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PERMISSIBLE RESTRICTIONS OF HUMAN AND CIVIL RIGHTS DURING THE MILITARY STATE

Relevance of the topic: To know and understand what rights and freedoms of a person and citizen can be restricted during the period of martial law in Ukraine, how these limitations affect citizens, and to what new conditions it is necessary to adapt.

Key concepts: Martial law, human rights and civil rights, restriction limitations of human and civil rights.

Since the beginning of a full-scale war in Ukraine, this topic has not only been relevant but also mandatory for every citizen of Ukraine. Therefore, it was interested and studied by both scientists and lawyers and ordinary citizens.

With the beginning of a full-scale war, the life of every Ukrainian changed, not only factually, but legally as well. Military actions and constant threats require certain restrictions on the constitutional rights and freedoms of a person and citizen for the safety of the population.

Due to the military aggression of the Russian Federation against Ukraine, by the Decree of the President of Ukraine dated February 24, 2022, No. 64/2022 "On the Imposition of Martial Law in Ukraine," approved by the Law of Ukraine dated February 24, 2022, No. 2102-IX, martial law was introduced in Ukraine from 05:30 on February 24, 2022, for a period of 30 days.

By the Decree of the President of Ukraine dated March 14, 2022, No. 133/2022, the term of martial law in Ukraine was extended from 05:30 on March 26, 2022, for a period of 30 days.

By the Decree of the President of Ukraine dated April 18, 2022, No. 259/2022, the validity of martial law in Ukraine was extended from 05: 30 on April 25, 2022, for a period of 30 days.

The term of martial law in Ukraine was extended from 05:30 on November 21, 2022, for a period of 90 days, according to the Decree of the President of Ukraine No. 757/2022 dated November 7, 2022. [2]

Article 3 of the Decree defines that in connection with the imposition of martial law in Ukraine temporarily, for the period of the legal regime of martial law, constitutional rights and freedoms of individuals and citizens provided for by Articles 30-34, 38, 39, 41-44, 53 of the Constitution of Ukraine may be restricted, temporary restrictions on the rights and legitimate interests of legal entities are also imposed to ensure the measures and powers envisaged by the Law of Ukraine "On the Legal Regime of Martial Law" necessary to ensure Ukraine's defence, public safety and state interests.

The content of the legal regime of martial law, the procedure for its introduction and abolition, the legal principles of the activities of state authorities, military

command, military administrations, local self-government bodies, enterprises, institutions, and organizations under conditions of martial law, guarantees of the rights and freedoms of individuals and citizens, and the rights and legitimate interests of legal entities are determined by the norms of the Law of Ukraine "On the Legal Regime of Martial Law".[3]

The military command under martial law is given the right together with the state administrations, military administrations, and local self-government bodies to introduce and implement measures of the martial law regime. For this purpose, military command is empowered to issue mandatory orders and directives on defence, public safety and order, and the implementation of measures of the martial law regime, which must be executed.

What restrictions can be imposed during a state of war?

Regarding individuals:

1. Introduce labour duty for certain categories of operable persons who are not involved in work related to ensuring the livelihood of the population, and the defence industry, and not reserved by enterprises, institutions, and organizations.

Thus, only operable individuals aged 16 and over who do not have health restrictions to work in conditions of a state of war may be involved in socially useful work, including unemployed persons; employees of enterprises operating under conditions of a state of war (with the agreement of their managers) - in the order of transfer; individuals engaged in personal farming; students of higher educational institutions, pupils, and trainees of vocational schools; self-employed persons.

It is prohibited to involve minors; children aged fourteen to fifteen, women who have children less than three years of age, as well as pregnant women if such work may hurt their health.

2. Introduce curfew - a ban on staying on the streets at a certain time of the day without special permits;

3. Establish a special regime for entry and exit, restrict the freedom of movement of citizens, foreigners, and persons without citizenship, as well as the movement of vehicles;

4. Check documents of individuals and, if necessary, inspect their belongings, vehicles, luggage and cargo, service premises, and housing of citizens, except for restrictions established by the Constitution of Ukraine.

5. Prohibit or restrict the choice of place of residence or place of stay for individuals on the territory where a state of war is in effect;

6. Prohibit the trade of alcoholic beverages and substances produced on an alcohol basis, as well as weapons, powerful chemicals and poisonous substances;

7. Introduce, if necessary, regulated provision of the population with basic food and non-food items;

8. Establish military quartering duty for physical and legal persons for the accommodation of military personnel, personnel of law enforcement agencies, civil defence personnel, evacuated population, and placement of military units, subdivisions, and institutions;

9. Conduct the evacuation of the population if there is a threat to their life or health, as well as material and cultural values, if there is a threat to their damage or destruction, according to the list approved by the Cabinet of Ministers of Ukraine. [4]

Regarding legal entities:

1. Use the capacities and labour resources of enterprises, institutions, and organizations of all ownership forms for defence needs, change their working regime, make other changes in their production activities, as well as working conditions by the labour legislation;

2. Issue orders (directives) on the dismissal of managers of enterprises, institutions, and organizations without maintaining their wages for improper performance of duties determined by this Law, and orders (directives) on the appointment of performers of the duties of managers of the mentioned enterprises, institutions, and organizations during the period of the legal regime of martial law;

3. In case of violation of the requirements or failure to comply with the measures of the legal regime of martial law, confiscate electronic communication equipment, television, video, and audio equipment, computers, and, if necessary, other technical means of communication from enterprises, institutions, and organizations of all ownership forms, as well as from individual citizens;

4. Forcefully alienate property, including that which is in private or communal ownership, seize the property of state-owned enterprises, and state-owned economic associations for the needs of the state in the conditions of the legal regime of martial law in the manner prescribed by law, and issue corresponding documents of the established form.

At the same time, if the value of the such property has not been previously compensated, its full value must be compensated subsequently in the manner determined by law.

After the cancellation of the legal regime of martial law, if the property that was forcibly alienated has been preserved, the former owner or their authorized person has the right to demand the return of such property through the courts. Additionally, the former owner of the forcibly alienated property may demand the provision of other property in exchange if possible. [5]

During the implementation of the legal regime of martial law, authorized bodies have the right to prohibit peaceful assemblies, demonstrations, marches, and other mass events, as well as to regulate the work of electronic communication networks and/or services providers, printing enterprises, publishers, broadcasting organizations, television and radio centres, and other enterprises, institutions, organizations, and cultural establishments and media, and to prohibit the transmission of information through computer networks.

In areas where hostilities are taking place, the introduction and implementation of such measures of the martial law regime are directly entrusted to the military command and military administrations.

Due to the imposition of martial law in Ukraine, during the period of the martial law regime, the constitutional rights and freedoms of individuals and citizens provided for in Articles 30-34, 38, 39, 41-44, and 53 of the Constitution of Ukraine will be restricted temporarily. Temporary restrictions on the rights and legitimate interests of legal entities to ensure the possibility of introducing and implementing measures of the martial law regime, provided for in the first part of Article 8 of the Law of Ukraine "On the legal regime of martial law" (paragraph 3 of the Decree of the President of Ukraine dated February 24, 2022 No. 64 "On the introduction of martial law in Ukraine"), may also be imposed. [2]

List of restrictions during martial law

Article 30 Everyone is guaranteed the inviolability of their dwelling.

Article 31 Everyone is guaranteed the privacy of their correspondence, telephone conversations, telegraph and other communications.

Article 32 No one may be subjected to interference in his private and family life, except when such interference is stipulated by the Constitution of Ukraine.

Article 33 Every person, legally staying in the territory of Ukraine is guaranteed freedom of movement, free choice of place of residence, and the right to freely leave the territory of Ukraine, except restrictions stipulated by law.

Article 34 Everyone is guaranteed the right to freedom of thought and speech, and the right to free expression of his views and beliefs.

Article 38 Citizens have the right to participate in the administration of state affairs, in All-Ukrainian and local referendums, freely elect and be elected to the bodies of State power and local self-government.

Article 39 Citizens have the right to assemble peacefully, without arms, and to hold meetings, rallies, processions and demonstrations, upon notifying the executive authorities or local self-government bodies in advance.

Article 41 Everyone has the right to own, use and dispose of his property, the results of his intellectual and creative activities.

Article 42 Everyone has the right to entrepreneurial activity not prohibited by law.

Article 43 Everyone has the right to work, including the possibility to earn a living by labour that he freely chooses or to which he freely agrees.

Article 44 Those who are employed have the right to strike to protect their economic and social interests.

Article 53 Everyone has the right to education. [1]

Conclusion: Thus, the Military Command, together with the other executive bodies and local self-government bodies, must ensure the measures and powers envisaged by the Law of Ukraine “On the Legal Regime of the Martial Law” necessary to ensure Ukraine’s defence, public safety and state interests.

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