

REVIEW PAPER

The Impact of Martial Law on Law Enforcement and Law Enforcement Authorities: The Study of National and International Experience

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ABSTRACT

The full-scale invasion of Russia into Ukraine on February 24, 2022, turned the usual life of Ukrainians upside down. Although the war in the country has been going on for almost 10 years, martial law has affected the state apparatus, including law enforcement authorities. The purpose of the academic paper is to characterize the impact of martial law on law enforcement and law enforcement authorities in the context of domestic and foreign experience. The activities of law enforcement authorities in Ukraine are aimed primarily at protecting society and the state in conditions of martial law, as well as at investigating crimes committed by Russia against the Ukrainian people. The invaluable exchange of experience with foreign colleagues has already yielded tangible results, contributing to coordinated and fruitful work for the benefit of society. The activities of law enforcement bodies have changed under martial law. The existing responsibilities have been supplemented by new ones defined by the relevant regulatory acts. Law enforcement authorities continue to effectively fulfill their tasks, including in places where active hostilities are taking place, bringing victory closer step by step. An issue of imposition of martial law has been covered in the academic paper. The features of the impact of martial law on law enforcement, including changes in legislation, have been characterized. The peculiarities of pre-trial investigation and court proceedings under martial law, including investigation of war crimes, crimes against humanity and acts of genocide, prosecution for collaboration, and protection of human rights have been considered. The issues of detection of sabotage and reconnaissance groups, organization of checkpoints' activities, and evacuation of civilians have been separately identified. The analysis of the international legal experience of law enforcement authorities in the conditions of a full-scale war has been conducted.

HIGHLIGHTS

- ❶ The imposition of martial law in Ukraine has led to significant transformations in the duties, powers, and procedures of law enforcement authorities, necessitating the adaptation of their functions to address new challenges arising from the full-scale invasion, and these changes have been successfully implemented to ensure defense, national security, and public order.
- ❷ Law enforcement agencies in Ukraine have effectively adjusted to the demands of the full-scale war, expanding their roles beyond traditional law enforcement functions, embracing

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new powers and obligations, collaborating with international partners, and demonstrating resilience in maintaining public safety and order despite the complexities introduced by the martial law conditions.

Keywords: Martial law, law enforcement, law enforcement authorities, war crimes

Ukraine is currently living in conditions of martial law. The law enforcement system under martial law has undergone significant changes. The need to expand the powers of law enforcement officers is caused by the changes caused by the war. In the context of martial law, law enforcement officers have to exercise their duties as well as to address other urgent issues related to recording the consequences of hostile attacks, evacuating civilians, performing tasks in combat zones, and patrolling during curfews. It is worth noting that the activities of law enforcement authorities before and after full-scale invasion have not changed, but rather transformed. New challenges, new strategies of actions, and new practices of searching and detecting criminals, including sabotage and reconnaissance groups, as well as other equally important actions have been added.

LITERATURE REVIEW

The issue of law enforcement bodies' activities during the period of martial law in Ukraine has not been covered in many studies since this topic is quite new and has not been sufficiently developed yet. At the same time, domestic researchers are trying to find a balance between the established norms of law enforcement and the features of the imposition of martial law. The President of Ukraine imposed martial law, which, to put it mildly, caused a transformation in public life for which society was unprepared. During the imposition of martial law, law enforcement authorities underwent additional changes due to the introduction of additional legislative provisions that had not been previously applied in law enforcement activities. Various aspects of law enforcement activities after the full-scale invasion have been studied by a significant number of domestic scholars. For instance, S. Kolomiiets and S. Baran (2022) in their joint study revealed the features of police powers during martial law. The problems of ensuring citizens' rights in the activities of the National Police of Ukraine in the conditions of martial law are outlined in detail in the scientific work of S. Husarov (2022). The domestic researcher I. Zozulia (2022) conducted a detailed

study of the legal support for the activities of the bodies of the Ministry of Internal Affairs of Ukraine during martial law, and the peculiarities of the work of law enforcement bodies in conditions of martial law are set out in the exploration of D. Kaznacheiev (2022). V. Tymofieiev's publication (2022) presents a compelling analysis of some aspects of preparing police and military personnel for duty during a special wartime period. V. Pavlenko (2022) raises the issue of cooperation between domestic law enforcement bodies and EU countries to overcome the consequences of Russia's armed aggression in his study. The interest of studying this issue is primarily due to the social-economic changes that took place in society after the imposition of martial law. Currently, our state faces numerous challenges, the main ones of which are related to the violation of security, territorial integrity, sovereignty and other constitutional rights. In view of this, the issue of the role of law enforcement authorities in this difficult time for Ukraine is of great importance and requires constructive consideration.

Given the scientific studies, the issue of the impact of martial law on law enforcement and law enforcement authorities in the domestic and international context remains unresolved.

The purpose of the research is to characterize the impact of martial law on law enforcement and law enforcement authorities in the framework of national and international experience.

RESEARCH METHODS

The method of legal analysis involves the study of legislation relating to the imposition of martial law and its impact on law enforcement. In particular, this method refers to examining the new responsibilities that law enforcement authorities have acquired after the imposition of martial law in Ukraine. These responsibilities include various actions of the police aimed at detecting and neutralizing sabotage and reconnaissance groups, ensuring order and compliance with law enforcement requirements, including at checkpoints and during curfew patrols. The method of comparison helps conduct a comparative analysis of the study of

law enforcement in Ukraine and other countries under the conditions of martial law. At the same time, this method makes it possible to consider the cooperation and experience of domestic law enforcement bodies and EU member states, in particular, in the investigation of crimes against humanity that Russia commits every day.

RESULTS

The beginning of the full-scale invasion was marked by a new status for Ukraine – the status of a country in which a full-scale war provoked by the Russian Federation started. The Decree of the President of Ukraine No. 64/2022 as of February 24, 2022 imposed the legal regime of martial law (The Decree of the President “On the Imposition of Martial Law in Ukraine”, 2024), approved by the Law of Ukraine No. 2102-IX as of February 24, 2022 (The Law of Ukraine “On Approval of the Decree of the President of Ukraine “On the Imposition of Martial Law in Ukraine”, 2024).

The domestic researcher V. O. Bass defines martial law as a specific legal regime that operates during the period when a country or its separate territory is under threat of security or in other emergency circumstances, military aggression, armed conflicts, events that make the normal life of the state unbearable (Bass, 2023). At the same time, the Ukrainian researcher Savchuk states that the imposition of martial law in the country primarily affects not only the solution of tasks related to ensuring order in society but also aims to mobilize the activities of law enforcement officers to effectively perform tasks requiring immediate response in the conditions of martial law (Savchuk, 2022). The issue of the activities of law enforcement authorities during the period of martial law in Ukraine is controversial due to a number of determining circumstances. In view of this, it is worth noting that the features of the imposition of martial law in Ukraine are regulated by a number of legal acts that not only determine the direction of state policy but also indicate the vector for the activities of state bodies. The major legal acts include the Constitution of Ukraine as of 28.06.1996 (The Constitution of Ukraine, 2024), the Law of Ukraine No. 389-VIII (The Law of Ukraine “On the Legal Regime of Martial Law”, 2024), the Law of Ukraine “On Civil-Military Administrations” (The Law

of Ukraine “On Civil-Military Administrations”, 2024), decrees of the President of Ukraine on the imposition and extension of martial law in Ukraine, the Resolution of the Cabinet of Ministers of Ukraine regarding “Issues of Introduction and Ensuring the Implementation of Measures of the Legal Regime of Martial Law in Ukraine” (Issues of Introduction and Ensuring the Implementation of Measures of the Legal Regime of Martial Law in Ukraine, 2024), etc.

The domestic researcher D. Kaznacheiev argues that law enforcement authorities are state bodies that act in strict accordance with the current legislation of Ukraine. Their activities are related to the performance of law enforcement functions, ensuring legality, objectivity, immediate response, prevention and suppression of offenses (Kaznacheiev, 2022). Article 2 of the Law of Ukraine No. 3781-XII contains a list of state bodies that, according to the law, have the functions of law enforcement authorities (The Law of Ukraine “On State Protection of Judicial and Law Enforcement Officers”, 2024).

According to Article 1 of the Law of Ukraine “On National Security of Ukraine”, law enforcement authorities are recognized as bodies belonging to the system of the security and defense sector of Ukraine (The Law of Ukraine “On National Security of Ukraine”, 2024). These authorities include, in particular, state special-purpose bodies empowered with law enforcement functions.

The outlined list is not exhaustive since law enforcement authorities can also include other state structures that are aimed at protecting and safeguarding the social order. As part of the liquidation or reorganization, new law enforcement bodies with law enforcement functions may appear, for which the protection of order and other spheres of social and economic life will be of paramount importance (Kaznacheiev, 2022).

According to M. Akopian, the national police entity is a subject of the security and defense sector. Its responsibilities include general and special tasks, including ensuring the protection of state sovereignty, territorial integrity of the state, economic and defense potential, citizens’ rights, etc. (Akopian, 2022).

Law enforcement authorities are called upon to ensure security and order in society, but in times

of war, they have to perform various functions that they did not perform before the imposition of martial law or that were performed by other bodies. It is worth emphasizing that the imposition of martial law has led to changes in the powers, competence, rights and obligations, practices and procedures of law enforcement bodies. New rights and obligations were added to the already legally enshrined responsibilities, defined by special regulations. After February 24, 2022, the relevant legal acts were supplemented with new norms concerning the rights and obligations of law enforcement authorities. The effectiveness and efficiency of their activities over almost two years of full-scale war has been noted quite positively since they continue to ensure defense and national security in the state. Assistance is provided to citizens suffering from the aggressive actions of the Russian Federation; monitoring and detection of new violations that had not been recorded before the full-scale invasion are carried out; mechanisms for pre-trial investigation and judicial proceedings under martial law have been established. O.M. Koropatov defines the features of cooperation between law enforcement authorities and the bodies of territorial defense. The main aspects of cooperation include as follows: joint planning and development of mutual measures aimed at enhanced patrolling, convoying various cargoes (humanitarian aid, explosive cargo, temporarily displaced persons, and weapons), training and use of military weapons, ensuring the functioning of checkpoints with permanent law enforcement officers, protection of government offices, etc. (Koropatov, 2022).

According to the viewpoint of S. Kolomiets and S. Baranov, police officers can use various coercive measures during martial law in Ukraine, including physical force, special means to restrain an offender, and firearms in some cases. These types of measures and the permission to use them are determined by the legislation of Ukraine. At the same time, the law contains a list of means that are prohibited to be used by police officers during the performance of their tasks. At the same time, the position of the legislator is quite interesting, which states that law enforcement officers have the right to apply any measures of influence or any type of weapon to persons involved in armed aggression against

Ukraine, despite the prohibition established by law. A police officer has the right to apply coercive measures to an offender participating in armed aggression against Ukraine without warning. Such actions are perceived as legal (Kolomiets, 2022).

According to the standpoint of H. K. Teteriatnyk, the factors hindering the peculiarities of criminal proceedings under the special legal regime in force in Ukraine include, first of all, as follows:

- ♦ a special type of hazard in a particular area;
- ♦ impossibility to get to the place of the offense;
- ♦ full or partial restriction of the functioning of state power in the territory of the criminal offense;
- ♦ specific organizational and managerial actions related to conducting procedural actions and making procedural decisions;
- ♦ full or partial blocking of certain procedural institutions, as well as the emergence of new procedural methods, means and guarantees of criminal proceedings in extraordinary conditions (Teteriatnyk, 2022).

It is worth noting that active hostilities limit the access of law enforcement authorities to the territories where a crime has been committed, or there is a need for certain procedural actions. This applies, in particular, to the interrogation of witnesses, inspection of the crime scene, collection and preservation of information from open sources, recovery of lost criminal proceedings, interrogation of victims, etc. Since 2014, the procedural activities of law enforcement authorities have not been possible on the territory that is currently occupied. Lawlessness is actually in effect there. Although the legitimate Ukrainian authorities are urging residents of the occupied territories to leave the non-government controlled areas, there are a number of significant circumstances that prevent them from leaving this territory. At the same time, the legislator has not found a way out of this situation yet. Law enforcement authorities in the occupied territories do not actually possess information about the crime situation, the specifics of law enforcement, and the protection of Ukrainian citizens. Amendments to Article 615 of the CPC of Ukraine have become a certain triumph of law enforcement in the conditions of a full-scale invasion (Criminal

Procedure Code of Ukraine, 2024). The wording of this article defines a special regime of criminal proceedings under conditions of martial law. The issue concerns, in particular, ensuring prompt and effective investigation of crimes in the conditions of martial law, especially in areas of active hostilities and areas as close to them as possible.

The imposition of martial law in Ukraine has affected the peculiarities of pre-trial proceedings, in particular, in terms of the timeframe for notifying the offender of the offense. Paragraph 7 of Article 615 of the CPC of Ukraine states that if it is impossible to serve a person with a suspicion within 24 hours of his or her detention, this period may be doubled and amount to 48 hours instead of 72 hours, as defined in the previous version of this article. In addition, if law enforcement authorities fail to serve a person with a suspicion within 48 hours, the person should be released in accordance with the legislation of Ukraine (Criminal Procedure Code of Ukraine, 2024).

Paragraph 9 of Article 615 of the CPC of Ukraine defines the cases in which a motion to impose a preventive measure on an offender may be made via video link. This applies when it is physically impossible to bring a detained person to court within 72 hours (Criminal Procedure Code of Ukraine, 2024).

In general, martial law has made its own adjustments to the CPC of Ukraine, defining a number of significant changes relating to various aspects of pre-trial investigation. At the same time, Law of Ukraine No. 2531-IX provides for the conditions for imposing a preventive measure on persons who have committed war crimes. Such a measure is the detention of military personnel who have committed crimes for which criminal liability is incurred (The Law of Ukraine "On Amendments to the Criminal Procedure Code of Ukraine on the Selection of Preventive Measures for Servicemen Who Committed War Crimes during Martial Law", 2024). This applies, in particular, to the crimes defined in Section XIX of the CCU – Article 402 – Article 405 of the CCU, Article 407, Article 408, Article 429 of the CCU.

Modern life in Ukraine is formed on the basis of social-political, economic and military-strategic relations. National security is a determining factor

in strengthening the state's security and defense capabilities. Whereas the professional orientation of a police officer used to be aimed at preparing for combat missions, now it is necessary to take into account the need to act as part of military formations with the status of a combatant. This does not mean that the policemen are learning the same tactics as the armed forces; however, the work of a police officer should be carried out in the city, at checkpoints (Hryb & Tinin, 2023).

DISCUSSION

Therefore, law enforcement authorities must use the full range of acquired skills and abilities in the process of performing their professional activities in order to gain the support of citizens and help ensure the security and stability of the state in the conditions of martial law. Obviously, the current conditions make it extremely difficult for law enforcement bodies to fulfill their professional duties, and the policemen had to plunge into work immediately after the announcement of martial law, some aspects of which were not fully understood. They ultimately managed to stabilize the public security situation and establish a dialogue with the population, including in areas of active hostilities. Law enforcement officers, in addition to their professional duties, focused on ensuring public safety, supplying the population with humanitarian goods, evacuating people, providing first aid and performing a number of other equally important activities.

The imposition of martial law has led to reconsideration of the tasks and working conditions of law enforcement agencies. The establishment of a new type of military-police unit, the joint assault brigade "Rage", is intended to ensure enhanced performance of combat missions that are not typical for police officers. This association consists of highly motivated soldiers ready to defend Ukraine. They are basically policemen who have become combatants ready to defend Ukraine; however, their functions are similar to those of the Armed Forces of Ukraine. These functions include storming the occupied settlements, conducting "cleansing" operations and liberating the territories under occupation, etc. In general, the performance of these tasks poses a significant risk to the policemen since they do not act according to police standards but

according to military standards (Tymofieiev, 2022). I.V. Zozulia rightly noted that during a full-scale war, taking into account the active involvement of the Ministry of Internal Affairs of Ukraine and its bodies in measures to ensure a special legal regime in the state, the relevant legal acts regulating their activities should be brought to an adequate modern state (Zozulia, 2022). According to the viewpoint of A.T. Komziuk, M.A. Komziuk and E.A. Lypii, law enforcement activities during the war in Ukraine should be performed on the same grounds and at the same pace as in the pre-war period. Law enforcement authorities of all levels should ensure public order, conduct counterintelligence activities, operational search activities, etc. (Komziuk *et al.* 2020).

After the full-scale invasion, a number of functions were added to the list of law enforcement bodies that must be performed to ensure order and stability in the state. These include as follows:

- ♦ organization and provision of enhanced security and defense of important facilities, including critical infrastructure facilities
- ♦ imposing a curfew and establishing a special light camouflage mode;
- ♦ implementation of priority measures to prepare the respective territories for defense;
- ♦ ensuring control and inspection of persons, things and vehicles and other urgent actions within the competence of law enforcement authorities.

The researcher S.M. Husarov, defining the features of the functioning of law enforcement authorities in times of war, notes that as a result of the imposition of a special state in Ukraine after February 24, 2022, the Law of Ukraine “On the National Police” (The Law of Ukraine “On the National Police”, 2024) has undergone certain changes in the area of preventive police measures. Thus, police officers are allowed to check the documents of persons who look like persons who have left the place of detention of prisoners of war without permission. At the same time, the policemen are authorized to stop vehicles to check for persons who may be related to prisoners of war. In addition, S.M. Husarov in his study determines that the police officers actively use technical means, various aircraft for the analytical processing of photo or video

recording of information. Police officers may use any means at their disposal to repel an attack or detain persons who have committed an offense or are resisting police officers. It should be noted that the imposed martial law enables the police to use coercive measures without warning, including those not provided for by law (Husarov, 2022). In order to avoid conflicts or contradictions, the lawmakers should amend the Law of Ukraine “On National Security of Ukraine” by establishing the powers of all law enforcement bodies, including the National Police (Bezeha, 2020).

The international legal experience of law enforcement authorities during the period of martial law is of great importance since such interaction is aimed at results. Currently, law enforcement officers, together with their foreign colleagues, continue to work in Ukraine, whose territory has become a platform for crimes committed by the Russian Federation. All the facts of atrocities committed on the territory of Ukraine are recorded in detail. Law enforcement officials share their invaluable experience and learn how to work with evidence in wartime conditions from international colleagues. On March 26, 2022, with the support of international partners, the Prosecutors General of Ukraine, Poland and Lithuania signed an agreement to establish a joint investigation team to investigate war crimes and crimes against humanity committed in the occupied territories of Ukraine. Facts of atrocities by Russian soldiers were recorded in Kyiv, Chernihiv, and Kharkiv regions. A lot of law enforcement officers, prosecutors, and international experts have collected and continue to gather the horrific circumstances of people’s deaths. Other states gradually began to join the national law enforcement bodies. For instance, Estonia, Latvia, Slovakia, and the International Criminal Court, as a member of the group, continue to collect evidence of war crimes. It should be emphasized that all participating countries have ratified the Rome Statutes and joined the International Criminal Court.

The war has become a real trial for law enforcement authorities since it has changed not only their usual duties but also the relevant legislation. The events of February 24, 2022 proved that there are still many gaps in the legislation that need to be addressed in detail. The main condition at present is to ensure normal (as far as possible) life in society, as well as

to preserve the life and health of law enforcement officers both while performing their duties and in the process of taking other necessary actions aimed at stopping destabilization in the country.

In general, crimes against humanity are a specific type of crime that requires a detailed analysis and a special approach to its investigation. Joint actions of domestic law enforcement authorities and the practical skills of international partners should help stabilize the criminal situation in Ukraine. Within the framework of joint trainings, law enforcement officers adopt the international experience of their colleagues in order to apply it in practice. The war is still on. No one knows how much more grief it will bring to the state and its citizens. Therefore, the effective implementation of law enforcement activities will not hinder in any way, and most likely will be a useful thing aimed at the benefit of the Ukrainian people.

CONCLUSION

It can be concluded that the activities of law enforcement authorities are determined by a specific set of actions that, prior to the imposition of martial law, were aimed at ensuring the law enforcement function in the state. Based on the studies of domestic scholars, it is worth noting that after February 24, 2022, law enforcement functions have slightly changed: new rights and obligations established by special regulations have been added to the already legally enshrined duties. Introducing numerous amendments to regulatory acts has become an everyday necessity. Given the positive results, law enforcement bodies continue to fulfill their duties to the Ukrainian people. They ensure law and order not only in relatively calm administrative units but also in areas where active hostilities are taking place. Time has shown that only effective and conscientious performance of professional duties yields positive results.

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