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**ENSURING THE FUNCTIONING OF SOCIETY  
IN ACTIVITIES OF PUBLIC AUTHORITIES  
UNDER THE LEGAL REGIME OF MARTIAL LAW**

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The scientific article is devoted to the study of the activities of public authorities during the period of martial law in ensuring the functioning of society, characterization of the concept and attributes of state bodies, types of state bodies. The article examines scientific and regulatory approaches to defining the most important functions of the state, in particular, ensuring the security of citizens. On February 24, 2022, the Russian Federation, in violation of international law, carried out a full-scale invasion of the territory of Ukraine. On the same day, the legal regime of martial law was introduced (there was a fact of aggression, daily new threats of attack, a threat to Ukraine's state independence, and violation of the integrity of state borders), and accordingly, state bodies, military formations, and local governments were given the necessary powers to prevent the threat and ensure national security, as well as temporary restrictions due to the threat to the constitutional rights and freedoms of people and citizens, as well as the rights and legitimate interests of legal entities), which has been prolonged for a month. This has changed the worldview of all Ukrainians, the activities of state and self-governing institutions. Martial law is a legal regime that has its own peculiarities and regulates the activities of state and local governments in Ukraine. During the period of martial law, the activities of state bodies are aimed at ensuring the operation of the Constitution and laws of Ukraine, implementing measures of the legal regime, defending civil defense and ensuring the protection of the rights, freedoms and legitimate interests of citizens of the state.

**Martial law provides state authorities, military administrations, and military command and control bodies with the necessary powers to prevent threats and repel armed aggression and ensure national security. Based on this, the state authorities felt the impact of the martial law regime, as they faced new challenges, but the state authorities quickly regulated their activities. The state is characterized by the presence of a social system with certain elements, manifestations, content and functional purpose, i.e. organizational overflows of society. The management of major national events places extremely high demands on the organization and interaction of state institutions and local self-government, which is guaranteed during the functioning of the state mechanism and contributes to the development of a democratic society.**

**Key words: society; state; law; legal regime; martial law; public authority; official; legislation; civil servant; citizen.**

**Formulation of the problem.** The main function of any country in different historical periods (including innovative social, democratic and legal countries) is to manage its activities in order to exercise state power throughout society and to exercise the rights of governance on behalf of the state. Accordingly, the main institution representing and representing the state is the state apparatus.

The state apparatus, which directly exercises state and public power, differs from the broader category of "state institutions" in that it belongs to state bodies as a separate form of state power. The state apparatus is an indispensable and important feature of the emergence and functioning of the state, designed to carry out the main functions of the state in the practical exercise of state power and management of society and various spheres of life. Therefore, in the context of studying broader issues related to state mechanisms, it is necessary to highlight the priority issues of the state apparatus.

Thus, the state apparatus is a complex of state bodies and their subdivisions authorized to directly exercise state power and governance, based on the possibility of using coercion in their activities [2, p. 126].

**Analysis of the study of the problem.** The following scholars have studied the state bodies, and their works have become the basis for this work, in particular: Y. S. Bohiv, S. V. Honchar, O. Hryn, M. A. Prokopyk, O. F. Skakun, A. Sukhorukova, V. V. Utvenko, O. Frolov, and other scholars.

However, in their writings, these issues were covered indirectly and require a more thorough analysis.

**The article is aimed to** study the peculiarities of legal issues related to ensuring the functioning of society in the activities of public authorities under the legal regime of martial law.

**Presenting main material.** The concept of the state apparatus is generalized, i.e. it includes a whole set of state bodies in a particular area based on certain common features. The main element of the state apparatus is a state body with the relevant competence. This means that the exercise of state power by the state apparatus is tantamount to the exercise of power in certain areas by each of its bodies that are part of the state apparatus. We propose to reconsider the scientific views on the concept of "state body – state body".

O. F. Skakun believes that state bodies are structurally separate teams of civil servants (employees) who, depending on their position, determine the powers of a state body defined by law and certain inalienable means for performing administrative functions and tasks of the state. She also notes that the literature uses the terms "public authorities" and "public body". According to her, in the first case, attention is drawn to the structural organization of the state, and in the second – to the essence of power (power relations), which is manifested in the highest echelons of its structural organization [3, p. 159].

In this regard, it should be noted that the Constitution of Ukraine of 1996 does not use the terms "state agency" or "government agency" at all, although they are contained in laws and other current

regulations adopted on their basis, for example, “state agency” – in the Law of Ukraine “On Citizenship of Ukraine”. If we consider the concept of “state agency”, it is a body of special competence in the system of central executive authorities, which is managed by the government, but is not headed by a member of the government, unlike ministers. The relevant minister coordinates and directs the activities of the agencies through regulations, not operationally. On the contrary, the Constitution of Ukraine (CU) uses the term “state power”, which means all bodies of the branches of power: legislative, executive and judicial: “the people shall exercise power directly and through the state and local self-government bodies” (Article 5) [4].

Thus, the term “public authority/state body” is a derivative of the CU. The word “body” is a component of other terms used in constitutional law. In particular, part 2 of Article 59 mentions state bodies. The term “state body” is used in an indirect form according to the meaning of the provision of part three of Article 5. A comprehensive analysis of the provisions of the CC allows us to draw a certain conclusion, namely, that the terms “public authority” and “state body” are used as synonyms. However, the Constitution refers to bodies in relation to the state not only in the context of the separation of powers. Thus, for example, part 3 of Article 17 uses a term inherited from Soviet practice, which is essentially a euphemism – “law enforcement agencies of the state” [4].

According to A. Sukhorukova, a public authority can be defined as a relatively autonomous and organizationally separate part of the unified state apparatus of Ukraine, which is a group of citizens of Ukraine (one person) formed in accordance with the law – a civil servant – created in accordance with the procedure established by law to perform the duties and functions of the state, and for this purpose is endowed with appropriate state powers exercised in the organizational and legal forms determined by law. [5, c. 243].

Referring to the definition of “state body”, L. Strelbytska notes that a state body is a certain element or link of the state apparatus which participates in the implementation of the functions of the state by carrying out administrative activities in legally recognized competence and is endowed with state power and the necessary material and technical means for this purpose [6, p. 81].

G. O. Barabash and T. O. Lutsenko characterize state bodies of Ukraine as a relatively separate unit of a single system of state authorities, established in accordance with the procedure established by law and built on the constitutional principle of separation of powers: the staff is united into a single whole by legal ties (provided that it is not a single body) and operates in the relevant territory through certain organizational forms and methods of activity [7, p. 12].

I. V. Tkach also shares the same opinion as A. Sukhorukova, pointing out that the constituent elements of the state apparatus are a system of institutions and persons, and the bodies of state power are the ones that have certain rights and obligations to exercise state power. The concepts of “state body”, “state body” and “public authority” are mostly used as synonyms in modern literature and legislation of Ukraine [8, p. 21].

The features of a public authority include the following:

- is formed directly by the people or the state in accordance with the law and acts on its basis;
- has special functions provided for by the constitution or other laws and performs them on behalf of the state;
- has certain state powers, the essence of which is: a) the right to issue individual and regulatory acts; b) the right to exercise control and supervision over the thorough and mandatory fulfillment of the requirements stipulated by these acts; c) the right to apply various measures of power, such as encouragement, persuasion, and, if necessary, state coercion;
- functionally cooperate with other bodies in the exercise of its competence and be guided by the principle “only what is clearly defined by law is permitted”. The principle “everything that is not prohibited by law is permitted” is not allowed in the activities of state bodies, as its influence extends to the sphere of property rights of individuals and legal entities;

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– employees who have special legal relations with each other and with the state body. The scope and procedure for exercising their powers are established by law and are specified in job descriptions, staffing schedules, etc. People working in state institutions are divided into workers and employees.

– has in its operational management the necessary material base – state property; bank account; source of funding – the state budget; – has an organizational structure (structure by type and number of individual services), territorial scope of activity, system of official responsibility and official discipline [9, p. 120; 10, p. 12].

The most important feature of this state body is state powers. Along with other features, on the one hand, they allow to draw a clear line between state bodies and state-owned enterprises and institutions, thereby creating the second group of features characterizing state bodies as an independent state and legal phenomenon.

Thus, a state body is a structurally separate, internally organized group of civil servants who hold positions defined by law and have the appropriate competence to perform certain state functions and duties of the state. Its features include: establishment and operation of the state or directly by the people (e.g., parliament) in accordance with the law; has exclusive functions provided for by the constitution or other laws, which it performs on behalf of the state; has state power, is a legal reflection of the totality of powers and is the subject of the competence of the state body, etc.

The activities of public authorities are an important component in the life of society and the state, especially now, in this difficult time for Ukraine, when the enemy is attacking and wants to destroy us.

State institutions differ from each other by their position in the state apparatus, peculiarities of their creation and functioning, being integral parts of a single and integral state apparatus, generally performing tasks and realizing functions of the state. Classification into specific types based on various characteristics allows for a deeper understanding of the individual properties of state bodies as components of the state apparatus.

Thus, state bodies can be divided into certain types according to the following criteria:

1. By the order of formation: primary – state bodies formed by the people (through elections); secondary – state bodies formed by the primary ones.

2. By the way of formation: elected – representative bodies, an example in Ukraine is the Verkhovna Rada of Ukraine or the President of Ukraine; appointed – for example, prosecutors, executive and administrative bodies and those that are inherited – the hereditary monarch.

3. By the time of functioning: permanent (created without any time limits); temporary (created to achieve short-term goals).

4. According to the territory covered by their jurisdiction: general – whose jurisdiction extends to the entire territory of the state; republican – its jurisdiction extends to the territory of the subjects of the federation or to the territory of autonomous entities existing within one state (for example, the Autonomous Republic of Crimea of Ukraine); local – its jurisdiction covers the territory of regions, districts, cities, towns and villages.

5. By the scope of competence: bodies of general competence – the government; bodies of special competence – ministries.

6. By the procedure for exercising competence: collegial – the parliament; sole – the head of state.

7. By legal forms of activity: lawmaking; law enforcement; law enforcement; control and supervision; constituent.

8. By the principle of separation of powers: legislative; executive; judicial.

9. By the nature and content of activities: legislative (parliament); head of state (monarch or president); executive (government); law enforcement (National Police, Security Service of Ukraine); judicial (higher, specialized and local); control and supervision (prosecutor's office, state inspections) [9, p. 121].

However, the activities of public authorities have changed somewhat and led to significant changes in the country after the Russian Federation illegally invaded the territory of Ukraine on February 24, 2022.

Let's take a closer look at some of the changes in the powers exercised by public authorities during martial law.

During martial law, the President of Ukraine and the Verkhovna Rada of Ukraine act only within their powers and in accordance with the established procedure, based on the Constitution of Ukraine and the Law of Ukraine "On Martial Law".

The Cabinet of Ministers of Ukraine, other state bodies, military administrations and departments, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, local self-government bodies, in accordance with the Law of Ukraine "On the Legal Regime of Martial Law" and other laws, exercise their powers granted to them by the Constitution of Ukraine and in accordance with the legislation of Ukraine [1, p. 9].

During martial law, the President of Ukraine:

1) exercises general control over the promulgation and implementation of measures of the legal regime of martial law;

2) make decisions on the participation of the Armed Forces of Ukraine, other military formations and law enforcement agencies in the implementation of the effective measures of the martial law regime upon the proposal of the Security and Defense Council of Ukraine

3) provide strategic leadership of the Armed Forces of Ukraine, other military formations and law enforcement agencies through the General Staff of the Armed Forces of Ukraine;

4) determines the procedure of military service.

For the period of martial law, the President of Ukraine may decide to dismiss an official whose appointment and dismissal is within his/her authority and entrust the performance of his/her duties to another person on other grounds. The person responsible for the performance of duties under this part shall meet the requirements stipulated by the legislation for holding the respective position, taking into account the provisions of the Law of Ukraine "On the Legal Regime of Martial Law".

In case of expiration of the term of office of the President of Ukraine during the period of martial law, his powers shall be extended until the newly elected President of Ukraine, elected after the lifting of martial law, takes office [1, p. 11].

The Verkhovna Rada of Ukraine, in the event of the declaration of martial law in Ukraine or in some of its settlements, will work in session. During martial law, the Verkhovna Rada of Ukraine may decide to dismiss a civil servant from a position whose appointment and dismissal are within the powers of the Verkhovna Rada of Ukraine, except for the grounds provided for by a special law, and in case of no confidence in such an official (except for officials who are appointed and dismissed by the Verkhovna Rada of Ukraine upon the proposal of the President of Ukraine or the Cabinet of Ministers of Ukraine) [1, p. 12].

In the event of the introduction of martial law in Ukraine or in certain of its localities, the Cabinet of Ministers of Ukraine:

1) operates in accordance with the Regulations of the Cabinet of Ministers of Ukraine during the period of martial law;

2) develops and implements the Plan for the introduction and implementation of martial law measures in a number of Ukrainian localities, taking into account the threats and peculiarities of the specific situation;

3) organizes and manages the central government and other executive bodies under martial law;

4) after the outbreak of armed conflict, takes measures to create security zones in accordance with the standards of international humanitarian law, organized in such a way as to often protect the civilian population;

5) determines the peculiarities of defense and public procurement to ensure the protection of customers and public customers from the military threat [1, p. 12].

During martial law, the activities of state bodies are aimed at ensuring national security and public order, as well as at continuing the vital activity of the state and society.

### **Conclusions.**

Thus, the study concludes that despite the martial law, public authorities continue to work, facing many challenges and problems. Therefore, one of the most important functions of the state today is to ensure the security of citizens, protection of the population and territories from illegal encroachments of the aggressor country. In particular, the legal framework for the activities of these bodies during martial law was defined.

The individual properties of state bodies as components of the state apparatus allow them to be classified according to a certain classification. The possible classifications are: by the order of formation; by the method of formation; by the time of functioning; by the territory covered by their competence; by the scope of competence; by the procedure for exercising competence; by legal forms of activity; by the principle of separation of powers; by the nature and content of activity. The executive branch is a branch of state power that has the right to directly govern the country, implement laws and other regulations adopted by the legislature. It is the branch that interacts most closely with local governments.

However, following the full-scale invasion of Ukraine by the Russian Federation on February 24, 2022, the activities and powers of public authorities have changed somewhat and led to major changes in the country.

Interconnection of state authorities and local self-government bodies during the period of martial law is an important condition for ensuring the vital activity of society and the state. During martial law, state authorities and local self-government bodies have common tasks, such as ensuring the safety of the population, protecting the territories, and maintaining the welfare of the state and society.

Thus, the military invasion has affected all areas of activity of state and local authorities. Under the new conditions, they adapted to the emerging challenges and continued to be a pillar in providing quality services to the population and organizing combat operations with local defense capabilities.

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## **ЗАБЕЗПЕЧЕННЯ ФУНКЦІОНУВАННЯ СУСПІЛЬСТВА У ДІЯЛЬНОСТІ ОРГАНІВ ДЕРЖАВНОЇ ВЛАДИ ЗА УМОВ ДІЇ ПРАВОВОГО РЕЖИМУ ВОЄННОГО СТАНУ**

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Наукова стаття присвячена дослідженню питань діяльності органів державної влади в період дії правового режиму воєнного стану у забезпеченні функціонування суспільства, характеристики поняття та ознак органів держави, видів органів держави. У статті розглянуто наукові і нормативно-правові підходи до визначення найважливіших функцій держави, зокрема, забезпечення безпеки громадян. 24 лютого 2022 року російська федерація, порушуючи норми міжнародного права здійснила повномасштабне вторгнення на територію України. Цього ж дня був запроваджений правовий режим воєнного стану (існував факт агресії, щоденні нові загрози нападу, небезпека державній незалежності України, порушення цілісності державних кордонів), відповідно, державні органи, військові формування та органи місцевого самоврядування отримали необхідні повноваження щодо запобігання загрозі та забезпечення національної безпеки, а також тимчасові обмеження у зв'язку з загрозою конституційним правам і свободам людей і громадян, а також прав та законних інтересів юридичних осіб), який пролонгується вже майже два роки та триває і досі. Це змінило світогляд усіх українців, діяльність державних і самоврядних інституцій. Воєнний стан – це такий правовий режим, що має свої особливості та регулює діяльність державних органів та органів місцевого самоврядування в Україні. В період дії правового режиму воєнного стану діяльність державних органів направлена на забезпечення дії норм Конституції та законів України, реалізація заходів правового режиму, оборони цивільного захисту та забезпечення охорони прав, свобод і законних інтересів громадян держави.

Воєнний стан надає державним органам, військовим адміністраціям, органам військового управління необхідні повноваження для запобігання загрозам і відсічі збройній агресії та забезпечення національної безпеки. На основі цього, органи державної влади відчули вплив дії правового режиму воєнного стану, адже зіштовхнулися з новими проблемами, проте державна влада достатньо швидко врегулювала їх діяльність. Держава характеризується наявністю соціальної системи з певними елементами, проявами, змістом і функціональним призначенням, тобто організаційними переливами суспільства. Керівництво великими загальнонаціональними подіями висуває надзвичайно високі вимоги до організації та взаємодії державних інституцій та інституту місцевого самоврядування, що гарантується під час функціонування державного механізму і сприяє розвитку демократичного суспільства.

**Ключові слова:** суспільство; держава; право; правовий режим; воєнний стан; орган державної влади; посадова особа; законодавство; державний службовець; громадянин.