

ppi 201502ZU4645

Esta publicación científica en formato digital es continuidad de la revista impresa
ISSN-Versión Impresa 0798-1406 / ISSN-Versión on line 2542-3185 Depósito legal pp
197402ZU34

CUESTIONES POLÍTICAS

Instituto de Estudios Políticos y Derecho Público "Dr. Humberto J. La Roche"
de la Facultad de Ciencias Jurídicas y Políticas de la Universidad del Zulia
Maracaibo, Venezuela



Vol.41

Nº 76

Enero

Marzo

2023

Observance of individual rights in criminal proceedings during martial law

DOI: <https://doi.org/10.46398/cuestpol.4176.28>

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Abstract

The objective of the research was to identify threats to individual rights in criminal proceedings during martial law. The research involved system methods, descriptive analysis, systematic sampling, doctrinal approach and forecasting. Martial law introduced as a result of armed conflict carries important implications for criminal justice. Ensuring the observance of individual rights in criminal proceedings during this period applies to several crimes, the common feature of which is the time of their commission. The classification of subjects of prevention of infringement of such rights is presented. The prospects for improving the protection of individual rights in criminal proceedings require international assistance in the detection of crimes related to the armed conflict. It is concluded that ensuring the observance of individual rights in criminal proceedings during martial law requires combining the efforts of national and international specialists. Prospects for improving this process envisage international assistance with increased use of its results as evidence in national and international courts. It is appropriate to develop international recommendations for national law enforcement agencies and judicial bodies.

Keywords: criminal justice research; human rights protection; martial law; rights enforcement; justice and armed conflict.

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Observancia de los derechos individuales en los procesos penales durante la ley marcial

Resumen

El objetivo de la investigación fue identificar las amenazas a los derechos individuales en los procesos penales durante la ley marcial. La investigación involucró los métodos de sistema, análisis descriptivo, muestreo sistemático, enfoque doctrinal y pronóstico. La ley marcial introducida como resultado de un conflicto armado conlleva importantes implicaciones para la justicia penal. La garantía de la observancia de los derechos individuales en los procesos penales durante este período se aplica a varios delitos, cuyo rasgo común es el momento de su comisión. Se presenta la clasificación de los sujetos de prevención de la vulneración de tales derechos. Las perspectivas de mejorar la protección de los derechos individuales en los procesos penales requieren asistencia internacional en la detección de crímenes relacionados con el conflicto armado. Se concluye que, asegurar la observancia de los derechos individuales en los procesos penales durante la ley marcial requiere combinar los esfuerzos de especialistas nacionales e internacionales. Las perspectivas para mejorar este proceso prevén la asistencia internacional con un mayor uso de sus resultados como prueba en los tribunales nacionales e internacionales. Es apropiado desarrollar recomendaciones internacionales para las agencias nacionales encargadas de hacer cumplir la ley y los órganos judiciales.

Palabras clave: investigación en justicia penal; protección de los derechos humanos; ley marcial; observancia de los derechos; justicia y conflictos armados.

Introduction

Law and order maintained through legal means, is a component of national security. In this context, ensuring observance of individual rights, in particular, in the field of criminal justice, is a necessary element of the regulatory, law enforcement and institutional activities of the sovereign state. However, state guarantees are significantly limited in emergency situations of threats to national security due to objective reasons.

The extreme manifestation of those threats is an armed conflict. Regardless of its nature or legitimacy, it threatens fundamental rights and freedoms. Accordingly, states enjoy wide discretion in choosing the means of national security protection (Arden, 2015). In fact, all the measures taken to resolve the armed conflict can be considered as those dictated by the need to preserve national security (Teferra, 2016).

Martial law introduced in response to an armed conflict always entails the introduction of restrictions on the exercise of rights and freedoms. Article 4(1) of the International Covenant on Civil and Political Rights allows the states to take measures derogating from their obligations during such a state that threatens the life of the nation, which was officially proclaimed by the state. At the same time, such a retreat must be determined by the extent strictly required by the exigencies of the situation (United Nations, 1966).

As regards criminal justice during martial law, there are threats of violation of proportionality requirements and the need for restrictions in cases where national legislation does not keep pace with regulating changes caused by armed conflict (P.H.P.H.M.C. Van Kempen, 2014). For example, the authorities can resort to the introduction of special powers regarding extrajudicial restriction of the right to inviolability of private life, departure from standard course of criminal proceedings, etc.

Although the state cannot depart from the guarantees of the right to life, the prohibition of torture, cruel or inhuman treatment (Myjer *et al.*, 2009), there are examples of actual violation by the state: a) torture and other forms of cruel treatment to obtain confessions; b) kidnapping and extrajudicial executions; c) activities of non-government groups in applying coercion to persons suspected of criminal offences; d) leaving arbitrarily detained persons without legal protection, etc. (Office of the High Commissioner for Human Rights, 2003).

Accordingly, the imperfection of the legal regulation and the possible abuse of power by government agencies during martial law are a serious threat to legal order and the rule of law (Christakis and Bouslimani, 2021).

So, the legality of the criminal justice depends, first of all, on the extent to which the criminal justice ensures compliance with the standards of the rule of law stipulated by national, supranational and international documents (Carrera *et al.*, 2021). The main purpose of human rights is protection against abuse of power, limitation of excessive coercion against suspects, proper collection of evidence, legal prosecution and justice for the accused (P.H.P.H.M.C. Van Kempen, 2014).

A system approach to the analysis of ensuring observance of individual rights in criminal proceedings during martial identified a number of urgent problems:

1. A professional discourse is mainly reduced to the most dangerous violations of international humanitarian law, in particular, war crimes. These actions have an obvious connection with the armed conflict, as they do not simply coincide with it in time, but are committed under its significant influence. This connection defines the fundamental difference between ordinary criminal offences and war crimes (Schwarz, 2018). International and national law enforcement

practice relies on the principle of individual responsibility with regard to war crimes. This means that both servicemen and civilians who maintained ties with one of the parties to the conflict or were related to it shall be held criminally liable for war crimes (David, 2011).

At the same time, other general criminal acts, such as acquisitive and violent crimes, can also be committed during martial law. They are not related to armed conflict. However, the peculiarities of the martial law may lead to the violation of the individual rights during criminal proceedings because of the lack of qualified law enforcement officers, the impossibility of carrying out certain procedural actions, the physical absence of lawyers at the place of detention of the person, etc. Therefore, disproportionate restrictions on the individual rights and freedoms can be caused by a much larger range of criminal offences, rather than only crimes directly related to the armed conflict.

2. Although the violation of individual rights of the suspects and the accused in criminal proceedings is the main focus, the victims are also important. In particular, war crimes with mass casualties cause many victims, survivors, where everyone has the right to know the fate of their near relations (Schmitt, 2022). The international courts focus on “high-level” cases, so the national law enforcement and judicial systems carry the main burden. While the state’s obligations include investigating violations, prosecuting and punishing perpetrators, legal remedies and redress for victims or their families must be provided (United Nations, 2011). As a whole, inadequate attention is paid to the victimological dimension of the problem, especially in cases of general crimes.
3. In temporal terms, threats of violation of individual rights in criminal proceedings during martial law cannot be reduced only to the pre-trial investigation stage. They can potentially arise from the peculiarities of the organization of criminal justice and manifest themselves not only during the investigation, but also during the trial of cases. Therefore, it is advisable to consider several aspects of such threats:
 - Problems of the organization of criminal justice during martial law. They are related to regulatory and institutional support for proper procedures for identifying, prosecuting and punishing criminal offenders. The states are obliged to exercise criminal jurisdiction over crimes committed on their territory or by their citizens. Accordingly, international courts investigate crimes and administer justice when states fail to do so (Mayans-Hermida and Hola, 2020). In this context, the challenge is that the identification and collection of evidence

of large-scale crimes related to armed conflict is often beyond the capacity and resources of local police teams, investigators and prosecutors (Schmitt, 2022).

The state must guarantee access to judicial processes, services and remedies (Carrera *et al.*, 2021). This is the basis for the mandatory requirements to be complied with in order to ensure the observance of individual rights during martial law through the criminal justice system: a) the national legislation defines the grounds for limiting individual rights; b) the national law is accessible to everyone; c) the law has predictable consequences (Council of Bars and Law Societies Of Europe, 2019). However, it is clear that the entire criminal justice system is extremely vulnerable to threats of violation of individual rights during martial law (Mayans-Hermida and Hola, 2020).;

- Problems of detecting the facts of crimes committed during martial law. They refer to acts both related and not related to armed conflict. The failure to detect the crime and the failure to prosecute the perpetrators deprives the victims of their rights to protection and redress. In particular, the modern conception of justice as a complex system of information is emphasized by the understanding of the extreme importance of documenting crimes against the civilian population (D'Alessandra and Sutherland, 2021).

This is why non-government organizations try to set an agenda in order to draw attention to certain crimes. This prompts the state, first of all, the prosecutor's office, to register and conduct an investigation of specific facts. These facts could remain without a proper response if the attention of civil society is not drawn (Jeßberger and Steinl, 2022).

The activity of mass media becomes especially important. Experience of wars in the 21st century showed the possibilities of citizen journalism as a way to confront human rights violations. This resulted in a significant amount of open-source content. In this regard, there is a task to submit this information to the courts in order to bring the perpetrators to justice (Freeman, 2018). Therefore, the state should create a system of communication between law enforcement agencies and judicial bodies and civil society institutions during martial law;

- problems of conducting pre-trial investigations. The states are obliged to conduct careful, efficient and independent criminal proceedings. The evidence obtained during the investigation determines the framework of the analysis of the crime (P.H.P.H.M.C. Van Kempen, 2014). Failure to properly organize the investigation process may result in a violation of the right to an effective remedy. The conceptual difficulties of ensuring observance of the individual rights in criminal proceedings are revealed during the pre-trial

investigation as regards the important limitations on how to collect evidence and keep people in custody (McBride, 2009).

Two blocks of problematic issues can be distinguished in this context:

- A) forensic support for the investigation of crimes during martial law, which should ensure: a) the most effective collection of information in hard-to-reach areas; b) objectivity of the received data; c) safety of persons participating in the proceedings; d) availability of information to all interested parties (CENSS, 2019). The widespread use of digital evidence and artificial intelligence to analyse digital material is necessary in this context (D'Alessandra and Sutherland, 2021);
- B) implementation of operational measures and procedural actions during martial law. It is about the use of both covert methods of investigation (eavesdropping, interception of communications, surveillance, electronic surveillance, involvement of informants, infiltration, agents provocateurs, etc.), and overt investigative actions (search, extraction of fingerprints, biological samples, DNA profiles, etc.) (P.H.P.H.M.C. Van Kempen, 2014). At the same time, the state can classify the sources of obtaining information and not grant the right to access them (European Court of Human Rights, 1978; 1987; 2010). Particular attention is paid to the legitimacy of the detention of suspects and retaining them in custody, including the determination of the terms of such detention (McBride, 2009).

Violations during interrogations pose a potential threat. For example, the ECHR emphasized the inadmissibility of fairly widespread methods used during interrogations in extreme conditions that constitute inhuman and degrading treatment: hooding, noise exposure, sleep deprivation, standing continually over prolonged periods, slaps, etc. Excessively long interrogations also belong to this practice (Office of the High Commissioner for Human Rights, 2003; P.H.P.H.M.C. Van Kempen, 2014). Besides, the danger of violent disappearances of persons suspected of committing crimes is also a threat to the rights of a person in criminal proceedings (Myjer *et al.*, 2009);

- problems of judicial review of cases. The importance of judicial review as a way to protect individual rights increases during martial law. The judicial review balances: a) the interests of the state in ensuring security and b) the interests of individuals in ensuring the observance of their rights and freedoms (Arden, 2015; European Court of Human Rights, 1987). Attempts to introduce remote hearings are typical for the period of armed conflict. However, digital tools do not always meet privacy, data protection and information security standards in the context of judicial proceedings.

In particular, the use of video conferencing for judicial proceedings instead of personal presence in courts affects the relationship of the accused with lawyers, the decisions of judges, etc. (Carrera *et al.*, 2021). The duty of the state to prevent, investigate, prosecute, punish and redress for violation of the individual rights in criminal proceedings, torture or other forms of ill-treatment is important (Office of the High Commissioner for Human Rights, 2003). These violations are often revealed during the trial of cases on crimes committed during martial law.

Besides, it is necessary to emphasize the problem for the implementation of criminal proceedings and trial of cases: the real observance of an individual right to protection (legal aid in the broadest sense). The international community recognizes the extraordinary complexity of the work of lawyers in emergency situations.

However, the requirements of the investigation and the objective difficulties of the investigation of crimes should not cause limitations on the defence (Office of the High Commissioner for Human Rights, 2003). Moreover, ECHR emphasizes that the observance of the right to a fair trial is ensured through the contact between the accused and his/her defence counsel. Otherwise, it is difficult to establish a trustful relationship between the lawyer and the client (Carrera *et al.*, 2021).

So, it is concluded on the basis of the foregoing that the current state of human rights protection in criminal proceedings during martial law is characterized by conceptual problems of ensuring observance of individual rights.

The diversity of these problems determines the number of proposals for solving them or, at least, reducing their severity. In particular, it is about improving the legal regulation of: a) investigative actions, in particular, interrogation (Myjer *et al.*, 2009); b) remote hearings (Carrera *et al.*, 2021); c) procedures for interaction with civil society institutions, primarily mass media (D'Alessandra and Sutherland, 2021), etc.

The analysis of ensuring observance of individual rights in criminal proceedings during martial law is extremely relevant and has practical significance for legislators, law enforcers and human rights defenders. The organizational and legal dimension of the problems of ensuring the observance of the rights in this aspect focuses on the prospects of comprehensive prevention of violations of individual rights in criminal justice in order to achieve fairness, accountability and redress for the victims of crimes.

Aim. Taking into account the above-mentioned, the aim of this study is to consider the main threats to the observance of individual rights in criminal proceedings in view of the peculiarities of the wartime, as well as the prospects for improving human rights protection in this area. The aim

involved the following research objectives: determine the list and specifics of crimes committed during martial law; identify the main challenges to the proper protection of individual rights in criminal proceedings with due regard to the experience of Ukraine; identify the subjects whose activities contribute to the reduction of threats of violation of individual rights in criminal proceedings during martial law; determine the promising directions for improving the protection of individual rights in the said context.

Taking into account the above-mentioned, the aim of this study is to consider the main threats to the observance of individual rights in criminal proceedings in view of the peculiarities of the wartime, as well as the prospects for improving human rights protection in this area. The aim involved the following research objectives: determine the list and specifics of crimes committed during martial law; identify the main challenges to the proper protection of individual rights in criminal proceedings with due regard to the experience of Ukraine; identify the subjects whose activities contribute to the reduction of threats of violation of individual rights in criminal proceedings during martial law; determine the promising directions for improving the protection of individual rights in the said context.

2. Methodology and methods

The sources that cover the relevant aspects of ensuring observance of individual rights in criminal proceedings during martial law were selected in order to achieve the aim and fulfil the objectives set in the article. Their analysis enabled to identify the main components of the subject under research, which reflect the complexity of the problem of human rights protection in the criminal justice system caused by the armed conflict.

The article also used the generalization of the legal positions of ECHR, international recommendations for jurists (prosecutors and lawyers), as well as the study of Ukraine's experience in regulating the observance of individual rights in criminal proceedings during martial law. This resulted in identifying the main promising directions for improving human rights protection in the field of criminal justice under martial law.

The following methods were used in this study to achieve the aim: the system approach was applied to interpret martial law as a special legal regime introduced to protect national security, and the functioning of criminal justice in this period; the descriptive analysis was used to identify and study the specifics of threats to the protection of individual rights in criminal proceedings during martial law; systematic sampling and doctrinal methods enabled identifying and describing the signs of crimes in relation

to criminal proceedings which have threats of violation of individual rights; forecasting was used to determine the prospects for improving the level of protection of individual rights in the field of criminal justice during martial law.

3. Results

Ensuring observance of individual rights in criminal proceedings during martial law is part of the general humanitarian discourse in the field of criminal justice. The solution to this problem requires combined efforts of the international community and national jurisdictions. At the same time, the prerequisites for its analysis are: a) understanding the essence of martial law; b) determining the list and specifics of crimes committed during martial law.

Martial law is supposed to mean a special legal regime that is introduced in the country/some of its regions in the event of armed aggression or the threat of an attack. Accordingly, martial law is a consequence of the most significant threats to national security in the form of an existing or potential armed conflict. Special conditions arise under martial law that led to specific changes in the field of criminal justice (Martial Law in Times of Civil Disorder) (see Figure 1).

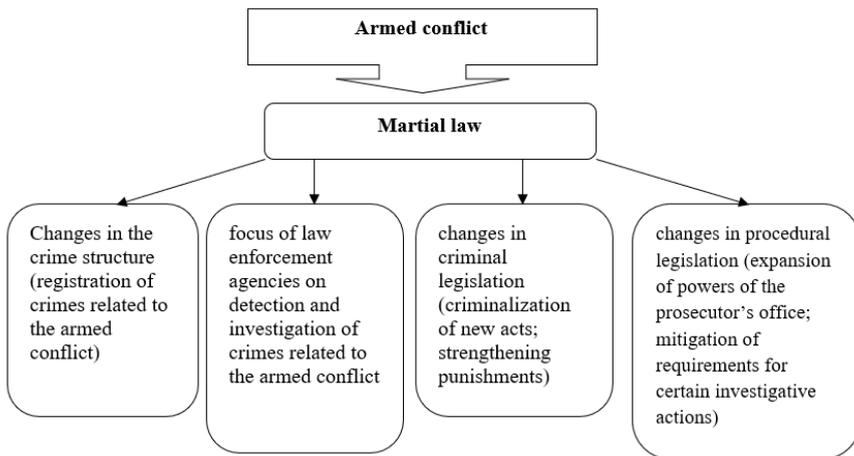


Figure 1: Consequences of martial law in the field of criminal justice. Source: own creation

A variety of crimes can be committed during martial law, which are caused by the armed conflict to a certain extent. It is complicated to determine their range because of their heterogeneity. Neither national nor international documents contain even an approximate list of those acts. It is considered that the totality of the said crimes can be regulated according to the following criteria: a) the grounds of criminalization and the nature of the acts; b) subject composition. The classification groups do not exclude each other, they describe actions in different aspects. Commission of the acts during martial law can be considered their main common feature (see Figure 2).

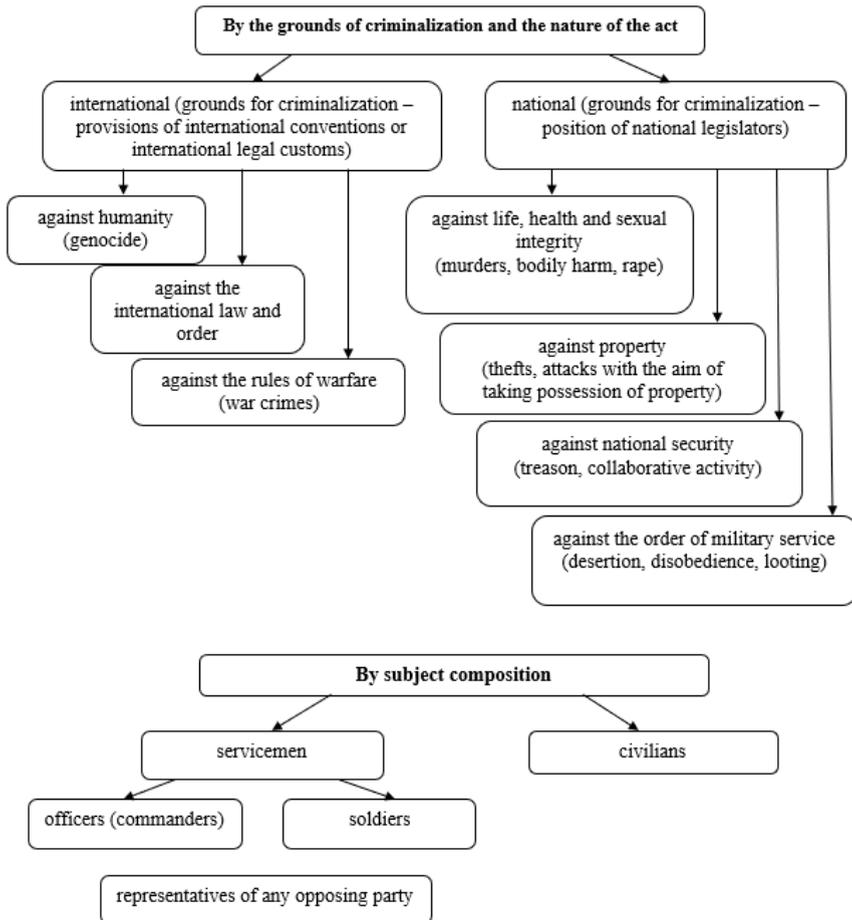


Figure 2: Classification of crimes committed during martial law. Source: own creation

The acts directly related to armed conflict are the most typical type of crimes committed during martial law. They are separated because they are not committed at other times and outside of the conflict. Besides, they can be committed throughout the entire period of martial law. It is obvious that crimes related to armed conflict are the most socially dangerous. Therefore, the international documents, in particular, in the statutes of international courts and ad hoc tribunals, introduce criminalization of a significant number of those acts (Schwarz, 2018). Figure 3 presents the most typical features of crimes related to armed conflict developed by international judicial practice.

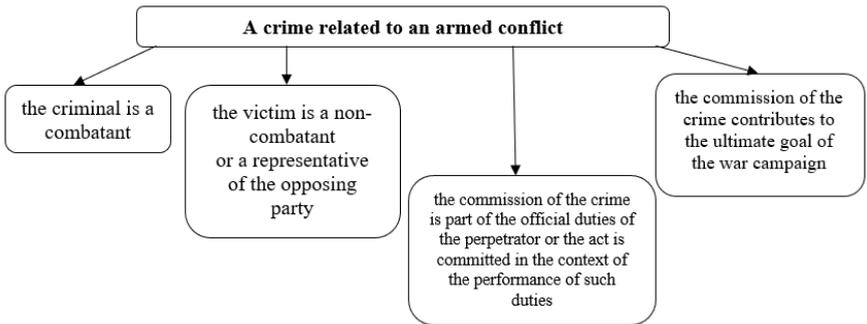


Figure 3: Typical features of a crime related to an armed conflict. Source: own creation

Despite the international community’s attention to crimes with the specified features, it should be noted that other acts committed during martial law are also dangerous. For example, enhanced criminal liability was introduced in the criminal legislation of Ukraine for thefts and robberies committed during the armed conflict. This applies to crimes committed throughout the country, not only in regions of hostilities.

Human rights apply to almost all aspects of criminal procedure law, regardless of the specifics of the criminal justice system (P.H.P.H.M.C. Van Kempen, 2014). It follows that individual rights may be violated at different stages of criminal prosecution during martial law. The criminal justice system of Ukraine, where martial law has been introduced since February 24, 2022, may illustrate the specifics of the threats to ensuring observance of human rights.

This is why a special procedure was provided for the conduct of criminal proceedings. Generalizations of the positions of researchers, lawyers and judges (Gvozdiy, 2022; Lisitsyna *et al.*, 2022; Mykhailenko, 2022) enable identifying the most important novelties in criminal procedure law:

- it is allowed to establish interdepartmental investigative groups to ensure the prompt investigation of all criminal offences;
- extending the powers of prosecutors, who can grant permission to conduct investigative actions that were previously handled by investigative judges (search, entry into premises, seizure of property, detention, etc.);
- detention procedure was simplified (its term was increased by 3.6 times), it is allowed to conduct investigative activities around the clock;
- significantly complicated appeal of investigative actions;
- it is possible to consider requests for preventive measures remotely without the participation of the suspect or the accused; in general, the share of the use of video conferencing during the period of investigation and court proceedings has increased significantly;
- attention is drawn to the inappropriately excessive discovery of materials from parties to criminal proceedings.

In view of the foregoing, it is possible to compare the stages of criminal prosecution and the main threats to the observance of individual rights during martial law that may occur at those stages (see Figure 4).

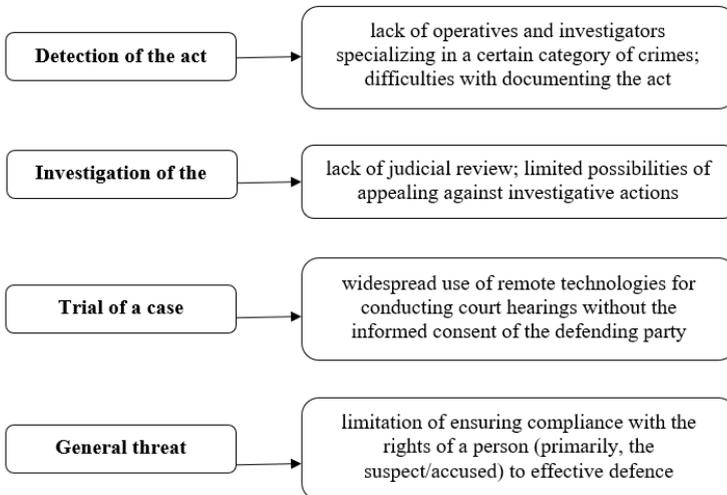


Figure 4: The main threats to the observance of individual rights during martial law at different stages of criminal prosecution (based on the experience of Ukraine).

So, the introduction of martial law did not prevent the conduct of pre-trial investigation, the activities of the prosecutor’s office and the administration of justice in the territories controlled by the authorities. At the same time, martial law objectively limits the rights of the participants in criminal proceedings, primarily the suspect and the accused (Gvozdiy, 2022).

Monitoring violations of human rights during criminal proceedings under martial law, their detection, discontinuation, and prevention is an important condition for the legality of the functioning of the criminal justice system. This is why determining the actors whose activities are the most effective and appropriate under martial law is an important component of the discourse.

The involvement of international organizations for monitoring violations will be limited due to the danger to the life and health of their representatives, as well as the specifics of many crimes that are investigated/tried in courts (for example, treason, war crimes, etc.). However, it is appropriate to create independent international ad hoc commissions. For example, the UN Human Rights Council created the Independent International Commission of Inquiry on Ukraine, which actively works with victims and representatives of civil society (United Nations, 2022).

Accordingly, the said actors may be classified by distinguishing: a) government agencies; b) representatives of civil society. At the same time, the state is represented by the prosecutor’s office (Myjer *et al.*, 2009) and courts. Professional lawyers’ associations should be singled out among representatives of civil society (Office of the High Commissioner for Human Rights, 2003; Gvozdiy, 2022). Figure 5 presents the general vision of the system of actors engaged in monitoring and supervision in the field of prevention of violations of individual rights in criminal proceedings during wartime.

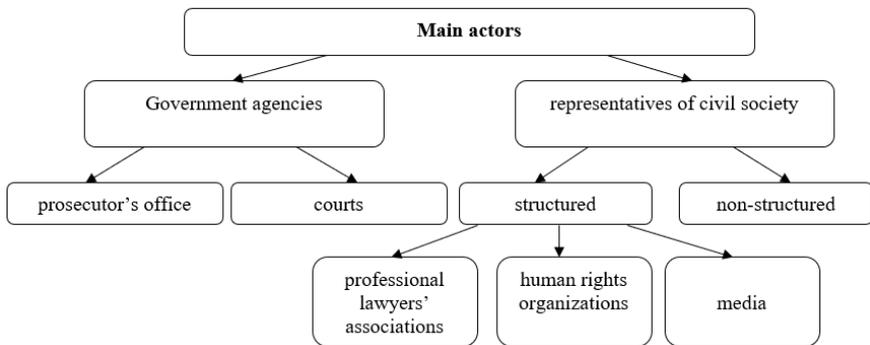


Figure 5: The main actors in preventing the violation of individual rights in criminal proceedings during martial law. Source: own creation.

The above aspects helped to determine the main promising directions for improving protection of individual rights in criminal proceedings during martial law. It is seen that they are connected with increasing of international participation in criminal proceedings on international crimes (war, genocide, aggression). This: a) will enable to conduct criminal proceedings in the most complex cases faster and more effectively; b) will enable national law enforcement agencies not to leave crimes that are not directly related to armed conflict, but are committed during martial law without response. The international participation may include a range of issues from documenting events to working with crime victims (see Figure 6).

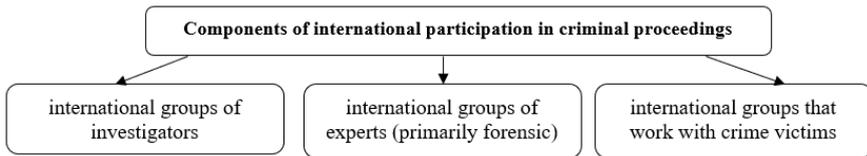


Figure 6: International participation in criminal proceedings in the context of improving protection of individual rights during martial law. Source: own creation.

In view of the foregoing, it is appropriate to consider the issue of developing standard procedures for attracting international assistance in conducting criminal proceedings during martial law. Appropriate procedures may be outlined in international recommendations for national law enforcement and judicial authorities. This will enable to actively involve experienced experts, to implement the results of their work in procedural documents with their subsequent use as evidence in national and international courts.

4. Discussion

The studies on the state and prospects of ensuring observance of individual rights in criminal proceedings during martial law can be represented by two blocks: a) international recommendations of UN agencies, the European Lawyers' Association, legal positions of ECHR, aimed at improving national legislative and law-enforcement practice; b) expert studies that cover different aspects of this issue.

This research has shown that those studies are focused either on general issues that are indirectly related to criminal proceedings during wartime, or on the generalization of the experience of international courts on war crimes.

In general, one should agree with the original thesis that measures taken with a view to national security considerations can limit the right to effective protection and to a fair trial (Council of Bars & Law Societies of Europe, 2019). This will be most evident in the context of war crimes, because they are directly related to armed conflict (David, 2011).

Besides, individual criminal responsibility arises for their commission, and cases are tried both in national and international courts (Schwarz, 2018). However, this research shows that the problems of limiting individual rights in criminal proceedings on a much wider range of actions than just war crimes should be analysed.

This study established that the vast majority of specialists pay attention to ensuring observance of individual rights in criminal proceedings when carrying out traditional investigative actions. We share the position that there are significant threats to encroachment on human dignity, a disproportionate violation of the inviolability of private life, and the use of torture in the course of detention and interrogations (Office of the High Commissioner for Human Rights, 2003; Myjer *et al.*, 2009). During martial law, those detained during criminal proceedings are particularly vulnerable to abuse by the state, which is interested in quickly obtaining information or admitting guilt (P.H.P.H.M.C. Van Kempen, 2014).

This vision seems, however, limited. It is appropriate to share the thesis that covert (operational) measures also pose serious challenges to the protection of individual rights during martial law. This especially applies to obtaining information in the form of digital evidence (Freeman, 2018) and its processing using the latest technologies (Dupont *et al.*, 2018).

The consideration of the actors that counteract violations of individual rights in criminal proceedings during martial law is a separate aspect of studies. It is possible to agree with the allocation of: a) representatives of the state - prosecutors, who should monitor potential and actual violations (Office of the High Commissioner for Human Rights, 2003); b) lawyers, whose physical presence and communication is considered the most important way to prevent cases of unjustified coercion (Carrera *et al.*, 2021); c) civil society institutions, which create pressure on the authorities in order to protect human rights (Jeßberger and Steinl, 2022). At the same time, we support the position that an organized civil society provides greater transparency regarding accountability (D'Alessandra and Sutherland, 2021).

However, this study draws attention to the activities of professional lawyers' associations, in particular, counsels. They actively identify threats of violation of individual rights not only in law enforcement practice, but also at the level of legal regulation.

It is appropriate to agree with the comments regarding modern technologies, first of all, platforms for conducting court hearings remotely. The importance of this context is emphasized by the fact that the courts have the discretion to determine the balance between the fundamental values of the law in each specific case (Freeman, 2018).

The main concerns are related to the inadequate level of confidential communication between lawyers and their clients, which affects the effective participation of the defence in the trial (Carrera *et al.*, 2021).

We share a position on the victimological dimension of the analysis of the problems of observing individual rights in criminal proceedings during martial law (Lohne, 2020). Modern justice is a communicative process that provides interaction with crime victims and the general population (Eskauriatza, 2021). Our position is that the importance of bringing the perpetrators to justice cannot be underestimated, as these crimes are committed during martial law.

In general, the following positions on the directions for improving the protection of individual rights in criminal proceedings during martial law can be shared: a) the development of appropriate regulatory support that complies with international standards (Schwarz, 2018); b) institutional support for conducting criminal proceedings, in particular, the creation of an impartial judicial and investigative organization to consider the claims of victims of large-scale crimes (Schmitt, 2022); c) information support for the participation of interested persons in remote measures (Carrera *et al.*, 2021); d) improving knowledge of the possibilities of digital technologies for collecting evidence and their application in the areas of conflicts (Freeman, 2018); e) development of rules for the media that regulate collection and storage of materials of journalistic investigations on violations of individual rights in criminal proceedings (D'Alessandra and Sutherland, 2021).

In general, these considerations can be the basis for the implementation of legal, organizational and procedural mechanisms to increase the degree of protection of individual rights in criminal proceedings during martial law.

Conclusions

The conducted research provided grounds for drawing a number of conclusions regarding the main threats to the observance of individual rights in criminal proceedings during martial law.

It was established that martial law is a type of special legal regime and a consequence of an armed conflict. Martial law entails significant changes in the field of criminal justice, as well as criminal procedure legislation.

Various crimes are committed during martial law, and the time of their commission is their common feature. A summary of the results of the introduction of martial law in Ukraine with regard to changes in legislation is provided.

Threats to the observance of individual rights in criminal proceedings were identified depending on the stage of criminal prosecution. The actors engaged in the prevention of violation of individual rights are classified. The appropriateness of creating international ad hoc groups to work with crime victims was noted. Prospects for improving the protection of individual rights in criminal proceedings require the involvement of international assistance in the detection and investigation of international crimes related to an armed conflict.

The appropriateness of developing standard procedures for attracting international assistance for carrying out criminal proceedings during martial law with further use of the results as evidence in national and international courts is emphasized. It is proposed to develop international recommendations for national law enforcement and judicial bodies on this issue.

Prospects for further research in this area include a comprehensive support for the regulatory and law enforcement achievements regarding the involvement of international assistance for the detection and investigation of crimes during martial law.

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UNIVERSIDAD
DEL ZULIA

CUESTIONES POLÍTICAS

Vol.41 N° 76

*Esta revista fue editada en formato digital y publicada en enero de 2023, por el **Fondo Editorial Serbiluz**, Universidad del Zulia. Maracaibo-Venezuela*

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