

**МІНІСТЕРСТВО ВНУТРІШНІХ СПРАВ УКРАЇНИ
ОДЕСЬКИЙ ДЕРЖАВНИЙ УНІВЕРСИТЕТ ВНУТРІШНІХ СПРАВ
КАФЕДРА АДМІНІСТРАТИВНОГО ПРАВА ТА
АДМІНІСТРАТИВНОГО ПРОЦЕСУ**



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GUARANTEES OF JUSTICE AND FAIR TRIAL IN ADMINISTRATIVE CASES DURING MARTIAL LAW

Yablonska A.A., the 2st year master of the faculty of training specialists for the bodies pre-trial investigation

Supervisor: Denisova A. V., doctor of Juridical Sciences, professor, Head of the Department of administrative law and administrative process of Odesa State University of internal affairs

Martial law, a state of emergency characterized by the suspension of ordinary law, can be a challenging and controversial period in a nation's history. During such times, the fundamental principles of justice and the rule of law often face significant challenges.

In times of martial law, the preservation of civil liberties becomes paramount, for without them, the very essence of democracy is threatened [1, p. 221]. In order to provide justice and maintain a fair trial process during martial law, it is essential to establish a robust legal framework. The Ukrainian Constitution, as well as international human rights treaties to which Ukraine is a party, ensures certain fundamental rights and freedoms. These include the right to a fair trial, the right to defense, and the presumption of innocence. Martial law must respect and protect these rights, even when faced with extraordinary circumstances.

During martial law, certain rights may be temporarily restricted or suspended in the interest of national security and public safety. However, such limitations must be proportional and justifiable. The right to liberty and security, the right to privacy, and freedom of expression, among others, may be impacted. Nevertheless, it is imperative that these limitations are clearly defined, strictly necessary, and subject to judicial oversight.

Administrative law governs the actions of government agencies and their interactions with individuals and entities. Administrative cases, involving disputes and regulatory decisions, frequently take center stage in addressing complex social, economic, and political issues. During martial law, when governments may exercise greater control and discretion, it is crucial to maintain the rule of law and the principles of due process.

Central to the cause of justice in the face of martial law is the role of the judiciary. The mechanisms for judicial review and oversight of administrative decisions merit a comprehensive exploration. The judicial establishment's independence, competence, and, most significantly, its efficacy as a bulwark against executive excesses are critical facets of our inquiry.

Some of Ukraine's courts have suspended their operations due to active hostilities and temporary occupation. At the same time, courts in the territories liberated from occupation are beginning to resume their work. The amendments currently in force provide that if a court cannot administer justice for objective reasons during martial law or a state of emergency, due to a natural disaster, military operations, measures to combat terrorism or other extraordinary circumstances, the territorial jurisdiction of court cases may be changed, considered in such a court, by a decision of the High Council of Justice adopted upon the proposal of the Chief Justice, by transferring it to the court that is most geographically close to the court that cannot administer justice or to another designated court [2].

In the realm of administrative cases during martial law in Ukraine, due process and procedural fairness are of utmost importance. The principles of transparency, timely access to legal remedies, and the right to be heard in a fair and impartial tribunal must be rigorously upheld. The Universal Declaration of Human Rights, which Ukraine is a signatory to, enshrines the right to a fair and public hearing by an independent and impartial tribunal [3]. This principle is of paramount importance in administrative cases during martial law, ensuring that individuals subject to administrative actions have the opportunity to challenge such actions before an independent judicial body.

The principle of the presumption of innocence is a cornerstone of justice, even during martial law. This fundamental legal principle dictates that every individual accused of a crime, including those involved in administrative cases, is to be considered innocent until proven guilty in a court of law. Even when national security concerns are heightened, individuals must not be subject to public prejudice or discrimination based on accusations alone. This protection upholds the principle that guilt must be established through a fair and impartial trial.

Administrative bodies responsible for making decisions during martial law must be impartial and free from undue influence. This impartiality can be undermined when decisions are based on political affiliations or pressure from higher authorities. Upholding the rule of law requires that administrative bodies operate independently and without bias.

The guarantees of justice and fair trial in administrative cases during martial law are vital to uphold the rule of law and protect the rights of individuals. While martial law can involve restrictions on civil liberties, these restrictions should be carried out

within a legal framework that respects fundamental principles of justice. Presumption of innocence, access to legal representation, transparent procedures, impartial administrative bodies, the right to appeal, judicial review, protection against torture and coercion, timely resolutions, and non-retroactivity are essential elements in safeguarding justice and fairness during challenging times. Balancing security concerns with the need to uphold individual rights is the delicate challenge faced during martial law, but it is a challenge that societies must meet to maintain the core principles of democracy and human rights.

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АДМІНІСТРАТИВНО-ПРАВОВІ ЗАСАДИ ЗАПОБІГАННЯ ТА ПРОТИДІЇ МОБІНГУ <i>Шатрава С., Лещенко Д.</i>	288
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