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FREEDOM OF INFORMATION AND STATE SECURITY: FEATURES OF LEGAL REGULATION UNDER MARTIAL LAW CONDITIONS

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Freedom of information is a fundamental right that ensures transparency and accountability in a democratic society. However, in times of war, governments often impose legal restrictions on access to public information to protect national security and maintain public order. This article examines the balance between freedom of information and state security in Ukraine under martial law. It analyzes the legal framework governing access to public information and the limitations introduced during wartime. The study explores how these restrictions align with international human rights standards and Ukraine's constitutional principles. One of the key aspects addressed in this research is the justification for restricting information access in emergencies. The paper evaluates the proportionality and necessity of such limitations, considering legal precedents and international practices. Special attention is given to the role of government institutions in managing information flows and the potential risks of excessive censorship. Additionally, the study highlights the impact of these restrictions on journalism, media freedom, and public trust in state authorities. The research also investigates the mechanisms for challenging information restrictions and ensuring accountability for potential abuses of power. It considers the role of courts, human rights organizations, and international bodies in overseeing the implementation of legal regulations on information access. The effectiveness of Ukraine's legal framework in balancing national security and freedom of

information is critically assessed. Furthermore, the article examines the legal distinctions between classified, restricted, and publicly accessible information during wartime. The importance of clear legal definitions and procedural safeguards in preventing arbitrary restrictions is emphasized. Comparative analysis with other countries experiencing similar challenges provides insights into best practices and potential improvements to Ukraine's legislation. The findings suggest that while certain restrictions on information access may be justified during martial law, they must be carefully regulated to prevent misuse. Transparency in governmental decision-making and legal safeguards against excessive restrictions are crucial for maintaining public confidence. The study underscores the need for ongoing legal reforms to harmonize national security concerns with democratic principles. In conclusion, the paper highlights the necessity of a balanced approach to information regulation in wartime. It advocates for greater public awareness, stronger legal oversight, and adherence to international human rights norms. By ensuring that restrictions on information access remain proportionate and temporary, Ukraine can strengthen both its national security and its commitment to democratic values. The research also emphasizes the role of digital technologies and social media in shaping access to information during wartime. With the rise of disinformation and cyber threats, governments face increasing challenges in distinguishing between legitimate security concerns and undue censorship. The paper explores how Ukraine has adapted its legal mechanisms to counter information warfare while upholding democratic principles. It also considers the role of international partnerships in promoting information transparency and cybersecurity. Moreover, the study discusses the potential long-term consequences of wartime restrictions on freedom of information, particularly their impact on post-war democratic development. Ensuring that emergency measures do not become permanent limitations on fundamental rights is a key concern. The article argues that robust legal frameworks, public oversight, and international cooperation are essential in maintaining a fair balance between security and freedom. Ultimately, the study reinforces the idea that even in times of crisis, democratic societies must uphold their commitment to transparency, accountability, and the rule of law.

Keywords: freedom of information, state security, martial law, right to information, national security, access to information, restriction of rights, constitutional law, information security, legal regulation, censorship, information policy, government transparency, media freedom, public information.

Formulation of the problem. Freedom of information is one of the key principles of a democratic society that ensures accountability of the authorities and informed choice of citizens. At the same time, in times of military conflicts and emergencies, the state is forced to impose restrictions on access to information to ensure national security. Under martial law, Ukraine faces the need to balance the openness of the information space with the protection of state interests. Russia's aggression against Ukraine has created new challenges for information security, including the spread of disinformation, cyberattacks, and propaganda. These threats require swift and decisive measures from the state, but excessive restrictions on access to information can lead to a decrease in public trust in the government. It is important to ensure transparent and legal mechanisms for regulating information policy during martial law. A study of the legal regulation of access to information during martial law is necessary to determine the limits of permissible restrictions and prevent abuse of power. The study of international experience will help to develop an optimal model of information security for Ukraine that meets democratic standards. Since the issues of freedom of speech and access to information are fundamental to the rule of law, their violation can have long-term consequences for society. In today's digital environment, information is a powerful tool of influence, and thus its regulation must be balanced. Excessive censorship can limit the work of journalists, human rights defenders and civil society, making it more difficult to fight corruption and abuse. At the same time, the lack of proper control

over the dissemination of information may contribute to the leakage of strategic data or strengthen hostile propaganda. Ukraine needs to develop an effective information policy that will help maintain security without violating democratic principles. This study will help to formulate legal mechanisms that will ensure the openness of government processes while protecting the country from information threats. In addition, an analysis of the legal norms governing access to information during martial law will help to improve the effectiveness of their application in practice. Thus, the relevance of this study lies in the need to reconcile the right of citizens to information with the state interests in times of war. Optimization of legal regulation in this area will contribute to strengthening democratic institutions and national security of Ukraine.

Analysis of the study of the problem. The study of the relationship between freedom of information and national security, particularly under martial law, is a crucial topic both in Ukraine and internationally. In Ukraine, researchers such as Volodymyr Kucher have focused on human rights and information security in times of military aggression, particularly since 2014 and during Russia's full-scale invasion in 2022. Additionally, the authors of the collection "National Security as a Constitutional Value: Modern Challenges" have analyzed the dilemma between freedom of speech and state security during wartime. On the international level, Toby Mendel has made significant contributions through his book "Freedom of Information: A Comparative Legal Survey" (first published in 2003, updated in 2008), which examines the legal aspects of freedom of information in different countries, including cases where it has been restricted due to national security threats. Another key researcher is Brendan Walker-Munro, a senior law lecturer at Southern Cross University, who has focused since 2020 on protecting research data and countering information espionage—issues directly relevant to national information security. These scholars have played a vital role in exploring the legal dimensions of freedom of information and its connection to national security, helping to understand how states can regulate the information space in times of crisis, particularly under martial law.

The purpose of the article is of great importance, as it allows for an in-depth analysis of the balance between citizens' right to access information and the state's need to ensure security during wartime. Martial law entails certain restrictions on freedom of speech, which may be justified from the perspective of national security. However, there is also a risk of abuse and excessive censorship. Analyzing this issue will help find an optimal balance between information openness and necessary restrictions. An important aspect of this study is comparing legal approaches in different countries that have faced military conflicts, as well as considering international standards on freedom of information. This will help determine the permissible limits of state intervention in the information sphere and prevent violations of democratic principles. Additionally, the problem of disinformation and information warfare requires special attention. Hostile states may use freedom of speech as a tool for propaganda, posing a threat to national security. Therefore, it is crucial to explore legal mechanisms that allow for effective counteraction to information attacks without violating fundamental human rights. Journalists and civil society play a crucial role in ensuring access to truthful information. This research aims to identify which restrictions are justified and which may pose a threat to media freedom. The practical significance of this topic lies in its relevance for human rights defenders, lawyers, policymakers, and journalists. The findings of such a study will contribute to improving legislation that regulates information policy during wartime, ensuring a balance between security and human rights.

Presenting main material. The right to access information is one of the fundamental human rights declared and guaranteed by Article 34 of the Constitution of Ukraine: "Everyone has the right to freely collect, store, use and disseminate information orally, in writing or in any other way of his or her choice" [1]. This right is key to ensuring a democratic society, as it allows citizens to obtain reliable information necessary to make informed decisions. Access to information is an integral part of freedom of speech and

contributes to the transparency of public authorities. It allows citizens to control government actions, monitor policy implementation, and take an active part in public life. In addition, access to information is a key to fighting corruption, as openness of public data reduces the risk of abuse of power. This right becomes especially important in times of crisis and martial law, when society needs prompt, reliable and objective information. At the same time, during such periods, the state may impose restrictions on the dissemination of certain information, in particular those related to military operations or national security. Such restrictions must be justified, proportionate and not violate basic democratic principles.

Ukrainian legislation provides for mechanisms to ensure access to information, in particular through the Law on Access to Public Information. It stipulates that any information held by the authorities is open by default, unless its restriction is justified in terms of security or protection of the rights of others.

Media and journalists play an important role in ensuring the right to access information. They act as an intermediary between the state and society, providing citizens with access to important data. In democratic countries, freedom of the press is one of the key indicators of the level of information rights of citizens. However, there are numerous challenges in the modern information space, including disinformation, manipulation and propaganda. Hostile countries and political groups can use information technology to influence public opinion and destabilize the situation in the country. In such circumstances, the state must not only guarantee access to truthful information, but also actively fight fakes and information threats.

The right to information is also closely related to the protection of personal data and privacy. It is necessary to strike a balance between openness of information and protection of privacy to avoid violation of human rights. In addition, the development of digital technologies has had a significant impact on access to information. The Internet, social media, and online resources have made information more accessible, but at the same time made it more difficult to verify its accuracy. Citizens need to have media literacy skills to critically evaluate the information they receive and distinguish between truthful and manipulative data. Ensuring the right to access information requires the active participation of both the state and civil society. It is important to develop legal mechanisms that prevent unreasonable restrictions on the information space and promote accountability of the authorities to the public. The right to information is an important component of the democratic system that ensures transparency, public control and participation of citizens in political processes. Its realization requires not only appropriate legislation, but also responsible behavior of the society in the use of information.

It should be noted that the national legislator has generally paid attention to the issues of information, procedure and conditions of access to it. In particular, the national legislation establishes general legal framework for obtaining, using, disseminating and storing information, enshrines the human right to information in all spheres of life of the state and society, regulates the system of information and its sources, defines the status of participants in information relations, regulates the mechanism of access to information and attempts to ensure its protection, protection of each individual and society from false information.

The right of access to information was also enshrined and detailed in the Laws of Ukraine “On Information”, “On Citizens’ Appeals”, “On Access to Public Information” and other legal acts.

The legislative definition of “information” is contained in Article 1 of the Law of Ukraine “On Information”: “information is any information and/or data that can be stored on material carriers or displayed electronically” [2].

The Law of Ukraine “On Access to Public Information” defines the procedure for exercising and ensuring the right of everyone to access information held by public authorities, other public information managers defined by this law, and information of public interest [3].

Information plays a key role in the functioning of a democratic state and ensuring the rights of citizens. The legislative definition of information provided in the Law of Ukraine “On Information” is fundamental for understanding its legal status and mechanisms for regulating access to it. According to the law, information can exist in various forms – oral, written, electronic or audiovisual. The Law of Ukraine “On Access to Public Information” defines the procedure for obtaining information held by public authorities, local governments and other entities performing public functions. This means that citizens have the right to

submit inquiries to the relevant authorities and receive the necessary information if it does not contain state, commercial or other legally protected secrets.

The principle of openness and transparency of public authorities is fundamental to the development of a democratic society. Providing access to public information allows citizens to control the activities of the authorities, which helps to reduce corruption and increase the efficiency of public administration. At the same time, the legislation provides for restrictions on access to information in cases where its dissemination may harm national security, human rights or public interests. Considerable attention is paid to the concept of “public interest”. Information of public interest must be made public regardless of who is its owner. This applies, in particular, to information on the environmental situation, budget spending, the activities of public officials, and human rights.

Modern digital technologies have greatly simplified access to information. Online resources, open databases, and digital platforms allow citizens to quickly obtain up-to-date information. At the same time, the development of the information space creates new challenges, including those related to the spread of fake news and manipulation. Government agencies should not only ensure access to information but also guarantee its reliability. One of the important tasks is to increase the level of media literacy of the population so that people can critically evaluate the data received and distinguish between true information and disinformation.

Ukrainian legislation on access to information is harmonized with international standards. For example, the principles set out in the Council of Europe’s Convention on Access to Official Documents stipulate that everyone has the right to receive public information without having to justify their request. Journalists, civic activists and human rights organizations play an important role in ensuring access to information. They help to disseminate socially important information, monitor the activities of the authorities and identify cases of violation of information rights. Despite progress in the area of information transparency, problems with access to information still exist. In some cases, public authorities artificially restrict access to certain data or provide incomplete information. This requires further improvement of legal mechanisms and increased responsibility of officials for concealing socially important information. Thus, Ukrainian legislation provides basic guarantees of the right to access information, but effective implementation of this right requires active participation of citizens, development of transparency mechanisms and combating information threats. Openness and accessibility of information are important conditions for the democratic development of society and strengthening public trust in state institutions.

Article 3 of the Law of Ukraine “On Access to Public Information” establishes regulatory and legal guarantees of access to public information: the obligation of information managers to provide and publish information, except in cases provided for by law; determination by the information manager of special structural units or officials who organize access to public information in their possession in accordance with the established procedure; maximum simplification of the procedure for requesting and receiving information; access to meetings of collegial subjects

As a result of the full-scale armed military aggression of the Russian Federation against our sovereign state, on February 24, 2022, the President of Ukraine Decree No. 64/2022 introduced a legal regime of martial law throughout Ukraine, which continues to this day.

In times of war, it is extremely important to properly regulate access to public information. The safety of every person, society, defense capability and national security depend on it. Prior to the full-scale invasion, specially authorized public authorities did not properly inform citizens and foreigners who were on the territory of Ukraine about the threat of attack, the possibility of occupation, and the risk to life and health, which violated the constitutional right to information. After all, providing information about the danger could have contributed to the timely evacuation of the population, prevented humanitarian disasters and crimes against humanity and genocide committed by Russian troops.

At the same time, the problem of access to information has become even more acute since the start of the full-scale invasion. Government agencies are forced to balance the need to inform the public with the need to maintain military secrecy to avoid leaks of strategically important data that could be used by the

enemy. This leads to the introduction of restrictions that, on the one hand, are justified from the point of view of national security, but on the other hand, may violate the right of citizens to receive objective and timely information.

A critical aspect in this context is the fight against disinformation and hostile propaganda. Russian special services systematically use information technologies to spread fakes aimed at undermining the morale of the population, discrediting the Ukrainian government and manipulating public opinion. In these circumstances, the state should not only restrict access to hostile propaganda resources, but also actively explain to citizens the importance of information hygiene and source verification.

At the same time, restrictions on access to information should be proportionate and consistent with the principles of a democratic society. Excessive secrecy of government agencies can lead to increased distrust among the population, spreading rumors and panic. Therefore, it is important that official communications are regular, clear and based on reliable facts.

Of particular importance is informing citizens about the rules of behavior under martial law, possible threats and ways to avoid them. The absence or untimely provision of such information can cause chaos, disorientation, and an increase in civilian casualties. Therefore, an effective crisis communication system is a key element of national security. In addition, it is important to ensure access to truthful information for the temporarily occupied territories. The enemy is actively using information isolation as a tool of control, banning Ukrainian media, blocking communication and imposing its own propaganda. In such circumstances, the state must develop alternative mechanisms to convey the truth to citizens under occupation. Independent media and civil society play a significant role in ensuring the right to information in times of war. Journalists, volunteers, and human rights defenders should be able to quickly access important information and convey it to the public. However, their activities are hampered by military threats, restrictions on press freedom, and the risk of persecution if they disclose facts undesirable to the authorities.

An additional challenge is the regulation of information in the digital space. Social media and messengers have become the main source of news for many citizens, but at the same time, they are also the source of a large number of fake news. The state must have mechanisms to effectively respond to information threats without violating freedom of speech.

The issue of liability for spreading false information is also of particular importance. Legislation should clearly define the boundaries between freedom of expression and the deliberate dissemination of disinformation that could threaten state security. At the same time, it is necessary to prevent the abuse of these norms to suppress political opposition or independent journalism.

Thus, regulating access to public information in times of war is an extremely complex and multifaceted task. It requires finding a balance between the security of the state and the rights of citizens, combating disinformation and ensuring transparency of the government. Not only the country's information security, but also public trust in state institutions, which is critical in times of military conflict, depends on the effectiveness of these measures.

On the other hand, some information in wartime is still subject to restrictions on access, which is justified by national security and ensuring the defense capability of the state.

Under martial law, many public services and resources have been suspended or operate in a limited mode due to both the threat to national security and the lack of a realistic possibility of proper functioning.

According to the constitutional provisions of Article 34(3), Article 64(2) of the Constitution of Ukraine, and Article 6 of the Law of Ukraine "On Access to Public Information," the right to access information may be subject to restrictions, primarily to protect the interests of national security, territorial integrity or public order in order to prevent riots or criminal offenses [1].

In accordance with Article 22(6) of the Law of Ukraine "On Access to Public Information", the information holder may apply the tool of delay in satisfying a request for information if the requested information cannot be provided for review within the time limits provided by law in the event of force majeure (extraordinary and unavoidable circumstances that objectively make it impossible to fulfill obligations, in particular, the threat of war, armed conflict, hostile attacks, general military mobilization,

military operations, declared and undeclared war [3]. The use of the deferral mechanism for responding to information requests is an important tool that allows government agencies to act in situations of emergency, particularly during wartime. This provision of the law is aimed at protecting the interests of the state, society, and individuals in cases where the immediate release of information could pose a security threat or is objectively impossible due to certain circumstances. In a state of war, access to public information may be restricted due to ongoing hostilities, destruction of administrative buildings, power outages, or malfunctions in the functioning of electronic document circulation systems. In such cases, information holders are entitled to temporarily postpone responses to requests, but they are obliged to inform the requester of the reasons for the delay and the possible timeline for providing the information. An important aspect is that deferral does not mean a complete refusal to provide information. Public authorities should strive to fulfill their informational obligations as soon as the circumstances that prevent their fulfillment are resolved. This ensures a balance between citizens' right to access information and the need to protect national interests. At the same time, the law does not allow the abuse of the deferral mechanism as a means of concealing important public information. If restrictions on access to data are not justified and proportional, citizens and journalists have the right to challenge such decisions in court. Judicial practice shows that, in the absence of legitimate grounds for deferral, courts can compel information holders to provide the requested data.

One of the greatest challenges is distinguishing between information that genuinely cannot be provided due to force majeure and data that is unjustifiably withheld. For example, military information containing tactical details of operations or troop movements is reasonably restricted, while information about the use of budget funds or humanitarian aid should remain accessible to the public. A key role in this matter is played by non-governmental organizations and human rights defenders who monitor the respect of informational rights during wartime. They analyze cases of unjustified information restriction, appeal to judicial authorities, and raise public awareness of citizens' rights.

Government bodies, in turn, must make every effort to ensure transparency even under difficult conditions. The development of e-governance and digital platforms can facilitate automated access to certain categories of information, reducing reliance on physical presence or paper archives. Despite the challenging conditions of wartime, the state is obligated to adhere to international standards in the field of access to information. Ukraine is a participant in international agreements regulating open government, such as the Council of Europe's Convention on Access to Official Documents. This imposes additional responsibility on government agencies to ensure proper public communication even during crisis situations.

Thus, the deferral mechanism for responding to information requests is important, but its application must be measured and in line with the principles of the rule of law. Justification, temporality, and transparency in decision-making regarding deferral are key elements that allow for maintaining a balance between security and citizens' right to access information.

The inability to properly and timely process appeals, requests, and provide responses is due to the fact that state authorities and local government bodies, in accordance with the provisions of Article 8 of the Law of Ukraine "On the Legal Regime of Martial Law", primarily undertake measures necessary to avert threats, repel armed aggression, and ensure national security. These measures may affect the ability to exercise certain rights of applicants, such as: establishing enhanced security and special operational regimes at the authorities or institutions to which the appeal has been submitted; imposing a curfew in a certain area; setting special entry and exit regimes, restricting freedom of movement, and also restricting the movement of vehicles [4].

The order of the Commander-in-Chief of the Armed Forces of Ukraine dated March 3, 2022, No. 73, established a list of information whose disclosure could lead to the enemy gaining knowledge about the actions of the Armed Forces of Ukraine and other components of the defense forces, negatively affecting the execution of assigned tasks during the legal regime of martial law. In particular, the order prohibits independently spreading, copying, or reposting information concerning, for example: the names of military units (subunits) and other military facilities in areas of combat (special) operations, geographic coordinates

of their locations; the number of personnel in military units (subunits); the quantity of weapons and military equipment, material and technical means, their condition, and storage locations, among others [5].

Despite the need for restrictions on access to certain information due to security factors, it is important to ensure a proper balance between protecting national interests and citizens' rights to access information. During a state of martial law, when information can be crucial for national security, it is also essential to maintain transparency on issues that do not pose a threat to the country's defense capabilities. However, access to information that could directly or indirectly influence military actions or national security requires clear regulation to prevent abuses or violations of human rights.

In practice, this means that information holders should ensure timely access to data that does not fall into the restricted category, such as information about humanitarian aid, medical services, or other important aspects for citizens. At the same time, data categories that could be used by the enemy to achieve military objectives should be restricted according to the law to preserve the effectiveness of military strategies. However, despite these stringent limitations, it is crucial that such decisions are clearly justified and comply with international law, especially human rights related to access to information. One of the key aspects in this situation is the necessity for the state to take operational measures to prevent unlawful restrictions on access to public information. It is important to establish control mechanisms over the application of restrictions on access to information, as well as provide judicial protection for citizens whose rights may be violated. The ombudsman institution and human rights organizations can play a significant role in monitoring the respect of informational rights during wartime. At the same time, the use of information technologies, especially e-governance systems and special platforms for publishing information, can significantly facilitate citizens' access to important information, even under restrictions. Governments should improve digital communication processes to maintain public trust in state authorities during military conflicts.

Moreover, the role of the international community in supporting information rights during wartime is crucial. Ukraine has obligations under international standards to ensure transparency and access to information within its capabilities, without jeopardizing national security. Mechanisms such as government reporting, international audits, and cooperation with international organizations can contribute to the development of an effective and honest exchange of information between the state and its citizens, even in times of armed conflict. In conclusion, the issue of access to information in a state of martial law should be based on clear, well-thought-out legislative norms that allow the state to protect its security while not depriving citizens of their fundamental rights.

Conclusions. Freedom of information is one of the fundamental human rights enshrined in international and national legal frameworks. However, during martial law, the state is compelled to impose restrictions aimed at protecting national security. This creates a complex dilemma between the right to access information and the necessity of ensuring the security of the state and its citizens. An analysis of international experience indicates that restricting freedom of information during wartime is a common practice, but such restrictions must be proportional, justified, and temporary. In Ukraine, the issue of information security became especially relevant after 2014 and during the full-scale war with Russia that began in 2022. The introduction of wartime censorship, the blocking of pro-Russian media, and increased control over the dissemination of sensitive information online have become necessary measures. At the same time, it is crucial to ensure that such actions do not violate fundamental civil rights or lead to power usurpation. Ukrainian legislation is gradually adapting to modern challenges, but further improvements are needed in accordance with international standards. One of the main threats to information security in wartime is disinformation and information warfare. Hostile propaganda exploits the openness of the information space to manipulate public opinion, potentially undermining social stability and national defense. Therefore, effectively countering information threats is a key responsibility of state authorities, journalists, and civil society. Independent media and human rights organizations play a crucial role in maintaining the balance between freedom of information and national security. They must monitor government actions in the information sphere and ensure compliance with democratic principles. Meanwhile, state authorities should guarantee

transparency in decision-making to prevent excessive restrictions on freedom of speech under the pretext of security.

In conclusion, the legal regulation of freedom of information under martial law must be based on the principles of necessity, proportionality, and democratic oversight. The state must ensure national security while preventing authoritarian tendencies and abuses of power. Leveraging modern technologies, drawing on international experience, and fostering cooperation with civil society can help strike an optimal balance between security and human rights.

СПИСОК ВИКОРИСТАНИХ ДЖЕРЕЛ

1. Конституція України: прийнята на п'ятій сесії Верховної Ради України 28.06.1996. URL: <http://zakon5.rada.gov.ua/laws/show/254к/96-вр> (Дата звернення: 20.04.2025).
2. Про інформацію: Закон України від 02.10.1992 № 2657-XII. URL: <https://zakon.rada.gov.ua/laws/show/2657-12#Text> (Дата звернення: 20.04.2025).
3. Про доступ до публічної інформації: Закон України від 13.01.2011 № 2939-VI. URL: <https://zakon.rada.gov.ua/laws/show/2939-17#Text> (Дата звернення: 20.04.2025).
4. Про правовий режим воєнного стану: Закон України від 12.05.2015 № 389-VIII. URL: <http://zakon.rada.gov.ua/laws/show/389-19> (Дата звернення: 20.04.2025).
5. Про організацію взаємодії між Збройними Силами України, іншими складовими сил оборони та представниками засобів масової інформації на час дії правового режиму воєнного стану : Наказ Головнокомандувача Збройних Сил України від 03.03.2022 № 73. URL: https://www.mil.gov.ua/content/mou_orders/nakaz_73_050322.pdf (Дата звернення: 20.04.2025).

REFERENCES

1. *Konstytutsiia Ukrainy vid 28 chervnia 1996 roku* [The Constitution of Ukraine] Baza danykh "Zakonodavstvo Ukrainy" / VR Ukrainy. 1996, No. 30, st. 141. [In Ukrainian].
2. *Pro informatsiiu* [On Information]: Zakon Ukrainy vid 02 zhovtnia 1992 roku No. 2657-XII. Baza danykh "Zakonodavstvo Ukrainy" / VR Ukrainy, 1992, No. 48, st. 650. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2657-12#Text> (Accessed: 20.04.2025). [In Ukrainian].
3. *Pro dostup do publichnoi informatsii* [On Access to Public Information]: Zakon Ukrainy vid 13 sichnia 2011 roku No. 2939-VI. Baza danykh "Zakonodavstvo Ukrainy" / VR Ukrainy. 2011, No. 32, st. 314. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2939-17#Text> (Accessed: 20.04.2025). [In Ukrainian].
4. *Pro pravovyi rezhym voiennoho stanu* [On the Legal Regime of Martial Law]: Zakon Ukrainy vid 12 travnia 2015 roku No. 389-VIII. Baza danykh "Zakonodavstvo Ukrainy" / VR Ukrainy. 2015, No. 28, st. 250. Retrieved from: <https://zakon.rada.gov.ua/laws/show/389-19> (Accessed: 20.04.2025). [In Ukrainian].
5. *Pro orhanizatsiiu vzajemodii mezi Zbroinymy Sylamy Ukrainy, inshymy skladovymy syl oborony ta predstavnykamy zasobiv massovoi informatsii na chas dii pravovoho rezhymu voiennoho stanu* [On the Organization of Interaction Between the Armed Forces of Ukraine, Other Defense Forces, and Media Representatives During the Martial Law Regime]: Nakaz Holovnoho komandyvacha Zbroinykh Syl Ukrainy vid 03 bereznia 2022 roku No. 73. Baza danykh "Zakonodavstvo Ukrainy" / VR Ukrainy. Retrieved from: https://www.mil.gov.ua/content/mou_orders/nakaz_73_050322.pdf (Accessed: 20.04.2025). [In Ukrainian].

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**СВОБОДА ІНФОРМАЦІЇ ТА ДЕРЖАВНА БЕЗПЕКА:
ОСОБЛИВОСТІ ПРАВОВОГО РЕГУЛЮВАННЯ
В УМОВАХ ВОЄННОГО СТАНУ**

Свобода інформації є фундаментальним правом, що забезпечує прозорість і підзвітність у демократичному суспільстві. Однак у воєнний час уряди часто запроваджують юридичні обмеження на доступ до публічної інформації з метою захисту національної безпеки та підтримання громадського порядку. У цій статті розглядається баланс між свободою інформації та державною безпекою в Україні в умовах воєнного стану. Аналізується правова база, що регулює доступ до публічної інформації, та обмеження, запроваджені під час війни. Дослідження вивчає, наскільки ці обмеження відповідають міжнародним стандартам у сфері прав людини та конституційним принципам України. Одним із ключових аспектів, розглянутих у цій роботі, є обґрунтованість обмеження доступу до інформації в умовах надзвичайних ситуацій. У статті оцінюється пропорційність і необхідність таких обмежень, враховуючи юридичні прецеденти та міжнародну практику. Особлива увага присвячується ролі державних інституцій у регулюванні інформаційних потоків та потенційним ризикам надмірної цензури. Додатково досліджується вплив цих обмежень на журналістику, свободу медіа та рівень довіри громадськості до органів влади. Також у дослідженні розглядаються механізми оскарження обмежень доступу до інформації та забезпечення відповідальності за можливі зловживання владою. Аналізується роль судів, правозахисних організацій та міжнародних структур у контролі за впровадженням правових норм щодо доступу до інформації. Оцінюється ефективність правової системи України в досягненні балансу між національною безпекою та правом на інформацію. Крім того, у статті розглядаються юридичні відмінності між засекреченою, обмеженою та публічно доступною інформацією в умовах воєнного стану. Наголошується на важливості чітких правових визначень і процедурних гарантій для запобігання довільним обмеженням. Порівняльний аналіз із законодавчими практиками інших країн, які стикаються з подібними викликами, дає змогу окреслити найкращі підходи та можливі вдосконалення українського законодавства.

Результати дослідження свідчать, що хоча певні обмеження доступу до інформації можуть бути виправдані під час воєнного стану, вони повинні бути ретельно врегульовані, щоб уникнути зловживань. Прозорість у процесі ухвалення рішень та юридичні запобіжники проти надмірних обмежень є критично важливими для збереження довіри громадян. Дослідження підкреслює необхідність постійних правових реформ для узгодження питань національної безпеки з демократичними принципами. У підсумку стаття наголошує на важливості збалансованого підходу до

регулювання інформації в умовах війни. Автори закликають до підвищення обізнаності суспільства, посилення правового контролю та дотримання міжнародних норм у сфері прав людини. Забезпечивши, що обмеження доступу до інформації залишаються пропорційними та тимчасовими, Україна зможе зміцнити як свою національну безпеку, так і відданість демократичним цінностям. Дослідження також підкреслює роль цифрових технологій і соціальних мереж у формуванні доступу до інформації в умовах війни. З огляду на поширення дезінформації та кіберзагроз уряди стикаються з дедалі більшими викликами щодо розмежування реальних питань безпеки та неправомірної цензури. У статті аналізується, як Україна адаптувала свої правові механізми для протидії інформаційній війні, одночасно дотримуючись демократичних принципів. Також розглядається роль міжнародних партнерств у сприянні інформаційній прозорості та кібербезпеці. Крім того, дослідження вивчає можливі довгострокові наслідки воєнних обмежень свободи інформації, зокрема їхній вплив на демократичний розвиток після завершення бойових дій. Важливим питанням є запобігання тому, щоб надзвичайні заходи перетворилися на постійні обмеження основоположних прав. У статті стверджується, що наявність дієвих правових механізмів, громадського контролю та міжнародної співпраці є критичною умовою для підтримання справедливого балансу між безпекою та свободою. Зрештою, дослідження підтверджує, що навіть у періоди кризи демократичні суспільства мають зберігати свою прихильність до принципів прозорості, підзвітності та верховенства права.

Ключові слова: свобода інформації, державна безпека, воєнний стан, право на інформацію, національна безпека, доступ до інформації, обмеження прав, конституційне право, інформаційна безпека, правове регулювання, цензура, інформаційна політика, прозорість влади, медіа-свобода, публічна інформація.