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PROHIBITIONS AND RESTRICTIONS ON HUMAN RIGHTS AND FREEDOMS DURING MARTIAL LAW

According to Article 1 of the Law of Ukraine "On the Legal Regime of Martial Law", martial law is a special legal regime introduced in Ukraine or in some of its localities in the event of armed aggression or threat of attack, danger to the state independence of Ukraine, its territorial integrity; it provides the state authorities, military command, military administrations and local self-government bodies with powers necessary to avert the threat, repulse armed aggression and ensure national security, eliminate the threat of danger to the state independence of Ukraine, its territorial integrity, as well as imposes temporary, threat-induced restrictions of constitutional rights, human and citizen freedoms, the rights and legitimate interests of legal entities with an indication of the period of validity of these restrictions. The legal basis for the introduction of martial law is the Constitution of Ukraine, the Law of Ukraine "On the Legal Regime of Martial Law" and the decree of the President of Ukraine on the introduction of martial law in Ukraine or in some of its localities approved by the Parliament of Ukraine. In connection with the introduction of martial law in Ukraine, the constitutional rights and freedoms of a person and a citizen, provided in Articles 30 - 34, 38, 39, 41 - 44, 53 of the Constitution of Ukraine, may be temporarily limited for the period of the legal regime of martial law; temporary restrictions on the rights and legal interests of legal entities within the limits and to the extent necessary to ensure the possibility of introducing and implementing the measures of the legal regime of martial law, which are provided by the first part of Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law", may also be introduced.

According to Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law", in Ukraine or in some of its localities, where martial law has been introduced, the military command together with military administrations (if they are formed) may implement the following measures of the legal regime of martial law:

1. to establish (strengthen) the protection of objects of state importance, objects of state importance of the national transport system of Ukraine, and objects that ensure the vital activities of the population and to introduce a special mode of their operation;

2. to introduce labor obligation for able-bodied persons who are not engaged in the defense sphere and the sphere of ensuring the livelihood of the population and are not reserved for enterprises, institutions or organizations during the period of martial law for the purpose of performing works of a defensive nature, as well as liquidation of the consequences of emergency situations, which arose during the period of martial law. Under martial law, such persons may be involved in socially beneficial works, which are performed to meet the needs of the Armed Forces of Ukraine, other military formations, law enforcement agencies and civil defense forces ensuring the functioning of the national economy and life support system and do not require, as a rule, special professional training of persons;

3. to use the capacities and labor resources of enterprises, institutions and organizations of all forms of ownership for the needs of defense, change their mode of operation, carry out other changes in production activity and working conditions in accordance with labor legislation;

4. forcibly expropriate property that is in private or communal ownership, seize property of state enterprises, state economic associations for the needs of the state in the conditions of the legal regime of martial law in accordance with the procedure established by law and issue relevant documents of the established model;

5. to introduce a curfew in accordance with the procedure determined by the Cabinet of Ministers of Ukraine (prohibition of being on the streets and other public places during a certain period of the day without specially issued passes and certificates), as well as to establish a special light masking regime;

6. to establish a special entry and exit regime, limit the freedom of movement of citizens, foreigners and stateless persons as well as vehicles in accordance with the procedure determined by the Cabinet of Ministers of Ukraine;

7. to check the documents of persons in accordance with the procedure determined by the Cabinet of Ministers of Ukraine and, in the case of need, to conduct an inspection of things, vehicles, baggage and cargo, office premises and citizens' homes, except for the restrictions established by the Constitution of Ukraine;

8. to prohibit the holding of peaceful meetings, rallies, marches and demonstrations, other mass events;

9. to raise, in accordance with the procedure established by the Constitution and laws of Ukraine, the issue of banning the activities of political parties and public associations if it is aimed at eliminating the independence of Ukraine, changing the constitutional order by violent means, violating the sovereignty and territorial integrity of the state, undermining its security, illegal seizure of state authorities, propaganda of war, violence, incitement of inter-ethnic, racial, religious enmity, encroachment on human rights and freedoms, public health;

10. to establish, in accordance with the procedure determined by the Cabinet of Ministers of Ukraine, a ban or restriction on the choice of the place of stay or the place of residence of persons in the territory where martial law is in force;

11. to regulate, in accordance with the procedure determined by the Cabinet of Ministers of Ukraine, the work of suppliers of electronic communication networks and/or services, printing enterprises, publishing houses, television and radio organizations, television and radio centers and other enterprises, organizations and institutions of culture and mass media, as well as use local radio stations, printing houses for military needs and for conducting explanatory work among the troops and the population; to prohibit the operation of receiving and transmitting radio stations for personal and collective use and the transmission of information via computer networks;

12. in case of violation of the requirements or non-fulfillment of measures of the legal regime of martial law, to seize electronic communication equipment, television, video and audio equipment, computers, as well as, if necessary, other technical means of communication from enterprises, institutions and organizations of all forms of ownership, individual citizens;

13. to prohibit, in accordance with the procedure determined by the Cabinet of Ministers of Ukraine, the trade in weapons, powerful chemical and poisonous substances, as well as alcoholic beverages and alcohol-based substances;

14. to establish a special regime in the field of production and sale of medicinal products containing narcotic drugs, psychotropic substances and precursors, other potent substances, the list of which is determined by the Cabinet of Ministers of Ukraine;

15. to seize educational and combat equipment, explosives, radioactive substances and materials, potent chemical and poisonous substances from enterprises, institutions and organizations;

16. to prohibit citizens who are on military or special registration at the Ministry of Defense of Ukraine, the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine to change their place of residence (place of stay) without the permission of the military commissar or the head of the relevant body of the Security Service of Ukraine or the Foreign Intelligence Service of Ukraine; to limit alternative (non-military) service;

17. to establish for individuals and legal entities the military housing obligation for the accommodation of military personnel, members of the rank and file of law enforcement agencies, personnel of the Civil Protection Service, evacuated population and the accommodation of military units, subdivisions and institutions;

18. to establish the procedure for using the fund of protective structures of civil protection;

19. to carry out evacuation of the population;

20. to introduce, if necessary, in accordance with the procedure determined by the Cabinet of Ministers of Ukraine, the standardized supply of basic food and non-food products to the population;

21. take additional measures to strengthen the protection of state secrets;

22. to intern (forcibly resettle) citizens of a foreign state that threatens to attack or commits aggression against Ukraine;

23. to carry out, in accordance with the procedure determined by the Cabinet of Ministers of Ukraine, the mandatory evacuation of detained persons who are in temporary detention centers, evacuation of suspects, accused persons, in respect of whom a preventive measure has been applied - detention, and who are in pre-trial detention centers, as well as evacuation of convicted persons serving sentences such as arrest, restriction of liberty, imprisonment for a term and life imprisonment from penitentiary institutions located in areas close to areas where hostilities are taking place to relevant institutions located in a safe area.

Temporary restrictions on the rights and legal interests of legal entities may also be introduced within the limits and scope necessary to ensure the possibility of introducing and implementing measures of the legal regime of martial law. In addition, the legislation of Ukraine provides for a whole list of rights that cannot be restricted, even in such difficult circumstances. According to Art.64 of the Constitution of Ukraine, the following rights and freedoms provided for by the Basic Law may not be limited under conditions of war or emergency: equality of constitutional rights and freedoms and equality before the law; the right to citizenship and to change citizenship; the right to life; the right to respect for dignity; the right to freedom and personal integrity; the right to send individual or collective written appeals and to receive a reasoned response to them; the right to housing; the right to have equal rights and obligations of spouses in marriage and family; equal rights of children regardless of origin, as well as whether they were born in or out of marriage; the right to judicial

protection of human and citizen rights and freedoms; the right to compensation at the expense of the state or local self-government bodies for material and moral damage; the right to know one's rights and obligations; guarantee that laws and other regulatory acts do not have retroactive effect in time, except when they mitigate or eliminate the liability of a person; the right to legal aid; the right not to comply with clearly criminal commands or orders; not to be twice brought to legal responsibility of the same type for the same offense; presumption of innocence; a guarantee that a person is not liable for refusing to testify or explain about himself, family members or close relatives, whose circle is defined by law.

At the same time, the legislation of Ukraine provides for the possibility of limiting the rights and freedoms of citizens during the period of martial law only to the extent necessary to ensure the defense of the country and the security of the state, and within the limits required by the urgency of the situation. The measures adopted in this regard, taking into account international legal norms, should not cause any discrimination of individuals or population groups exclusively on the basis of gender, race, nationality, language, origin, property and position, place of residence, relationship to religion, beliefs, affiliation to public associations, as well as on other grounds.

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