

# Administrative and legal status of subjects implementing the state policy of Ukraine in the field of justice under the legal regime of martial law

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**Abstract.** The article examines the administrative and legal status of subjects of justice under the legal regime of martial law in Ukraine. It assesses how the introduction of martial law changes the functioning of judicial and law enforcement bodies, their powers and mechanisms for administering justice under extraordinary circumstances. Methodology. The scientific research is based on both general and special methods of scientific knowledge. In particular, the method of documentary analysis and formal-legal and analytical methods have been used in the process of analysing the provisions of individual regulatory legal acts, international documents, as well as the works of domestic scientists, which provide a comprehensive analysis of these provisions. Structural-logical and system-functional methods have been used to ensure a comprehensive study and systematic analysis of the introduction of martial law on the administrative and legal status of judicial bodies, prosecutor's offices and other justice bodies in Ukraine; to assess changes in the mechanisms for the implementation of justice and the powers of justice bodies in conditions of restrictions on rights and freedoms; to identify problems arising in connection with the adaptation of judicial practice to the conditions of martial law; to analyse the legal and organisational aspects of ensuring human rights during martial law; to study the role of international norms and standards in ensuring justice under martial law; to consider the issue of digitalisation of administrative processes in justice bodies under conditions of restrictions on physical presence; to identify areas for improving regulatory and legal regulation to ensure the effective functioning of justice in the context of an emergency legal regime. Results. The article examines the issue of adapting legal norms to new conditions, identifies the limits of the powers of justice subjects, as well as balancing between ensuring security and protecting human rights. It highlights the need to improve the legislative framework for effective regulation of the activities of justice bodies during martial law, as well as the integration of international standards into national legislation. The article also focuses on the importance of maintaining the independence of judges and prosecutors under the restrictions that arise during martial law and on the need to ensure justice under conditions of high risk to national security. Separately, the issues of security of justice are considered, in particular through the activities of the Court Security Service and the role of local governments in ensuring law and order and implementing decisions of central authorities. The article notes that an important condition for the stability of justice is a prompt response to violations of citizens' rights and the preservation of fundamental human rights even during emergencies. Prospects for further research include the development of clear recommendations on the regulatory regulation of the powers of justice bodies, the improvement of judicial practice under martial law, and the study of the role of digitalisation of administrative processes in justice, which will contribute to ensuring access to justice even during restrictions arising from martial law and will help maintain the stability and fairness of the judicial system of Ukraine.

**Key words:** administrative and legal status, justice, martial law, judicial system, human rights, digitalisation, powers of justice bodies, international standards.

## INTRODUCTION

In the context of the legal regime of martial law in Ukraine, there is a need to review and adapt the administrative and legal status of justice subjects. Martial law imposes significant restrictions on the usual procedures of justice while expanding the powers of the executive and judicial authorities aimed at ensuring security and stability in the state. The outlined changes require a detailed study of the impact of the legal regime on the activities of courts, prosecutors, and other law enforcement agencies, since it is necessary to find a balance between restrictions on human rights and ensuring national security.

Changes in the administrative and legal status of justice subjects concern not only courts but also bodies that implement state policy in the field of justice, such as prosecutors and security services for judges. During martial law, the issues of preserving the independence of courts, protecting human rights in conditions of restrictions on rights and freedoms, as well as the efficiency of considering cases related to national security, are important. In this context, the development of a clear regulatory framework for the functioning of justice bodies in conditions of emergency circumstances becomes relevant.

Particular attention should be paid to the development of law enforcement activities under martial law, as well as the integration of international norms regulating the activities of courts and prosecutors during

emergencies. The presence of harmonised legal norms will ensure stability and fairness in the judicial system, even under the restrictions imposed during martial law.

## RESEARCH METHODOLOGY

The scientific research is based on both general and special methods of scientific knowledge. In particular, the method of documentary analysis, formal-legal and analytical methods have been used in the process of analysing the provisions of individual regulatory legal acts, international documents, as well as the works of domestic scientists, which provide a comprehensive analysis of these provisions. Structural-logical and system-functional methods have been used to ensure a comprehensive study and systematic analysis of the introduction of martial law on the administrative and legal status of judicial bodies, prosecutor's offices and other justice bodies in Ukraine; to assess changes in the mechanisms for the implementation of justice and the powers of justice bodies in conditions of restrictions on rights and freedoms; to identify problems arising in connection with the adaptation of judicial practice to the conditions of martial law; to analyse the legal and organisational aspects of ensuring human rights during martial law; to study the role of international norms and standards in ensuring justice under martial law; to consider the issue of digitalisation of administrative processes in justice bodies under conditions of restrictions on physical

presence; to identify areas for improving regulatory and legal regulation to ensure the effective functioning of justice in conditions of an emergency legal regime.

Based on the comparative legal method and the generalisation method, a comprehensive analysis of the administrative and legal status of justice subjects under martial law in Ukraine has been carried out, in particular, an assessment of the impact of the martial law legal regime on the activities of judicial bodies, the prosecutor's office and other subjects has been provided, as well as the identification of the main problems and challenges that arise in the process of their functioning under conditions of an emergency legal regime.

The validity and reliability of the study are ensured by using a system of sources: regulatory and legal acts of various legal force, scientific commentaries, etc. The risks of regulatory ambiguity and unsystematic application are reduced by using categories established in legal science.

The methodological limitations of the study are associated with the informational closure of certain aspects of the activities of subjects implementing the state policy of Ukraine in the field of justice. These factors are compensated for by using data from various sources, verifying them, comparing them with generally accepted approaches in the theory of administrative law, and critically analysing the information presented in them.

## RESULTS

In recent years, considerable attention has been paid to the issues of adapting existing legal norms to new conditions. In particular, A. Sakhno [1, pp. 105–106] investigated changes in the activities of judicial bodies under the influence of martial law, in particular, how the legal regime of martial law changes the mechanism of justice implementation and affects the expansion of the powers of state authorities, in particular, courts and prosecutors.

A significant aspect is the change in the legal status of justice subjects, in particular courts and prosecutors, which has been highlighted by O. Khotynska-Nor, N. Bakayanova and M. Kravchenko [2, pp. 44–48], who focused on the need to preserve the principle of the rule of law even in the difficult conditions of martial law. They pointed out the importance of preserving the independence of judges and prosecutors, despite the restrictions on their powers arising from the introduction of an emergency legal regime. At the same time, it is indicated that in conditions of martial law, the prosecutor's office has significantly expanded functions to supervise the legality of the actions of military administrations and law enforcement agencies, which must be clearly regulated to avoid abuses.

Despite a significant number of studies, certain aspects related to the adaptation of judicial practice in conditions of martial law remain insufficiently disclosed. As noted by O. Melnyk [3, pp. 65–69], the problem of clearly defining the boundaries of the prosecutor's office's powers during martial law remains open. The issue of ensuring human rights in conditions of restriction of rights and freedoms, when on the one hand it is necessary

to ensure national security and on the other - to preserve the legal protection of citizens, requires further study. In particular, Kosteniuk notes that the legal basis for the effective work of the prosecutor's office in conditions of martial law must be clearly defined to prevent abuses and ensure proper control over the actions of other bodies.

The problem of ensuring the security of justice in conditions of martial law requires special attention. S. Khominich [4, p. 555; 5, pp. 108–110] indicates that in emergency circumstances the functions of the Court Security Service can be significantly expanded. However, he also emphasises the need for clear legal regulation of the powers of this service, since its activities must meet security standards as well as efficiency requirements in conditions of increased threats. However, the issues of integrating security services into a single justice system and interacting with other law enforcement agencies remain insufficiently studied.

Another important issue is the need to adapt judicial practice to the conditions of martial law. As noted by O. Kozhushko [6, pp. 127–128], an important direction of development is the harmonisation of national legal norms with international human rights standards. He emphasises that the international legal framework can become an important mechanism for preserving fairness and justice in conditions of martial law. However, the mechanisms for integrating international norms into national legislation require further study, in particular in terms of their application during emergencies.

The problems arising from the introduction of digital technologies in the sphere of justice are one of the most important and least studied topics. In particular, I. Bykov [7, pp. 110–111] notes that the digitalisation of administrative processes allows the maintenance of the efficiency of justice even in conditions of limited physical presence in courts and prosecutor's offices. At the same time, ensuring data security and protecting citizens' personal information is a critically important aspect that requires further development of legal regulation. It is necessary to develop strategies for the digitalisation of justice that take into account both the latest technologies and international standards for the protection of personal data.

The problems associated with the functioning of local government bodies under martial law, in particular their interaction with central authorities in matters of maintaining law and order and the implementation of justice, also remain unsolved. As noted by M. Tyukhtiy and M. Yushchenko [8, pp. 60–62] and H. Markovych [9, pp. 96–98], local governments, having received additional powers, are responsible for the proper functioning of justice on the ground. However, their legal status and the limits of their powers require a clear legislative definition in order to avoid exceeding their competence and violating the rights of citizens.

Thus, despite the large number of studies, the problem of the administrative and legal status of justice subjects under martial law in Ukraine requires further development in several important areas. In particular, it is necessary to focus on a clearer definition of the limits of the powers of prosecutors, on the integration of international norms into national legislation, as well as on ensuring the

security of justice in the context of digitalisation.

## DISCUSSION

The administrative and legal status of subjects implementing state policy in the field of justice under the legal regime of martial law requires detailed analysis, since this regime significantly affects the functioning of public authorities. The introduction of martial law in Ukraine changes the procedure for administering justice, since restrictions on normal procedures and the increase in the powers of executive and judicial authorities occur in conditions of increased threat to national security. During such changes, it is important to maintain a balance between the need to strengthen security and protect human rights, which is an important component of the problem under study.

Under martial law, the rights, obligations and limits of powers of subjects of justice change. The procedure for the functioning of judicial bodies and other institutions of justice undergoes significant changes, since existing procedures are adapted to new realities. At the same time, it is important to adhere to the basic principles of justice, even when the activities of judicial bodies are significantly limited. Courts and prosecutors must work in conditions that require enhanced guarantees of legality and human rights, despite the temporary restrictions that arise during the period of emergency legal regime.

The role of the courts during martial law is to ensure the independence of the judiciary and the protection of citizens' rights even under increased administrative restrictions. The judicial system must remain operational, maintaining the principles of the rule of law, even when restrictions on rights and freedoms are necessary for the security of the state. The issue of adapting judicial practice to new conditions is also important, which allows for maintaining the functionality of the judicial system even in extreme circumstances.

The changes taking place in the administrative and legal status of the prosecutor's office during martial law are also of significant importance. The prosecutor's office plays a key role in ensuring the legality and control over the activities of bodies dealing with security issues. It is also important to have clear regulation of the powers of the prosecutor's office during the emergency legal regime to prevent abuse and ensure proper legal control. Prosecutors must act within the law, maintaining independence, which is critical for maintaining the rule of law even during martial law.

During martial law, an important role in ensuring the security of justice is assigned to the bodies responsible for the protection of justice, in particular the Court Security Service. The functions of this service are significantly expanded, since it is entrusted with the task of ensuring the security of judges and participants in the process in conditions of growing threats. It is important to clearly regulate the powers of these bodies, since their activities must meet the requirements of security and efficiency. The expansion of the functions of such services requires harmonisation of their powers with the activities of other law enforcement agencies, which will

ensure a comprehensive approach to the protection of justice in conditions of high danger.

Military administrations have a significant impact on the administrative and legal status of subjects of justice in conditions of martial law, since they perform important functions in ensuring national security and public order. These bodies have broad powers in managing state resources and security, which directly affects the activities of judicial bodies. It is important to clearly legislatively define the status of military administrations and the limits of their powers to avoid the concentration of power in individual hands. It is necessary to strictly control the implementation of these powers, in particular to ensure the rights and freedoms of citizens when their rights are restricted in emergency conditions.

The functioning of executive bodies, such as the Ministry of Justice of Ukraine, in martial law is of key importance for the effective implementation of justice. Executive bodies must act within their powers so as not to violate human rights and not exceed their functions. If this balance is violated, there is a threat to the stability of the legal system even in times of war. The expansion of the functions of these bodies includes control over the implementation of military and administrative orders and the provision of justice, which requires constant improvement of legislative regulation to ensure human rights even in crisis conditions.

The legal framework for the activities of justice bodies during martial law should be based on the principles of the rule of law and constitutional guarantees of rights and freedoms. Violations of human rights, even during wartime, are unacceptable, and the role of the courts and prosecutors is to ensure proper legal control over the legality of the actions of authorities. Taking into account international legal standards is an important aspect for maintaining the stability of the legal system, since without clear guarantees of human rights and proper law enforcement, the justice system is unable to function stably in crisis situations. During martial law, the role of local governments becomes critically important, since these bodies must coordinate their activities with state authorities to ensure security and stability on the ground. After the introduction of martial law, they receive additional powers to ensure law and order and implement decisions of central authorities. However, this also raises the question of determining the limits of their powers, since exceeding their competence can lead to violations of citizens' rights. Clear regulation of these powers is necessary to ensure balanced interaction between central and local authorities, which prevents the concentration of power in individual bodies and guarantees respect for human rights.

The digitalisation of administrative processes in justice bodies is another important aspect of the legal regime of martial law. In conditions of limited physical presence in courts and prosecutors' offices, the use of digital technologies becomes necessary to maintain the efficiency of justice and administrative procedures, which includes electronic court proceedings and digital platforms for filing claims and documents, which significantly simplifies processes and ensures access to justice even in difficult

conditions. At the same time, it is necessary to pay attention to the issues of data security and the protection of citizens' personal information, since these aspects are critically important for the smooth operation of the judicial system.

The adaptation of international norms is an important component of regulating the administrative and legal status of justice subjects during martial law. Taking into account international legal standards ensures proper control over the actions of authorities, which contributes to the preservation of fairness and justice even in emergency situations. It is particularly important that national laws are harmonised with international norms, which maintains trust in the judicial system and ensures the implementation of decisions of international courts, which guarantees respect for human rights at the international level, even when national authorities implement restrictions in martial law.

Judicial reform during martial law is extremely important, as it is necessary to ensure the effectiveness of justice while maintaining the independence of the courts and the transparency of processes. Changes in procedural norms should accelerate the consideration of cases related to state security and ensure access to legal mechanisms for persons who cannot be present at court sessions. It is also important to prepare judges and lawyers for work in martial law, in particular, training in human rights, international humanitarian law and the specifics of considering cases involving violations of citizens' rights during emergencies, which will increase trust in the judicial system and contribute to the effective functioning of justice even in wartime.

The administrative and legal status of justice subjects under martial law requires constant improvement and clear regulatory regulation that meets the new circumstances. The introduction of martial law significantly changes the activities of judicial and law enforcement bodies, in particular, affects the processes of justice administration and expands the powers of executive authorities and courts to ensure security in the state, which entails the need to balance the effectiveness of justice and the protection of fundamental human rights, in particular the right to a fair trial, which is a critical aspect for the stable functioning of the legal system. The judicial system during martial law must maintain its independence, which is the basis for ensuring justice. Despite the strengthening of administrative restrictions and the growth of the powers of the authorities, the courts must operate in accordance with international standards, without violating human rights. It is important to provide additional guarantees of legality, especially in conditions of high risk to national security, when the functionality of the judicial system is exposed to serious challenges. This requires constant adaptation of judicial practice and mechanisms that ensure justice even in extraordinary circumstances.

The Prosecutor's Office also undergoes changes in its administrative and legal status during martial law. In addition to supervising the implementation of laws, it must guarantee the protection of citizens' rights in conditions of restriction of human rights due to

the emergency legal regime. The Prosecutor's Office plays an important role in controlling the activities of military administrations and other bodies that ensure security and defence. At the same time, to prevent abuse, clear regulatory regulation of the limits of the prosecutor's powers and ensuring proper legal control are necessary.

Ensuring the security of justice in conditions of martial law is also an important task, in particular through the functioning of the Court Security Service. In conditions of growing threats, these bodies play an expanded role in ensuring the security of judges and participants in the process. It is important to clearly define the legal status of these bodies and harmonise their powers with other law enforcement bodies, as well as effectively regulate their activities in order to ensure the proper functioning of the justice system even in extreme conditions.

For the effective functioning of justice under martial law, it is necessary to further improve the administrative and legal status of justice subjects through the development of clear regulatory acts regulating the powers of judicial bodies, prosecutors' offices and other law enforcement agencies, which includes the creation of mechanisms for regulating the activities of justice bodies under the conditions of an emergency legal regime, determining the limits of powers and responsibilities of each subject. Amendments to the legislation must take into account the specifics of the legal regime of martial law, ensuring the effective functioning of justice without violating fundamental human rights and freedoms, in particular the right to a fair trial. The next stage of development is the adaptation of judicial practice to the conditions of martial law, which involves the development of new approaches to the consideration of cases related to state security. The judicial system must be ready to consider cases related to restrictions on the rights and freedoms of citizens, in particular in situations where violations of rights arise from military administrations or law enforcement agencies. Despite the need to promptly consider such cases, it is important to ensure the preservation of the independence of judges and compliance with the principle of the rule of law, which guarantees fair consideration of cases even under significant restrictions.

The expanded role of the prosecutor's office in martial law is not only to supervise the implementation of laws but also to control the use of emergency measures introduced during this period. It is important to clearly define the limits of the prosecutor's office's powers in order to avoid abuses and ensure proper legal control over the activities of other bodies. The prosecutor's office must exercise effective control over the implementation of legal norms without violating the rights of citizens and ensure compliance with constitutional guarantees even if it is necessary to restrict certain rights during the emergency legal regime.

Strengthening the institution of the Court Security Service is an important aspect of the development of the administrative and legal status of justice subjects during martial law. In conditions of growing threats, these bodies must perform

a key function in ensuring the physical security of judges and participants in the process. It is necessary to clearly define the powers of the Court Security Service, harmonising them with other law enforcement agencies to ensure a comprehensive approach to the protection of justice. At the same time, it is important to ensure proper regulatory regulation so that these agencies operate effectively and do not violate human rights, even in difficult conditions of martial law.

Therefore, to ensure the proper functioning of justice in conditions of martial law, it is necessary to make adjustments to the current legislation regulating the functioning of justice agencies, as well as to develop clear regulatory and legal acts that will determine the limits of the powers of judges, prosecutors and other law enforcement entities. The key is to achieve a balance between enhanced security measures and the protection of human rights, maintain the independence of the judiciary and prosecutors, as well as respond promptly to violations of citizens' rights. Further development of digital technologies in justice and harmonisation of national legislation with international human rights standards will create the basis for the stability and fairness of Ukraine's judicial system, even during martial law, which will ensure the effective functioning of justice and strengthen citizens' trust in the country's legal system.

#### **CONCLUSIONS**

The importance of improving the administrative and legal status of justice subjects under martial law has been determined through the development of clear regulatory acts that define the powers of the judiciary, the

prosecutor's office and other law enforcement agencies. The legal regime of martial law requires flexible adaptation of national legislation to changes that arise during emergencies, in particular, in terms of human rights guarantees, ensuring justice and the stability of the judicial system.

Prospects for further research include the development of specific recommendations on the regulatory regulation of the activities of justice bodies under martial law, in particular, determining the limits of their powers and responsibilities to prevent abuses. In particular, it is necessary to clarify the procedures related to the adaptation of judicial practice to new conditions and ensure the preservation of the independence of judges and prosecutors even in difficult circumstances. It is also important to continue studying the role of the prosecutor's office and other bodies in ensuring the rights and freedoms of citizens, taking into account the peculiarities of the legal regime of martial law.

An additional perspective is the study of the digitalization of administrative processes in justice, which will become an important component for ensuring the efficiency of justice in conditions of limited physical presence in courts and prosecutors' offices. The development of national policy in this area should include mechanisms for protecting personal data and ensuring access to justice even in conditions of martial law. Taking into account international legal standards in national legislation is also a promising direction for further research, since ensuring the harmonization of national laws with international treaties will contribute to maintaining justice at the proper level and maintaining international trust in the legal system of Ukraine in emergency situations.

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