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## **DISTANCE PARTICIPATION IN CIVIL PROCEEDINGS UNDER MARTIAL LAW**

Ensuring the functioning of the courts during martial law and adherence to the principles of fairness and independence are crucial not only for preserving the rights and freedoms of citizens, maintaining law and order and fulfilling international obligations, but also for ensuring that citizens can protect their rights and freedoms through access to a fair trial, which is a fundamental component of any legal system, even in emergency situations. Therefore, in order to ensure the effectiveness of justice, the Law of Ukraine «On the Legal Regime of Martial Law» provides that the powers of courts cannot be suspended or restricted as a result of martial law, and prohibits the reduction or acceleration of any form of legal proceedings [1].

In addition, in order to address the issue of ensuring the functioning of the judiciary in Ukraine during the war, the Council of Judges of Ukraine adopted a number of important decisions. Thus, on 2 March 2022, the Council of Judges published recommendations on the operation of courts under martial law, which provide for the possibility of hearing cases by video conference. For this purpose, if the parties to the case are unable to participate in the court hearing, they may submit a request to the court to participate in the court hearing via video conference, by means of postal communication or through the Electronic Court System [2]. A similar provision is also provided for in part 7 of Art. 11 of the Law of Ukraine «On the Judicial System and Status of Judges»: «participants of the court proceedings may participate in the court session via videoconference» [3]. In turn, Art. 212 of the Civil Procedure Code of Ukraine provides for the participation of parties to a case in a court hearing remotely - via videoconference outside the court premises, provided that the court has the appropriate technical capability, which the court indicates in the decision to open proceedings in the case, unless the court recognises the appearance of this party to the court hearing as mandatory [4]. In order to exercise this right, a party to the case submits an application for participation in a court hearing via videoconference outside the court premises no later than five days before the court hearing (using their own technical means and electronic signature).

It should be noted that the mechanism of conducting court hearings in a remote format, without the presence of a party to the case directly in the courtroom, has helped to significantly normalise the administration of justice in times of war. However, there are often technical difficulties that may arise in the process of participating in a videoconference outside the courtroom, which creates certain risks for the participants in the trial. Interruptions in communication, problems with image or sound quality, as well as the possibility of technical malfunctions can significantly complicate the process of holding a fair trial. In view of this, the current procedural legislation stipulates that the risks of technical impossibility of participating in a videoconference outside the courtroom, interruption of communication, etc. are borne by the party to the case who has filed the relevant application. In addition, in

order to avoid these circumstances, the court may also issue a ruling on the participation of a party to the case in a court hearing via videoconference at a court premises determined by the court [4].

Obviously, such technical problems can affect the objectivity and fairness of the judicial process, as they can create situations where one party has an advantage over the other due to better access to technical facilities or more stable connectivity. This may violate the principle of equality of parties before the law and undermine confidence in the judicial system. In addition, every party to a trial should be able to freely participate in the hearing and present their interests. Technical problems can make effective communication between litigants and the court difficult or even impossible. For example, an interruption in communication may result in a litigant losing contact with the court or being unable to adequately express his or her point of view.

In this context, it is important to take all possible measures to minimise the risks of technical difficulties in participating in a videoconference outside the courtroom. This may include checking the technical equipment before the court hearing, providing additional technical resources for the participants in the trial, or developing contingency plans to address possible problems. Such measures will help ensure that a fair trial is conducted even in difficult technical conditions.

Undoubtedly, the conditions of martial law impede the administration of justice, as judges, court staff and other participants in the case need to move to a shelter due to air raid alarms. Therefore, the issue of enabling judges and court clerks to perform their duties remotely, with the possibility of using their own devices, is becoming more relevant [5]. However, there are obvious risks in the judge's use of his or her own technical means of recording court hearings, primarily related to the human factor and possible malfunction of the device, which may result in the cancellation of the court decision in certain cases (for example, the lack of proper technical recording of the court hearing). At the same time, imposing an obligation on the judge to ensure proper image and sound quality seems unreasonable (as by analogy for a party to a case who has filed a motion to participate in a court hearing by distance), since under the current legislation, such a duty must be performed by certain authorised persons in the courtroom.

Thus, in the context of the growing relevance of the issue of ensuring access to fair trial and protection of citizens' rights, today, under martial law, remote participation of the parties to the case in the trial is provided for, but not a remote form of justice. Nevertheless, the remote format of court hearings may be the only available option in situations where physical access to court premises is restricted for security or other reasons. Moreover, the analysis shows that the shortcomings in the legislation on the conduct of court hearings in wartime can cause serious violations of the principles of justice and pose risks to the protection of human rights. Therefore, insufficient regulation of remote proceedings may lead to violations of procedural guarantees, as well as disrupt the balance between the need to ensure security and effective access to justice. In view of this, a thorough analysis and improvement of the legal framework relating to remote proceedings under martial law is critical to ensure the fairness, efficiency and legitimacy of the judicial process.

## REFERENCES:

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## UTILIZATION OF DIGITAL HEALTH TECHNOLOGIES IN PROVIDING HEALTHCARE SERVICES TO FOREIGN PATIENTS IN CONFLICT ZONES

### 1. Introduction

The right to health, as recognized internationally, encompasses the right of all individuals, regardless of nationality or status, to the highest attainable standard of physical and mental health [1, p. 1158]. This includes access to healthcare services, medicines, and facilities necessary for the prevention, treatment, and control of diseases even and especially during a wartime. It goes without saying that severe instability such as pandemics or wars have a great negative impact on delivery of civil services and it is especially true for health services because frightened, tired and overwhelmed medical personal inevitably creates challenges for proper functioning of healthcare [2].

My research aims to address the critical issues surrounding the utilization of digital health technologies to foreign nationals in conflict zones [3, p. 1-3]. In times of armed conflict, the protection and fulfillment of the right to health for all individuals, regardless of nationality, is paramount. However, foreign patients often face unique challenges and vulnerabilities that require special attention that makes digital health technologies key to protect foreign patient rights during wartime [3, p.1-10].

Digital health technologies, including telemedicine, mobile health applications, and health information systems, have the potential to revolutionize healthcare delivery in conflict-affected areas. In contexts where access to traditional healthcare services is limited or disrupted by conflict, these technologies offer innovative