Principles of proportionality and legality in the system of administrative-legal protection of citizens' rights during the legal regime of martial law

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Abstract. The application of the principles of legality and proportionality in protecting citizens' rights under martial law is examined. Both principles are identified as interrelated legal standards governing the grounds, limits and procedures for exercising public authority. Legality requires public administration bodies to act within their statutory competence, follow prescribed procedures and provide legal grounds for decisions affecting individual rights. Proportionality requires restrictions to pursue a legitimate aim, be necessary and remain commensurate with the threat addressed. A research gap is identified concerning criteria for applying both principles to individual administrative decisions. A combined assessment framework is substantiated. Its substantive criteria include a clear legal basis, the competence of the decision-making body, a legitimate aim, the necessity of interference, the absence of less restrictive alternatives, and a fair balance between public interests and individual rights. Procedural safeguards include adequate factual reasoning, compliance with statutory time limits, notification of affected persons, access to relevant information, and effective administrative and judicial review. Priority improvements include clarifying the grounds, scope and duration of restrictive measures, introducing mandatory proportionality assessments and periodic reviews, and strengthening public officials' accountability. Particular attention is given to judicial scrutiny of decisions affecting property, freedom of movement, privacy and social rights. Systematic monitoring based on legality, proportionality, timeliness and the actual restoration of violated rights is substantiated. Further research should address practical assessment tools and the legal consequences of non-compliance with proportionality requirements.

Key words: legality, proportionality, martial law, citizens' rights, public administration, administrative-law protection.

INTRODUCTION

Under martial law, the administrative-law protection of citizens' rights requires public authorities to balance national defence and public security interests with the constitutional obligation to respect and protect human rights. Articles 19 and 64 of the Constitution of Ukraine [1] establish the requirements of legality in the exercise of public authority, provide for the possibility of temporary restrictions on certain constitutional rights and guarantee the preservation of rights that cannot be restricted, while Articles 1 and 8 of the Law of Ukraine "On the Legal Regime of Martial Law" [2] define the legal grounds and conditions for introducing relevant restrictive measures. A. Kubko, examining the proportionality of restrictions on human rights during martial law, emphasises that state interference must pursue legitimate public interests, including national defence, security and territorial integrity, while remaining proportionate to the threats addressed [3, pp. 103–110].

L. Serdiuk, analysing the principle of proportionality as a criterion for the lawful restriction of constitutional rights and freedoms during martial law, highlights the importance of assessing the legitimacy of state interference [4, pp. 150–151]. Nevertheless, the practical application of the principles of legality and proportionality remains problematic, particularly in determining the competence of public authorities, the factual grounds for administrative decisions, the necessity and scope of restrictions, and the availability of effective mechanisms for reviewing and appealing them. Thus, the relevance of the topic is determined by the need to establish clear legal and procedural criteria for applying the principles of legality and proportionality within the administrative-law protection of citizens' rights and to prevent unjustified restrictions on individual rights under martial law.

The issue of applying the principles of proportionality and legality in the administrative-law protection of citizens' rights under martial law has been addressed in several areas of Ukrainian legal scholarship, particularly in relation to constitutional restrictions on human rights, the powers of public authorities and the legal regulation of emergency regimes. Y. Tkachenko, V. Hryb, S. Zharko and O. Keda, examining restrictions on human rights under martial law, identified the legislative grounds, temporary nature and procedural requirements governing restrictions on constitutional rights [5]. However, their research focuses primarily on the constitutional legitimacy of restrictions and does not provide a comprehensive assessment of how proportionality and legality should be applied by public administration bodies when adopting individual administrative decisions.

S. Koretskyi, analysing the legal framework of the administrative-law regime of martial law, examined the regulatory foundations of the special legal regime and identified shortcomings in the distribution and implementation of powers by military administrations, particularly in frontline areas [6]. The study draws attention to discrepancies between statutory provisions and the practical conditions under which public administration operates during hostilities, including the absence of a clear legislative definition of the frontline zone. Nevertheless, the relationship between the principles of proportionality and legality and the practical assessment of individual restrictive administrative measures remains insufficiently developed.

V. Hovorov, investigating current problems concerning the powers of military administrations under martial law, analysed the constitutional and legislative framework governing their activities and the distribution of competences between military administrations and local self-government bodies [7, pp. 88–94]. Particular attention was paid to inconsistencies in the legal regulation of public

authority, the simultaneous functioning of different administrative institutions and the need to clarify their respective powers. At the same time, the study does not provide a detailed methodological framework for assessing whether decisions adopted by military administrations comply with the requirements of necessity, proportionality and legality when citizens' rights are restricted.

L. Bielova and H. Honcharenko, examining the administrative and legal framework of public administration under martial law and emergency situations, identified legislative gaps, excessive centralisation of powers, insufficient coordination between military and civilian administrations, and weaknesses in democratic oversight [8, pp. 422–440]. Their comparative analysis of European practices contributed to identifying approaches to balancing the effectiveness of public administration with the protection of human rights and maintaining democratic control during emergencies. However, the research primarily addresses institutional and regulatory arrangements, while the practical application of proportionality and legality as independent criteria for reviewing administrative interference with individual rights requires further examination.

V. Pieshkov, analysing directions for improving the administrative-law foundations of public administration under martial law, focused on adapting administrative principles, improving institutional capacity and ensuring effective responses to wartime challenges [9, pp. 163–165]. The study identifies organisational and regulatory measures for maintaining public administration and protecting national security, but does not sufficiently elaborate on the procedural guarantees that should accompany restrictive administrative decisions or the legal consequences of disproportionate interference with citizens' rights.

V. Teremetskyi analyses proportionality as a means of balancing public interests and human rights, identifying a legal basis, a legitimate aim, necessity and a fair balance as criteria for assessing restrictions [10, pp. 348–350]. V. Teremetskyi and S. Vasyliev examine the grounds for introducing martial law and emphasise the need for their precise legislative definition [11, pp. 4–6]. These studies inform the present analysis of legality and proportionality. Building on their findings, this article focuses on connecting the legal basis of an individual administrative measure with the justification of its necessity and consequences for the affected person.

The research's aim is to examine the legal foundations and practical application of the principles of proportionality and legality within the system of administrative-law protection of citizens' rights under martial law and to substantiate directions for improving their implementation.

Research objectives are:

1. To clarify the legal nature, content and functional significance of the principles of proportionality and legality in the administrative-law protection of citizens' rights under martial law.

2. To identify the legal criteria and procedural requirements governing the application of proportionality and legality by public administration bodies when adopting decisions that restrict citizens' rights.

3. To substantiate directions for improving the regulatory, administrative and judicial safeguards ensuring compliance with the principles of proportionality and legality during martial law.

The scientific novelty lies in providing a comprehensive justification of the principles of proportionality and legality as interrelated legal foundations of administrative-law protection of citizens' rights under martial law, identifying the criteria for their practical application and substantiating measures to strengthen administrative and judicial safeguards against unjustified restrictions on individual rights.

METHODS

The methodological framework of the study is based on a combination of general scientific and specialised legal research methods. The dialectical method was employed to examine the relationship between the principles of legality and proportionality and their application to the protection of citizens' rights under martial law. The formal legal method was used to analyse constitutional provisions and legislative regulations governing the exercise of public authority and the restriction of individual rights. The system-structural method was applied to identify the substantive and procedural criteria for assessing the lawfulness and proportionality of administrative decisions. The comparative legal method was used to examine scholarly approaches to the powers of public authorities, military administrations and institutional safeguards under special legal regimes. The functional method enabled the assessment of the practical application of legality and proportionality requirements, particularly in determining legitimate aims, the necessity of administrative interference and the availability of less restrictive measures. The methods of analysis, synthesis and logical generalisation were employed to identify regulatory gaps, substantiate requirements for administrative and judicial review, and formulate proposals for improving legal safeguards, institutional accountability and the restoration of violated citizens' rights under martial law.

RESULTS

The principles of legality and proportionality constitute interrelated legal foundations of administrative-law protection of citizens' rights under martial law, determining the limits, grounds and procedures for exercising public authority. The principle of legality requires public administration bodies to act within their statutory competence, comply with established administrative procedures and provide legal justification for decisions affecting individual rights, whereas proportionality requires any interference to pursue a legitimate aim, remain necessary and correspond to the severity of the threat addressed. In our view, the legal significance of both principles lies in preventing arbitrary administrative interference, maintaining a balance between national security interests and individual rights, and ensuring the availability of effective legal remedies.

The distinction between the grounds for introducing martial law and the grounds for a particular restrictive measure is essential to this assessment. Teremetskyi

and Vasyliev's analysis concerns the first level: the legal definition of threats and the grounds for introducing the special regime [11, pp. 5–6]. For individual administrative decisions, we argue that a further inquiry is required into the specific statutory power, the competent authority and the facts justifying its exercise. The existence of martial law cannot, by itself, establish the lawfulness of every restrictive decision.

V. Hovorov, examining current problems concerning the powers of military administrations under martial law, identified regulatory inconsistencies and difficulties in delineating the competences of public authorities operating under the special legal regime [7, pp. 88–94]. L. Bielova and H. Honcharenko, analysing the administrative and legal framework of public administration under martial law and emergency situations, emphasised the need to clarify public authorities' powers, strengthen institutional oversight and maintain a balance between administrative efficiency and human rights protection [8, pp. 422–440]. However, the studies primarily address institutional and regulatory issues, while the substantive criteria for applying proportionality and legality to individual administrative decisions, particularly decisions restricting constitutional rights, require further theoretical development.

V. Pieshkov, investigating ways to improve the administrative-law foundations of public administration under martial law, substantiated the need to adapt administrative principles and regulatory mechanisms to wartime conditions [9, pp. 163–165]. Nevertheless, the practical relationship between the requirements of legality and proportionality, including the assessment of legitimate aims, necessity of interference, availability of less restrictive measures and balance between public and private interests, remains insufficiently systematised. In our view, both principles should be applied as mandatory and complementary criteria for assessing administrative decisions, with their observance ensured through reasoned decision-making, administrative review, judicial oversight and effective restoration of violated rights.

The application of the principles of legality and proportionality in administrative decision-making under martial law should be based on a set of substantive and procedural criteria governing the exercise of public authority. The substantive criteria should include the existence of a clear legal basis, the competence of the authorised body, pursuit of a legitimate aim, the necessity of interference, the absence of less restrictive alternatives and a reasonable balance between public interests and the rights of the individual. The procedural requirements should encompass adequate factual justification, clear reasoning of administrative decisions, compliance with statutory time limits, notification of affected persons and the availability of effective administrative and judicial review.

Teremetskyi's analysis further requires attention to less burdensome means of achieving a legitimate aim and to the relationship between the harm to individual rights and the public benefit pursued [10, pp. 349–350]. Applied to the framework proposed here, this means that a public authority should assess whether less restrictive alternatives could achieve the legitimate aim equally effectively and explain why the burden imposed remains justified. A statement that a measure serves national security should therefore be supported by an assessment of its concrete effects.

V. Hovorov, examining the powers of military administrations under martial law, identified legislative inconsistencies in the distribution of competences between public authorities and military administrations, emphasising the need to ensure the legality of their activities [7, pp. 88–94]. L. Bielova and H. Honcharenko, analysing the administrative and legal framework of public administration under martial law and emergency situations, highlighted regulatory gaps, excessive centralisation of powers and insufficient institutional oversight [8, pp. 422–440]. However, the studies focus primarily on institutional and regulatory arrangements and do not establish a comprehensive set of substantive and procedural criteria for assessing the proportionality of individual administrative decisions restricting citizens' rights.

V. Pieshkov, examining directions for improving the administrative-law foundations of public administration under martial law, substantiated the need to adapt administrative principles, decision-making procedures and institutional capacity to wartime conditions [9, pp. 163–165]. Developing the identified approaches, it is considered necessary to introduce a mandatory proportionality assessment for administrative decisions restricting citizens' rights, including verification of the factual grounds, legitimate purpose, necessity, duration and territorial scope of the interference. Particular importance should be attached to periodic review of restrictive measures, effective complaint procedures and judicial scrutiny, with the burden of providing adequate justification placed on the public authority adopting the decision.

Improving the administrative and legal safeguards for citizens' rights under martial law requires the establishment of clear legislative requirements governing the exercise of public authority and the restriction of individual rights. It is necessary to specify the legal grounds, legitimate purposes, scope and duration of restrictive measures, while ensuring that every administrative decision is supported by sufficient factual and legal justification. Particular attention should be paid to preventing arbitrary interference with constitutional rights through clear limits on the discretionary powers of public administration bodies.

An important direction for improvement should involve introducing a uniform procedure for assessing the proportionality of administrative decisions affecting citizens' rights. The assessment should include verification of the legitimacy of the intended objective, the actual necessity of the measure, the availability of less restrictive alternatives and the balance between public security interests and the rights of affected individuals. It is also necessary to establish mandatory periodic reviews of restrictive measures to verify whether their continuation remains justified by the prevailing security circumstances.

The effectiveness of legal safeguards should be strengthened through improved administrative and judicial review of decisions, actions and omissions of public authorities. It is necessary to establish clear deadlines for considering complaints, ensure access to relevant information and provide effective remedies for unlawful restrictions, including the restoration of violated rights and compensation where legally justified. Particular importance should be attached to judicial scrutiny of decisions affecting property rights, freedom of movement, privacy and social rights, especially when administrative authorities exercise expanded powers under martial law.

An additional direction should involve strengthening institutional accountability and coordination among executive authorities, military administrations, local self-government bodies and judicial institutions. The introduction of systematic monitoring based on the legality of administrative decisions, the proportionality of restrictive measures, the timeliness of responses and the actual restoration of violated rights should be considered necessary. The priority should be the establishment of a coherent system of administrative-law protection in which national security requirements are balanced against constitutional guarantees through effective legal procedures, institutional oversight and accountability for unlawful interference with citizens' rights.

DISCUSSION

The findings of the study substantiate the need to consider the principles of legality and proportionality as interdependent legal requirements governing the exercise of public authority under martial law. Their application should not be limited to a formal assessment of whether administrative decisions comply with statutory provisions. It should also encompass an examination of the legal grounds, legitimate objectives, necessity and consequences of interference with citizens' rights. In this respect, the study develops the general approach to administrative-law protection by establishing substantive and procedural criteria for assessing the lawfulness of decisions adopted by public administration bodies under special legal conditions.

The identified findings are consistent with V. Hovorov's conclusions concerning regulatory inconsistencies and difficulties in delineating the powers of military administrations and other public authorities under martial law [7, pp. 88–94]. At the same time, the present study extends this approach by establishing the relationship between competence-related requirements and the assessment of the proportionality of administrative decisions. It is substantiated that the existence of statutory powers does not, in itself, establish the lawfulness of every measure adopted by an authorised body. The exercise of such powers must also be supported by sufficient factual grounds, pursue a legitimate objective and remain within the limits of necessity. Accordingly, the distinction between the existence of administrative competence and the lawfulness of its actual exercise constitutes an important criterion for assessing the protection of citizens' rights.

The research findings also develop the conclusions of L. Bielova and H. Honcharenko regarding the need to clarify the powers of public authorities, strengthen institutional oversight and maintain a balance between administrative efficiency and human rights protection [8, pp. 422–440]. Whereas their approach primarily addresses institutional and regulatory arrangements, the present study specifies the legal requirements applicable to individual administrative decisions. Particular attention is given to the availability of less restrictive alternatives, the duration and territorial scope of restrictive measures, and the obligation to provide adequate reasoning. The introduction of uniform proportionality assessment procedures is therefore substantiated as an additional legal safeguard against arbitrary administrative interference.

The findings further correspond to V. Pieshkov's position on the need to adapt the administrative-law foundations of public administration to the conditions of martial law [9, pp. 163–165]. However, the proposed approach goes beyond the general adaptation of administrative principles and regulatory mechanisms by establishing specific criteria for their practical application. It is argued that legality and proportionality should operate as mandatory and complementary standards throughout the administrative decision-making process, from establishing the factual circumstances and legal grounds to reviewing the necessity of restrictive measures. Particular importance is attached to periodic reassessment of restrictions, since changes in security circumstances may affect the continued justification of administrative interference with individual rights.

A separate issue concerns the procedural guarantees accompanying the exercise of expanded public powers under martial law. The study substantiates that adequate legal protection requires not only the availability of administrative and judicial review but also clear complaint procedures, reasonable time limits, access to information concerning the grounds for administrative decisions and effective remedies against unlawful interference. The burden of providing sufficient factual and legal justification should rest with the public authority adopting a restrictive decision. Judicial scrutiny is particularly important in cases involving property rights, freedom of movement, privacy and social rights, where administrative measures may have substantial consequences for individuals.

The practical significance of the findings lies in identifying the legislative, procedural and institutional measures necessary to strengthen the application of legality and proportionality in public administration. These include clarifying the legal grounds, purposes and limits of restrictive measures, establishing uniform proportionality assessment procedures, introducing periodic reviews, strengthening institutional accountability and improving coordination among executive authorities, military administrations,

local self-government bodies and judicial institutions.The proposed monitoring criteria, encompassing the legality of administrative decisions, proportionality of restrictions, timeliness of administrative responses and actual restoration of violated rights, provide a basis for assessing the effectiveness of the relevant safeguards.

Thus, the findings confirm that the protection of citizens' rights under martial law depends not only on the formal existence of legal restrictions and public powers but also on the availability of effective mechanisms for controlling their exercise. The principal contribution of the study consists in substantiating a combined substantive and procedural approach to applying the principles of legality and proportionality, under which every interference with individual rights must have a clear legal basis, pursue a legitimate objective, remain necessary and be subject to effective review. Further research should focus on developing practical assessment instruments for administrative decisions, determining the legal consequences of non-compliance with proportionality requirements and improving procedures for restoring rights unlawfully restricted under martial law.

CONCLUSION

The study has established that the principles of legality and proportionality constitute essential safeguards of administrative-law protection of citizens' rights under martial law, ensuring that the exercise of public authority remains within statutory limits and justified by legitimate security objectives. It has been substantiated that their effective implementation requires clear legal grounds for restrictive measures, adequate reasoning of administrative decisions, assessment of necessity, consideration of less restrictive alternatives and periodic review of restrictions imposed on individual rights. Particular importance has been assigned to strengthening administrative and judicial oversight, establishing accessible complaint procedures, clarifying the competences of public authorities and ensuring accountability for unlawful interference with citizens' rights. Further research should focus on developing practical criteria for assessing the proportionality of administrative decisions, improving procedural safeguards and establishing effective mechanisms for restoring violated rights while maintaining an appropriate balance between national security requirements and constitutional guarantees.

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