

THE RULE OF LAW UNDER MARTIAL LAW: ASPECTS OF THE ACTIVITIES OF LOCAL GOVERNMENT BODIES IN UKRAINE

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Basic legal relations in the system of activities of local government bodies in Ukraine are regulated by the Constitution of Ukraine and the Law of Ukraine «On Local Self-Government in Ukraine»². In accordance with Article 64 of the Constitution of Ukraine³, restrictions on rights and freedoms during martial law are defined. Among the rights and freedoms of a person and a citizen, which cannot be limited during martial law, are the following:

- equal constitutional rights and freedoms and equality before the law;
- «tolerance»: equality on the basis of race, skin color, political, religious and other beliefs, gender, ethnic and social origin, property status, place of residence, language and other characteristics;
- deprivation of citizenship or change of citizenship;
- on the unlimited rights of foreigners, as well as the rights of citizens of Ukraine, on the granting of asylum, in accordance with the procedure established by the current legislation of Ukraine;
- the right to life, the state's duty to protect people's lives;
- the right to respect for dignity;
- a person cannot be subjected to torture, humiliation, medical or scientific experiments without consent;
- the right to freedom and personal integrity;
- the right to appeal to state authorities and local government bodies;
- the right to housing and the impossibility of its deprivation;
- the right to equal responsibilities in marriage;
- equality of children's rights;
- the right to protect rights in court;
- the right to compensation at the expense of the state or local government bodies for material and moral damage caused by illegal decisions,

² Про місцеве самоврядування в Україні: Закон України. URL: <https://zakon.rada.gov.ua/laws/show/280/97-%D0%B2%D1%80#Text>

³ Конституція України. URL: <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80#Text>

actions or inaction of state authorities, local government bodies, their officials, and employees in the exercise of their powers;

- access to regulatory legal support, the opportunity to know your rights;
- professional legal assistance;
- the right to non-execution of criminal orders;
- presumption of innocence.

Therefore, the analysis of the rights and freedoms of a person and a citizen, which cannot be limited, as defined in accordance with the Constitution of Ukraine, made it possible to highlight the areas of ensuring constitutional rights that are directly related to the activities of local self-government in the conditions of martial law:

- ensuring the human right to housing providing temporary shelter in case of destruction or damage, restoration of utility service delivery systems in case of destruction of networks, their damage;

- citizens who need social protection, housing is provided by the state and local government bodies free of charge or for a fee that is affordable to them in accordance with the law;

- the right to participate in local self-government by belonging to the relevant territorial communities;

- organization of the work of enterprises, institutions and organizations that are communally owned by territorial communities in conditions of martial law, assistance in providing opportunities for the functioning of enterprises, institutions and organizations that are not communally owned by territorial communities;

- simplifying procedures for hiring and checking representatives of executive bodies of local self-government;

- a certain simplification of the regulatory mechanisms assigned to the competencies of local government bodies.

In the event of the introduction of martial law within the territories of territorial communities, in which village, settlement, city councils and/or their executive bodies, and/or village, settlement, city mayors do not exercise the powers assigned to them by the Constitution and laws of Ukraine, as well as in other in the cases provided for by Law⁴, military administrations of settlements are formed. The main tasks of military administrations are: measures to ensure defense, public safety and order, protection of critical infrastructure, implementation of measures to ensure the legal regime.

In addition to determining certain limitations in the steam regulation of the activities of local government bodies, it is advisable to determine the expansion of powers, in particular, the following measures:

⁴ Про правовий режим воєнного стану: Закон України. URL: <https://zakon.rada.gov.ua/laws/show/389-19#Text>

- release of communally owned land plots from illegally placed temporary structures;
- inspection and dismantling of buildings and structures and their structural elements in case of their damage, threat to life and health of people;
- creation of opportunities for donations to meet the needs of the armed forces of Ukraine, territorial defense units;
- fight against natural disasters and cleaning up the consequences, prevention and avoidance of emergency situations.

According to the results of the analysis of regulatory and legal support and the selection of areas of activity of local government bodies that are directly related to the needs of the population, with the determination of the priorities of the population in relation to basic needs in three categories (refugees, forcibly displaced persons, local residents), a ranking of the needs of the population was carried out from activities of self-government bodies under martial law.

According to the conducted analysis and development of the ranking matrix, it was determined that social and humanitarian problems have the highest priority for the population⁵. Such a situation should be associated with full-scale military aggression against Ukraine, loss of work, closure of business, displacement of persons due to active hostilities, loss of housing and other humanitarian and social factors. Accordingly, it was determined that the priority of local government bodies should be to provide opportunities to overcome the consequences of a full-scale military invasion of the Russian Federation by providing solutions to the social and humanitarian needs of the population. As a result of the analysis of the areas of activity of local government bodies and the prioritization of the population's request for the services of local government bodies in the conditions of martial law, a ranking matrix of the areas of activity of local government bodies was created, in particular, according to the following requests of the population:

- Humanitarian needs;
- Social and household needs;
- Economic needs;
- Requests for documents and legal support⁶.

In conclusion, we note that with the beginning of the full-scale invasion of the Russian Federation into Ukraine, certain restrictions on the rights and freedoms of people and citizens were introduced, including restrictions on the activities of local self-government bodies in accordance with the Law of

⁵ Yuvsechko, Y. ., Shaulskyi, M. ., Zaiats, N. ., & Seniv, L. . (2023). ASPECTOS JURÍDICOS DAS ATIVIDADES DOS ÓRGÃOS DE AUTOGOVERNO LOCAL SOB LEI MARCIAL. *Lex Humana (ISSN 2175-0947)*, 15(2), c. 351–352.

⁶ Там само, c. 354.

Ukraine «On the Introduction of Martial Law»⁷. In addition to limitations in the legal system, as a result of the analysis of the current legislation of Ukraine, a number of expanded powers of local self-government bodies were identified, which relate to the regulation of relations in the system of illegally placed temporary structures, the inspection and dismantling of buildings and structures and their structural elements in case of damage. creation of opportunities for donations to meet the needs of the armed forces of Ukraine, territorial defense units, forcibly displaced persons, cooperation with international funds, partners, public organizations, etc.

That is, the expansion of powers in the system of legal regulation of the activities of local self-government bodies was aimed at ensuring the urgent needs of the population during the period of military aggression.

⁷ Про затвердження Указу Президента України «Про введення воєнного стану в Україні»: Закон України. URL: <https://zakon.rada.gov.ua/laws/show/2102-20#Text>