**Peculiarities of judicial proceedings under martial law in Ukraine**

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Since Ukraine gained its independence, the right to judicial protection has become one of the fundamental human rights enshrined in the Constitution. This right, recognized by many developed countries, plays an important role in the structure of the constitutional and legal status of an individual and is an integral part of it. Access to court is one of the components of the human right to a fair trial. This aspect must be ensured under all circumstances. Thus, Article 55 of the Constitution of Ukraine states that the court protects human and civil rights and freedoms, and there can be no legal restrictions to prevent the protection of human rights, even in times of war.

The issue of administration of justice under martial law is extremely relevant and requires detailed consideration. On the one hand, the war poses significant challenges to the work of the courts, as there is a threat to the lives and safety of litigants, court buildings are being destroyed, and access to information and documents may be hampered. On the other hand, justice must be delivered anyway, as it is a guarantee of the protection of citizens’ rights and freedoms and the stability of society.

On 24 February 2022, martial law was introduced in Ukraine by *Presidential Decree No. 64/2022 “On the Imposition of Martial Law in Ukraine”*. Martial law is a special legal regime introduced in Ukraine or in certain areas of Ukraine in the event of a threat to the state independence of Ukraine (Article 1 of the Law of Ukraine *“On the Legal Regime of Martial Law”.* Article 2 of the same Law also declares that the legal basis for the introduction of martial law is the Constitution of Ukraine).

As a result of the aggression of the Russian Federation, many institutions in Ukraine were forced to change the way they operate. The judicial process is no exception. Judicial proceedings are the activities of the court aimed at establishing the factual circumstances of a case, ensuring the protection of human rights and freedoms, private and public interests, and ensuring the correct application of the law and the adoption of a fair court decision. Depending on the subject matter of court proceedings, the procedure for conducting court proceedings is regulated by the Law of Ukraine “On the Constitutional Court of Ukraine”, the Criminal Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Code of Administrative Procedure of Ukraine, *etc*. The main *changes* that have been introduced to judicial process include: change of territorial jurisdiction, remote participation in court hearings, ensuring the right of participants to receive information on the case, and issues of timing.

Due to the active hostilities and temporary occupation of certain territories, a number of courts in Donetsk, Luhansk, Kharkiv, Zhytomyr, Mykolaiv, Kyiv, Zaporizhzhia, Sumy, Chernihiv, and Kherson regions suspended their operations and moved their work to other functioning courts. In accordance with the Law of Ukraine No. 2112-IX dated 03.03.2022 “On Amendments to Part Seven of Article 147 of the Law of Ukraine ‘*On the Judiciary and the Status of Judges’*”, if a court cannot administer justice for objective reasons during martial law, the territorial jurisdiction of court cases heard in such a court may be changed.

It is important to note that the new challenges and experience of COVID-19 are the basis for the introduction of an *e-justice system*, i.e., the digitalization of justice.

Guided by this, the *Council of judges of Ukraine* adopted recommendations on the work of courts during martial law, namely:

1. The specifics of the court’s work are determined based on the current situation in the respective region and guided by the current situation in that region.
2. It is necessary to identify a responsible person who shall ensure that the records of court staff and judges are up-to-date, taking into account the specific form of court.
3. To transfer, if possible, all available employees to remote work.
4. To postpone the consideration of cases whenever possible, and to focus exclusively on urgent trials.
5. A balanced approach should be taken to issues related to the return of various procedural documents, leaving them without movement, setting various deadlines, and, if possible, extending them at least until the end of martial law.
6. If, due to objective circumstances, a party to the proceedings cannot attend the court hearing, the court may allow such a party to participate in the court hearing via videoconference using any other technical means, including its own.
7. If the proceedings are considered collegially and the panel of judges cannot gather in one room, it is permissible to consider cases from different court premises, including using their own technical means.

These recommendations include peculiarities of the work of courts on the frontline, peculiarities of martial law proceedings and online justice, which have become challenges for the administration of justice in Ukraine.

*The Constitution of Ukraine guarantees that the constitutional right to judicial protection cannot be restricted even during martial law.* “The war has posed challenges to the judicial system that require an immediate, effective and professional response”, said the head of the Administrative Court of Cassation within the Supreme Court and described how the consideration of cases under martial law has changed.

As noted earlier, the Council of judges of Ukraine has recognized martial law as an *objective and valid reason for the renewal of procedural deadlines*. Thus, Art. 127 of the Civil Procedure Code of Ukraine, Art. 119 of the Commercial Procedure Code of Ukraine, Art. 121 of the Code of Administrative Procedure of Ukraine stipulate: “At the request of a party to the case, the court shall renew the missed procedural term established by law if it recognizes the reasons for its missed term as valid, unless this Code establishes the impossibility of such renewal”.

*Sending court notices* has also become one of the challenges for the administration of justice in Ukraine since 24 February 2022. Pursuant to Article 8(1) of the Civil Procedure Code of Ukraine, no one may be deprived of the right to be informed of the date, time and place of consideration of his or her case or restricted in the right to receive oral or written information from the court on the results of consideration of his/her case. This obligation of the court is one of the basic principles of civil proceedings – *openness of the court process*. The courts located in the areas where active hostilities are not taking place continue to operate as usual. That is, litigants can receive court summonses at their place of registration, as provided for in Article 128 of the Civil Procedure Code of Ukraine. However, this is almost impossible in the temporarily occupied territories, so in April 2022, the Law of Ukraine *“On Ensuring the Rights and Freedoms of Citizens and the Legal Regime in the Temporarily Occupied Territory of Ukraine”* was amended.

Thus, Article 12 of this Law, that is the “Procedure for Summoning to Court and Notification of Court Decision” enshrines that if the last known address of the place of residence (stay), location or place of work of the parties to the case is in the temporarily occupied territory, the court shall summon or notify the parties to the case who do not have an electronic cabinet of the date, time and place of the first court hearing in the case through an announcement on the official web portal of the judiciary of Ukraine, which must be posted no later than twenty days before the date of the relevant court hearing. Similarly, the parties to the case, whose last known address of residence (stay) or location is in the temporarily occupied territory and who do not have an electronic cabinet, shall be notified of the adoption of the relevant court decision by posting information on the official website of the judiciary of Ukraine with a link to the web address of such court decision in the Unified State Register of Court Decisions or by posting the text of the relevant court decision on the official website of the judiciary of Ukraine, with a link to the web address of such court decision in the Unified State Register of Court Decisions or by posting the text of the relevant court decision on the official web portal of the judiciary of Ukraine, subject to the requirements set out in the Law of Ukraine *“On Access to Court Decisions”*, in case access to the Unified State Register of Court Decisions is restricted.

Therefore, the full-scale invasion of the territory of Ukraine by Russian troops has led to a number of changes in the judiciary. Some of the changes that affected the judiciary, namely changes in the format of justice, began in 2020, when quarantine was introduced in Ukraine due to the COVID-19 epidemic, i.e., the system of notifying the parties to the case and sending copies of court decisions, subpoenas and other procedural documents. This is important from the point of view that the decisions made then are still in force today and this may indicate their positive effect and applicability in the future.

The unity of Ukraine’s judicial system, guided by international experience, and the willingness of judges to work in an enhanced mode ensure that Ukrainians have access to justice, even during martial law.

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