

# CERIDAP

RIVISTA INTERDISCIPLINARE SUL  
DIRITTO DELLE  
AMMINISTRAZIONI PUBBLICHE

Estratto

FASCICOLO  
2 / 2025

APRILE - GIUGNO

## System of public administration entities in times of war: the Ukrainian experience

*Rodion Nebara, Oleksii Kalchuk, Olena Riabchenko, Svitlana Kapitanets,  
Oleksandr Marusiak*

DOI: 10.13130/2723-9195/2025-2-20

*Il processo di istituzione della struttura della pubblica amministrazione in Ucraina è stato difficile e caratterizzato da una serie di riforme e riorganizzazioni. Ulteriori analisi sono necessarie per pervenire ad una comprensione completa dei modi in cui il sistema di amministrazione pubblica in Ucraina è stato modificata durante l'applicazione della legge marziale e al fine di valutarne la sua efficacia. L'obiettivo di questa indagine è di valutare le prestazioni dell'attuale sistema di amministrazione pubblica dell'Ucraina durante il conflitto, descrivere i cambiamenti rivoluzionari che la legge marziale ha portato, e esaminare lo stato attuale del sistema. Lo scritto individua le carenze nel funzionamento di specifiche organizzazioni della pubblica amministrazione e propone soluzioni per rimediare a tali carenze.*

*The process of establishing the structure of public administration in Ukraine has been difficult, characterised by a series of reforms and reorganisations. Additional research is necessary to gain a comprehensive understanding of the ways in which the public administration system in Ukraine was modified during the operation of martial law and in order to evaluate its effectiveness. The objective of this investigation is to evaluate the performance of Ukraine's current public administration system during the conflict, describe the revolutionary changes that martial law has brought about, and examine the system's current state. The paper identifies shortcomings in the operation of specific public administration organizations and proposes solutions to address these deficiencies.*

*Summary: 1. Introduction.- 2. Methodology.- 3. Results.- 4. Discussion.- 5. Conclusions.*

## **1. Introduction**

All organizations whose objective is to ensure the realization of the public interest are included within the purview of public administration. In this case, the fundamental importance does not lie in the status of the relevant entity. It lies in the purpose for which the entity was created. Furthermore, the significance extends to the tasks, functions, and powers (both inherent and delegated) assigned to the entity for either the fulfillment of specific public interests or for the discharge of public interests within the relevant domain of public administration. Usually, the term “public interest” is used in the plural, emphasizing that one public administration entity must ensure the realization of several public interests. However, the legislation does not provide for a quantitative indicator of public interests. In order to qualify a public administration entity, it is sufficient to establish at least one public interest that it is authorized to ensure. In Ukraine, those with authority in the realms of legislation, politics, and justice are not regarded as subjects of public administration. These types of activities are not public administration and are not directly aimed at ensuring public interests.

In consideration of legal constraints and the inherent attributes of law enforcement, it is feasible to augment the enumeration of entities classified as “public administration entities”, as exemplified by the following:

- 1) state authorities represented primarily by executive bodies, as well as other state bodies that belong to the legislative branch of government (Verkhovna Rada of Ukraine); the judicial branch of government (courts of general jurisdiction, High Council of Justice, High Qualification Commission of Judges of Ukraine) or function outside the division of state power into branches (President of Ukraine, Ukrainian Parliament Commissioner for Human Rights, National Bank of Ukraine, Accounting Chamber of Ukraine, National Security and Defense Council of Ukraine, etc.);
- 2) local government bodies;

- 3) officials and representatives of local self-government organizations and public authorities;
- 4) a legal entity of public law is defined as an enterprise, institution, or organization that has been established by an administrative act of a public administration entity with the purpose of performing the tasks and the roles of local self-government or the state;
- 5) in the context of private law, a private entity may exercise authority granted by state or local self-government bodies. This may be an association without legal standing, an individual or another private entity<sup>[1]</sup>.

The following reasons render it unfeasible to construct a comprehensive delineation of Ukraine's noteworthy public administration entity groups: firstly, the network of these public administration entities operating throughout Ukraine and in all administrative-territorial units is not fully known; secondly, the total number of these entities is statistically uncertain; and thirdly the scope of responsibilities assumed by state or municipal self-government remains ambiguous. In addition, the division of subjects of public administration into types can be carried out within the selected groups.

Furthermore, the current public administration system reform in Ukraine introduces additional complexity to the classification of public administration firms. The reform has prompted changes in their affiliation with certain groups of public administration entities and the mutual transfer of tasks and functions assigned to them, as well as the emergence of some entities within multiple groups of public administration entities. An illustration of the aforementioned subject matter can be found in the realm of civil-military administration. These are provisional state institutions that were constituted to assume the authority previously exercised by local executive and self-government bodies, particularly in the context of deterring the Russian Federation's invasion and conducting anti-terrorist operations<sup>[2]</sup>. These groups represent a synthesis of the authority of state executive bodies and the autonomy of local self-government organizations. At the same time, to accomplish the goals of this research, it is necessary to distinguish these types of public administration entities by taking into account their affiliation with different subsystems of public authority.

The declaration of martial law was made on February 24, 2022 throughout Ukraine in accordance with the Presidential Decree "On the Introduction of

Martial Law in Ukraine” of the same date, number 64/2022. The law gave it its approval. Every element of public life has been significantly impacted by the aforementioned Decree of the President of Ukraine, No. 2102-IX of February 24, 2022, which has made a change in the main goals and tactics directing the creation and execution of state policy necessary<sup>[3]</sup>. Consequently, the fundamental interests of individuals, communities, and the state as a whole – which must be safeguarded by the pertinent public administration entities – have also undergone a transformation.

In accordance with Art. 3 of the Constitution of Ukraine, the state’s primary obligation is to establish and guarantee fundamental human rights and freedoms. The aforementioned events present a significant challenge to the Ukrainian people and government, particularly in light of the current system of public administration entities, which are responsible for ensuring the daily functioning of the state and society, creating the necessary conditions for protecting Ukraine’s sovereignty and territorial integrity, ensuring its economic and informational security, and continuing to uphold these rights.

It is thus reasonable to inquire whether the pre-war system of public administration entities is consistent with the demands of contemporary reality, capable of efficaciously safeguarding the interests of society, and responsive to the conditions and challenges of a regime of martial law. No less important is the issue of further optimization of the system of subjects of public administration and its transformation, taking into account the needs of the post-war restoration of the Ukrainian state<sup>[4]</sup>.

The examination of scientific sources reveals a lack of focus on the issues with the public administration system’s operation under Ukraine’s martial law regulatory framework. Kivalov<sup>[5]</sup> investigated select aspects of the public administration entity system and the deployment of public administration during the period of martial law. The objective was to ascertain the prevailing global threats that maritime sector entities and public administration organizations operating in this domain are confronted with. The negative consequences of regional armed conflicts and the difficulties in coordinating efforts among many stakeholders to maintain connection in maritime war zones are highlighted by the researcher. Consequently, the author supports the need to consider the paths of modifying the managerial impact in Ukraine on national security public relations, which are

acknowledged at the European Union level. The security industry must be isolated from the defense sector in order for the required regulatory changes to be implemented. The establishment of distinct responsibilities for public administration organizations should be part of this division.

A number of studies on the development of the system during periods of martial law have classified military administrations and civil-military administrations as public administration entities. Pronevych<sup>[6]</sup> defines military administrations of settlements as including law enforcement, civil protection, military personnel, and workers who have signed an employment contract with the General Staff of the Armed Forces of Ukraine (AFU)<sup>[7]</sup>.

Moreover, military administrations of settlements acquire the authority of local self-government organizations only in accordance with a VRU decision. It is necessary to support the author's proposals regarding the need to regulate the proper representation of local government officials in military administrations of settlements, ensure transparency of military administrations, establish channels of communication with the population, etc<sup>[8]</sup>.

A further topic of interest within the public administration under martial law is the role of public relations in certain areas of governance. This is exemplified by the work of notable figures<sup>[9]</sup>. The theoretical approach that involves integrating various domains of public relations, which are aligned with distinct subject areas within the framework of public administration under martial law, holds significant promise. When analyzing the actions of public administration organizations at the present stage, Shchokin<sup>[10]</sup> also pay attention to the political and economic components of this area. A variety of analytical techniques were employed in the study, including multivariate cluster analysis, scientific abstraction, system analysis, economic analysis, comparison, synthesis, and statistical procedures. The authors highlight the detrimental impact of Russia's actions on the security landscape in developing markets and Europe. They argue that this has created significant challenges for state administrations, who are tasked with supporting both economic stability and national security in the face of these challenges. A thorough examination of how public administration functions to safeguard national interests is necessary given the changing national security environment, which is characterized by rising volatility and outside influences<sup>[11]</sup>.

One of the most crucial domains of academic inquiry is the efficacy and functionality of Ukraine's public administration apparatus during the period of martial law. The ability of these entities to complete the duties, functions, and powers given to them directly affects the efficiency with which rights, liberties, and interests of individuals are protected and promoted. It also has an impact on the formulation and execution of governmental policies as well as the measures put in place under the martial law legal system.

## **2. Methodology**

After martial law was imposed, the structure of public administration institutions that had been in place before the invasion of Ukraine and had been largely created for peacetime remained in place. In light of the considerable intensity and geographical scope of the conflict in Ukraine, it is understandable that a different outcome was unfeasible. Basically, the functional orientation of certain subjects of public administration has changed, due to their reorientation to the needs of wartime and the need to the martial law legal system, in addition to organizational dependence on the AFU and the military command. The logic of this approach is unquestionable, since it is much easier and more efficient to adapt the existing system of public administration entities to new realities (at least immediately after they occur) than to resort to institutional changes in extremely difficult conditions.

The legal regime of martial law was introduced on only two occasions during the period of Ukrainian independence. For the first time, the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" of 26.11.2018 No. 393/2018, approved by the Law of Ukraine of 26.11.2018 No. 2630-VIII, martial law was introduced in some administrative-territorial units of Ukraine for a period of 30 days from 26. 11.2018 to 26.12.2018. The second – by the Decree of the President of Ukraine "On the introduction of martial law in Ukraine" of 24.02.2022 No. 64/2022 throughout Ukraine. This illustrates the dearth of domestic experience in the administration and governance of public organizations during the period of martial law.

The aforementioned had a big impact on this study's methodology. The methodological foundation for researching the problems pertaining to the

operation of Ukraine's public administration system during martial law is of great importance, as there are three key factors that must be considered. First, it allows for the comprehensive use of scientific tools and methods, including the dialectical approach. Second, it necessitates the comparative legal method for analyzing the pre-war and wartime systems. Third, this methodology ensures the systematic and objective examination of the subject.

In addition to several techniques based on empirical observation, the research employed formal procedures based on logic and dialectic, as well as system analysis, methods of scientific knowledge at both general and particular levels, and structural and functional techniques. The provisions of the present Ukrainian legislation governing the principles of functioning and the legal status of public administration bodies were actively analyzed using formal-logical approaches and the structural-functional method. The article identifies certain status attributes that are fundamental in determining whether a subject can be included in the public administration system. In addition, this method made it possible to separate the powers covered by public administration from other types of powers (for example, legislative or judicial) vested in public authorities.

The examination of Ukraine's pre-war public administration system and its changes during the martial law regime was conducted using the comparative legal technique. Thus, attention was drawn to the expansion of the powers of the National Security and Defense Council of Ukraine, as well as the activation of the powers granted to the President of Ukraine. The use of this method made it possible to analyze status changes in the institutional support of the municipal level, namely: reducing the powers of local self-government entities and local government agencies on the one hand and expanding the powers of military administrations on the other. This paper represents a pioneering examination of the theoretical, legal, and pragmatic issues pertaining to the organizational composition and operations of Ukraine's public administration system during the martial law period. It evaluates how well-prepared these organizations are to handle the difficulties of war and the demands of Ukraine's post-war rehabilitation.



### 3. Results

The Law of Ukraine's "On the Legal Regime of Martial Law" was created during the martial law and/or grants public administration authority. For example, the military command (Art. 3), military administrations (Art. 4). New (extra) powers are provided to a number of public administration issues in conjunction with the imposition of martial law, namely military leadership, public authorities, local governments, businesses, institutions, and organizations that should be described. Military Command. In accordance with the legal framework of martial law, the military command is vested with additional executive and administrative powers intended to guarantee the realization of the public interests of individuals, as well as resolving issues of exercising individual liberties and rights. It is noteworthy that the military command or other bodies of military orientation traditionally did not belong to the system of subjects of public administration.

Considering this, the analysis of the provisions of the Law of Ukraine "On the Legal Regime of Martial Law" shows that the following alternatives are used to assist adjust the public administration system to the conditions of martial law:

- 1) empowering existing subjects of public administration with additional powers;
- 2) creating new subjects of public administration.

Granting the existing topics related to public administration with additional powers provides for granting the relevant subjects of public administration with new powers necessary to ensure the martial law legal system. Under the circumstances of the martial law regime, all subjects of public administration (as well as all persons of private law) should be concentrated around the earliest possible overcoming of the causes behind the imposition of martial law (preventing the threat, thwarting military aggression, maintaining national security, and getting rid of the danger to Ukraine's territorial integrity and state independence), and therefore each subject of public administration should take a priori comprehensive measures to achieve this common goal. This opinion also has a legislative basis, since Art. 17 of the Law of Ukraine "On the Legal Regime of Martial Law" provides that the state's power structures of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers, and local self-government bodies, businesses, institutions,

organizations, public associations, and citizens are required to support the military command and military administrations in establishing and carrying out martial law regulations in the relevant territory<sup>[12]</sup>.

The military command means the Commander-in-Chief of the AFU, the Commander of the Joint Forces of the AFU, the commanders of the services and certain branches of the troops (forces) of the AFU, the commanders (chiefs) of the military command bodies, the commanders of formations, military units of the AFU and other military formations formed in accordance with the laws of Ukraine (Part 1 of Art. 3 of the Law of Ukraine “On the Legal Regime of Martial Law”. In consideration of the intricate hierarchical structure of military command bodies and their particular functional roles, it is reasonable to conclude that conferring executive and administrative authority exclusively upon the military command is a logical and justified proposition.

Regarding the highest authorities of the state, the powers of which are exhaustively established by the provisions of the Constitution of Ukraine, the provisions of the Law of Ukraine “On the Legal Regime of Martial Law” only specify their individual powers related to the legal regime of martial law. For example, the President of Ukraine under martial law carries out general management of the introduction and implementation of measures of the legal regime of martial law (par. 1 of Part 1 of Art. 11 of the Law of Ukraine “On the Legal Regime of Martial Law”), which is a detailed description of the powers enshrined in par. 17 of Part 1 of Art. 106 of the Constitution of Ukraine, according to which the President of Ukraine exercises leadership in the areas of national security and defense of the state, and also fully correlates with the status of the Supreme Commander-in-Chief of the AFU.

The Cabinet of Ministers of Ukraine (CMU) in the conditions of martial law additionally exercises such powers as the development and implementation of the Plan for the introduction and enforcement of measures of the legal regime of martial law in certain areas of Ukraine, taking into account the threats and features of the specific situation that has developed (par. 2 of Part 1 of Art. 121); determination of the features of defense and public procurement to ensure the protection of state customers and procuring entities from military threats (par. 5 of Part 1 of Art. 121).

Martial law granted extra rights to city councils, village, settlement, and city

mayors in addition to local self-government. For example, during a period of martial law, the mayor of a village, settlement, or city may, in a simplified manner, appoint and remove individuals from positions in local self-government bodies, as well as heads of municipal enterprises, institutions, and organizations that fall under the purview of the relevant local self-government body (par. 3 of Part 9 of Art. 9). The authority to liberate land plots of communal property from the unlawful construction of temporary structures, to inspect buildings and structures damaged during hostilities, and to demolish buildings and structures deemed to be unintentionally dangerous and endangering human life is exercised in accordance with the decision of the village, settlement, or city mayor and the subsequent approval of the relevant council (Part 4 of Art. 9) and the transfer of funds from the relevant local budget for the needs of AFU and/or to ensure the legal regime of martial law; fight against natural disasters, epidemics, epizootics; hazardous waste management (Part 5 of Art. 9 of the Law of Ukraine “On the Legal Regime of Martial Law”).

Enterprises, institutions and organizations have not received additional powers under martial law. Under martial law, such a situation is unacceptable and jeopardizes the proper functioning of the system of subjects of public administration. Enterprises, institutions and organizations in Ukraine, depending on the procedure for their creation, are divided into two types: enterprises, institutions and organizations of public law and businesses, establishments, and associations of private law.

In this regard, the absence of a legislative definition of the tasks and functions of enterprises, institutions and organizations under the legal regime of martial law encourages “manual” management, which is unacceptable and requires legislative changes. The establishment of new subjects of public administration in conjunction with the implementation of the legal framework of martial law authorizes, upon the fulfillment of the criteria set forth by law, the decision of duly authorized bodies or individuals to create new subjects of public administration and bestow upon them the requisite authority to carry out the obligations inherent to the legal regime of martial law.

For the implementation of measures under martial law, there is a need for the formation of new subjects of public administration, since the functioning of existing subjects of public administration does not allow the full implementation

of such measures, or their activities are impossible or significantly complicated (for example, due to the proximity to areas of active hostilities). In some cases, in areas of active hostilities, only military command bodies and/or state bodies formed of servicemen can actually remain and function. In addition, there was a need to exercise a number of specific powers that in peacetime did not fall within the competence of any subject of public administration. An example of such powers is the movement (evacuation) of the population and/or production facilities of enterprises of any form of ownership from the combat zone.

The sole unique topics covered in public administration, the creation of which is provided for by the provisions of the Law of Ukraine “On the Legal Regime of Martial Law” are military administrations. Simultaneously with the introduction of the legal regime of martial law, the Decree of the President of Ukraine dated February 24, 2022 No. 68/2022 established military administrations in all regions and districts, as well as in Kyiv. It is noteworthy that this decree was issued fourth in order after the decree on the introduction of the legal regime of martial law, which indicates the importance of the institutional mechanism for ensuring the legal regime of martial law<sup>[13]</sup>.

All regional and district military administrations, as well as the Kyiv City Military Administration, established by the President of Ukraine on February 24, 2022, continue to function. After the introduction of the legal regime of martial law, military administrations of settlements in various administrative-territorial units were also formed. Thus, during 2022, 133 military administrations were formed, in 2023 - 48 military administrations, and in the first half of 2024 - 9 military administrations. In this regard, as of the first half of 2024, Ukraine has 351 military administrations. The total number of military administrations includes 24 - regional military administrations; 1 - Kyiv City Military Administration; 136 - district military administrations; 190 - military administrations of settlements<sup>[14]</sup>. Concurrently, the settlements' military administrations were constituted in two ways: firstly, on the basis of the relevant military-civil administrations; secondly, as new state bodies. This was carried out in compliance with the establishment of military administrations at the regional, district, and city levels in Kyiv. These administrations were founded based on the pertinent state administrations at the regional, district, and city levels. It should be noted that military-civilian administrations were formed exclusively within the Donetsk and Luhansk

regions of Ukraine, mostly in case of non-fulfillment by state authorities and local self-government bodies of their powers. It is not necessary to impose martial law in order to establish civil-military governments. Since the Law of Ukraine “On the Legal Regime of Martial Law” explicitly states (Part 9 of Art. 4) that military-civil administrations cease to exercise their powers in the event that military administrations are formed, military-civil administrations and military administrations are not only distinct state bodies, but they cannot operate simultaneously<sup>[15]</sup>.

Part 1 of Art. 4 of the Law of Ukraine “On the Legal Regime of Martial Law” states that temporary state bodies, or military administrations, may be established in areas where martial law is imposed in order to guarantee the legitimacy of the Constitution of Ukraine and laws, as well as the introduction and execution of measures of the legal regime of martial law, defense, civil protection, public safety and order, protection of critical infrastructure, and protection of citizens’ rights, freedoms, and legitimate interests.

The following characteristics of military administrations are seen from the content of the official definition:

- 1) military administrations can be formed only during the martial law legal system and only in the territories where the legal regime of martial law is introduced, that is, the territorial network of military administrations depends on the territorial spread of martial law (which may cover the entire territory of Ukraine or the territories of certain administrative-territorial units);
- 2) military administrations are temporary state bodies, that is, their formation is temporary or limited in time. This feature is a logical consequence of the preceding one, insofar as the martial law legal system, irrespective of the grounds for its implementation, is characterized by an urgent necessity. Consequently, the functioning of military administrations is similarly urgent. Although it should be noted that the termination of the activities of military administrations does not occur simultaneously with the abolition or conclusion of the martial law regime, they continue to exercise their powers within 30 days from the date of termination or cancellation of martial law;
- 3) the formation of military administrations is aimed at ensuring the operation of the Constitution of Ukraine and laws; guaranteeing, in coordination with the military command, the introduction and execution of martial law-related

measures; defense, civil protection, public safety and order; safeguarding vital infrastructure; and defending citizens' rights, freedoms, and legitimate interests.

The selected features of military administrations also serve as the grounds for their formation. In other words, only if each of them is available, the President of Ukraine can establish a corresponding military administration.

Depending on the administrative-territorial unit in which military administrations are formed, the Law of Ukraine "On the Legal Regime of Martial Law" provides for the allocation of such types as:

- 1) settlements with military administrations (established in one or more communities).
- 2) district military administrations (formed in districts);
- 3) regional military administrations (formed in the regions).

The division of military administrations into types, in addition to the territorial marker of their functioning, is also important for determining the features of their creation and functioning.

Village, settlement, and city councils and/or their executive bodies, as well as village, settlement, and city mayors, do not exercise the rights granted to them by the Constitution of Ukraine and legislation. Instead, military administrations of settlements are established inside the borders of territorial communities (par. 1 Part 3 of Art.4 of the Law of Ukraine "On the Legal Regime of Martial Law"). The formation of the military administration of the settlement was prompted by the appropriate local self-government entities' failure to exercise their authority. However, the process for proving that local self-government organizations have exercised or not used their rights is not determined by the law. Given that the establishment of the settlement's military administration is conducted on the proposal of the regional state administrations or the military command, this fact must also be established and confirmed by them. Instances where local self-government organizations failed to carry out their duties were acknowledged as the self-removal of village, town, and city mayors, including leaving the territory of the settlement, not convening a session of deputies and not adopting decisions by the relevant council.

It is necessary to amend the provisions of the Law of Ukraine "On the Legal Regime of Martial Law" in terms of specifying the grounds for the establishment of military administrations of settlements. Military administrations of

settlements should be formed as new state bodies that integrate the authority of local self-government organizations and executive authorities. However, in the case of functioning in this settlement, as of the time of the decision to form a military administration, the relevant military-civil administration established in accordance with the Law of Ukraine “On Military-Civil Administrations”, the military administration is formed on the basis of such a military-civil administration, the powers of which are terminated.

There are two situations under which district and regional military administrations may be established:

- 1) if regional councils are unable to call a district meeting within the parameters set forth in the Ukrainian legislation “On Local Self-Government in Ukraine” or if their authority is terminated in compliance with the legislation;
- 2) it is important to highlight that the functioning regional military administrations were established with the objective of providing leadership in matters pertaining to defense, public security, and order.

The procedural aspect of the formation of district and regional military administrations deserves special attention. The Law of Ukraine “On the Legal Regime of Martial Law” stipulates that if district and regional military administrations are established, the district and regional state administrations will take over their status. The creation of regional military administrations should be seen as a way to provide regional administrations the authority they need to carry out the policies outlined in the martial law legal system (by consolidating a special status).

It is stated in par. 1 of Part 1 of Article 15 of the Law of Ukraine “On the Legal Regime of Martial Law” that military administrations exercise their authority in conformity with the Law of Ukraine, taking on the responsibilities of the appropriate local state administrations and local self-government bodies while taking into consideration the unique circumstances set forth by this Law. The Law of Ukraine “On the Legal Regime of Martial Law” is the special legislation for military administrations, while the pertinent laws that specify the authority of local state administrations and local self-government organizations serve as the general law. The creation of the Kyiv City Military Administration has the consequence of giving the organization the ability to exercise executive power and local self-government in Ukraine’s capital, even if it is a military

administration of the settlement. Consequently, the functioning of these bodies is also subject to the legal regime of martial law.

The necessary Kyiv city, district, and regional state administrations provide as the foundation for the formation of the city, district, and regional military administrations. There are two methods by which the military administrations of settlements were established:

- 1) on the basis of the relevant military-civil administrations;
- 2) as new state bodies.

Art. 27 of the Law of Ukraine “On the Legal Regime of Martial Law” states that the National Security and Defense Council of Ukraine, the coordinating body for national security and defense under the President of Ukraine, has general control over the actions of the military command, executive authorities, and local self-government bodies during martial law (Part 1 of Art. 107 of the Constitution of Ukraine). The Law of Ukraine “On the Legal Regime of Martial Law” extends authority to the military command and local self-government bodies, in contrast to the provisions of the Constitution of Ukraine which state that the National Security and Defense Council of Ukraine supervises and guides the actions of executive bodies in matters pertaining to national security and defense (Part 2 of Art. 107 of the Constitution of Ukraine).

#### **4. Discussion**

The proper and effective performance by public administration entities of their tasks, functions and powers, especially under the legal regime of martial law, should be ensured primarily by the uninterrupted functioning of these entities. It is no coincidence that the Constitution of Ukraine is permeated with provisions on the continuous uninterrupted functioning of all state authorities and senior officials<sup>[16]</sup>. For instance, in accordance with Part 4 of Art. 83 of the Constitution of Ukraine, the Verkhovna Rada of Ukraine (VRU) has the authority to continue operating until the first meeting of the first session of the VRU elected following the end of martial law or a state of emergency if the VRU’s term of office ends during one of these conditions. Accordingly, the term of office for the VRU, which is typically five years, is extended to encompass the period of martial law.



In accordance with Part 4 of Art. 115 of the Constitution of Ukraine, the CMU that resigned prior to the newly elected VRU or whose resignation was approved by the VRU retains its authority until the newly established CMU shall continue to exercise its authority in a uninterrupted and unimpeded manner, irregardless of the circumstances that may lead to the cessation of its powers. This includes instances where the CMU is subjected to a vote of no confidence or when the implementation of a state of emergency or martial law occurs. A question of constitutional importance arises concerning the continuation of the President of Ukraine's powers in the event of the expiration of his term of office during a state of martial law. The recent political discussions on this topic should be resolved exclusively through legal means and on the basis of constitutional provisions<sup>[17]</sup>.

The Constitution of Ukraine does not address the question of what happens in the event that the President's term of office expires during martial law. Part 4 of Art. 83 of the Ukrainian Constitution, which deals with the extension of the VRU's term of office during martial law, does not have a comparable clause pertaining to the president of Ukraine. Nevertheless, a comprehensive examination of the relevant legislation reveals that the current President of Ukraine should retain his authority until the newly elected President assumes the duties of his office at the inauguration ceremony of the VRU. Otherwise, the position of the President of Ukraine becomes "vacant", which is obviously unacceptable not only under martial law, but under any conditions. In order to substantiate the aforementioned opinion, the following evidence is presented.

Art. 108, Part 1 of the Constitution of Ukraine states that the incumbent President shall retain power until the newly elected President assumes office. Regardless of the reasons that led to the delay in electing a new President of Ukraine or his inauguration, the current President of Ukraine should (must) exercise his powers. In addition, even under normal conditions, the President of Ukraine can exercise his powers more than established by Part 1 of Art. 103 of the Constitution of Ukraine a 5-year term. To illustrate, the second round of elections for the Ukrainian presidency has the potential to result in a delayed inauguration of the newly elected president. The continuation of the current President of Ukraine of his powers in the above example does not cause objections, and has been repeatedly encountered in practice in the modern history of Ukraine<sup>[18]</sup>.

The objective of guaranteeing the uninterrupted functionality of public administration entities, and developing it in consideration of the conditions of the legal regime of martial law, is set forth in the provisions of the Law of Ukraine “On the Legal Regime of Martial Law”. These provisions stipulate the inadmissibility of terminating the powers of the President of Ukraine, the VRU, and the CMU during the period of martial law. The Bank of Ukraine, the Commissioner of the VRU for Human Rights, courts, prosecutor’s offices, bodies that carry out investigative and investigative activities, pre-trial investigations, intelligence agencies, and bodies whose subdivisions carry out counterintelligence activities (Part 1 of Art. 10) shall continue their activities exclusively on the basis, within the limits of authority, and in the manner determined by the Constitution and laws of Ukraine (Parts 1-2 of Art. 9). Additionally, the provisions of this Law provide for the impossibility of limiting the powers of the President of Ukraine under martial law (Part 4 of Art.11); the VRU (Part 3 of Art. 12); courts, justice system organizations, and bodies (Part 2 of Art.122)<sup>[19]</sup>.

In general, the profile Law of Ukraine “On the Legal Regime of Martial Law” (hereafter “the Law”) is aimed at determining the content of the legal regime of martial law, the procedure for its introduction and abolition, the legal basis for the activities of state authorities, military command, military administrations, local governments, enterprises, institutions and organizations under martial law. In addition, the law sets out the guarantees of human and civil rights and freedoms, as well as the rights and legitimate interests of legal entities<sup>[20]</sup>.

Regarding public administration topics, the clauses of this legislative act contain certain inconsistencies, both in their system and in their functional purpose. For example, the preamble of the Law of Ukraine “On the Legal Regime of Martial Law” mentions such subjects of public administration as public authorities, military command, military administrations, local governments, enterprises, institutions and organizations. In the official definition of the concept of “martial law”, given in Part 1 of Art. 1 of the Law of Ukraine “On the Legal Regime of Martial Law”, such subjects of public administration as public authorities, military command, military administrations and local self-government authorities are indicated. Other provisions of the Law of Ukraine “On the Legal Regime of Martial Law” also indicate other subjects of public

administration.

For example, executive bodies, military administrations, the Council of Ministers of the Autonomous Republic of Crimea and local self-government bodies (par.1 of Part 1 of Art. 3); the President of Ukraine, the VRU, the CMU, other bodies of state power, military command, military administrations, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, local self-government bodies (Parts 1-2 of Art. 9); the President of Ukraine, the VRU, the CMU, the National Bank of Ukraine, the Commissioner for Human Rights of the VRU, courts, prosecutor's offices, bodies carrying out operational-search activities, pre-trial investigation, intelligence agencies and bodies whose units carry out counter-intelligence activities (Part 1 of Art. 10); the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea, local executive bodies and local self-government bodies (Part 1 of Art. 13); state authorities of Ukraine, the Verkhovna Rada of the Autonomous Republic of Crimea, the Council of Ministers of the Autonomous Republic of Crimea and local self-government bodies, enterprises, institutions, organizations, public associations, as well as citizens (Part 1 of Art. 17); military command, military administrations, ministries, other central executive bodies, military formations, law enforcement agencies, military units (Part 1 of Art. 18), etc. It should be noted that some of the aforementioned officials are also referenced in other sections of the Ukrainian legislation, specifically the Law of Ukraine "On the Legal Regime of Martial Law".

## 5. Conclusions

A salient feature of the system of public administration entities in Ukraine during the period of martial law is the lack of significant institutional changes. In both the initial stages of active hostilities and in the subsequent period, the existing system of public administration entities remained operational and continued to fulfill the tasks, functions, and powers assigned to them. This can be considered a significant advantage of the system, reflecting a unified response capacity among public administration entities in emergency.

In a state of martial law, the overarching objective is to guarantee the effective

and seamless operation of the system of senior state authorities and other public administration bodies. This must be accompanied by their gradual integration into the framework of the legal regime of martial law and an adaptation to its specific conditions and challenges. In Ukraine, alterations to the system of public administration entities have predominantly manifested as a clarification of the functional purpose of these entities. This has occurred in conjunction with the introduction of the legal regime of martial law, as opposed to a transformation in the structure of these entities, which has been relatively limited.

A detailed investigation of the structural and operational changes occurring within public administration during the period of martial law in Ukraine indicates that the system of public entities underwent substantial alterations. These changes included the conferral of special status upon select public administration entities, such as the designation of local state administrations as military administrations. Furthermore, new competencies were conferred upon a range of entities, including the executive authorities and local self-government bodies, enabling them to implement measures associated with the martial law regime. Furthermore, public administration entities were granted new authorities to perform their duties.

It is established that the balance of the formation of specific public administration entities – for the purposes of martial law – is ensured through a differentiated approach. According to this approach, specific public administration entities are formed in territories where hostilities are conducted or where temporary occupation has occurred. It should be noted that such a differentiated approach is not fully implemented, since some special subjects of public administration are simultaneously created in all regions and districts, regardless of their proximity to areas of active hostilities (for example, regional and district military administrations). The Ukrainian system of public administration continues to function effectively and in accordance with the legal regime of martial law, demonstrating an ability to respond in a timely and efficient manner to changes in conditions and circumstances.

1. R. S. Melnyk, V. M. Bevzenko, *General administrative law*, 2014, Kyiv, Vaite, <https://www.osce.org/files/f/documents/d/c/358156.pdf>.
2. Verkhovna Rada of Ukraine, Law No. 389-VIII “On the legal regime of martial law”,

- 2015, <https://zakon.rada.gov.ua/laws/show/389-19#Text>.
3. Verkhovna Rada of Ukraine, Law No. 68/2022 “On the Establishment of Military Administrations”, 2022a, Ukraine <https://zakon.rada.gov.ua/laws/show/68/2022#Text>; Verkhovna Rada of Ukraine, Law No. 64/2022 “On the introduction of martial law in Ukraine”, 2022b, <https://zakon.rada.gov.ua/laws/show/64/2022#Text>; S. Kivalov, *Current Threats to Sustainable Shipping - from War Risks to Climate Changes*, in *Lex Portus*, 10(2), 2024, pp. 15-24, <https://doi.org/10.62821/lp10202>.
  4. A. M. Kulish, E. O. Nikiforov, *Administrative and legal status of civil-military administrations in Ukraine*, Sumy, Sumy State University, 2022, <https://essuir.sumdu.edu.ua/handle/123456789/88110>.
  5. S. Kivalov, *Current Threats to Sustainable Shipping - from War Risks to Climate Changes*, in *Lex Portus*, 10(2), 2024, pp. 15-24, <https://doi.org/10.62821/lp10202>; S. Kivalov, *Public administration in the field of national security: Updating content during martial law*, in *Amazonia Investiga*, 12(65), 2023, pp. 68-76, <https://doi.org/10.34069/AI/2023.65.05.7>; S. Kivalov, *The “Sea Factor” in Regional Cooperation: The Impact of the Russo-Ukrainian War*, in *Lex Portus*, 9(2), 2023b, pp. 19-27, <https://doi.org/10.26886/2524-101X.9.2.2023.2>.
  6. O. S. Pronevych, *Military administrations as subjects of crisis public administration under martial law: legal and organizational aspects*, 2022, <http://baltijapublishing.lv/omp/index.php/bp/catalog/download/299/8339/17401-1?inline=1>.
  7. O. Yu. Lyaliuk, *Military and civil-military administrations in the system of territorial organization of power in Ukraine: a comparative analysis*, in *Problems of Law*, 157, pp. 6-19, 2022, [http://nbuv.gov.ua/UJRN/Pz\\_2022\\_157\\_3](http://nbuv.gov.ua/UJRN/Pz_2022_157_3); S.Y. Obrusna, I.V. Ivanova, Y.V. Panimash, K.M. Pasynchuk, *Administrative and legal status of public administration bodies of a civil-military nature as subjects of public administration*, in *Scientific Bulletin of Uzhhorod National University*, 2(78), pp. 90-95, 2023, <https://doi.org/10.24144/2307-3322.2023.78.2.14>; H. A. Grigorieva, *Public administration of agribusiness in wartime: legal analysis of protectionism*, in *Actual Problems of State and Law*, 2023, pp. 53-65, <https://doi.org/10.32782/apdp.v97.2023.7>.
  8. O. S. Pronevych, *Military administrations as subjects of crisis public administration under martial law: legal and organizational aspects*, 2022, <http://baltijapublishing.lv/omp/index.php/bp/catalog/download/299/8339/17401-1?inline=1>.
  9. T. P. Minka, *Administrative and legal regulation of public administration activities in the provision of electronic services in the field of migration*, in *Legal Position*, 4(37), pp. 63-65, 2022. <https://doi.org/10.32782/2521-6473.2022-4.12>; H. A. Grigorieva, *Public administration of agribusiness in wartime: legal analysis of protectionism*, in *Actual Problems of State and Law*, 2023, pp. 53-65, <https://doi.org/10.32782/apdp.v97.2023.7>; T. S. Zhuravel, *Problems of finding an optimal model of activity of public administration bodies of a civil-military nature*, in *Tavriyskiy Naukovyi Vistnyk*, 6, 2023, pp. 46-53,

- <https://doi.org/10.32782/tnv-pub.2023.6.7>; L. Tytarenko & V. Yatsenko. (2024). *Public administration of Ukraine in the context of war: a component of social values*, in *Theoretical and Applied Issues of State Building*, 31, pp. 160-170, <https://doi.org/10.35432/tisb312024307405>.
10. R. Shchokin, O. Soloviov, I. Tantsiura, *Public management in the sphere of national and state security: Concepts and strategies*, in *Multidisciplinary Reviews*, 7, 2024, <https://www.malque.pub/ojs/index.php/mr/citationstylelanguage/get/ieee?submissionId=3780&publicationId=3780>.
  11. Verkhovna Rada of Ukraine, Law No. 2102-IX “On Approval of the Decree of the President of Ukraine On the Introduction of Martial Law in Ukraine”, 2022c, <https://zakon.rada.gov.ua/laws/show/2102-20#Text>.
  12. Verkhovna Rada of Ukraine, Law No. 393/2018 “On the introduction of martial law in Ukraine”, 2018, <https://zakon.rada.gov.ua/laws/show/393/2018#Text>; Verkhovna Rada of Ukraine, Law No. 2630-VIII “On Approval of the Decree of the President of Ukraine On the Introduction of Martial Law in Ukraine”, 2018, <https://zakon.rada.gov.ua/laws/show/2630-19#n5>.
  13. Verkhovna Rada of Ukraine, Law No. 68/2022 “On the Establishment of Military Administrations”, 2022, Ukraine <https://zakon.rada.gov.ua/laws/show/68/2022#Text>.
  14. Verkhovna Rada of Ukraine, List of documents (Legal basis), 2024, <https://zakon.rada.gov.ua/laws/main/lpravbase>.
  15. Verkhovna Rada of Ukraine, Law of Ukraine No. 141-VIII “On Civil-Military Administrations”, 2015, <https://zakon.rada.gov.ua/laws/show/141-19#Text>.
  16. Verkhovna Rada of Ukraine, The law No. 254к/96-BP, 1996, <https://zakon.rada.gov.ua/laws/show/254%D0%BA/96-%D0%B2%D1%80/conv#Text>.
  17. Kyiv Institute of Intellectual Property and Law, *Administrative law and administrative process of Ukraine under martial law*, Kyiv, Liudmyla, 2023.
  18. V. Galunko, O. Pravotorova, O. Kuzmenko, P. Dikhtievskyi, *Administrative law of Ukraine*. Kherson, OLDI-PLUS, 2021, <http://library.megu.edu.ua:8180/jspui/handle/123456789/2862>; National University “Odesa Law Academy”, *General administrative law of Ukraine*, Odesa, Fenix, 2023, <https://doi.org/10.32837/11300.25545>.
  19. R. S. Melnyk, V. M. Bevzenko, *General administrative law*, 2014, Kyiv, Vaite, <https://www.osce.org/files/f/documents/d/c/358156.pdf>.
  20. Verkhovna Rada of Ukraine, Law of Ukraine No. 141-VIII “On Civil-Military Administrations”, 2015b, <https://zakon.rada.gov.ua/laws/show/141-19#Text>.