

**Oleksandr BILIAIEV, Arsen ISAIEV, Nataliia KOROBTSOVA,
Iryna PUCHKOVSKA, Victor YANYSHEN**

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Secção I

Investigação Científica*

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Contractual dynamics in Ukrainian civil law regulation

Dinâmica contratual na regulamentação do direito civil ucraniano

Oleksandr BILIAIEV¹

Arsen ISAIEV²

Nataliia KOROBTSOVA³

Iryna PUCHKOVSKA⁴

Victor YANYSHEN⁵

ABSTRACT: The research delves into the evolving contractual dynamics within Ukrainian civil law amid European integration, quarantine measures, and martial law. Focusing on the balance between individual rights and the broader civil legal framework, the study seeks to assess the current Civil Code of Ukraine and proposes enhancements to safeguard individual rights during challenging periods, such as martial law. Various research methods were used in the study, such as analysis, synthesis, comparison, deduction, generalisation, abstraction, and formal legal research. As a result, the author has established that the current system of civil law provisions is characterised by certain shortcomings which affect certain types of activities of the subjects of these relations. The authors highlight that the process of European integration, the introduction of quarantine restrictions, and martial law in Ukraine had the most significant impact on the formation of problematic issues in the system of national civil legislation. As such, the study focuses on the general problem of regulating civil relations, namely, the legal status of a private person, as well as on specific aspects of this issue, contractual regulation and amendments to existing rules. Based on this, the author argues that the priority for addressing these issues is the development of new laws and modifications to the provisions of the Civil Code of Ukraine.

KEYWORDS: martial law, rulemaking, enforcement of contractual obligations, legal mechanism, legislative provisions.

RESUMO: A investigação analisa a evolução da dinâmica contratual no âmbito do direito civil ucraniano no contexto da integração europeia, das medidas de quarentena e da lei marcial. Centrando-se no equilíbrio entre os direitos individuais e o quadro jurídico civil mais vasto, o estudo procura avaliar o atual Código Civil da Ucrânia e propõe melhorias para salvaguardar os direitos individuais durante períodos difíceis, como a lei marcial. Foram utilizados no estudo vários métodos de investigação, como a análise, a síntese, a comparação, a dedução, a generalização, a abstração e a investigação jurídica formal. Como resultado, o autor constatou que o atual sistema de

¹ Department of Civil Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine.

² Department of Civil Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine.

³ Department of Civil Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine.

⁴ Department of Civil Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine.

⁵ Department of Civil Law, Yaroslav Mudryi National Law University, 61024, 77 Pushkinska Str., Kharkiv, Ukraine.

disposições de direito civil se caracteriza por certas deficiências que afectam determinados tipos de actividades dos sujeitos destas relações. Os autores salientam que o processo de integração europeia, a introdução de restrições de quarentena e a lei marcial na Ucrânia tiveram o impacto mais significativo na formação de questões problemáticas no sistema da legislação civil nacional. Como tal, o estudo centra-se no problema geral da regulamentação das relações civis, nomeadamente, o estatuto jurídico de uma pessoa singular, bem como em aspectos específicos desta questão, a regulamentação contratual e as alterações às regras existentes. Com base nisto, o autor defende que a prioridade para abordar estas questões é o desenvolvimento de novas leis e alterações às disposições do Código Civil da Ucrânia.

PALAVRAS-CHAVE: lei marcial, regulamentação, execução das obrigações contratuais, mecanismo jurídico, disposições legislativas.

Introduction

Social changes caused by the processes such as globalisation, quarantine measures, and hostilities necessitate the reform of legal institutions to ensure proper development in line with the current requirements. As such, it should be noted that the characterisation of urgent issues that negatively impact civil rights protection, the legal status of individuals, and activities related to civil legal capacity remains relevant; the process of making changes to address the existing problematic issues is complex, requiring consideration of the analysis of the current state of civil legislation in Ukraine. Therefore, describing the peculiarities of implementing martial law in civil law relations is necessary. By identifying the sources of the main problems, it will be possible to develop the most effective ways to improve the system of regulation of civil relations, considering the peculiarities of the current conditions⁶.

It is necessary to emphasise that the problems in the system of civil law relations existed even before the introduction of martial law and were caused by discrepancies in European legislation. However, Russia's war against Ukraine has accentuated them and necessitated quick changes to the mechanism of civil relations regulation so that it could exist in military operations or temporary occupation of territories. Therefore, it is a priority to address general and specific problems related to a particular type of civil relations, such as enforcing contractual obligations by the parties involved⁷. This approach is relevant as it

⁶ ZAITSEV, Oleksii et al. Legal nature of invalid transactions. *Systematic Reviews in Pharmacy*, November-December 2020, vol. 11, nº 11, pp. 533-536.

⁷ MATHEW, Renjith. Force-majeure under contract law in the context of COVID-19 pandemic. *SSRN*, April 2020, vol. 3, pp. 1-7.

allows for balancing the state of civil legislation in general and ensuring proper protection of the civil rights of citizens in special social conditions.

The research aims to express the uncoordinated issues related to the regulation of civil relations and to formulate priority recommendations, the implementation of which will allow to resolve them. It is worth noting that civil law faces several problems due to the abundance of additional regulations and provisions of European legislation that do not comply with the concepts of national legal regulation. Consequently, since 1991, when Ukraine gained its independence, researchers have been analysing the laws and codes governing civil relations and identifying their conflicts and gaps. This issue has become particularly relevant in scientific doctrine because of the introduction of martial law in Ukraine and the introduction of many changes to civil legislation.

I. Y. Puchkovska et al.⁸ and V. Jurkevicius, and G. Vaidilaite⁹ studied the issue of contract enforcement in civil law. They found that under martial law, the parties to a contract cannot fulfil their obligations or protect their rights due to the improper performance of the other person's duties. Such a conclusion should be used when describing the problems of contractual regulation under martial law and forming an appropriate legal mechanism for ensuring a contract during hostilities. Whereas V. I. Borysova et al.¹⁰, E. Kismödi, and E. Pitchforth¹¹ focused on the problems of regulating civil relations, considering possible restrictions on human rights during hostilities in Ukraine. In their study, they proved that introducing such a martial state may involve the lawful restriction of a precisely defined list of civil rights of a person, subject to the conditions established by law. The conclusion reached regarding the legal limit of a person's rights should be used when describing the impact of the introduction of martial law in Ukraine on civil law relations and their subjects.

⁸ PUCHKOVSKA, Iryna, et al. Ensuring the fulfillment of contracts in civil law. *International Journal of Criminology and Sociology*, December 2020, vol. 9, pp. 3040-3047.

⁹ JURKEVICIUS, Vaidas and VAIDILAITE, Greta. Impact of change of mandatory rules for the enforcement of contractual obligations. *Balkan Social Science Review*, June 2022, vol.19, pp. 25-47.

¹⁰ BORYSOVA, Valentyna et al. Judicial protection of civil rights in Ukraine: National experience through the prism of European standards. *Journal of Advanced Research in Law and Economics*, March 2019, vol. 10, n° 1, pp. 66-84.

¹¹ KISMÖDI, Eszter and PITCHFORTH, Emma. Sexual and reproductive health, rights and justice in the war against Ukraine 2022. *Sexual and Reproductive Health Matters*, 2022, vol. 30, n° 1, pp. 205-209.

The research aims to delve into the evolving nature of contractual dynamics within Ukrainian civil law regulation. In light of recent developments such as European integration, quarantine measures, and martial law imposition, this study seeks to understand their implications on contract-based civil relationships. Moreover, the study strives to unpack the balance between individual rights, especially within the "anthropocentric approach", and the broader structural requirements of the civil legal system. Through a comprehensive examination of the current Civil Code of Ukraine and its alignment (or lack thereof) with emerging challenges, this research aspires to suggest enhancements, including the potential for a specialized section dedicated to safeguarding individual rights amidst challenging times like martial law.

Materials and Methods

The analysis method was used to examine categories such as "mechanism of legal regulation", "ensuring a contractual obligation", and "rule-making process". They were analysed, and the basic properties reflecting the meaning of the described objects were identified. This method was used to divide the study's general topic, namely, civil relations regulation issues, into its components listed above. The synthesis method was used to develop common approaches to developing recommendations for improving civil legislation. Based on this method, the study expressed the object of research and proposed various vectors of legislative changes in the field of civil law following it. Thus, this method was necessary to systematise and combine the results to improve the efficiency of legal regulation of civil relations in Ukraine.

The comparison method was used to compare the processes of European integration and the improvement of the national civil legislation system. On its basis, a comparative analysis of the Civil Code of Ukraine was carried out in the context of describing the rules governing the legal status of a private person. In addition, the comparison method was necessary to compare the existing legal acts and the changes required to ensure that the legal regulation of civil relations under martial law is high. A comparison was needed to determine the advantages and disadvantages of the procedure for amending existing legal acts or developing new regulations. The deduction method was used to express

the problems of ensuring contractual obligations under martial law, based on general knowledge of the principles of contract, namely, freedom of contract. Based on this method, the author identifies the peculiarities which should be considered when formulating amendments to civil legislation in response to the challenges of today, namely, the conduct of hostilities on the territory of Ukraine.

The generalisation method was used to express the main problems in the existing mechanism of regulation of civil relations, highlighting inconsistencies in the civil legislation system. The connection between theoretical and practical issues that deteriorate the legal protection of citizens' civil rights was expressed using this method. The generalisation was used to describe priority legislative changes in various civil institutions. The research object is legal, so a formal legal process was necessary during its implementation. On its basis, the provisions and significance of such legal acts, such as the Resolution of the Cabinet of Ministers of Ukraine "On the formation of a working group on the recodification (updating) of the civil legislation of Ukraine"¹², Decree of the President of Ukraine "On the introduction of martial law in Ukraine"¹³, Civil Code of Ukraine¹⁴ were analysed. The abstraction method was necessary to identify specific features of the civil law system of Ukraine under the European integration process. This method involved identifying the nature of the legal mechanism for regulating civil relations in Ukraine and describing its features. The abstraction method was used to identify specific problems of differentiation of rules in the provisions of the current civil legislation of Ukraine.

Results

Over the past decade, several external factors have influenced the regulation of civil relations. Firstly, the European integration process, which involves bringing Ukrainian legislation in line with European law, is worth mentioning. Implementing this approach is envisaged by the Resolution of the Cabinet of Ministers of Ukraine "On the formation of a working group on the

¹² Resolution of the Cabinet of Ministers of Ukraine "On the formation of a working group on the recodification (updating) of the civil legislation of Ukraine". 2019. <https://zakon.rada.gov.ua/laws/show/650-2019-n#Text>

¹³ Decree of the President of Ukraine "On the introduction of martial law in Ukraine". 2022. <https://zakon.rada.gov.ua/laws/show/64/2022#Text>

¹⁴ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

recodification (updating) of the civil legislation of Ukraine”¹⁵. At this stage, it should be established that problematic issues have emerged involving significant differences between Ukraine's civil legislation and the European Union's norms, for example, regarding the procedure for collecting monetary debts, which differs in terms and methods of their security¹⁶.

In addition, the spread of the COVID-19 pandemic significantly affected the European integration process, slowing the formation of a new state concept of civil legislation. After the quarantine restrictions were lifted, Ukraine could not resolve the problems related to regulating civil relations. This is determined by the fact that from 5:30 AM on 24 February 2022, martial law was introduced throughout the country following the Decree of the President of Ukraine “On the introduction of martial law in Ukraine”¹⁷. The Russian invasion of Ukraine necessitated the adoption of this legal act. The outbreak and development of hostilities affected all spheres of Ukrainian society, including the operation of the civilian legal system of Ukraine. Based on this, the improvement of civil legislation should currently consider both the aspects of European integration and the peculiarities of martial law. The number of problems caused by Russia’s attack on Ukraine’s territory is vast enough to make it impossible to address all of them in a single study. However, it is advisable to express the dynamics of methodological imperatives based on which the theoretical foundations for updating civil legislation are formed and consolidated.

Describing the methodological foundations of the recodification of the Civil Code of Ukraine¹⁸, it should be noted that in the context of active hostilities, the anthropological approach prevails in regulating civil relations. The war situation includes hostilities, temporary occupation, and forced displacement of persons from their permanent residence. Therefore, implementing the mechanism of applying for jurisdictional protection of one’s rights and freedoms is significantly complicated or even impossible. Based on this, it is necessary to devote special

¹⁵ Resolution of the Cabinet of Ministers of Ukraine “On the formation of a working group on the recodification (updating) of the civil legislation of Ukraine”. 2019. <https://zakon.rada.gov.ua/laws/show/650-2019-n#Text>

¹⁶ KOROBTSOVA, Nataliia et al. Medical tourism in Ukraine: State, problems and prospects. *Georgian Medical News*, January 2022, vol. 1, n° 322, pp. 184-188.

¹⁷ Decree of the President of Ukraine “On the introduction of martial law in Ukraine”. 2022. <https://zakon.rada.gov.ua/laws/show/64/2022#Text>

¹⁸ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

attention to the status of a person as a private individual and the system of civil rights protection available to them in special conditions in times of war.

In this context, the development of the components above is possible only if the anthropological vector is followed. Ignoring this approach and its principles leads to the loss of the “private law methodological identity” properties of national legislation; this results in a significant and pressing issue in regulating civil relations, which is that a person, as a private person, is in the background according to the Civil Code of Ukraine. This is evidenced by the fact that the provisions relating to the legal status of a person as a subject of civil rights and obligations are stipulated in the General Provisions of Book I Civil Code of Ukraine. There are only 56 articles in civil legislation with such provisions. The latter also includes 25 provisions that establish the principles of guardianship and trusteeship, which is a separate legal institution. For comparison, it is worth noting the number of provisions regulating the specifics of a legal entity, namely 87 articles. Based on this, it can be established that a significant problem of the current civil legislation is the uneven differentiation of specific provisions, those related to the consolidation of the legal status of a person as a subject of civil rights and obligations¹⁹.

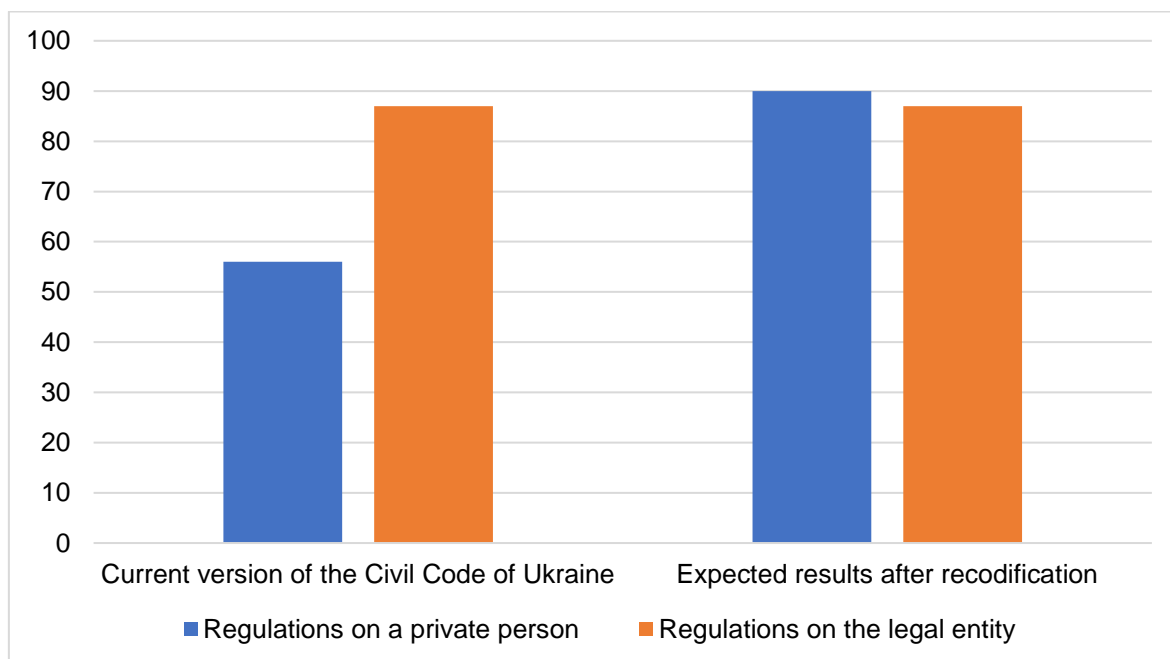
Considering the comparison, it does not seem logical to separate 47 articles of Book II of the Civil Code of Ukraine²⁰ relating to personal non-property rights of an individual from the general provisions of the Civil Code of Ukraine on an individual since this significantly complicates the determination of the scope of civil legal capacity of a person and makes it impossible to compare them. This issue is relevant both in martial law and peacetime since the legal status of a person determines the scope of rights and obligations and, therefore, directly affects the range of their capabilities and everyday activities. Following the recodification of the Civil Code of Ukraine during European integration, no change in approaches to regulating this issue is envisaged, further

¹⁹ URAZOVA, Ganna et al. Who is the owner? Newly discovered circumstances and the principle of legal certainty in a single case study. *Access to Justice in Eastern Europe*, 2022, vol. 1, n° 13, pp. 193-202.

²⁰ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

consolidating the secondary importance of the articles regulating the status of a person as a private individual²¹.

Therefore, it is necessary to reform the concept of the Civil Code of Ukraine to change the place of the legal status of a person to the primary one in accordance with the norms of the European Union and the peculiarities of emergencies, including war. As a result, changing approaches to the development of civil legislation will make it more anthropocentric and ensure effective legal protection of citizens in the context of hostilities. The implementation of this recommendation is possible by amending the provisions of Book II of the Civil Code of Ukraine, namely, by introducing a new section entitled “Ensuring Civil Rights and Duties of a Person in Time of War”, which will contain additional 34 articles on the legal status of a private person as a subject of civil rights “Legal Protection of Individual Rights during Martial Law”. This section should include articles aimed at developing and ensuring legal guarantees for the exercise of civil legal capacity, considering the peculiarities of the extraordinary social conditions resulting from hostilities in Ukraine²²:



Describing the problematic issues of regulation of civil relations in martial law, peculiarities of contractual regulation should be prioritised. In this context, it

²¹ IDES, Allan et al. *Constitution, Statutes, Rules, and Supplemental Materials*. London: Aspen Publishing, 2022, ISBN 978-1543858242.

²² Correlation of rules governing the legal status of individuals and legal entities following the proposed legislative changes. The figure is compiled by the authors.

should be noted that war begins during actual military operations or formal declaration of war, including if military operations have not started directly. In this regard, the war between Ukraine and Russia began in 2014, despite no formal declaration of war. Thus, during the entire period from the beginning of hostilities in eastern Ukraine until now, contractual regulation has been carried out on the general principles of civil law without considering the peculiarities of Ukraine's actual presence in a state of active hostilities. This indicates that the concepts of recodification of the Civil Code of Ukraine²³ mentioned in the study ignored contract law, an essential component of civil relations.

The contractual dimension of civil legal regulation in Ukraine, as with many nations undergoing significant socio-political change, is inherently complex. This complexity becomes pronounced when considered in the light of two major events: European integration and the ongoing conflict in the eastern part of the country. European integration represents Ukraine's strategic alignment with the European Union, aiming to harmonize its laws, norms, and values with those of the European community. This process, especially in the realm of civil legal regulation, implies the establishment of transparent, predictable, and fair contractual frameworks. It demands a shift from a post-Soviet legacy that often favored state interests, to a system that underscores the importance of individual rights, obligations, and freedoms. For contractual obligations, this translates to stronger protections for parties entering into contracts, more robust mechanisms for dispute resolution, and greater emphasis on upholding the rule of law, as enshrined in European conventions and practices.

However, juxtaposed against this backdrop of European aspiration is the harsh reality of conflict in the eastern regions of Ukraine. The imposition of martial law in certain areas is not just a political or military act; it deeply impacts the contractual fabric of the nation. Martial law, by its very nature, can supersede certain civil liberties and contractual rights in the interest of national security. This has immediate and profound implications for contracts. Agreements, especially those in or related to conflict zones, may be voided, altered, or suspended. The state might requisition properties or resources under martial law, thereby impinging on existing contracts. Furthermore, the

²³ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

unpredictable nature of conflict makes it difficult to ascertain when normal contractual operations can resume. This confluence of European integration and martial conflict presents unique challenges for Ukraine's civil legal regulation. On one hand, there is a push towards establishing contractual norms that resonate with European standards, ensuring transparency, equity, and adherence to the rule of law. On the other, there's the pragmatic need to adjust to the exigencies of conflict, which might necessitate temporary deviations from these norms.

The solution, though intricate, lies in crafting a delicate balance. Ukraine's legal system must acknowledge the primacy of European norms, but also incorporate flexibility to cater to exceptional circumstances, such as martial law. This doesn't mean undermining European principles but entails creating adaptive mechanisms within the legal framework. For instance, contracts in conflict zones could have clauses acknowledging the possibility of disruptions due to martial law, providing provisions for renegotiation, suspension, or even termination under such circumstances. Thus, the contractual aspect of civil legal regulation in Ukraine, given its ongoing journey of European integration and the challenges of conflict, requires a judicious blend of adherence to European norms and adaptive mechanisms to navigate exceptional situations. This balance ensures that the country can uphold its European aspirations while effectively addressing the realities on the ground.

Regarding the solution of specific problematic aspects of contractual regulation in martial law, it is necessary to introduce legislative changes aimed at a pragmatic interpretation of the freedom of contract, which is one of the fundamental principles of civil law in general. The interpretation of freedom of contract in ideal conditions allows us to describe it as one of the main features of private law, which focuses on the priority of the will of an individual. The latter in a civil law contract is a source of law since it is the basis for the emergence of a civil law rule. In the extreme conditions created by the introduction of martial law, this principle is an essential condition for rulemaking, as it allows to overcome the gaps in legislation made due to the inability of public authorities to regulate civil relations independently²⁴. At the same time, in the current

²⁴ PATRAUS, Mihaela Elvira and OFRIM, Ionita Maria. Contractual unpredictability in the context of COVID-19 pandemic. *Athens Journal of Law*, October 2021, vol. 7, n° 4, pp. 485-506.

situation, namely the war in the country, the principle of freedom of contract may be characterised by negative features. Examples of the latter are non-compliance with moral norms and disregard for the interests of individuals or the community. Given this feature, it should be established that it is logical to amend clause 3, part 1, Article 3 of the Civil Code of Ukraine's "General Principles", namely by changing its wording to the following: "A person may use the principle of freedom of contract under martial law if such actions do not contradict the interests of society and do not threaten the defence capability of the country"²⁵.

Since the beginning of Russia's full-scale invasion of Ukraine, there has been an urgent need to implement effective legal regulation of civil relations under martial law. This required swift amendments to the existing legislative provisions and introduction of a system of new rules. However, following Part 2 of Article 4 of the Civil Code of Ukraine, the Civil Code of Ukraine is the central act of civil legislation of Ukraine. Therefore, if there are any differences between the Resolution of the Cabinet of Ministers of Ukraine and the provisions of the Civil Code of Ukraine, the relations will be regulated following the latter. Concerning the development of a new regulatory act, if a bill is submitted to the SCU (Supreme Council of Ukraine) that provides for a different mechanism for regulating a particular type of civil relationship from the Civil Code of Ukraine, the legislator must additionally submit a bill to amend the Civil Code of Ukraine. As a result, the SCU simultaneously considers these two drafts and decides. The described peculiarities of civil legislation during the war significantly complicate the possibility of implementing active law-making, including in civil relations and the protection of the civil rights of their subjects. At the same time, such a lengthy approach to the adoption of special laws and changes to the provisions of the Civil Code of Ukraine allows for guaranteeing the validity of legislative innovations during a state of emergency, including war.

Considering the peculiarities of the problems of regulating civil relations described above, the priority is to abolish or suspend for a certain period, for example, martial law, specific articles of civil law that regulate the complicated algorithm for amending legal acts and adopting new ones in the field of civil

²⁵ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

relations. This approach also allows for solving another urgent problem of civil law regulation: avoiding a conflict between the articles regulating relations in peacetime and during martial law. It is advisable to make changes and additions to Section I, “General Provisions” of Book I of the First Civil Code of Ukraine entitled “General Provisions”. This implies that all the rules governing the mechanism of regulation of civil relations should not contradict the provisions of the above section of Book I of the First Civil Code of Ukraine²⁶.

The Constitution of Ukraine, despite its overarching principles, doesn't provide a straightforward pathway for reconciling European integration with domestic challenges like martial law. This gap becomes particularly evident when analyzing the specific legal intricacies of contractual obligations under both regimes. Firstly, consider the obligations under European integration. The harmonization process isn't just about aligning laws; it's about adopting the very ethos of European jurisprudence. This encompasses not just the legal texts, but also the practices, interpretations, and rulings of European courts. For instance, the European Court of Justice's decisions emphasize the principle of *pacta sunt servanda*, which translates to "agreements must be kept". In the European context, this means contracts and obligations must be honored unless there are overwhelming, exceptional circumstances.

On the other hand, martial law, by its nature, can impose such exceptional circumstances. Martial law may necessitate the prioritization of national security over individual rights or contractual obligations. For instance, properties might be requisitioned, certain goods might be rationed, and some services might be suspended or redirected for national benefit. These changes can dramatically impact the ability of individuals or entities to fulfill their contractual obligations. This clash becomes evident in sectors vital to national security, such as energy, transportation, or communication. A contractual obligation to supply goods, under European integration principles, could be bound by standards ensuring consumer rights, fair competition, and transparent pricing. Yet, under martial law, such a contract might be voided or altered if, for instance, those goods are deemed necessary for military or civil defense purposes.

²⁶ Civil Code of Ukraine. 2003. <https://zakon.rada.gov.ua/laws/show/435-15#Text>

The crux of the matter is how to ensure that the temporary measures under martial law don't have a lasting negative impact on the trust and reliability built through European integration. Moreover, it's crucial to ensure that any suspension or modification of rights or obligations under martial law is done in a manner that's proportionate, necessary, and in line with both domestic constitutional principles and international obligations. A potential pathway might be to develop a robust framework within Ukrainian civil law that provides clarity on how contractual obligations are to be handled in exceptional circumstances like martial law. This framework should be explicit about the criteria for modifying or suspending obligations, the rights of the parties involved, and mechanisms for restitution or compensation once normalcy returns. By providing such clarity and predictability, Ukraine can navigate the challenges of martial law without undermining its commitment to European integration.

Based on those mentioned above, it can be established that there are issues in civil relations regulation caused by European integration and the introduction of martial law in Ukraine. These issues have become particularly urgent because of the transition of military operations to an active phase, which has necessitated the improvement of the quality of the system and instruments of legal regulation, for example, based on sound regulatory support. The above recommendations addressing the current problems of civil relations are mostly related to amendments and additions to the current provisions of the Civil Code of Ukraine and are temporary. Such an approach facilitates the implementation of measures necessary to regulate current relations in society until martial law is lifted.

Discussion

The impact of various external and internal factors on the development of civil law is the subject of research by multiple scholars. They analyse the main aspects of these problematic issues and develop their recommendations on the feasibility of amending or, on the contrary, cancelling the legal acts regulating civil relations. The prevalence of this topic in the scientific doctrine contributes to the formation of different positions of authors who explore it from several

angles. N. Filatova²⁷ and Z. Beebeejaun, and A. Faccia investigated new regulatory strategies for implementing smart contracts in the context of contract law. In their opinion, this type of contract is quite relevant in today's environment, as it can be used in human activities in various fields, such as economic or social. In this context, Smart Contracts are closely related to general legal contracts, as they relate to a separate part. The researchers found that smart contracts allow for the automation of the execution of specific contract provisions. They noted that the problem is the correlation between the properties of modern contract law and smart contracts. Smart contracts were formed and used to consolidate the technical rules embedded in the blockchain. Given this, the researchers noted that smart contracts were primarily self-sufficient mechanisms used to solve problematic issues in the activities of individual entities. However, in their opinion, technical regulation is ineffective in real life, which necessitates a change in legal regulation mechanisms. Comparing the category of smart contracts and general provisions of contract law, the researchers concluded that a set of technical properties characterises the former, but at the same time, does not cancel the latter. Given their conclusion, it can be established that Smart Contracts are necessary for the modern environment to provide contract law with unique technical capabilities and automate it. This study also analysed the problematic issues of contractual regulation, which indicates a system of shortcomings and the need to eliminate them in this area.

V. V. Vapniarchuk et al.²⁸ addressed such a problematic issue as protecting property rights in court. In their opinion, this right is one of the fundamental freedoms based on which the development of legal and economic science and the activities of the private sector are ensured. The researchers found that the peculiarities of the European integration process require the need to restore the national legal system based on changing concepts and approaches to the quality of provision and improvement of the mechanism of property rights protection. In this context, they found no uniform approaches in

²⁷ FILATOVA, Nataliia. Smart contracts from the contract law perspective: Outlining new regulative strategies. *International Journal of Law and Information Technology*, Autumn 2020, vol. 28, n° 3, pp. 217-242.

²⁸ VAPNIARCHUK, Viacheslav et al. Protection of ownership right in the court: The essence and particularities. *Asia Life Sciences*, 2019, vol. 2, pp. 863-879.

law enforcement practice in Ukraine to implement the above right. As a result, the subjects of law have a wide range of legal instruments based on which it is possible to regulate problematic issues related to property rights. This is evidenced by the existence of “model decisions” of the Supreme Court and binding decisions of the ECHR (European Court of Human Rights) by national courts. As a result, they leave their mark on the modern regulatory framework, which is changing due to the spread of globalisation processes in a modernised society. Given the researchers’ analysis of doctrinal approaches to the legal regulation of civil relations, it should be noted that they have managed to reveal the trends in the protection of property rights and describe the mechanisms which influence the formation of the legislative framework in this area. In this context, it is worth noting that the court's methods of protection of property rights, which are enshrined in law, allow for the protection of violated, disputed, subjective and unrecognised property rights based on civil protection functions, which include restoration, compensation, and prevention. This conclusion reveals the nature and peculiarities of protecting a right in court, which remains a topical issue in civil law today. Given that this study focuses on the impact of martial law on regulating civil relations, it should be noted that the protection of rights in court may be limited to some extent due to active hostilities in a particular area. In this context, an approach involving digital technologies to hold court hearings remotely is practical. Based on this, the common thread in the works is the study of the issues of the system of civil relations, the general provisions relating to the legal status of a person and their civil protection in court.

Attention should be paid to the articles by V. L. Yarotskiy et al.²⁹ and B. G. Ramcharan³⁰, in which they investigated one of the problems of regulating civil relations, namely, determining the moment of occurrence of a person’s right to life and health. The researchers believe that the formation of exceptions to the list of criteria relating to when a person acquires the right to life would improve the civil law protection of a particular subjective civil liberty and the legal status

²⁹ YAROTSKIY, Vitaly et al. The problems of determining the time and legal consequences of the occurrence of the human right to life and health in the context of recoding the civil law of Ukraine. *Global Journal of Comparative Law*, June 2021, vol. 10, n° 1-2, pp. 73-90.

³⁰ RAMCHARAN, Bertrand G. *The right to life in international law*. Dobrecht: Martinus Nijhoff Publishers, 1985, ISBN 90-247-3074-0.

of a person in general. In their opinion, this approach is justified by the fact that it may provoke changes in recognition of the moment of inheritance while mandatorily considering the scope of legal capacity of the subject of law. They propose introducing such a concept as “special civil capacity” into the categorical apparatus of the mechanism of civil law regulation. The researchers believe that this approach will make it possible to establish a link and interdependence between the emergence of such “special civil capacity” and the subjective civil right to life. As a result, a person’s ability to have other personal civil rights will be directly linked to the fact of birth. This approach relates to the legal status of a person as a private individual. This issue has also been studied within the framework of this article, which indicates that there are standard features between their results. The study describes the principles aimed at improving a person’s legal status and status through the introduction of amendments to legislation.

P. Dumberry, D.O. Marits, and O. Grachova³¹ revealed the peculiarities of regulating contractual relations during martial law. They found that Ukraine does not have a mechanism for resolving disputes caused by non-fulfilment of obligations or terms of a contract during hostilities or temporary occupation of the territory. Therefore, fulfilling many obligations under civil law contracts is significantly complicated or downright impossible during martial law. In this case, the researchers consider it necessary to use the force majeure legal regulation procedure. However, there are specific difficulties in this context, as this approach cannot be automated and applied to contractual relations regularly. This is determined by the force majeure mechanism, for which it is necessary to establish a causal link between it and the conditions that make it impossible to fulfil a contractual obligation. It is problematic that the mere introduction of martial law in Ukraine does not allow the parties to a contract not to fulfil their commitments. The researchers note that to address this gap in the civil law system, the relevant state authorities should develop additional recommendations to establish the procedure for fulfilling contractual obligations during hostilities or temporary occupation of certain territories. This approach is

³¹ MARITS, Dariia and GRACHOVA, Oleksandra. Particulars of conclusion of an agreement for the purchase and sale of real estate in the conditions of marital state in Ukraine. *Bulletin of NTUU “KPI” Political Science. Sociology. Law*, December 2022, vol. 4, n° 56, pp. 56-61.

in line with the conclusions reached in this study, as it expresses the problems of ensuring contractual regulation in the current conditions of the State's existence, namely martial law. The common idea is to introduce legislative changes aimed at resolving topical issues to ensure contractual relations during hostilities or when certain territories are under temporary occupation.

The positions indicate that several things could be improved in the current civil legislation of Ukraine. Most of them are not new, but they have become particularly relevant in connection with the introduction of martial law, which indicates an urgent need to reform modern approaches to regulating certain types of civil relations. Common among scholars' positions is the one related to the introduction of new regulations or amendments to existing legislative provisions to bridge gaps and ensure proper protection of human rights as a subject of civil relations.

Conclusions

1. The research underscores that contractual dynamics within Ukrainian civil law are in a state of flux, primarily due to the European integration process. This integration necessitates that Ukrainian contractual regulations align with European standards, ushering in significant reforms in national civil law approaches. Further complications arise from the imposition of quarantine measures and martial law in Ukraine, which profoundly influence the conventions and practices of contractual engagements. This study hones in on the intricacies of contractual relations in Ukraine, particularly emphasizing the legal status of private entities. It advocates for an “anthropocentric approach,” stressing the importance of giving precedence to individual rights in contract formulations. The analysis of the current Civil Code of Ukraine reveals an imbalanced proportion in provisions addressing the rights of individuals versus legal entities, suggesting a need for recalibration.

2. A notable proposal is the inclusion of a segment dedicated to “Ensuring contractual rights and obligations during martial law. Legal Protections in Contractual Engagements amidst Martial Law.” The complications introduced by martial law, particularly its potential to inhibit the principle of freedom of contract, have been highlighted. The study suggests a

temporary suspension of this principle when it's at odds with societal interests and the nation's security.

3. The complexities of drafting new contractual laws or amending the current Civil Code were explored, revealing the time-consuming nature of such legislative processes, especially during martial law. Therefore, a provisional repeal or suspension of specific contractual provisions might be essential during such periods. Implementing these proposed strategies can address the emerging challenges in the contractual aspect of civil relations, reinforcing individual rights, and ensuring the sanctity of contracts amidst evolving socio-political contexts. Future inquiries should explore the nuances of contractual processes in the regions of Ukraine that are temporarily occupied.

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Universidade Portucalense Cooperativa de Ensino Superior, CRL

Rua Dr. António Bernardino de Almeida, 541 - 4200-072 Porto

Email: upt@upt.pt