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## ISSUES OF NATIONAL SECURITY IN THE CONTEXT OF THE INTRODUCTION OF THE LEGAL REGIME OF MARTIAL LAW

*The article examines the main legal and organizational aspects that influence the effectiveness of national security measures at the state level. It outlines the challenges of coordination between state institutions and local authorities. Special attention is given to the challenges and risks arising from the introduction of the legal regime of martial law, including restrictions on civil rights and freedoms, economic hardships, and external threats. The necessity of improving the legislative framework, developing national security mechanisms, and integrating with international partners to ensure the state's stability and defense capabilities during wartime is emphasized. The study focuses on national security under the martial law regime and the measures applied in this context.*

**Keywords:** national security, state security, martial law legal regime, security, threats to national security.

**Statement of the problem.** Ensuring national security is one of the fundamental functions of any state, and during martial law, this function acquires special significance. The legal regime of martial law in Ukraine is introduced in cases of real or potential threats of external aggression or large-scale internal conflicts, with the aim of mobilising all available state resources to counter such threats.

However, in practice, numerous issues arise – both in terms of the organisation and management of national security under these conditions, and in ensuring citizens' rights and maintaining economic stability.

National security problems under martial law particularly concern pressing issues such as the balance between security and human rights. In martial law conditions, civil rights and freedoms are significantly restricted, which is necessary for resource mobilisation and public safety. At the same time, it is important to preserve legal equality and avoid excessive repression.

A second problematic aspect is the mobilisation of resources and the state's defence capability. During martial law, special attention must be paid to organising the mobilisation of resources for the needs of the Armed Forces of Ukraine, as well as the rapid formation of defence forces and the restoration of infrastructure that may be damaged during hostilities.

Another challenge is the provision of effective governance and coordination among government authorities. When martial law is imposed, it is crucial to ensure effective coordination among state authorities, military structures, law enforcement agencies, and local administrations to enable prompt responses to potential threats.

The sphere of social and economic stability is also problematic. Martial law often causes significant socio-economic disruptions. It is necessary to prevent economic collapse, ensure the continued functioning of basic infrastructure, and create conditions to support the population during crisis situations.

Among the problematic areas is the foreign policy dimension and the proper functioning of the state's international cooperation. During martial law, it is essential to interact effectively with international partners, attract international aid and support, and conduct diplomatic efforts to de-escalate the conflict.

Identifying and analysing these issues allows for the prediction of difficulties the state may face, as well as the development of appropriate mechanisms for addressing them. This requires close cooperation between governmental and non-governmental institutions, the development of clear regulatory frameworks, and the implementation of effective measures to ensure stability at all levels of governance.

**Analysis of recent research and publications.**

Certain aspects of ensuring national security during the legal regime of martial law in Ukraine have been thoroughly examined by scholars and expert practitioners. However, the war continues, the risks and threats to national security are increasing, and previously identified issues are evolving into new ones. Therefore, research into national security during martial law remains highly relevant.

Alongside the development of advanced technologies, brilliant problem-solving approaches, and the most innovative ideas in the sphere of national security, new and more dangerous and vulnerable challenges for the state's security are also emerging.

Researchers such as O. Vasylichshyn, I. Kekysh, and V. Tytop [3] have studied the area of ensuring human and civil rights and freedoms under martial law in Ukraine. Scholar V. Vovk [4] has contributed to the study of fake news and psychological operations (PSYOP) as tools of hybrid warfare and threats to Ukraine's national security. In his works, particularly [1], V. Anishchuk examined various definitions and interpretations of national security, critiqued commonly accepted concepts, and expanded on the work of other scholars regarding the protection of the vital interests of individuals, society, and the state from internal and external threats. Researcher M. Shevchenko [13] identified different categories of national security and classified the challenges and threats it faces.

Despite the available body of scholarly work, it can be concluded that there is still a lack of a comprehensive and complete study of the issues related to ensuring national security during martial law, the associated challenges, and effective ways to address them.

**The purpose of the article** is to explore specific aspects of ensuring national security within the legal framework of martial law in Ukraine; to analyse the actual and potential challenges and threats that arise with the imposition of martial law; and to define effective mechanisms and strategies for maintaining stability, strengthening defence capability, and protecting citizens' rights. The authors also examine practical aspects of national security management during emergencies, the interaction between state institutions and international partners, and offer recommendations for improving legislation and government institutions to enhance security conditions during wartime.

**Summary of the main material.**

The protection of national interests is the central objective of national security, which constantly adapts to changes in the country's priorities. The adjustment of national interests influences the nature of national security as a dynamic systemic category. Scholar V. Anishchuk [1] clearly outlined the correlation between national interests and national security, a view that deserves agreement. The national security system is aimed at preventing potential threats to national interests and, in case they arise, at neutralising and minimising their impact. National interests and values are the core objects of national security. When threats to these interests emerge, the issue of strengthening and ensuring national and state security becomes urgent.

In the process of Ukraine's development as a democratic state, particularly in the context of its Euro-Atlantic aspirations and full-scale armed aggression by Russia, the number of challenges and threats to national security has significantly increased. Addressing these problems is closely related to the need to develop a unified and standardised understanding of the concept of "national security," and to determine its relationship with related concepts such as state, collective, regional, and international security, including an analysis of their components.

Ensuring national security and making relevant decisions is further complicated by active contemporary processes of integration and globalisation, as well as the deepening of intergovernmental relations. New actors and processes that were previously exclusively national have emerged, resulting in a blurring of the line between national and common interests, and between internal issues and global challenges. This increases interdependence among nations and states [8].

The above suggests that national security is a key element of legal order and a guarantee of national sovereignty and the protection of national interests. As a concept, national security has a certain universality that reflects the idea of unity in the conditions of security despite its multidimensional nature. This contradiction can be overcome through the legal codification of threats, the definition of their scale, and the legislative regulation of response measures and the responsibilities of the authorities involved in eliminating such threats.

An analysis of the legal regulation of national security shows that certain widely used terms and concepts are either undefined in legislation or interpreted inconsistently, which complicates the understanding of legal norms and may lead to mistakes in their application. Scholars and academics continue to debate the meanings of the terms "security," "national security," and "state security."

Both terms – national security and state security – are used in international acts and Ukrainian legislation. The concept of national security was first formulated by V. Kotliarov:

"A nation is secure when it does not have to sacrifice its legitimate interests to avoid war and is able to protect those interests through war, if necessary" [5].

The UNESCO Foundation for National and International Security uses the term "national security" and defines it as a system of state and public guarantees that ensure the stable development of a nation, the protection of fundamental values and interests, and the sources of spiritual and material well-being from internal and external threats. The main purpose of this system is to safeguard the nation's fundamental interests and values.

According to the Law of Ukraine "On National Security of Ukraine," national security is defined as the state of protection of vital interests of individuals, society, and the state, as well as national resources and values, from internal and external threats [6]. The National Security Strategy of Ukraine states that national security is characterised by a condition in which the integrity and internal stability of the country, its sovereign and progressive development, and its ability to act as an independent and full-fledged participant in international legal relations are ensured [7].

The Political Encyclopedia provides two interpretations of the concept of state security. The first defines it as a set of conditions and institutions that guarantee the sovereignty of the state, the protection of its territory, population, government structures, and its defence against external threats. The second interpretation describes state security as a balance between a country's military and socio-economic potential and a complex of threats that could lead to conflict. In addition, state security – being a complex and multifaceted concept – can be viewed either as the "degree of protection" of a given social entity, or as "protection" itself, or as a certain state of social and governmental

order characterised by resilience, inviolability, independence, and security [12].

The issue of national security under martial law becomes particularly urgent, as it is directly connected to the state's adaptation to new threats emerging during active armed conflict. Under martial law, national security goes beyond its traditional aspects, such as border protection, maintaining internal order, or defending citizens from external threats. It encompasses much broader areas, including economic, social, and political stability, and the capacity of institutions to respond effectively to internal and external challenges.

During martial law, national security is understood as a comprehensive set of measures aimed at protecting the state from all possible threats, including military, terrorist, cyber, and others. This period introduces new challenges for the stability of governmental institutions, as collective efforts to defend territorial integrity often require strict limitations in domestic policy, particularly in the spheres of human rights, economic freedoms, and political liberties. The central task of the state under such conditions is to ensure an appropriate balance between security and citizens' rights.

The task of state security is not limited to countering external threats but also includes the protection of national interests in strategic economic sectors, the safeguarding of critical infrastructure, and the proper functioning of state authorities. Moreover, martial law jeopardises the stability of internal institutions such as the judiciary, local self-government, and economic organisations, many of which must adapt to the changed conditions of state functioning.

Effective national security under martial law is impossible without a robust legal framework. This requires the adaptation and updating of national legislation to reflect the current security challenges. At the same time, it is important to take into account the international security context, particularly cooperation with international partners in areas such as collective security and counterterrorism. One of the main aspects of this effort is ensuring the protection of national resources and values, which allows the state to operate at a stable level even in the midst of military conflict [13].

Thus, national security under martial law requires a comprehensive approach encompassing military, socio-economic, legal, and international

dimensions. This approach involves developing a detailed national security strategy that incorporates both immediate and long-term measures to maintain the country's stability and development under extreme conditions.

There are several structural approaches to ensuring national security during martial law, which are generally divided into active and passive defence strategies. Active defence involves direct actions such as:

1. Deterrence – demonstrating the ability and readiness to inflict unacceptable damage on the enemy.
2. Preventive measure – actions taken to preclude the implementation of aggressive intentions by the adversary.
3. Active countermeasures – efforts to reduce the effectiveness of enemy actions.
4. Destructive measures – neutralising the adversary as a potential source of threats [3].

Passive defence strategies include:

- 1) avoiding contact with hostile environments;
- 2) building resilience to internal distress;
- 3) gradually recovering from inflicted damages.

However, these passive methods may negatively impact national security, especially during military aggression. Therefore, it is essential to select protection methods that are reasonable and appropriate for the specific context [3].

Currently, national security concerns have become some of the most pressing issues globally, driven by changes in the international security landscape, which now includes numerous and diverse threats and challenges. Given this, and Ukraine's engagement in Euro-integration and international processes, ensuring a high level of national security must remain a key priority.

Harmonisation with EU legislation and NATO documents is outlined in the "State Security Strategy" as one of the key directions of state policy in the security sector. At the same time, one of the main strategic objectives of this policy is to improve the regulatory and legal framework for the functioning of the state security system, the organisational foundations of security institutions, and the coordination and interaction among them. It is also crucial to summarise and analyse the application of Ukrainian legislation and other normative legal acts aimed at achieving set objectives, fulfilling tasks, and defining key areas of activity in ensuring state security [4].

Shortly before the full-scale war launched by the Russian Federation against Ukraine

on 24 February 2022, the preparation of sectoral security strategies had been completed within a new strategic planning cycle initiated by the adoption of the updated "National Security Strategy of Ukraine" in 2020. These documents outlined a broad spectrum of threats to national security across various sectors. However, an in-depth analysis of these threats reveals that their sources were considered relatively limited.

When the sectoral security strategies came into effect, Ukraine had already spent eight years under hybrid aggression from the Russian Federation. This aggression extended beyond Ukraine's borders, with its manifestations and consequences becoming widely recognised. For instance, in the Autonomous Republic of Crimea and parts of the Luhansk and Donetsk regions, which were occupied in 2014, there were also attempts to interfere in Ukraine's internal affairs.

At the regional level, energy was used as a weapon – through artificially created shortages of natural gas in Europe and the manipulation of market prices – while a migration crisis was provoked on the border between Belarus (a satellite of Russia) and EU countries. At the international level, Russia pursued a strategy of heightening tensions in the West, spreading propaganda and disinformation, and engaging in other destabilising actions.

It became evident that the leadership of the Russian Federation had no intention of changing its aggressive foreign or military policy, particularly with regard to Ukraine. Nevertheless, in early 2022, most experts did not consider a full-scale invasion of Ukraine and the launching of a terrorist war against civilians by the aggressor to be the most likely scenario [9].

The reasons behind Russia's intervention in the war against independent Ukraine are not purely political; they also include ideological and historical dimensions. The renowned political scientist, sociologist, and statesman Zbigniew Brzezinski pointed out that Ukraine's independence challenged the very essence of Russia's claims to being a divinely inspired leader of a unified pan-Slavic identity. He emphasised that Russia cannot exist in Europe without Ukraine, which also belongs to Europe, while Ukraine can exist in Europe without Russia [2].

Other sources of risks and threats to Ukraine's national security include climate change, advances in science and technology, and the promotion of foreign interests that contradict Ukraine's national



priorities. These threats are typical for most countries and cannot be entirely eliminated. Therefore, in forming national security policy, countries must develop mechanisms that allow them to adapt to the constant impact of such threats. This approach involves strengthening national resilience.

In addition to analysing risks and threats to national security, strategic security analysis should also identify the vulnerabilities, strengths, and opportunities of the state and society in the context of protecting national interests.

Among the strengths of the Ukrainian state and society is the presence of a developed legislative framework that provides mechanisms for governing both in peacetime and during states of emergency or martial law. This ensures the continuity of governance, which is one of the key elements of national security and resilience. Furthermore, the adoption of the Law of Ukraine "On the Fundamentals of National Resistance" in 2021 laid the foundation for organising territorial defence, which has played an important role in protecting the country during the current war.

In particular, this enabled the implementation of the principle of subsidiarity, which is one of the key factors in the development of national resilience. It significantly enhanced the effectiveness of responding to military threats at the local level and ensured proper coordination at all stages. The Law of Ukraine "On the Fundamentals of National Resistance" also plays an important role in ensuring national security. This law focuses on national resistance and the resistance movement, which can be compared to a partisan movement. One of the functions of this movement is countering saboteurs, as territorial defense forces are expected to have thorough knowledge of the area in which they operate [10].

Ukraine has gained advantages as a result of the full-scale invasion and hybrid warfare launched by the Russian Federation, ongoing since 2014. These include a strong volunteer movement and a significant capacity for societal self-organization. Through the active training and preparation of representatives of state authorities and security and defense forces – in particular, with the participation of foreign partners and NATO – Ukraine has significantly increased its level of readiness for armed aggression by the Russian Federation compared to the situation in 2014. It is also worth noting the successful leadership of the President of Ukraine, which has contributed to effective

resistance to Russia by securing international support from the democratic states of the world.

In the context of war, new opportunities have emerged for the protection of national interests and the further recovery of the country after the cessation of hostilities. Primarily, this refers to the strengthening of Ukraine's bilateral relations with a number of countries, progress towards European integration, and the defense of sovereign rights in international judicial bodies, in particular, the International Court of Justice, as well as the broad public resonance and support for Ukraine in the international arena. When analyzing strategic planning documents – specifically those that identify current threats to Ukraine's national security, as well as the corresponding goals, objectives, and mechanisms for protecting national interests – certain key points should be highlighted. For example, O. V. Tkachenko's opinion is valid in stating that, in response to the state of international legal relations, especially to the aggressive policies of certain states, other countries of the world, including Ukraine, are able to employ not only the mechanisms defined by the UN. States independently or as part of a coalition, as well as international organizations, have the capacity to apply appropriate measures in response to violations of international law. These may include instruments of punishment for the violator, as well as preventive actions aimed at maintaining international legal order and de-escalating aggressive behavior [11].

The authors of this article consider the Law of Ukraine "On National Security of Ukraine" and the National Security Strategy to be the foundation for the development of key documents regulating planning in the fields of national security and defense, identifying the paths and instruments for its implementation. The Military Security Strategy of Ukraine, approved by Presidential Decree No. 121/2021 dated March 25, 2021, sets forth the achievement of the following objectives within the implementation of state policy in the military sphere, defense, and military development: effective governance in the field of defense based on the principles of democratic civilian control, Euro-Atlantic standards, innovative solutions and modern business practices, as well as software for managing defense projects and improved processes for identifying and meeting the defense needs of Ukraine [12].

Attention should be drawn to the transformation of state policy in the sphere of national security in

the context of Ukraine's European integration. It is worth noting that the Verkhovna Rada of Ukraine has fulfilled all the recommendations of the European Commission required to initiate negotiations on Ukraine's accession to the European Union. These recommendations were issued to Ukraine simultaneously with the granting of EU candidate status on 23 June 2022, and a number of them fall under the competence of the Ukrainian parliament.

Within six months of the beginning of the full-scale war launched by the Russian Federation against Ukraine, a number of important laws were adopted, including: the Law on the Reform of the Constitutional Court ("On Amendments to Certain Legislative Acts of Ukraine to Improve the Procedure for the Competitive Selection of Candidates for the Position of Judge of the Constitutional Court of Ukraine"); the Laws "On Media" and "On National Minorities (Communities)".

Additionally, laws aimed at combating money laundering were passed, specifically: "On Amendments to Certain Laws of Ukraine on Simplifying the Procedure for Providing Information Required for Financial Monitoring"; "On Ratification of the Additional Protocol to the Council of Europe Convention on the Prevention of Terrorism"; and "On Amendments to the Law of Ukraine 'On Prevention and Counteraction to Legalization (Laundering) of Proceeds from Crime, Financing of Terrorism, and Financing of the Proliferation of Weapons of Mass Destruction'" concerning the protection of Ukraine's financial system from states engaged in armed aggression against Ukraine and the adaptation of legislation to certain FATF standards and the requirements of EU Directive 2018/843 [10].

Only under conditions of security can a person live a full life. In wartime Ukraine, certain plans, connections, and ideas have already undergone – or failed – the test of reliability and viability. It is evident that some of Ukraine's strategic objectives must be reconsidered, assessments reviewed, and the mechanisms for ensuring national security and stability either reinforced or reorganized.

In addressing the challenges of ensuring national security, each issue must be considered individually. Balancing security and human rights during the legal regime of martial law presents a significant problem, as it involves substantial restrictions on the rights of individuals and citizens. For example, the restriction prohibiting military-

age male citizens (aged 18 to 60) from leaving the country constitutes a violation of the right to freedom of movement. Another limitation concerns the imposition of a curfew. However, according to scholars, the most significant violations of rights under martial law affect service members and civilians [14].

The challenge of ensuring national security during martial law lies in the need to find an optimal balance between protecting the state and upholding citizens' rights and freedoms. In the context of armed conflict, the state is compelled to implement stricter security measures, which may restrict certain human rights. At the same time, excessive control and limitations on freedoms may provoke public tension and erode trust in the authorities. Therefore, the primary task is to develop mechanisms that ensure effective state protection without violating the fundamental rights of citizens.

Another critical issue is the mobilization of resources and the maintenance of the state's defense capability. Military operations require substantial human, material, and financial resources, which necessitate effective economic management, a revision of budgetary priorities, and the strengthening of defense potential. However, excessive pressure on the economy and society may lead to social tension, calling for a balanced approach to mobilization policy. It is essential to find a compromise between providing the armed forces with the necessary resources and preserving state stability and citizens' rights [4].

Modern challenges in the field of human rights protection, resulting from military conflicts, demand improvements in the mechanisms of cooperation between law enforcement agencies and civil society. Martial law creates specific conditions under which the state must strike a balance between guaranteeing human rights and ensuring national security. Under such circumstances, close interaction between state institutions and the public becomes critically important for promptly addressing violations and preventing crisis situations [5].

Another significant challenge for the state is ensuring effective governance and coordination among public authorities during martial law. In times of crisis, the state apparatus must operate swiftly, coherently, and efficiently to ensure both national security and the stable functioning of all spheres of life. However, issues such as bureaucratic obstacles, overlapping

responsibilities, or insufficient communication among different levels of government may hinder the adoption of timely decisions. Therefore, it is necessary to improve coordination mechanisms, simplify management processes, and ensure a clear distribution of responsibilities among state institutions.

Another significant challenge is ensuring social and economic stability under martial law. Military actions impose considerable pressure on the economy, leading to reduced production, job losses, and increased social tension. At the same time, the state must guarantee the provision of social benefits, support for vulnerable populations, and stability in financial markets. Resource shortages and the forced redistribution of the state budget to meet defense needs may create additional risks for the economy and citizens' well-being. Therefore, it is crucial to develop effective anti-crisis measures, support entrepreneurship, and ensure social protection for the population in order to minimize the adverse consequences of martial law [1].

### **Conclusions**

Ensuring national security under martial law is a complex and multi-level task that requires effective state policy, mobilization of all available resources, and the consolidation of society. Martial law significantly alters the functioning of state institutions, restricts certain democratic mechanisms, and creates additional challenges in the sphere of protecting human rights and freedoms. Striking a balance between security and democratic values is one of the most critical issues, as excessive tightening of control may lead to public dissatisfaction, whereas insufficiently strict measures may result in destabilization and threats to statehood.

Among the key aspects of security provision is the mobilization of human, financial, and material resources to maintain the country's defense capability. This includes military mobilization, securing funding for the security sector, developing the defense-industrial complex, and ensuring the rational redistribution of budgetary funds. An equally important role is played by the stable functioning of critical infrastructure, which, in times of war, becomes a primary target for enemy attacks.

Particular attention must be paid to the effectiveness of public administration and the

coordination of actions among various government bodies. Under martial law, the state must respond promptly to threats, eliminate bureaucratic obstacles, and ensure swift decision-making. At the same time, a lack of coordination among governmental structures may lead to low effectiveness of security measures and intensify internal risks.

Maintaining socio-economic stability remains a serious challenge, as war significantly weakens the economy, leads to job losses, inflation, and an overall decline in the standard of living. The state must develop mechanisms to support the economy, stimulate entrepreneurship, attract foreign investment and humanitarian aid. In addition, an important task is to maintain public trust in the government, which largely depends on the effectiveness of social policy and the transparency of decision-making processes.

Another key aspect is the foreign policy dimension of national security. In wartime conditions, the state must intensify its diplomatic efforts, build strategic alliances, and address issues of international military, financial, and humanitarian support. The information war also becomes a crucial component in the struggle for national interests, as the level of international support largely depends on the effectiveness of external communication.

Thus, ensuring national security under martial law is a complex and multifaceted process that requires an integrated approach, coordinated efforts of all state institutions, and active cooperation with civil society and international partners.

Future academic research should focus on improving the security system, adapting it to new challenges and threats, as well as on the development of crisis response strategies and ensuring the state's resilience under any difficult circumstances.

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### **ПИТАННЯ ЗАБЕЗПЕЧЕННЯ НАЦІОНАЛЬНОЇ БЕЗПЕКИ В УМОВАХ ЗАПРОВАДЖЕННЯ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ**

*Досліджено окремі проблемні питання забезпечення національної безпеки України, які виникли і потребують вирішення в умовах запровадження правового режиму воєнного стану. Зосереджено увагу на взаємодії органів державної влади, силових структур та громадянського суспільства в умовах триваючої збройної агресії з боку зовнішнього ворога. Розглянуто основні правові й організаційні аспекти, що впливають на ефективність заходів щодо забезпечення безпеки на державному рівні, а також окреслено проблеми координації між державними інститутами та місцевими органами влади. Особливу увагу приділено викликам і ризикам, що виникають унаслідок введення правового режиму воєнного стану, включно з обмеженням прав і свобод громадян, економічними труднощами та зовнішніми загрозами. Наголошено на необхідності вдосконалювання законодавчої бази, розвитку національних механізмів безпеки та інтеграції з міжнародними партнерами для забезпечення стабільності та обороноздатності держави в умовах війни. Акцентовано на питанні забезпечення національної безпеки в умовах введення в дію правового режиму воєнного стану та заходів, які застосовуються при цьому. Запровадження воєнного стану в країні є важливим інструментом для зміцнення обороноздатності держави, проте він також породжує низку викликів і проблем, пов'язаних із балансом між забезпеченням безпеки та тимчасовим обмеженням прав і свобод громадян, економічною стабільністю та ефективною організацією діяльності державних органів влади.*

*У статті наведено аспекти, які підтверджують потребу у вдосконалюванні механізмів забезпечення національної безпеки в умовах, коли країна стикається з постійними зовнішніми загрозами, внутрішніми викликами та необхідністю оперативного реагування на надзвичайні ситуації. Водночас важливим є забезпечення ефективної координації між державними органами, силовими структурами і громадянським суспільством для підтримання стабільності та непохитності національної безпеки в умовах воєнного стану. Розгляд цієї проблеми є вкрай необхідним для подальшого розвитку правових й організаційних засад національної безпеки, підвищення ефективності протидії агресії та збереження суверенітету країни.*

**Ключові слова:** національна безпека, державна безпека, правовий режим воєнного стану, безпека, загрози національній безпеці.

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