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SPECIFIC FEATURES OF PUBLIC AUTHORITY FUNCTIONING IN UKRAINE UNDER MARTIAL LAW: THE PROBLEM OF LEGITIMACY

This article examines the specific characteristics of public authority functioning in Ukraine under martial law. Public authorities encompass both local self-government bodies and state authorities (executive power). The ongoing war has generated new patterns of interaction between these entities – local self-government and state authorities on the one hand, and civil society and public authorities on the other. The nature of cooperation in shaping regional policy has changed substantially, particularly between local councils and military administrations. Currently, there is no uniform practice of interaction across Ukraine; mechanisms vary depending on territorial proximity to the front line (frontline, near-frontline, or rear areas). Another critical challenge concerns the legitimacy of governing bodies. Given the impossibility of holding elections during wartime, strategies for legitimising public institutions become essential. Civil society also demands the development of a national-patriotic policy. Strengthening national identity – rather than regional identity – should become a priority for public authorities, serving as a significant factor in legitimising governance in the absence of elections.

Keywords: public authority, local self-government bodies, state authorities, public administration, martial law, legitimacy, civil society, national identity, democracy, Ukraine.

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Особливості функціонування органів публічної влади в Україні в умовах воєнного стану: проблема легітимності

Стаття присвячена виявленню особливостей функціонування органів публічної влади в Україні в умовах воєнного стану. Органи публічної влади включають органи місцевого самоврядування та органи державної влади (виконавча влада). В Україні в умовах війни формуються нові практики взаємодії між органами публічної влади (місьцеве самоврядування та державна влада), з одного боку, та між громадянським суспільством і публічною владою – з іншого боку. Суттєво змінився тип взаємодії у формуванні регіональної політики між місцевими депутатами (органи місцевого самоврядування) та місцевими військовими адміністраціями (органи державної влади). Наразі немає однакових практик взаємодій по всій Україні між органами публічної влади. Адже в залежності від статусу території (фронтowa, прифронтowa, віддалена від фронту) трансформуються і механізми взаємодії між органами публічної влади. Крім того, важливою проблемою у функціонуванні органів публічної влади в Україні в умовах воєнного стану стає проблема легітимності владних органів. За відсутності можливостей в умовах війни перезавантаження владної системи шляхом виборів дуже важливою є проблема розроблення стратегій легітимації владних інституцій. З боку структур громадянського суспільства існує високий запит до органів публічної влади стосовно формування національно-патріотичної політики. Отже, органам публічної влади слід розробляти стратегії щодо посилення національної ідентичності (не регіональної). Відповідно, національна ідентичність здатна стати вагомим чинником для легітимації владних органів в умовах відсутності виборів.

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Ключові слова: публічна влада, органи місцевого самоврядування, органи державної влади, публічне управління, воєнний стан, легітимність, громадянське суспільство, національна ідентичність, демократія, Україна.

Problem statement. The concept of public authority refers to multi-level administrative activity at both the national and regional levels. This activity is territorially bound and aims to address vital societal issues, primarily related to ensuring the functioning of society. The notion of public authority is closely associated with the term “people’s rule”. In a democratic political system, public authority is characterized by the creation of condi-

tions that enable both state and non-state actors to influence the formation of authoritative decisions.

Public authority actors include local self-government bodies and state authorities (executive power). Under martial law, significant transformations occur in the functioning and legal status of public authorities, affecting their powers, functions, and tasks. A particularly problematic issue under martial law is the relationship between state authorities and local self-government in Ukraine, as military administrations and local self-government bodies coexist within the same territories.

In general, the legal regime of martial law in Ukraine raises questions about the functioning of public authorities in territories with different statuses (frontline, near-frontline, relatively safe). It is crucial to identify the specific features of the relationship between state authorities and local self-government under martial law, as well as to analyze these relationships in the context of legitimacy.

196 — ***Analysis of research results.*** The problems of the functioning of public authorities in Ukraine during the period of the legal regime of martial law were studied by domestic scientists from various fields of socio-legal and socio-political knowledge (V. Borshchevskiy, O. Vasylytsia, E. Duliba, E. Zhukova, V. Zinkevich, E. Matveev, G. Nakonechna, Yu. Siryi, A. Terlets'kyi et al.). Mostly, the studies are focused on the issues of legal personality of public administration bodies (Terlets'kyi, 2023), on institutional transformations and identification of priority mechanisms of development (Borshchevskiy et al., 2022), on consideration of the specifics of the relationship between local self-government institutions and executive power institutions (Duliba, 2022; Siryi, 2024; Zhukova, 2022) etc.

In general, mainly the problems of the functioning of public authorities during the legal regime of martial law in Ukraine under martial law conditions are analyzed by scientists in terms of theories of legal or public management discourses. In addition, research considering the functioning of public power in Ukraine during martial law from the point of view of its legitimacy and in the conditions of a certain curtailment of democratic practices is quite sporadic. The specified questions determined the further direction of research.

The purpose of the research. The aim of this article is to identify the specific features of public authority functioning in Ukraine under martial law, particularly in terms of legitimacy.

Presentation of research findings. The introduction of martial law in Ukraine, following the full-scale Russian invasion on February 24, 2022, has led to significant changes in the processes and legal frameworks governing public authorities. Public authorities encompass both local self-government bodies and state authorities (executive power). The ongoing war has generated new patterns of interaction between these entities – local self-government and state authorities on the one hand, and civil society and public authorities on the other. According to the Presidential Decree (President of Ukraine, 2022, Article 2) and the Law of Ukraine, “military command, together with military administrations, executive authorities, law enforcement agencies, and local self-government bodies” must perform actions and exercise powers as stipulated by the Law of Ukraine “On the legal regime of martial law” (Verkhovna Rada of Ukraine, 2025).

For a deeper understanding of the concept of martial law, let’s turn to Article 1 of the Law of Ukraine «On the Legal Regime of Martial Law» (Verkhovna Rada of Ukraine, 2025). Martial law entails temporary restrictions on constitutional rights and freedoms, as well as the rights and legitimate interests of legal entities, with specified durations. These restrictions primarily affect democratic rights and freedoms enshrined in the Constitution of Ukraine, such as the inviolability of the home, secrecy of correspondence and communications, freedom from interference in family and personal life, freedom of movement, and freedom of thought and expression.

Article 3 of the Presidential Decree «On the introduction of martial law in Ukraine» describes in more detail what restrictions we are talking about (Verkhovna Rada of Ukraine, 2025, Article 3). These restrictions mainly concern democratic rights and freedoms enshrined in such articles of the Constitution of Ukraine (Constitution of Ukraine, 1996): 30-34; 38-39; 41-44; 53.

In the specified articles of the Constitution, particular attention is devoted to guarantees of fundamental rights and freedoms. These include the inviolability of housing; the secrecy of correspondence and telephone conversations; protection against interference in family and personal life; freedom of movement and the right to choose one’s place of residence; the right to freedom of thought and speech, as well as the free expression of one’s views and beliefs.

The scope of local self-government functions under martial law depends on the territorial status where they operate. Local self-government

bodies may be granted additional wartime powers (Nakonechna et al., 2023, p. 43).

A crucial positive factor during the initial days of Russia's full-scale invasion was the decentralisation reform, which facilitated local self-organisation. This reform is considered one of the most democratic transformations in Ukraine. However, martial law inevitably entails a significant restriction of individual democratic rights and freedoms.

Legislative inconsistencies regarding the interaction between state authorities and local self-government remain a pressing issue (Nakonechna et al., 2023).

The nature of cooperation in shaping regional policy has changed substantially, particularly between local councils and military administrations. Currently, there is no uniform practice of interaction across Ukraine; mechanisms vary depending on territorial proximity to the front line (frontline, near-frontline, or rear areas).

198 — In response to Russian aggression, all state administrations have been reorganised into military or military-civil administrations. Interaction mechanisms between local self-government and state authorities are determined by territorial status and proximity to combat zones. In some frontline areas, military administrations have assumed full powers of local self-government, effectively suspending democratic practices. Conversely, in western regions, public policy continues to be shaped democratically through cooperation between state and local authorities.

Nevertheless, even where local councils remain operational in near-frontline areas, their powers are often symbolic. For instance, in the Kharkiv Regional Council, deputies no longer approve the budget; this function has shifted to the military administration. Yet, the presence of elected representatives ensures that authorities remain responsive to civil society demands, as societal interests are primarily advanced through representative bodies.

In order to analyze the functioning of public authorities, it is worth focusing attention on the concept of «public administration». This category is key to evaluating the activities of public authorities. Public administration, notes A. Terletskyi, – is a purposeful process of activity of public authorities, which consists in choosing appropriate forms, methods and means for the protection of human rights and freedoms, the interests of the state and society, the main mechanism of implementation of which is the public administration itself (Terletskyi, 2023, p. 61).

The configuration of public governance actors – local self-government, state authorities, and civil society – has undergone profound changes under martial law. The curtailment of local self-government powers near the front line has led to a contraction of democratic practices and diminished opportunities for civil society to influence policy decisions.

In contrast, in rear regions, interactions between public authorities remain largely democratic, offering hope for the rapid restoration of democratic governance nationwide after the war.

Another critical challenge concerns the legitimacy of governing bodies. The term of local council deputies expired in October 2025.

The theory of legitimacy of the German theorist Max Weber is considered classical. He distinguished three types of legitimate domination – legal, traditional and charismatic (Weber, 1998). Power domination, from the point of view of M. Weber, can be determined by various motives of submissiveness of subjects. However, «those who rule and their subordinates seek to internally order the relations of domination through certain legal foundations that give these relations “legitimacy” (Weber, 1998). Negative consequences for the authorities can be caused by the loss of faith in subjects regarding this kind of legitimacy.

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Legitimacy refers to the “admissibility of state-specific procedures for the adoption and introduction of laws for subjects of that state” (Grant, 2005, p. 356).

According to L. Yakovleva, the legitimacy of public power can be defined (according to the Weberian tradition) as “recognition” of the existing social order. This recognition “occurs in the process of social action of actors with the determination of the significance of a given social order for them based on certain orientations” (Yakovleva, 2020, p. 6).

Let's turn to the concept of legality, which is sometimes used as a synonymous term for the concept of power legitimacy. It is important to emphasize that the concepts of legitimacy and legality have significant meaningful differences. The concept of legality concerns the legality of the activities of authorities, the compliance of their decisions with legal norms. The concept of legitimacy is broader, it mainly refers to the level of public recognition and public support of certain government institutions. Accordingly, when using the term legitimacy, scientists mostly mean a certain level of public trust in the authorities. At the same time, not only the level of trust is considered an essential factor in the legitimacy of the government. The specified level of trust «should be supplemented with a

clear definition of the powers of institutions and individuals (both legal and actual), as well as the conditions for the development and implementation of public policy» (Yakovleva, 2020, p. 9).

Nowadays, the concept of legitimacy is used in socio-political discourse to focus attention on the qualities and characteristics of public power (Yakovleva, 2020, p. 5).

Given the impossibility of holding elections during wartime, strategies for legitimising public institutions become essential.

In this context, trust emerges as a key category in state–society relations. To foster trust, authorities must ensure effective communication, explaining the rationale behind strategic decisions, while maintaining transparency in non-sensitive areas and combating corruption.

Civil society also demands the development of a national-patriotic policy. Strengthening national identity – rather than regional identity – should become a priority for public authorities, serving as a significant factor in legitimising governance in the absence of elections.

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Identity is a key property of the individual, it contributes to the formation of the individual's connections with the social environment. In scientific discourse, the concepts of individual (personal, personal) and collective (national, regional, social, etc.) identity are distinguished, although it is quite difficult to single out the criteria for differences between them (Kuts, 2007, p. 80).

According to A.D. Smith, the discovery of oneself for the individual suggests a focus on the issue of individual identity (Smith, 1994, p. 12). The concept of collective identity includes different subtypes that are determined by different roles of the individual in different spheres: family, regional, social, religious, ethnic, etc. A.D. Smith noted that ethnic and religious identities interact with each other because they share many features. Taken together, ethnic and religious identities are capable of contributing to the formation of strong communities by mobilizing them. The concept of national identity is quite broad, it often appropriates other types of collective identities (class, religious, ethnic).

National identity is characterized by multi-vector power. This is determined by its various functions, which national identity performs either for communities or for individual individuals. Under national identity, noted M. Guibernau, should be understood “collective sense, impaled on the belief in belonging to one nation and in the commonality of most attributes” (Guibernau, 2012, p.

20). National identity, according to the author, is realized in five dimensions: psychological, cultural, territorial, historical and political.

From A.D. Smith's point of view, there are five basic features of national identity (Smith, 1994, p. 23): 1) historical territory (native land); 2) myths common to the nation and historical memory; 3) public (mass) culture; 4) rights and obligations that are common to all members of the community; 5) common economic space.

Let's turn to the issue of formation of national identity. Collective identities, to which national identity refers, are acquired phenomena. In the formation of collective identities, it is important to focus attention on three key parameters: communication, experience and memory (Yakhtenfuks et al., 2007, p. 39). They are able to become the basis for the formation of national identity, provided they are used simultaneously. The commonality of these principles determines the emergence of relevant traditions. It is traditions that contribute to the formation of a long-term national identity.

In the conditions of the war with the Russian aggressor, it is very important for Ukraine to nourish its national identity. Regional identities must be subordinated to a national identity.

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For example, in Kharkiv, even during martial law, strategies of excessive nourishment of regional identity are sometimes manifested in those days when it is desirable to give priorities to the strengthening of national identity.

We are talking about the celebration of Kharkiv City Day, which has been taking place on August 23 since the end of the 1990s. Unfortunately, this celebration has simply canceled the celebration of national holidays in recent years: the Day of the National Flag (August 23) and the Independence Day of Ukraine (August 24).

The date of the celebration of the city of Kharkiv – on August 23 is problematic. This date is allegedly considered the date of the liberation of Kharkiv in the Second World War. But this information is not true. Because on that day in 1943, Kharkiv was just being liberated, the fighting continued for more than a week.

It is clear why during the USSR the date of August 23 was actively promoted as the day of the liberation of Kharkiv. It was necessary to somehow shift people's attention from the shameful pact of Stalin and Hitler on the division of Europe. After all, the Molotov-Ribbentrop Pact was concluded on August 23, 1939. And Kharkiv was chosen as a cover for imperial lies.

Kharkiv deserves a full celebration of its city day. Kharkiv should not cover Stalin's shame until now. Kharkiv today is an indomitable hero city, not a service to former imperial narratives.

In the 1990s, Kharkiv celebrated the city day in autumn. Therefore, in recent years, there have been heated discussions among Kharkiv residents about moving the city day to autumn again and celebrating national holidays with all Ukrainians together. This would significantly strengthen the national identity.

Thus, national identity can become a significant factor in legitimizing public authorities in the absence of elections. Processes of decommunization and decolonisation have already demonstrated this potential by restoring historical place names and reinforcing collective memory. Such measures unite citizens around shared history and cultural heritage. Therefore, strategies to strengthen national identity should become a priority for public authorities.

Conclusion. Thus, this article examines the specific characteristics of public authority functioning in Ukraine under martial law. The ongoing war has generated new patterns of interaction between these entities – local self-government and state authorities on the one hand, and civil society and public authorities on the other.

The scope of local self-government functions under martial law depends on the territorial status where they operate. Legislative inconsistencies regarding the interaction between state authorities and local self-government remain a pressing issue.

A crucial positive factor during the initial days of Russia's full-scale invasion was the decentralisation reform, which facilitated local self-organisation.

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