

FEATURES OF HUMAN RIGHTS PROTECTION IN ADMINISTRATIVE COURTS DURING MARTIAL STATE

ГОЛОВКО Катерина Володимирівна - доктор юридичних наук, професор, професор кафедри теорії держави і права, конституційного та адміністративного права ДНП «Національний університет «Київський авіаційний інститут»

ORCID: 0000-0001-7414-6078

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The article examines the features of ensuring and protecting human rights and freedoms in the administrative justice of Ukraine under martial law. The relevance of the topic is due to significant transformations in the functioning of the public authority system, restrictions on certain rights and freedoms of citizens, as well as the need to ensure effective judicial control over the activities of government officials during the period of armed aggression and the operation of a special legal regime.

The paper substantiates that administrative courts play a key role in the mechanism of human rights protection, since it is they who exercise control over the legality of decisions, actions or inaction of state authorities, local governments, military administrations and other government officials. Under martial law, the number of administrative legal disputes related to the implementation of social rights, the rights of military personnel and veterans, internally displaced persons, access to social security, pension payments, compensation for destroyed property, as well as appealing decisions of state authorities regarding mobilization, restrictions on freedom of movement, access to information and other rights is significantly increasing.

The regulatory and legal principles of the functioning of administrative justice under martial law are analyzed, in particular the provisions of the Constitution of Ukraine, the Code of Administrative Justice of Ukraine, the Law of Ukraine «On the Legal Regime of Martial Law», as well as the practice of the Supreme Court. It has been established that even under martial law, the right to judicial protection remains a fundamental guarantee of the implementation of human rights, and restrictions on certain rights must be carried out exclusively on the basis of the law, be proportional and comply with the principle of the rule of law.

Particular attention is paid to the practical aspects of administrative proceedings during the war, in par-

ticular, the problems of access to justice, changes in the territorial jurisdiction of court cases, the use of electronic courts, remote forms of participation in court sessions, as well as ensuring the safety of participants in the trial. It is determined that the introduction of digital judicial tools and the development of electronic justice have become important factors in ensuring the continuity of judicial protection of citizens' rights.

The article also analyzes certain categories of administrative disputes that have become widespread during martial law, including disputes regarding social security for military personnel and their family members, payment of cash benefits, granting the status of a participant in hostilities, protection of the rights of internally displaced persons, as well as disputes related to the activities of military administrations. It is proven that administrative courts remain an important tool for ensuring a balance between the needs of national security and the need to respect human rights and freedoms.

Based on the results of the study, conclusions were formulated regarding the main problems of implementing the right to judicial protection under martial law, including: the difficulty of access to courts in front-line regions, the overloading of the judicial system, the need to improve the regulatory and legal regulation of certain categories of administrative disputes, as well as the need for further development of electronic justice. Directions for improving the mechanisms for protecting human rights in administrative courts were proposed, in particular by strengthening guarantees of access to justice, improving procedural mechanisms for considering cases in emergency conditions, and harmonizing national legislation with European standards for the protection of human rights.

Keywords: human rights, administrative justice, administrative courts, martial law, judicial protection, access to justice, subjects of power, rule of law, electronic justice.

Ensuring human rights and freedoms is one of the fundamental principles of a democratic state based on the rule of law. The Constitution of Ukraine declares that a person, his life and health, honor and dignity, inviolability and security are recognized in Ukraine as the highest social value. At the same time, the real provision of human rights and freedoms largely depends on the effectiveness of the mechanisms for their protection, among which judicial protection occupies a special place.

In the current conditions of the development of Ukrainian statehood, the issue of protecting human rights in martial law is of particular relevance. Full-scale armed aggression against Ukraine has caused significant changes in the functioning of state authorities, the transformation of the system of governance, as well as the introduction of temporary restrictions on certain rights and freedoms of citizens. In such conditions, administrative courts play an important role in ensuring the legality of the activities of subjects of power and guaranteeing human rights.

Administrative justice is an important tool for controlling the activities of state authorities, local governments, military administrations and other subjects of power. It is the administrative courts that consider disputes related to the appeal of decisions, actions or inaction of government bodies that directly affect the implementation of citizens' rights and freedoms [1].

The issue of protecting human rights in administrative justice has been studied by many domestic scholars. However, the introduction of martial law and new challenges associated with the war necessitate a rethinking of the mechanisms of judicial protection of human rights in the conditions of a special legal regime.

The purpose of the article is to study the features of the protection of human rights in the administrative courts of Ukraine under martial law, as well as to identify the main problems and prospects for improving the mechanisms of judicial protection [2].

The full-scale armed aggression of the Russian Federation against Ukraine became a catalyst for a radical restructuring of the national judicial architecture. In addition to the devastating impact on infrastructure, the war caused a large-scale humanitarian crisis: according

to UN reports, the conflict forced more than 14 million citizens to leave their places of permanent residence, and the number of victims among the civilian population exceeded 10 thousand people [3]. Such circumstances created extreme conditions for the functioning of Themis, where the safety of the participants in the process must be correlated with the continuity of judicial protection.

Despite the complexity of the situation, the domestic legislator has fixed the immutability of the fundamental principles of justice. In particular, the provisions of Article 26 of the Law of Ukraine "On the Legal Regime of Martial Law" establish an imperative ban on the creation of extraordinary courts or the introduction of simplified ("abbreviated") procedures for considering cases. This means that even in wartime, the judicial system is obliged to adhere to international standards and the rule of law, ensuring everyone access to a fair trial [4].

War inevitably makes adjustments to the implementation of human rights, requiring a balance between public interest (state security) and private rights. In this context, the position of the Constitutional Court of Ukraine is important, which defines justice as the central regulator of social relations and the universal dimension of law. Since Ukraine positions itself as a state governed by the rule of law (in accordance with Articles 1 and 8 of the Fundamental Law), the obligation to protect constitutional freedoms remains a priority. Moreover, according to Part 2 of Article 64 of the Constitution of Ukraine, the right to a fair trial belongs to the category of absolute rights that are not subject to restriction even under martial law [5]. The European vector of human rights protection (Article 6 of the 1950 Convention) requires that any case — civil or criminal — be considered by an independent court within a reasonable time [6]. The Supreme Court in its explanations emphasizes the inalienability of the right to judicial protection. However, the practical implementation of this right has undergone transformations: prioritization of security in the event of a threat of shelling, meetings may be temporarily suspended; procedural consensus, where consideration of non-urgent cases is carried out mainly with the written consent of the parties; urgency of issues regarding preventive mea-

asures (detention) cannot be postponed; restrictions on publicity, i.e. access to courtrooms may be limited only to participants in the process for their protection.

In conditions of physical danger, the key mechanism for ensuring access to the court has become the development of the «Electronic Court». The introduction of remote document management systems and online information services has minimized procedural delays [6].

The use of videoconferencing has become particularly important, which has made it possible to hold meetings even if the participants are geographically distant.

Modern challenges (energy crisis, constant shelling) require further adaptation of the legislation. A relevant direction is the regulatory consolidation of the possibility of remote work not only for the parties, but also for the judiciary and court staff. This will allow the formation of new judicial practice adapted to crisis conditions, while preserving the core of the right to a fair trial.

The legal basis for ensuring human rights and freedoms in martial law is determined by the Constitution of Ukraine, international treaties ratified by Ukraine, as well as special legislation, in particular the Law of Ukraine «On the Legal Regime of Martial Law».

According to Article 55 of the Constitution of Ukraine, human and civil rights and freedoms are protected by the court. Everyone is guaranteed the right to appeal in court the decisions, actions or inaction of state authorities, local self-government bodies, officials and service personnel [3].

At the same time, Article 64 of the Constitution of Ukraine provides for the possibility of restricting certain human rights and freedoms in martial law or a state of emergency [3]. However, even in such conditions, basic rights, in particular the right to life, dignity, freedom from torture, the right to legal assistance and the right to judicial protection, cannot be restricted.

International standards for the protection of human rights are also of great importance, in particular the provisions of the European Convention on Human Rights and the case law of the European Court of Human Rights. Even during martial law, the state must provide effective mechanisms for the protection of hu-

man rights, and any restrictions must be lawful, necessary and proportionate.

The role of administrative courts in the mechanism for the protection of human rights. Administrative courts occupy a central place in the system of judicial control over the activities of public administration. The main task of administrative justice is to protect the rights, freedoms and interests of individuals and legal entities from unlawful decisions, actions or inaction of subjects of government authority [7].

In conditions of martial law, the importance of administrative justice increases significantly, as state authorities receive additional powers related to ensuring the defense of the state, maintaining public order and the functioning of the economy.

The most common categories of administrative disputes during martial law include: disputes regarding social security of military personnel and members of their families; disputes regarding granting the status of a participant in hostilities; disputes regarding the payment of cash benefits to military personnel; disputes regarding the rights of internally displaced persons; disputes regarding pension provision; disputes regarding access to public information; disputes regarding decisions of military administrations; disputes regarding mobilization and military registration [8].

A significant part of such cases is related to the implementation of social rights of citizens, which require special attention from the state during the war.

Martial law significantly affected the organization of the activities of the judicial system of Ukraine. Some courts in front-line regions were temporarily relocated or changed their territorial jurisdiction. This caused additional difficulties for participants in the trial.

One of the important features was the active implementation of electronic justice. The use of the «Electronic Court» system allows you to submit procedural documents remotely, receive court decisions in electronic form and participate in court sessions via video conference [9].

Such tools have become an important factor in ensuring access to justice under martial law, especially for citizens who were forced to leave their place of residence or are outside Ukraine.

At the same time, certain problems arise in the practice of administrative courts, in particular: the difficulty of access to courts in front-line regions; Overworked judges; Insufficient regulation of certain categories of disputes; Difficulties in collecting evidence in the war zone; Restrictions on the parties' personal participation in the trial.

Problematic issues of human rights protection in administrative courts. Despite the fact that administrative courts continue to operate even in difficult war conditions, the judicial protection system faces a number of challenges. Firstly, a significant problem is the difficulty of access to justice for citizens living in temporarily occupied territories or in areas of active hostilities [10].

Secondly, the number of administrative disputes is increasing, which leads to an overload of the judicial system and an increase in the terms of consideration of cases. Thirdly, there is a need to improve the legislation regulating the activities of military administrations and the implementation of certain social rights during martial law.

Fourthly, the problem of the balance between the needs of national security and respect for human rights is relevant. The state must ensure effective protection of citizens, preventing excessive restrictions on their rights.

Thus, administrative courts play a key role in ensuring the protection of human rights in martial law. It is they who exercise judicial control over the activities of subjects of power and ensure the ability of citizens to appeal against illegal decisions, actions or inaction of state authorities.

Martial law creates new challenges for the administrative justice system, associated with the restriction of certain rights, an increase in the number of administrative disputes and the complication of access to justice. At the same time, the introduction of electronic justice, the development of digital tools and the adaptation of procedural legislation allow ensuring the continuity of judicial protection of citizens' rights.

Further improvement of human rights protection mechanisms in administrative courts should be aimed at increasing the accessibility of justice, improving regulatory and legal regulation and ensuring an effective balance be-

tween the needs of national security and guarantees of human rights and freedoms.

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ОСОБЛИВОСТІ ЗАХИСТУ ПРАВ ЛЮДИНИ В АДМІНІСТРАТИВНИХ СУДАХ ПІД ЧАС ВОЄННОГО СТАНУ

У статті досліджуються особливості забезпечення та захисту прав і свобод людини в адміністративному судочинстві України в умовах воєнного стану. Актуальність теми зумовлена суттєвими трансформаціями функціонування системи публічної влади, обмеженням окремих прав і свобод громадян, а також необхідністю забезпечення ефективного судового контролю за діяльністю суб'єктів владних повноважень у період збройної агресії та дії особливого правового режиму.

У роботі обґрунтовується, що адміністративні суди відіграють ключову роль у механізмі захисту прав людини, оскільки саме вони здійснюють контроль за законністю рішень, дій чи бездіяльності органів державної влади, органів місцевого самоврядування, військових адміністрацій та інших суб'єктів владних повноважень. В умовах воєнного стану значно зростає кількість адміністративно-правових спорів, пов'язаних із реалізацією соціальних прав, прав військовослужбовців та ветеранів, внутрішньо переміщених осіб, доступу до соціального забезпечення, пенсійних виплат, компенсацій за зруйноване майно, а також оскарженням рішень органів державної влади щодо мобілізації, обмеження свободи пересування, доступу до інформації та інших прав.

Проаналізовано нормативно-правові засади функціонування адміністративного судочинства в умовах воєнного стану, зокрема положення Конституції України, Кодексу адміністративного судочинства України, Закону України «Про правовий режим воєнного стану», а також практику Верховного Суду. Встановлено, що навіть в умовах воєнного стану право на судовий захист залишається фундаментальною гарантією реалізації прав людини, а обмеження окремих прав мають здійснюватися виключно на підставі закону, бути пропорційними та відповідати принципу верховенства права.

Особливу увагу приділено практичним аспектам здійснення адміністративного судочинства під час війни, зокрема проблемам доступу до правосуддя, змінам територіальної підсудності судових справ, використанню електронного суду, дистанційних форм участі у судових засіданнях, а також забезпеченню безпеки учасників судового процесу. Визначено, що впровадження цифрових інструментів судочинства та розвиток електронного правосуддя стали важливими чинниками забезпечення безперервності судового захисту прав громадян.

У статті також проаналізовано окремі категорії адміністративних спорів, які набули поширення під час воєнного стану, серед яких спори щодо соціального забезпечення військовослужбовців та членів їх сімей, виплати грошового забезпечення, надання статусу учасника бойових дій, захисту прав внутрішньо переміщених осіб, а також спори, пов'язані з діяльністю військових адміністрацій. Доведено, що адміністративні суди залишаються важливим інструментом гарантування балансу між потребами національної безпеки та необхідністю дотримання прав і свобод людини.

За результатами дослідження сформульовано висновки щодо основних проблем реалізації права на судовий захист в умовах воєнного стану, серед яких: ускладнення доступу до судів у прифронтових регіонах, переважаність судової системи, необхідність удосконалення нормативно-правового регулювання окремих категорій адміністративних спорів, а також потреба у подальшому розвитку електронного судочинства. Запропоновано напрями удосконалення механізмів захисту прав людини в адміністративних судах, зокрема шляхом посилення гарантій доступу до правосуддя, удосконалення процесуальних механізмів розгляду справ у надзвичайних умовах та гармонізації національного законодавства з європейськими стандартами захисту прав людини.

Ключові слова: права людини, адміністративне судочинство, адміністративні суди, воєнний стан, судовий захист, доступ до правосуддя, суб'єкти владних повноважень, верховенство права, електронне судочинство.