intraindustry principle of the law of international protection of human rights, that provides the most efficient way to achieve the goals of international cooperation at the stages of its establishment, implementation and development by imparting some flexibility to the system of the international treaty. This Doctrine has at least the following properties within the principle of the law of international protection of human rights: the recognition by the international community of States; the role of the foundation of the development and functioning of law; the role of regulator of public relations and the criterion of the lawfulness of behavior, a reflection of the regularities of law; universality of application; enforcement and positive reinforcement.

In the second paragraph **"Margin of Appreciation as the Powers of the State"**, author gives an analysis from the standpoint of the Doctrine of the functional approach to the definition of "Margin of Appreciation of States" concept. In this approach, the discretion refers to the power possessed by the state in fulfilling its international legal obligations undertaken in accordance with the international Treaty.

The third Chapter **"Peculiarities of the Application of the Doctrine of the Margin of Appreciation of States in Cases of the European Court of Human Rights on the Violations of Individual Articles of the European Convention for the Protection of Human Rights and Fundamental Freedoms"** consists of

six sections and provides the detailed analysis of the Court practice in order to identify factors that affect the amount of the Margin of Appreciation of States.

As the result of the analysis of the Court practice reflected in **the first paragraph "The Practice of Application of the Doctrine of the Margin of Appreciation of States in Cases on the Protection of Procedural Rights (in order of articles 5 and 6 of the Convention, Protocol No. 7 and Protocol No. 14)"**, the author identifies two groups of factors responsible for the wide Margin of Appreciation of States in cases on the protection of procedural rights. The first group of factors includes considerations of public safety. They can be called common, because the rights guaranteed by other articles of the Convention, may also be subject to limitations on the same grounds. Certain public institutions, which are essentially limiting the rights to freedom - prison, psychiatric hospitals and the army - can be attributed to the particular factors. But in order for the Court came to the conclusion that there is no violation of the Convention, the restriction must be first, in proportion to the danger, to prevent which was intended to limit, and secondly, produced in accordance with the requirements applicable in the state of the law (i.e. not arbitrary) and thirdly, due to sufficient reasons justifying a derogation from the requirements of the Convention.

In **the second paragraph of "The Practice of Application of the Doctrine of the Margin of Appreciation of States in Cases on the Protection of Personal Freedoms (in the order of articles 8, 9, 10 and 11 of the Convention)"** author also identifies several factors that affect the amount provided to the States margin of appreciation.

In particular, under article 8 of the Convention ("The Right to Respect for the Private and Family Life") States have a wide Margin of Appreciation in the following areas: custody, guardianship, adoption, immigration, access to information about the threat to human health and the environment the means of production, the rights of sexual minorities and prisoners.

With regard to article 9 of the Convention ("Freedom of Thought, Conscience and Religion") wide Margin of Appreciation is available to States in cases where it

is, for example, about the religious worship in places of deprivation of liberty and persons refusing military service on religious grounds.

A wide margin of appreciation in cases of alleged violation of article 10 of the Convention ("Freedom of Expression") is recognized by Court in matters relating to morality and national security, commercial information, advertising, licensing, media, ideas that contradict with European constitutional order (fascism, racism and anti-Semitism), the spread of defamation against the judiciary.

Article 11 of the Convention ("Freedom of Assembly and Association"), according to the jurisprudence of the Court, presumes availability for States of a wide Margin of Appreciation in cases involving issues of national security, public safety and prevention of disorder.

In the third paragraph of "The Practice of Application of the Doctrine of the Margin of Appreciation of States in Cases on Protection of Property Rights (article 1 and article 2 of Protocol No. 1 to the Convention)" author, basing on an analysis of the relevant practice of the Court, states that the margin of appreciation afforded to States in the context of restrictions of property rights is wide. In addition, compliance with socio-economic rights impose on States positive obligations, which is traditional for the practice of the Court, expands the discretion of the States.

In the fourth paragraph "The Practice of Application of the Doctrine of the Margin of Appreciation of States in Cases of Prohibition of Discrimination (article 14 of the Convention)" it is noted that in practice the Court under article 14 of the Convention the Margin of Appreciation of national authorities in the application of different measures based on gender, race or birth is actually reduced to zero. The differences according to other characteristics, including dependence on sexual orientation are not subject to such strict control for compliance with article 14 of the Convention.

In the fifth paragraph "The Practice of Application of the Doctrine of the Margin of Appreciation of States in Cases of Deviation from Compliance (in accordance with article 15 of the Convention)" author considers the practice of the Court on article 15 of the Convention, which allows States to take measures of

an exceptional nature in derogation of the Convention in the event of an emergency threatening the life of the nation. In general, the Court often leaves States the right to use a wide Margin of Appreciation in this category of cases. The court in this case is guided by considerations of judicial efficiency and the principle of subsidiarity as well as the need to preserve the primary role of national authorities in assessing the emergency and making the most adequate measures.

Strict control by the Court is required when there is reason to believe that the state refers to extraordinary circumstances, only to hide the human rights and freedoms violations. In addition, extraordinary circumstances may be invoked as grounds for departing from a number of fundamental rights enumerated in section 2, article 15 of the Convention, namely, the states have no Margin of Appreciation in assessing the possibility of suspension of the right to life, prohibition of torture and inhuman or degrading treatment, the prohibition of slavery and forced or compulsory labor and the prohibition of retroactive law.

In the sixth paragraph "**The Practice of the Doctrine of the Margin of Appreciation of States in the Cases against the Russian Federation**", after analyzing the practice of the Court against Russia, author notes that the decision on these cases are generally in line with the general trends in the application for the Doctrine of the Court in the present cases, the defendant in the which are the other states. In cases against Russia the Court resorted to both narrow and wide application of the Margin of Appreciation. In assessing the circumstances of the cases against the Russia the Court sought to complete a detailed analysis of all the relevant circumstances.

In **conclusion** the main results and conclusions of the dissertation research conducted by the author are formulated.

The **appendix** contains a table summarizing the results of the analysis of the practice of the Court determining the factors influencing the width of the Margin of Appreciation of States, and the compilation of quotes, most clearly indicating features of the application of the Doctrine.

The author published the following scientific works on the topic of dissertation research:

1. Orekhov, O. S. The Doctrine of the Margin of Appreciation of States and the Theory of Legal Pluralism / Orekhov, O. S. // International Legal Readings. - 2009. - No. 8. - P. 45.

including in the editions recommended by higher attestation Commission of the Ministry of education and science of the Russian Federation:

2. Orekhov, O. S. "The Doctrine of the Margin of Appreciation of States" in the Practice of International Judicial Bodies / Orekhov, O. S. // Moscow Journal of International Law. - 2009. - № 2 (74). - P. 244.

3. Orekhov, O. S. On some Peculiarities of Application of the Doctrine of the Margin of Appreciation of States by the European Court of Human Rights / Nut O. S. // Society and law. - 2009. - № 2 (24). - P. 252.

4. Orekhov, O. S. The Margin of Appreciation of States as International Legal Doctrine / Orekhov, O. S. // Legal Science and Practice: Bulletin of Nizhny Novgorod Academy of the MIA of Russia. - 2015. - № 1 (29). - P. 301.

5. Orekhov, O. S. On the Margin of Appreciation of States in the Practice of the European Court of Human Rights / Orekhov, O. S. // Bulletin of the Volga University named after V. N. Tatishchev. - 2015. - № 1 (82). - P. 88.