

# CENTRALISATION OF POWERS OF PUBLIC ADMINISTRATION ENTITIES UNDER MARTIAL LAW AS A GUARANTEE OF ECONOMIC AND LEGAL STABILITY OF THE STATE FUNCTIONING

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**Abstract.** The subject of the study is the impact of the concept of centralisation of powers among public administration bodies under martial law conditions as a prerequisite for ensuring national security in general and economic security in particular. *Methodology.* The research was conducted using general and specific scientific methods of cognition. The comparative method was used to identify changes in the status of the activities of public administration bodies under martial law. The quantitative and qualitative parameters characterising the peculiarities of the application of certain measures of the martial law regime were determined by means of analysis. The *results* of the study indicate that there is an immediate need for authorised entities in Ukraine to modify their activities in order to enhance and adapt the existing measures to the conditions of martial law. It has been determined that the powers of the President of Ukraine and military administrations in the field of economic security, which are applied during the legal regime of martial law, must be revised. *Conclusion.* The authors establish that under martial law, the President of Ukraine, the National Security and Defence Council and military administrations are vested with a wide range of powers, including those which directly affect economic relations at the State and municipal levels. The paper presents a proposal to amend the current legislation with a view to clarifying the powers of military administrations, which will ultimately facilitate their compliance with the fundamental principles of state regulation. The role of the National Security and Defence Council is defined as an institution that identifies national security risks (including financial and economic ones) and develops strategies to reduce their latency.

**Keywords:** martial law, public administration entities, economic security, powers, economic rights, national security.

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## 1. Introduction

Economic security constitutes a fundamental element of national security, reflecting the intrinsic link between a country's economic strength, its military-economic potential, and the assurance of national security (Tretyak, Gordienko, 2010:8). As correctly observed in the scientific literature, economic security is reflected in the state of protection of economic rights, including decent housing, quality education, social protection, reasonable income in exchange for goods, and sufficient employment levels (Stetsenko,

2014: p. 105). The implementation of martial law has resulted in substantial alterations to the fundamental rights of citizens, which are pivotal for the economic stability of both the state and its population. It is therefore imperative that duly authorised bodies prioritise the maintenance of the state's normal functioning, which will in turn ensure the continued stability of the economy.

Concurrently, the legal status of any entity endowed with specific powers affects the determination of its involvement in various public-law relations.

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In light of the evolving conceptualisation of the public administration system, questions persist regarding the incorporation of specific authorised entities within this system. The President of Ukraine is no exception to this. Furthermore, the distinctive nature of his legal status has become particularly salient with the imposition of martial law. Consequently, the issue of systematising his powers and the procedure for their application has assumed heightened relevance.

Furthermore, military administrations are subject to a distinct legal status, namely that their activities are possible only in the context of the introduction of the legal regime of martial law. In such circumstances, there are difficulties in allocating military administrations to a specific group of subjects, defining their competence, delineating the procedure for acquiring powers and making decisions of a generally binding nature.

The proclamation of martial law in Ukraine has resulted in a pervasive phenomenon of compelled alterations in the operational modalities of public authorities, particularly within the executive branch. These changes were necessitated by the necessity to respond expeditiously and efficaciously to the challenges confronting the Ukrainian state during the period of full-scale invasion. Furthermore, this has resulted in an urgent necessity to rethink the role of public administration in the new socio-political conditions and the specifics of managing key areas of society during martial law, including the economic sphere. At the same time, control over the activities of the executive authorities during the period of martial law is vested in the National Security and Defence Council. Accordingly, the purpose of this article is to provide a doctrinal study of the changes that have occurred in the status of certain government entities under martial law, which at the same time should contribute to ensuring the economic security of the country.

## **2. The President of Ukraine as the Main Subject of Ensuring the Functioning of the State under Martial Law**

The President of Ukraine is not classified as part of the executive or local self-government bodies. However, they are endowed with a set of powers that can be characterised as both political and administrative-staff in nature. The unique status and non-affiliation of the President of Ukraine do not negate the clarity of his legal position. Indeed, the President of Ukraine, in light of his powers and the intricate nature of interaction with other branches of government, serves as a vital link between all branches of power, acting as a central figure in the coordination of joint efforts. The President of Ukraine is vested with extensive powers in relations with the legislative,

executive, and judicial branches of government. In this capacity, the President serves as an arbiter, ensuring the maintenance of a system of checks and balances within the state apparatus. This is done in order to prevent the absolutisation of power by any single government body.

The Constitution of Ukraine (1996) outlines the fundamental characteristics that define the legal status of the President of Ukraine during martial law, including under martial law:

1) The President of Ukraine is the guarantor of state sovereignty, territorial integrity of Ukraine, observance of the Constitution of Ukraine, human and civil rights and freedoms (Article 102 of the Constitution of Ukraine).

2) The President of Ukraine ensures state independence, national security and legal succession of the state (Article 106(1) of the Constitution of Ukraine).

3) The President of Ukraine is the Supreme Commander-in-Chief of the Armed Forces of Ukraine; appoints and dismisses the high command of the Armed Forces of Ukraine and other military formations; and exercises leadership in the areas of national security and defence of the state (Article 106(17) of the Constitution of Ukraine).

4) The President of Ukraine chairs the National Security and Defence Council of Ukraine (Article 106(18) of the Constitution of Ukraine).

5) The President of Ukraine addresses the Verkhovna Rada of Ukraine with a proposal to declare a state of war, and in the event of armed aggression against Ukraine, decides on the use of the Armed Forces of Ukraine and other military formations established in accordance with the laws of Ukraine (Article 106(19) of the Constitution of Ukraine).

6) The President of Ukraine decides on general or partial mobilisation and the introduction of martial law in Ukraine or in certain areas of Ukraine in the event of a threat of attack or a threat to the state independence of Ukraine (Article 106(20) of the Constitution of Ukraine).

7) The President of Ukraine is the chairman of the National Security and Defence Council of Ukraine, which, among other things, coordinates and controls the activities of executive authorities in the field of national security and defence (Article 107 of the Constitution of Ukraine).

The specified provisions are comprehensive and have practical implications during the period of martial law. Consequently, the President of Ukraine is obliged to perform duties that are not contingent on the existence or absence of martial law, while simultaneously being permitted to exercise the authority vested in them under the auspices of the martial law regime.

The powers of the President of Ukraine are generally manifested in the following authorities: 1)

Statutory powers to: a) form the executive branch; b) determine the content and direction of its functioning; c) ensure the rule of law; 2) powers in the field of public administration, including: a) personnel issues (e.g., submission to the Verkhovna Rada of Ukraine of proposals for the appointment of the Prime Minister of Ukraine, the Minister of Defence of Ukraine, the Minister of Foreign Affairs of Ukraine; appointment and dismissal of half of the members of the Board of the National Bank of Ukraine); b) ensuring activities (e.g., establishing advisory, consultative and other auxiliary bodies and services; making decisions on the introduction of a state of emergency in Ukraine or in certain areas of Ukraine, as well as on declaring certain areas of Ukraine as zones of environmental emergency with subsequent approval of these decisions by the Verkhovna Rada of Ukraine); c) control activities (e.g., suspension of acts of the Cabinet of Ministers of Ukraine on the grounds of their inconsistency with the Constitution with simultaneous appeal to the Constitutional Court of Ukraine on their constitutionality; initiation of an all-Ukrainian referendum on constitutional amendments or declaration of an all-Ukrainian referendum on people's initiative) (Kivalova, 2023: 180).

The President of Ukraine approved the Economic Security Strategy of Ukraine until 2025 (The Decree of the President of Ukraine "On the Decision of the National Security and Defence Council of Ukraine dated August 11, 2021 'On the Economic Security Strategy of Ukraine until 2025'", 2021). In consequence, the national interests of Ukraine are aligned with the principles of sustainable economic development, integration into the European economic space and the pursuit of mutually beneficial economic co-operation with other states.

The following should be noted regarding the powers granted to the President of Ukraine under martial law. Primarily, the President of Ukraine is a subject of civilian democratic control over the security and defence sector. This status is confirmed by the possibility to make legal decisions both directly by the President of Ukraine and through the National Security and Defence Council of Ukraine, headed by him/her, or through other consultative, advisory and auxiliary bodies and services established as necessary (The Law of Ukraine "On National Security of Ukraine", 2018).

The status of the President of Ukraine is detailed through his role as the Supreme Commander-in-Chief in defence-related matters. Thus, the head of state approves the structure of the defence plan of Ukraine and the military-territorial structure of Ukraine, and in the event of armed aggression decides on general or partial mobilisation, the introduction of martial law, the use of the Armed Forces of Ukraine and other military formations, and submits a proposal

to the Verkhovna Rada of Ukraine to declare a state of war. The algorithm for using these powers is set out in the Law of Ukraine "On Defence of Ukraine" (1991). Furthermore, it is possible to differentiate between the types of decisions made by the President of Ukraine in the field of defence in general and those made by him as the Supreme Commander-in-Chief of the Armed Forces of Ukraine. In the former case, this pertains to decrees and orders, whereas in the latter, it encompasses directives on matters of defence, including those pertaining to the operational reinforcement of the Armed Forces of Ukraine and other military formations established under Ukrainian legislation during a special period.

During the legal regime of martial law in Ukraine, a special period is in effect, which is a condition for the President to establish a special advisory body – the Supreme Commander-in-Chief's Headquarters. The Regulations on this body have been approved and its contents are not subject to disclosure (The Decree of the President of Ukraine "On the Decision of the National Security and Defence Council of Ukraine of 13 September 2017 'On the Headquarters of the Supreme Commander-in-Chief'", 2017).

The precise status of the President of Ukraine is most clearly defined in the provisions of the Law of Ukraine "On the Legal Regime of Martial Law" (2015). As the Supreme Commander-in-Chief, the President of Ukraine is a member of the military command, which allows him to introduce and implement measures related to martial law. The role of the head of state is important in the introduction of martial law, as it is initiated and legally formalised by a presidential decree. For example, the legal regime of martial law was first introduced by the Decree of the President of Ukraine "On the Introduction of Martial Law in Ukraine" (2022). Subsequently, since the introduction of martial law in 2022, this regime has been extended several times by relevant decrees.

It is worth noting that the term of office of the President of Ukraine during martial law has certain peculiarities. For example, Article 10 of the Law of Ukraine "On the Legal Regime of Martial Law" (2015) states: "...during the period of martial law, the powers of the President of Ukraine cannot be terminated." This provision is aimed at ensuring the uninterrupted and proper performance of the functions of the head of state in conditions that require maximum involvement of the President in solving state affairs and ensuring the national security of the country.

### **3. The National Security and Defence Council of Ukraine (NSDC) in the System of Bodies Vested with Powers under Martial Law**

The legal status of the National Security and Defence Council of Ukraine (NSDC) has stable characteristics

determined by its purpose and competence, as well as specific features influenced by its exclusive powers during martial law.

The President of Ukraine, as the Supreme Commander-in-Chief of the Armed Forces of Ukraine and the guarantor of state sovereignty and territorial integrity, taking into account various aspects of national security challenges, establishes the National Security and Defence Council of Ukraine (NSDC) to perform functions to ensure national independence and security (Koval, 2013). The status of this body was initially delineated in the Law of Ukraine "On the National Security and Defence Council of Ukraine" (1998), which defines it as follows: 1) a coordinating body under the President of Ukraine; 2) a body whose competence encompasses the field of national security and defence; 3) a body whose informational, analytical, and organisational support is provided by the NSDC Secretariat, which is a legal entity. These specific aspects of its status will now be examined in more detail.

The fact that the NSDC is a coordinating body under the President of Ukraine indicates a legal link between the functioning of this body and the President. The power of the President to establish subsidiary bodies is enshrined in the Constitution. Thus, the President of Ukraine, within the limits of funds provided for in the State Budget of Ukraine, establishes consultative, advisory and other auxiliary bodies and services to exercise his powers (Article 106(1)(28) of the Constitution of Ukraine, 1996). In light of this formulation, it becomes evident that the auxiliary bodies established by the President of Ukraine do not possess executive authority. Instead, they serve a supporting role, the scope of which is contingent upon their designated function.

The fact that it is a body under the President of Ukraine does not mean that it is a public authority. Accordingly, it is advisable to distinguish between the place of the NSDC in 1) the system of public authorities and 2) the system of public administration entities. Regarding the first, it is illogical to classify the NSDC as a state body that does not belong to any branch of government. After all, the principle of sectoral stratification of state bodies is enshrined in the Constitution (Article 6 of the Constitution of Ukraine, 1996). From a doctrinal standpoint, there have been efforts to advance a divergent position that is not aligned with the tenets of the law. It is noteworthy that Koval N.V. posits the possibility of interpreting the status of bodies established by the President of Ukraine as quasi-state entities. These entities, which should be unified under the term "state institutions", provide the President of Ukraine with a range of services, including organisational, legal, advisory, informational, expert, and analytical services, in accordance with their defined competencies

(Koval, 2016: 29). This conclusion is supported by the observation that these bodies are not vested with powers of authority. In accordance with their competence, they do not adopt legally binding normative and individual acts.

The authors agree with this position and draw attention to the fact that according to the Classification of Organizational and Legal Forms of Business ΔK 002:2004, approved by the Order of the State Committee of Ukraine for Technical Regulation and Consumer Policy of 28.05.2004 No. 97 "On Approval of National Standards of Ukraine, State Classifiers of Ukraine, National Amendments to Interstate Standards, Amendments to the Order of the State Committee of Ukraine for Consumer Protection and Food Safety No. 59 dated March 31, 2004 and Cancellation of Regulatory Documents" (2004), subsidiary bodies established by the President of Ukraine are not classified as state bodies.

It seems reasonable to posit that any reference to the status of a state body in the auxiliary bodies established by the President of Ukraine should be contained in the legal acts regulating their establishment and functioning. Furthermore, it should be noted that some of these bodies are state institutions, which are referred to in the legal framework as "bodies", despite their characteristics not aligning with the legal definition of a state body. Additionally, some have structural subdivisions that are state bodies. This is exemplified by the status of the National Security Council of Ukraine, which is the NSDC Secretariat, a state body (The Law of Ukraine "On the National Security and Defence Council of Ukraine", 1998).

It is important to highlight that the NSDC is a coordinating body under the President of Ukraine, which must be established. In this regard, Petriv I.M. highlights that the formation of the NSDC is mandated by the Basic Law, which does not allow for discretion (Petriv, 2004: 3). Consequently, the Constitution of Ukraine (1996) explicitly mandates the establishment of the National Security and Defense Council of Ukraine (Article 107), underscoring its constitutional status.

In terms of the NSDC's position within the wider system of public administration entities, the following observations can be made. It is well established that public administration entities include the following: a) state executive authorities; b) local self-government bodies; c) other entities in the exercise of their administrative functions on the basis of legislation, in particular, in the exercise of delegated powers; d) other entities that have different administrative powers in terms of content and scope (Melnyk, Bevzenko, 2014: 126). In light of the NSDC's status as a non-state executive body, local self-government body, and subject of delegated powers,

as well as the existence of broad public competence (Article 4 of the Law of Ukraine "On the National Security and Defence Council of Ukraine" (1998), it is recommended that the NSDC be referred to other subjects that are vested with administrative powers of varying content and scope.

The NSDC's competence in the sphere of national security and defence indicates that this body has certain public powers in the sphere of public relations. Accordingly, national security is defined by law as the protection of vital interests of a person and citizen, society and the state, which ensures sustainable development of society, timely detection, prevention and neutralisation of real and potential threats to national interests (Article 1 of the Law of Ukraine "On National Security of Ukraine", 2018), and defence of Ukraine is defined as a system of political, economic, social, military, scientific, scientific-technical, informational, legal, organisational and other measures of the state to prepare for armed defence and its protection in the event of armed aggression or armed conflict (Article 1 of the Law of Ukraine "On Defence of Ukraine", 1991).

The NSDC's powers are inherently coordinating and controlling, and are thus limited to strategic planning and programme development. Additionally, the NSDC is responsible for submitting relevant proposals to the President of Ukraine concerning the scope of the President's powers in the field of security and defence. Furthermore, the NSDC coordinates executive authorities and local self-government bodies in the field of protection of Ukraine's national interests. The NSDC's powers are inherently coordinating and controlling, and are thus limited to strategic planning and programme development. Additionally, the NSDC is responsible for submitting relevant proposals to the President of Ukraine concerning the scope of the President's powers in the field of security and defence. Furthermore, the NSDC coordinates executive authorities and local self-government bodies in the field of protection of Ukraine's national interests. Thus, when issuing a decree, the President uses his own discretion, which is not unlimited (The Decision of the Plenum of the Supreme Administrative Court of Ukraine "On Legal Opinion on Discretion of the President of Ukraine in Issuing Decrees Implementing Decisions of the National Security and Defence Council of Ukraine", 2017). Hence, the NSDC is a body whose competence covers the sphere of national security and defence, where this subsidiary body is vested with certain state coordination and control powers, which are limited to strategic planning and programme development, as well as submission of relevant proposals to the President of Ukraine.

The efficacy of the NSDC secretariat as a state body that furnishes information, analytical and

organisational support is contingent upon the existence of a defined list of powers assigned to it. For instance, it is entitled to receive the information, documents and materials necessary for the performance of its functional tasks from the executive authorities and local self-government bodies, enterprises, institutions and organisations in accordance with the established procedure; to use the information databases of the executive authorities in accordance with the established procedure; to act as a customer for scientific research in the field of national security and defence, and so forth. The structure of the NSDC Secretariat consists of: Secretary of the NSDC, First Deputy Secretaries of the NSDC, Deputy Secretaries of the NSDC, Chief of Staff of the NSDC, Deputy Chiefs of Staff of the NSDC, Organizational Work and Control Service, Legal Service, and Development and Information Technology Service. The NSDC Secretariat is responsible for analysing the state of national security in terms of material, financial, personnel, and organisational aspects. Additionally, it develops proposals for improving the system of national security and defence organisation, formation, reorganisation, and liquidation of executive bodies in this area (The Decree of the President of Ukraine "Issues of the Staff of the National Security and Defence Council of Ukraine", 2005).

The specificity of the NSDC's activities during martial law is mediated by the tasks provided for by law for this body, namely 1) submitting a proposal to the President of Ukraine on the introduction of the legal regime of martial law (Article 5 of the Law of Ukraine "On the Legal Regime of Martial Law" (2015)); 2) submission of a proposal to involve the Armed Forces of Ukraine, other military formations and law enforcement agencies in the implementation of measures of the legal regime of martial law (Article 11(1) of the Law of Ukraine "On the Legal Regime of Martial Law"); 3) coordination and control over the activities of the executive authorities in the defence sector within the powers defined by legislation (Article 7 of the the Law of Ukraine "On Defence of Ukraine"). Examples of NSDC decisions adopted during the legal regime of martial law include the NSDC decisions "On Approval of the Regulation on the State Register of Sanctions" (2024) and "On the State of Food Security" (2023).

In conclusion, it can be stated that the NSDC is a unique entity with specific powers in the field of security and defence. This subsidiary body is endowed with certain public powers of coordination and control, which are limited to strategic planning and programme development, as well as the submission of relevant proposals to the President of Ukraine. The following status characteristics of the National Security and Defence Council of Ukraine can be distinguished: 1) a coordinating body under the

President of Ukraine; 2) a body whose competence includes the national security and defence sector; 3) a body whose information, analytical and organisational support is provided by the NSDCU Secretariat, which is a legal entity. The authors highlight that the particulars of the National Security and Defence Council of Ukraine's activities during the period of martial law are shaped by the challenges that this entity is confronted with.

#### 4. Military Administrations as the Main Regulators of the Municipal Level

In accordance with the requirements of Article 4(1) of the Law of Ukraine "On the Legal Regime of Martial Law": "In the territories where martial law has been introduced, temporary state bodies – military administrations – may be established to ensure the operation of the Constitution and laws of Ukraine, to ensure, together with the military command, the introduction and implementation of measures of the legal regime of martial law, defence, civil protection, public safety and order, protection of critical infrastructure, protection of the rights, freedoms and legitimate interests of citizens" (The Law of Ukraine "On the Legal Regime of Martial Law", 2015). Consequently, military administrations are responsible for performing a range of public functions, including those of an executive and administrative nature. These are carried out through the utilisation of the relevant powers to implement measures of the martial law regime and to perform the functions of local self-government bodies and local state administrations on the ground. The multifaceted scope of military administrations is exemplified by Melnyk S. M. (2022: 102), who characterises it as the multidimensionality of the subject matter of jurisdiction. In essence, the overarching subject of military administration is the provision of organisational and managerial assistance for the implementation of the legal framework of martial law within the state. Roy O. V. provides further evidence to support the argument that military administrations can be attributed to subjects of power. This is achieved by defining them as a special temporary state body that performs public administrative functions. These include the exercise of delegated powers and/or powers of local self-government bodies. This is done on the basis, within the powers and in the manner provided for by the Constitution, laws of Ukraine and international treaties ratified by Ukraine. This is for the practical fulfilment of the tasks and functions of the State within the defined administrative area. With regard to the correlation between the status of "subject of public administration" and the status of "subject of authority", it can be assumed that the former is relevant for the purposes of administrative

proceedings, and the latter – for the purposes of administrative regulation. Conversely, the legitimacy of the activities of public administration entities is guaranteed by the option of appealing their inaction, actions and decisions to an administrative court. Consequently, a single entity may simultaneously possess the characteristics of both a public administration entity and an authority. Therefore, military administrations can be considered both subjects of public administration and subjects of power.

It is crucial to acknowledge that military administrations are endowed with a distinctive legal status that is not shared by any other public administration entity. The definition of the status of military administrations set out in statute enables the following special features to be identified:

1) Formation only during the legal regime of martial law and only in the territories where the legal regime of martial law has been introduced. In other words, their territorial competence will depend on the territorial spread of martial law (which may cover the entire territory of Ukraine or certain administrative-territorial units).

2) Temporary status, which means the possibility of functioning within a clearly defined time period. This characteristic stems from the fact that the legal regime of martial law, regardless of the grounds for its introduction, is of a fixed-term nature, and, accordingly, the functioning of military administrations is also of a fixed-term nature. However, their activities do not cease immediately after the cancellation of martial law, but continue for 30 days thereafter.

3) Performance of certain functions to introduce and ensure the legal regime of martial law, defence, civil protection, public security and order, protection of critical infrastructure, protection of rights, freedoms and legitimate interests of citizens.

The aforementioned military administrations, in their capacity as bodies performing the functions of local self-government (as defined in the Law of Ukraine "On Local Self-Government in Ukraine", 1997) and the functions of local state administrations (as defined in the Law of Ukraine "On Local State Administrations", 1999), are endowed with a number of powers in the field of economic security. To illustrate, with regard to the provision of balanced economic and social development of the pertinent territory, the effective utilisation of financial resources, the submission of proposals to socio-economic development programmes, the establishment of the order of use of funds and other property collectively owned by hromadas (territorial communities), the development of proposals for the financial and economic substantiation of the volumes of products to be sold for state needs at the expense of the state budget; on the proposal of local self-government bodies, the formation of the volume of products

supplied for local needs at the expense of local self-government budgets and other sources of financing, and so forth.

The present discourse will focus on the application of measures pertaining to the legal regime of martial law. This is due to the fact that the application of such measures is associated with a number of different activities, including control and supervisory activities, as well as executive and administrative ones. The Law of Ukraine "On the Legal Regime of Martial Law" (2015) includes the following measures: establishment (strengthening) of protection of critical infrastructure and facilities ensuring the vital activity of the population and introduction of a special regime of their operation; introduction of labor duty for able-bodied persons not involved in defense and critical infrastructure protection and not reserved for enterprises, institutions and organizations for the period of martial law to perform defense-related work.

In other words, these powers are of an exceptional nature, which mediates the special legal status of military administrations.

In regard to the establishment of military administrations, the President of Ukraine is only empowered to do so in the event that there are factual grounds provided for in the relevant legislation. In accordance with the administrative-territorial unit in which military administrations are established, the Law of Ukraine "On the Legal Regime of Martial Law" (2015) delineates the following categories of military administrations: a) military administrations of settlements (established in one or more settlements). Among them, the Kyiv City Military Administration stands out, since the city of Kyiv has a) a special status of the capital of Ukraine; b) district military administrations (formed in districts (raions)); c) regional military administrations (formed in regions (oblasts)).

The classification of military administrations into types is important for determining the specifics of their establishment and functioning. Military-community administrations are established within the territories of hromadas where local self-government bodies do not exercise their powers. The basis for the establishment of such administrations is the fact that local self-government bodies have failed to fulfil their powers, although the legislation does not establish a clear procedure for confirming this fact. In turn, district and regional military administrations can be established if the respective councils fail to fulfil their powers or fail to provide leadership in the field of defence, public security and law enforcement. Once the decision to establish them is made, the relevant district and regional state administrations acquire additional powers necessary to implement martial law. A similar procedure applies to the establishment of

the Kyiv City Military Administration. For example, Kyiv city, district and regional military administrations are created on the basis of the respective state administrations, while military administrations of settlements can be created in two ways: on the basis of the respective civil-military administrations or as new state bodies.

For a clear understanding of the status characteristics of military administrations, it would be advisable to enshrine their status in the Law of Ukraine "On Defence of Ukraine" (1991), namely in Section II "Powers of state authorities, main functions and tasks of military administration, local state administrations, local self-government bodies, enterprises, institutions and organisations, duties of officials, rights and obligations of citizens of Ukraine in the field of defence". Thus, this part of the analysed law details the legal status of the following entities: The Verkhovna Rada of Ukraine, the President of Ukraine, the National Security Council of Ukraine, the Supreme Commander-in-Chief's Headquarters, the Cabinet of Ministers of Ukraine, the Ministry of Defence of Ukraine, the General Staff of the Armed Forces of Ukraine, the State Special Transport Service, the State Service for Special Communications and Information Protection of Ukraine, local state administrations, etc. It can be reasonably inferred that the military administration is not an executive body, a local self-government body, or a law enforcement body. In consequence, its status remains uncodified. It is this authors' contention that the Law of Ukraine "On Defence of Ukraine" would be enhanced by the addition of Article 151, entitled "Activities of Military Administrations", which would be composed of the following content: "1. Military administrations in the field of defence of the state ensure, together with the military command, the introduction and implementation of measures of the legal regime of martial law, defence, civil protection, public security and order, protection of critical infrastructure, protection of rights, freedoms and legitimate interests of citizens; temporary state bodies may be established. 2. Military administrations may perform the functions of local self-government bodies and the functions of local state administrations in the field of defence of the state. 3. The activities of military administrations and their management are carried out in accordance with the legislation."

## 5. Conclusions

To summarise, the position of the President of Ukraine under martial law is characterised by the following: 1) the President of Ukraine is endowed with a wide range of powers that can be applied during martial law; 2) all powers that the Head of State can exercise during a special period are defined by the

Constitution of Ukraine and detailed in the legislation on national security, defence and regulation of public relations during martial law; 3) the activities of the President of Ukraine both in peacetime and under martial law should be functionally aimed at ensuring the unity of state power and state policy, the integrity of the state mechanism; 4) powers that do not depend on the presence or absence of martial law can be distinguished from those granted to the President of Ukraine during martial law; 5) during the period of martial law, the President of Ukraine exercises his powers as a subject of democratic civilian control and Supreme Commander-in-Chief of the Armed Forces of Ukraine.

The relationship between the status of "public administration entity" and the status of "subject of

authority" can be defined as follows: the former is relevant for the purposes of administrative proceedings, while the latter is relevant for the purposes of administrative regulation. Conversely, the legitimacy of the activities of public administration entities is guaranteed by the option of appealing their inaction, actions and decisions to an administrative court. In consequence, a single entity may be invested with both the status of a public administration entity and that of an authority. It can be seen, therefore, that military administrations are both subjects of public administration and subjects of power. The authors put forth a proposal for amendments to the extant legislation, with the objective of effecting a more streamlined legal status for military administrations.

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