# TRANSFORMATION OF THE PUBLIC ADMINISTRATION IN UKRAINE UNDER MARTIAL LAW

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**Abstract:** The article summarizes the problems of the transformation of the public administration system in Ukraine under martial law based on the analysis of legal acts, the results of sociological research, materials from the websites of authorities, and scientific publications. The authors emphasize the need to combine ensuring the adequacy of public administration under martial law and preserving democracy in order to maximize the rights and freedoms of citizens and their active participation in countering the enemy. The tasks, directions, as well as regulatory, organizational, and information support for the transformation of public administration are disclosed.

**Keywords:** Ukraine, transformation, public administration, martial law, civil society.

he intensification of military aggression by the Russian Federation against Ukraine on February 24, 2022 was perceived with alarm throughout the world and led to the rallying of democratic countries. Foreign public's attention is focused not only on military actions, but also on the possibilities of the political and administrative process of their support. Therefore, the transformation of the system of public administration in Ukraine under the conditions of martial law is an urgent topic of scientific research, since it is of vital importance for the life of society and the functioning of the state, it occurs dynamically under the influence of many internal and external factors, and its experience can be used in the future in similar situations.

The relevance of this problem is realized by the Ukrainian scholars, which was noted, for example, from the topics of scientific conferences in 2022, an attempt to give the scientific definition of "martial law", "public administration in the conditions of war", etc., as well as an understanding of the problems of martial law, a desire to predict political possibilities of Ukraine, especially regarding membership in the European Union and NATO.

It is also essential to consider the combination of ensuring the unity of society, strengthening the administrative influence of the state with the implementation of transformational reforms, which contributes to the growth of the role of civil society and the deepening of democratic processes.

# ORIGINS AND TASKS OF PUBLIC ADMINISTRATION TRANSFORMATION

Understanding the transformation of the public administration in Ukraine under martial law, it is appropriate to analyse the process of post-communist transformation, which has significant differences in certain countries comparing the former republics of the Soviet Union and the states of Central Europe. For the post-Soviet countries, the imperial position of Russia was one of the

inhibiting factors, which sharply strengthened in the 21st century. The conciliatory position of the major Western powers, which did not want to disrupt the status quo due to dependence on Russia for raw materials and fear of its military power, was also a notable factor. Such a position, in particular, was clearly manifested in the refusal to admit Ukraine to NATO (2008), the indecisive reaction to Russia's seizure of the Ukrainian Crimea, and the warmongering in Donbas since 2014.

Ukraine has constantly emphasized its European identity pointing out that the most important things for the Ukrainian people – the value of life and democracy, first of all, united the country with European nations. "The war in Ukraine is a war in general for values: life, democracy, freedom. So this is a war all over the world," President of Ukraine Volodymyr Zelenskyy said in an interview to CNN and Reuters on March 1, 2022 [1]. The same thing is also noted by American and European politicians, in particular, the former special representative of the US State Department for Ukraine Kurt Volker [2].

Since 2014, Ukraine has been in a state of war with the Russian Federation, which was called the Anti-Terrorist Operation (ATO), hybrid war, etc. Some researchers define this war as a network war aimed at destruction of people's fundamental ideas about the essence of their culture, society and state in order to cause fear, disorient people and bring chaos into their consciousness. Therefore, during the development of modern public administration, in particular, the implementation of electronic governance, the issue of maintaining a balance between public security and privacy protection, the development of electronic democracy and victory in the network war was acute.

It is important to consider the transformation of the public administration in Ukraine under martial law in the context of ensuring its adequacy to the requirements arising in war conditions and the necessity, at the same time, of guaranteeing constitutional values: Ukraine is a sovereign and independent, democratic, social, law-based state (Article 1); the sovereignty of Ukraine extends throughout its entire territory. Ukraine is a unitary state. The territory of Ukraine within its present border is indivisible and inviolable (Article 2); the human being, his or her life and health,

honour and dignity, inviolability and security are recognized in Ukraine as the highest social value. Human rights and freedoms and their guarantees determine the essence and orientation of the activity of the State. The State is answerable to the individual for its activity. To affirm and ensure human rights and freedoms is the main duty of the State (Article 3) [3].

The idea that the situation of a permanent hybrid war faces the Ukrainian state with the task of finding a survival model that would combine national security priorities with democratic principles and citizens' freedoms, run all through many publications of Ukrainian researchers in the period 2014-2022. Scholars looked for examples of such a combination among modern countries, noting the experience of Israel.

Currently, the issue of Ukraine's readiness for war, which is related to the implementation of reforms and ensuring the publicity of the administration, remains debatable. Domestic and foreign experts include reforms of the gas sector, banking system, public procurement, business environment, patrol police and decentralization as successful ones. Reforms to prevent corruption, to improve the judicial system, land reform, privatization and reform of state-owned enterprises, as well as civil service reform were slow and difficult.

To our mind, the digitization of the country, which was positively manifested during the pandemic and the beginning of active military actions, can also be considered successful. Our study of 2020 [4] confirmed the perception of e-democracy and e-governance in Ukraine not as technological solutions, but as a new concept that requires significant changes in public administration and should become a chance for the successful development of Ukraine. In 2022, digitalization should be an end-to-end reform, covering various areas: from new public electronic services to the digitalization of medicine and the social sphere. In addition, this block also includes the development of the digital economy and the simplification of doing business in Ukraine ("e-Border" program, "Way" system, "e-Passenger", "e-Notary" and "e-Medicine"). Considerable attention is also paid to the information support of the public policy.

# LEGAL AND ORGANIZATIONAL SUPPORT OF THE COUNTRY'S DEFENCE

Ukraine began intensive development of its own defence system after Russia seized Crimea, supported separatist actions in Donbas, and threatened to seize certain territories of the East (from Kharkiv) and the South of the country. At first, efforts were concentrated on restoring the combat capability of the troops, which required not only organizational and technological actions, but also changes to the regulatory support towards clarifying the role of the security agencies, improving the mobilization capabilities and social protection of the military, etc.

In December 2014, the Verkhovna Rada of Ukraine amended the Law on the National Security and Defence Council, which strengthened its influence on decision-making in situations that threaten national security, coordination and control of government actions on the prevention of corruption, etc. In 2015, the necessary conceptual legal acts of the strategic level were adopted – the National Security Strategy of Ukraine (new version, May 2015) and the Military Doctrine of Ukraine (September 2015). The documents on coordination and management in the field of security and administrative control were also improved.

The new National Security Strategy of Ukraine and the Military Doctrine changed the previous approaches and principles and even replaced them with the opposite ones, prioritizing cooperation with the European Union and NATO and identifying Russia as a source of threats and aggression. The main goals of the Security Strategy are: minimizing threats to state sovereignty and creating conditions for restoring the territorial integrity of Ukraine within the internationally recognized state border; guaranteeing the peaceful future of Ukraine as a sovereign and independent, democratic, social, and legal state; affirming the rights and freedoms of human being and citizen; ensuring a new quality of economic, social and humanitarian development, Ukraine's integration into the European Union, and forming the conditions for joining NATO.

Key state national security policies were defined as: restoration of the territorial integrity of Ukraine; creation of an effective security and defence sector; increasing the defence capability of the state, reforming and developing intelligence, counter-intelligence and law enforcement agencies; reforming the public administration, new quality of anti-corruption policy; integration into the European Union; special partnership with NATO; ensuring national security in the foreign policy sphere; ensuring economic security; ensuring information security; ensuring cyber security and security of information resources; ensuring environmental security [5]. In the new military doctrine, Russia is openly declared an enemy, and the probability of its large-scale use of military force against Ukraine is noted.

In February 2015, the Law of Ukraine "On Military-Civilian Administrations" was adopted. These administrations were supposed to be created in the liberated territories of Donetsk and Luhansk regions to ensure the livelihood of territorial communities in the period before the next elections.

In May 2015, the Law of Ukraine "On the Legal Regime of Martial Law" was adopted, which defined the content of martial law, the procedure for its enactment and cancellation, the legal basis for the activities of state authorities, military commands, administrations. local military self-government bodies. enterprises, institutions and organizations in the situation of martial law, quarantees of human and citizen rights and freedoms. rights and legal interests of legal entities [6]. The enactment of martial law includes the imposition of compulsory labour for the able-bodied population and curfew; prohibition of meetings and gatherings, activities of certain political parties; regulation of media activity; restricts movement of citizens, etc. The Law pays considerable attention to the activities of military administrations as temporary state bodies which are formed by the President in territories where martial law is implemented in order to ensure compliance with the requirements of the Constitution and laws of Ukraine.

At the same time, it is important to note the unsuccessful attempts to amend radically the Laws of Ukraine "On the Basics of National Security of Ukraine" and "On the Organization of Defence Planning" during that period, which indicated the inhibition by certain political forces of the acceleration of public administration reforms aiming the transitioning from post-Soviet to Western management norms and procedures.

The Law of Ukraine of February 7, 2019 "On Amendments to the Constitution of Ukraine (Regarding the State's Strategic Course to Gain Full Membership of Ukraine in the European Union and the North Atlantic Treaty Organization)" was of strategic importance. Its radicalism clearly confirmed the aspirations of the then Ukrainian authorities to define and declare political orientations.

The imposition of martial law on November 26, 2018 after the Russian attack on Ukrainian Navy ships near the Kerch Strait became one of the most serious manifestations of the Ukrainian authorities' approach to national security. The martial law lasted for 30 days and was in effect in ten regions of Ukraine, providing certain measures necessary for the defence of the country including the partial mobilization of the armed forces, the cancellation of local elections in the relevant regions, and the restriction of the entry of Russian citizens into Ukraine.

From January 1, 2022, the Law of Ukraine "On the Foundations of National Resistance" became fully operational. It significantly strengthened the ability of the Ukrainian state to resist the aggressor. This Law defined the legal and organizational principles of national resistance, the basis of its preparation and exercise, the tasks and powers of the security and defence forces [7].

On the eve of the war, the imposition of martial law was a debatable issue which was resolved only after the Russian attack. Taking into account direct military aggression by the Russian Federation, active dissemination of disinformation by the aggressor, distortion of information as well as justification or denial of armed aggression, the National Security and Defence Council of Ukraine established in mid-March 2022 that the realization of a unified information policy would be implemented during this period by uniting all national TV channels on a single informational platform of strategic communication – a 24-hour informational marathon "Unified News #UAtogether" [8]. At the same time, it is worth noting that this approach did not find an unambiguously positive assessment among some journalists and the public, who interpreted the restriction of choice as a way to the censorship.

It is also worth mentioning Resolution of the Cabinet of Ministers of Ukraine dated February 28, 2022 "Some issues of the realization of the rights, freedoms and legitimate interests of individuals and legal

entities" which suspended the terms of the provision of administrative services and the issuance of permissive documents during the martial law in Ukraine. Thus, the realities of wartime were taken into account. Some issues of ensuring the functioning of information and communication systems, electronic communication systems, and public electronic registers in the conditions of martial law were also defined in the Resolution of the Cabinet dated March 12, 2022.

# SOCIOLOGICAL STUDIES OF THE POPULATION'S REACTION TO MILITARY INVASION

To understand the public administration of Ukraine and its transformation in the conditions of war, the analysis of the results of sociological research is essential. Thus, in mid-May 2022, the results of a study carried out by the scientists of the Institute of Sociology of the National Academy of Sciences of Ukraine were presented. The study assessed the socio-psychological state of the Ukraine population in war situation, and it was based on a number of surveys before and during the war. On the eve of the war, many people felt threatened, but most of them still considered the likelihood of an attack in the coming weeks to be low. Society did not want the escalation of the armed conflict in Donbas. Most people believed that it was necessary to return Donbas and Crimea through political and diplomatic means. Public opinion regarding the armed confrontation in Donbas was polarized which significantly undermined unity in society and showed some success of Russian propaganda. However, even before the war, the positive response to the assumption that Putin's troops would be greeted with flowers did not exceed 5 percent in any region. After the start of a full-scale invasion, the attitude towards the war instantly changed, and the successes of Russian propaganda "zeroed out".

The "sinister image" of the Ukrainian nationalist inspired by Soviet propaganda gradually lost its power. Population's identity acquired an increasingly distinct national colour. On the eve of the Russian invasion, more than 56 percent of respondents believed that the revival of national consciousness would help Ukraine become a powerful state. More than 90% of those interviewed in the first days of the war were confident of victory. Willingness to take up arms has increased rapidly.

On the contrary, social negativism towards state institutions, which is usual for Ukraine, has decreased. There was a consolidation of society, including around the Armed Forces of Ukraine, the President, and local authorities. People rejected the usual negativism and were ready to work for victory together with the authorities. Compared to 2021, pride in Ukraine has more than doubled (from 34 to 80 percent), and the feeling of shame for one's own country has decreased by 18 (!) times.

The results of the large-scale sociological study "Democracy, rights and freedoms of citizens and media consumption in the conditions of war" which was conducted in July 2022 by the Kyiv International Institute of Sociology show that citizens of Ukraine consider important to respect their rights and interests, at the same time giving preference to a strong state.

Sociologists of the "Democratic Initiatives" Foundation, as a result of the research of August 2022, claim: "Paradoxically, we have a request for a "strong hand" and for democracy at the same time. But the following is interesting: these are actually the same people, because 67% of those who believe that a few strong leaders can do more for the country than laws and discussions, at the same time are convinced that democracy is the most desirable type of government for Ukraine. Perhaps, these are the people who believe that democracy must defend itself and thus mobilize at a certain stage" [10].

Sociological studies show that, in light of the war, support for Ukraine's accession to the European Union and NATO became the highest in the history of polls: 86% – for Ukraine joining the EU, 76% – for joining NATO. The level of support for joining the EU and NATO increased by more than 20 percentage points, compared to the pre-war period.

### MANAGEMENT OF TERRITORIES UNDER MARTIAL LAW

The importance of maximum preservation of the democracy potential during martial law is realized by Ukrainian society, which is especially noticeable from the reaction to the situation of public institutions' representatives. The activation of the public is clearly manifested in the growing role of local self-government, which united for the victory of Ukraine, became the foundation of territorial defence, the basis of organizational measures to ensure

the livelihood of communities in difficult conditions, showing its effectiveness. The activities of local self-government bodies were adjusted because of the legal regime of martial law. But, in addition to limitations in the realization of certain functions, local self-government also received additional opportunities for the effective realization of self-governing and delegated powers.

The Law of Ukraine "On the Legal Regime of Martial Law" which has been amended regularly (9 times as of 08/31/22 - only in 2022) became the main document regulating the peculiarities of the legal basis of the public bodies' activities in wartime. These amendments strengthened the capacity of local self-government bodies, in particular, they allowed to make decisions necessary to ensure the livelihood of communities quickly; changed the conditions of activity of the military administrations; simplified the procedure for adoption of legal acts by local authorities; provided the heads of cities', settlements' and villages' councils with individual decision-making powers on a wide range of issues.

In order to implement the Law of Ukraine "On the Legal Regime of Martial Law" to exercise leadership in the field of defence, public safety and order, Presidential Decree of February 24, 2022 established temporary state bodies – military administrations, which exercised their powers during the period of martial law and 30 days after its termination or cancellation.

The military administration of a settlement is headed by a chief, who is appointed and dismissed by the President of Ukraine on the proposal of the General Staff of the Armed Forces of Ukraine or the relevant regional state administration. The relevant village, town, or city chief may be appointed as the head of the military administration. With this law, the legislator identified a special (simplified) method of replacement civil service positions in military administrations – by appointing a certain category of persons. Article 10 of the Law should also be mentioned, which refers to the inadmissibility of termination of the powers of state authorities and other state bodies under martial law.

#### PUBLIC SERVICE DURING ARMED AGGRESSION

During the war, the requirements for civil service and service in local self-government bodies increased. The main changes were aimed at urgently ensuring their mobility and functionality, while the requirements for the prevention of corruption had to be abandoned. Significant changes in the organization of the public service were foreseen earlier. Nataliya Alyushina, head of the National Agency for Civil Service Affairs (NACSA), notes: "On the eve of the war, many civil servants studied at courses and training on how to act in the event of an air alert, how to organize logistics and carry out evacuation. Of course, we did not imagine that Russia would start such a brutal war, but the situation was alarming. Therefore, they prepared for possible risks: informational materials, memos were issued, so that public servants knew how to act in critical situations. The experience of the pandemic came in handy because civil servants, like most businesses, learned to work remotely" [11].

NACSA clarificates the work algorithms for state bodies at the central and local levels. Most civil servants and local self-government officials try to organize work as soon as possible, regardless of their location. This is evidenced by the effective functioning of the authorities, the efficiency of the infrastructure, the timely payment of salaries and pensions, the provision of a wide range of state and municipal services, etc.

The issue of the stay and work of civil servants in the temporarily occupied territories is extremely complex. NACSA has published recommendations on the actions of administrators of the civil service, personnel management services and other civil servants in the event of the capture of a settlement or a state body or in the situation when such a threat exists. It is about the organization of logistics, communications with the centre with a step-by-step action plan.

Among the Ukrainians who were forced to leave their homes and workplaces (to join the army, territorial defence forces, to evacuate with their families) there are many civil servants. Therefore, both military threats and the personnel situation affect the solution to the issues of establishing an effective management system and providing citizens with services. Understanding the problem and aiming to speed up management decision-making in wartime and to simplify the personnel selection procedure, on March 24 the Verkhovna Rada of Ukraine adopted the Law

of Ukraine "On Amendments to the Laws of Ukraine "On Central Bodies of Executive Power" and "On the Legal Regime of Martial Law" on ensuring state governance under martial law conditions".

The changes are as follows: 1) cancellation of competitive selection for civil servants during martial law; 2) simplification of the list of documents for appointment to a position; 3) cancellation of a special inspection; 4) cancellation of the mandatory requirement for the candidate to submit a declaration provided for by the Law of Ukraine "On Prevention of Corruption".

NACSA has created a section on its website with the information related to the work of local self-government bodies under martial law, which is duplicated on the "Decentralization" website. Among others, it is worth highlighting recommendations on current issues of labour relations, remuneration, internal communications, drafting of personnel documents, support of team spirit, etc. [12]. A wide selection of useful information for public servants is regularly updated on the website of the Centre for the Adaptation of the Civil Service to the Standards of the European Union. Official government channels are recommended for obtaining information.

#### FREE LEGAL ASSISTANCE TO THE CITIZENS

It is also necessary to note the significant attention of the state to the provision of legal assistance to citizens. The national legislation guarantees the possibility of a citizen of Ukraine, a foreigner, a stateless person, including a refugee or a person in need of additional protection, to receive free primary legal assistance in full, as well as the possibility of a certain category of persons to receive free secondary legal assistance in certain cases. The Law of Ukraine "On Free Legal Aid" (2011) defines the content of the right to free legal aid, the procedure for exercising this right, the grounds and procedure for providing free legal aid, state guarantees regarding the provision of free legal aid. Such aid is provided in full or in part at the expense of government funds or local budgets and other sources. During the war, the Law was amended to expand the list of persons entitled to free secondary legal assistance. According to the information of the Coordination Centre, published on the official website of the Ministry of Justice of Ukraine, due to Russia's military aggression against Ukraine, the number of requests for free legal aid has increased. In order to strengthen the legal capacity and legal capabilities of citizens, the Coordination Centre has created a reference and information platform for legal consultations "WikiLegalAid".

## **GROWING ROLE OF CIVIL SOCIETY**

The growing role of civil society is a significant factor in the transformation of Ukraine's public administration during the wartime. It is manifested in the willingness of the Ukrainians to help each other, the growth of volunteerism, etc. In our opinion, in the conditions of war, the convergence of civil society with the state occurs as a result of unity to achieve a single goal – victory. It is no coincidence that part of the seven principles of the reconstruction of Ukraine, determined at the International Conference on the Reconstruction of Ukraine in Lugano in July 2022, concerns the role of civil society in the further development of the country.

### **CONCLUSION**

The conducted analysis allows us to conclude that the readiness of the Ukrainian authorities and society to function in times of aggression was determined by the results of purposeful work during the long period of 2014-2022. During this time, Ukraine concluded the Association Agreement with the European Union, adopted a number of necessary legal acts, and carried out certain reforms. Effective reforms of the gas sector, banking system, public procurement, business environment, patrol police and decentralization were of significant importance for the country's development, as they allowed creating the prerequisites for the European development of the country. The fight against corruption, reform of the judicial system, land reform, privatization and reform of state-owned enterprises, as well as the reform of the civil service were recognized as slow and not efficient enough. These directions of reforms were justifiably criticized both within the country and by Ukraine's western partners.

Under the conditions of martial law, the expected centralization of power in the hands of the President of Ukraine and the National Security and Defense Council of Ukraine took place. The creation

of military administrations made it possible to quickly solve the problems that arose during this period. At the same time, the role of the civil society, which influences the authorities intensifying their efforts to resist, has increased. The Ukrainian authorities are aware of the great importance of dialogue with society and the necessity of involving civil society institutions and citizens in countering the enemy. It is worth noting that the normative documents stipulate that the introduced restrictions on the rights and freedoms of citizens and the simplification of the functioning of the state apparatus will be valid only during the period of martial law. At the same time, the work on deepening Ukraine's European and Euro-Atlantic perspectives continues.

The issue of evaluating the activities of Ukrainian authorities is essential. According to the President of Ukraine, the assessment of the government's activity is very simple: "It has a task: to feed the military and give them high wages – one, the heating season – two, despite the fact that everything was blown up for us – gasoline and coal, gas. People should have all these energy sources – three. For all the risks, the price for them cannot increase many times by explaining all this with the war – it will not work, because it will be very difficult for people – four, salaries of our teachers, doctors and pensions – five" [13]. Of course, the main result should be the victory and the return of all occupied territories by Ukraine.

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