

# CONSTITUTIONAL GUARANTEES FOR THE PROTECTION OF HUMAN RIGHTS AND FREEDOMS IN UKRAINE: ECONOMIC AND LEGAL ASPECT

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**Abstract.** The subject of the study is the constitutional guarantees of human rights and freedoms in Ukraine viewed through an economic and legal lens, with a focus on how normative standards, institutions, procedures, and public finance jointly determine the real level of rights protection under ordinary conditions, martial law, and recovery. The paper examines why constitutional guarantees should be treated as an operating governance system that shapes predictability of state behaviour, integrity of regulatory decision-making, investment and labour incentives, and the sustainability of social protection, rather than as a declarative catalogue of rights. Special attention is paid to the role of constitutional review and judicial control in constraining administrative discretion, to due process as an economic safeguard against arbitrariness, and to budget and tax governance as a resource infrastructure enabling positive obligations. The paper also addresses the impact of European human-rights standards, including the Convention system and ECtHR case-law, on proportionality, non-discrimination, protection of property, and effective remedies, particularly in crisis regulation and in contexts where temporary measures tend to become permanent. *Methodology.* The research is based on a combination of formal-legal, systemic, comparative-legal, and institutional approaches. It integrates doctrinal analysis of constitutional provisions and related legislation with an examination of European standards (rule of law, proportionality, fair balance, and non-discrimination) and a review of judicial practice relevant to economic rights, property interference, and access to justice. Policy analysis is applied to clarify how constitutional requirements are translated into administrative procedures, regulatory instruments, and budget programs, and to identify interface risks that typically arise between constitutional standards and implementation capacity during resource scarcity and wartime governance. The *aim* of the work is to substantiate an analytically coherent model of constitutional guarantees for Ukraine that explains their economic significance, identifies vulnerabilities in the strategy-delivery chain of rights protection, and formulates practical proposals for strengthening controllability, transparency, and accountability of state interference while preserving the enforceability of social rights under fiscal constraints. The *results* of the study show that the effectiveness of constitutional guarantees depends less on the density of constitutional declarations and more on the coherence of four interconnected layers: normative limits on interference, institutional checks (constitutional jurisdiction, ordinary courts, ombudsman and integrity bodies), procedural discipline (reasoned decisions, the right to be heard, access to information, and reviewability), and financial governance (budget transparency, prioritization rules, and enforceable compensation mechanisms). The paper demonstrates that due process reduces transaction costs and arbitrariness risks in economically significant decisions, while judicial control operationalizes proportionality and fair-balance tests in concrete disputes. For Ukraine, the critical governance risk is the normalization of emergency practices: under martial law, expanded regulatory tools and accelerated decision-making can weaken legal certainty unless supported by time-bounded measures, public criteria, periodic review, and effective remedies. The study proposes a strengthening roadmap centred on standardizing decision-making procedures for high-impact administrative acts, embedding proportionality and evidence standards in regulatory templates, reinforcing access to justice and enforcement capacity, institutionalizing budget openness

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for rights-related programs, and ensuring practicable compensation for unlawful interference and emergency-related property measures. *Conclusion.* Sustainable constitutional guarantees require shifting from formal recognition of rights toward a managed, auditable governance cycle in which legal standards, institutions, procedures, and public finance operate as a single system of constraints and remedies. For Ukraine, the most feasible path is not expanding declarations, but reproducing functional safeguards: predictable and reviewable procedures, integrity-by-design controls, stable proportionality tests in adjudication, and budget transparency that makes social rights administrable during war and recovery, thereby strengthening trust and reducing economic uncertainty associated with state intervention.

**Keywords:** constitutional guarantees, human rights, economic rights, rule of law, proportionality, due process, budget transparency, martial law, recovery, European Convention on Human Rights, ECtHR case-law.

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## 1. Introduction

Constitutional guarantees of human rights and freedoms in Ukraine have not only declarative, but also directly economic significance, since they determine the quality of the rules of the game, the predictability of state behaviour, trust in institutions and the limits of permissible interference of the authorities in the private sphere. In modern conditions, when the country is simultaneously experiencing war, large-scale budget burdens, redistribution of resources, migration processes and preparations for post-war reconstruction, the question of the effectiveness of constitutional guarantees ceases to be purely theoretical. It becomes a criterion for whether public decisions are able to maintain legitimacy, and economic policies are not able to destroy fundamental rights under the pressure of extraordinary circumstances.

The economic and legal dimension of constitutional guarantees is manifested in the fact that most rights are implemented through institutions and procedures that require organizational capacity and resource support. Social rights, the right to work, the right to property, freedom of enterprise, the right to judicial protection, and access to public services form a connected system where a lack of one link creates chain consequences for others. For example, the weakness of regulatory decision-making procedures or the lack of effective judicial control increases the risks of arbitrariness, worsens the investment climate, encourages shadowing, and shifts costs to citizens and businesses. At the same time, underestimating social protection standards and access to basic services increases social risks, undermines human capital, and reduces economic productivity in the long run.

This problem is particularly acute during the period of martial law, when the state objectively expands regulatory tools, applies special regimes, introduces time restrictions and redistributes budget priorities. In such a situation, constitutional safeguards become decisive, in particular the principle of the rule of law, the requirements for legal certainty, non-discrimination, proportionality, as well as the existence of effective

appeal procedures. Without these safeguards, the risk lies not only in one-time violations of rights, but also in the formation of management practices, where extreme behaviour becomes the usual style of regulation, and temporary decisions are fixed as permanent.

An additional dimension is provided by European integration and the need to align the Ukrainian system of guarantees with European human rights standards. Here we are not talking about a formal convergence of norms, but about institutional and procedural compatibility, which makes rights really protected, and state decisions controlled and predictable. For a country planning a recovery based on significant investment and international support, constitutional guarantees play the role of a mechanism for reducing risks and improving policy effectiveness. They determine whether the restoration will be accompanied by a modernization of Public Administration, or whether it will recreate old models with high activity and low transformative results.

In this context, the study of constitutional guarantees in the economic and legal aspect allows us to move from general statements about rights to an analysis of how they are provided through norms, institutions, procedures and finances, what are the limits of state intervention and what mechanisms make this intervention proportionate and controlled. This approach provides an opportunity to substantiate practical conclusions for law-making, fiscal policy, regulatory activities and judicial control, which together forms the basis for Sustainable Development and public trust during the period of transformation.

## 2. Analytical Framework for Managing an Innovative Economy

Constitutional guarantees for the protection of human rights and freedoms should be understood as a system of legal and organizational means that ensure the reality, feasibility and restoration of rights. That is, it is not only about fixing rights in the text of the Basic Law, but also about whether a person can exercise the corresponding right in real socio-economic

conditions, and in case of violation – get effective protection (Verkhovna Rada of Ukraine, 1996).

That is why the analysis of guarantees requires a structural division that allows you to separate the declarative level from the execution mechanisms. In this study, safeguards are grouped into regulatory, institutional, procedural, and financial ones. Normative guarantees define the content of rights and the limits of interference; institutional guarantees ensure their protection through the relevant authorities; procedural guarantees make the interference of the authorities predictable and controlled; financial guarantees reflect the resource ability of the state to transform rights into real social results. This approach is consistent with the idea that the rule of law requires not only correct norms, but also workable institutions and procedures that can ensure their operation (European Commission for Democracy through Law (Venice Commission), 2011).

After determining the structure of guarantees, it is logical to move on to the question of why the economic and legal aspect is key for their assessment. The economic and legal approach assumes that a significant part of rights and freedoms has a Double Dimension. First, rights are of a cost nature, since their implementation requires resources, administrative capacity, procedures and time. Secondly, rights have an effective dimension, because the quality of guarantees affects productivity, investment attractiveness, trust in the state and social stability (Holmes & Sunstein, 1999).

From this perspective, it is important to avoid two extremes: reducing rights to a budget opportunity and ignoring the resource factor. Resourcefulness does not negate the legal nature of guarantees, but only emphasizes that a right without enforcement mechanisms often turns into a nominal promise. At the same time, the performance dimension demonstrates that legal certainty and predictability of government behaviour reduce transaction risks and strengthen trust, which is the foundation for economic interaction (Raz, 1979; European Commission for Democracy through Law (Venice Commission), 2011).

Having defined the conceptual framework and economic and legal optics, it is advisable to outline methods that allow moving from theory to verifiable conclusions. The formal legal method is used to analyse constitutional norms, their systemic relations and the limits of state intervention (Verkhovna Rada of Ukraine, 1996). The system method provides for the consideration of guarantees as an integral mechanism in which the weakness of at least one link negates the effectiveness of others (European Commission for Democracy through Law (Venice Commission), 2011).

The comparative legal method is used to correlate Ukrainian approaches with European human rights standards, primarily in terms of proportionality,

non-discrimination and access to justice (Council of Europe, 1950). The analysis of judicial practice allows us to assess how abstract safeguards work in conflicts where the private interest and regulatory goals of the state collide (Handyside v. The United Kingdom, 1976; Sporrong and Lönnroth v. Sweden, 1982). Finally, policy analysis is used to find out how constitutional standards are translated into government programs, tools, budget decisions, and regulatory regimes (European Commission for Democracy through Law (Venice Commission), 2011).

After a methodological outline, it is logical to move to the normative core of guarantees, since it is the Constitution that sets the basic boundaries for all other tools. The normative basis is that rights and freedoms are not derived from the state, but a criterion for the legitimacy of public authorities, which are obliged to recognize, respect and ensure them (Verkhovna Rada of Ukraine, 1996).

In this construction, the principle of the rule of law serves as a reinforcement mechanism: it turns declarations of rights into standards of legal quality of state intervention. Its practical content, especially in the economic sphere, is related to legality, legal certainty, Prohibition of arbitrariness, equality, and access to justice (Dicey, 1885; European Commission for Democracy through Law (Venice Commission), 2011). It is through these elements that the predictability of rules is created, without which economic freedoms lose their real meaning.

If the rule of law sets a common framework, equality and non-discrimination determine how fairly access to economic opportunities is distributed. In the constitutional dimension, this means equal access to Education, Labor, entrepreneurship, public services, and fair competition for public resources (Verkhovna Rada of Ukraine, 1996).

European standards further emphasize that discrimination can manifest itself not only in differing attitudes to the same situations, but also in not taking into account relevant differences where it is necessary for fairness (Thlimmenos v. Greece, 2000). For the economic sphere, this is of Applied importance: any differentiation in access to licenses, markets, benefits or social benefits must be legally justified and controlled, otherwise they turn into hidden barriers and deform Competition (Council of Europe, 1950).

Then the question arises: what exactly is the core of economic freedom that the Constitution should guarantee? It is advisable to consider economic rights as an integral structure, where freedoms and social guarantees complement each other. Property rights and freedom of entrepreneurship form the space of private initiative, freedom of Labor provides an opportunity to realize itself through employment, and Social Rights serve as a stabilizer of basic risks, without which a significant part of the population is actually

excluded from economic activity (Verkhovna Rada of Ukraine, 1996).

The European approach to property protection shows that the legitimacy of state interference in the property sphere depends on maintaining a fair balance between public interest and individual rights, including the issue of compensation and the overall fairness of the mechanism (James and Others v. the United Kingdom, 1986; Sporrong and Lönnroth v. Sweden, 1982). This is important because this is where the conflict between regulatory goals and private rights most often arises.

The logical conclusion of the regulatory block is to define the boundaries under which the state can restrict economic rights and freedoms. The constitutional model does not exclude interference, but requires that it be legally controlled: based on the law, pursued a legitimate aim and carried out with due process (Verkhovna Rada of Ukraine, 1996; European Commission for Democracy through Law (Venice Commission), 2011).

At the center of such control is the principle of proportionality as a test for the quality of restrictions: the suitability of the measure to achieve the goal, the necessity and proportionality of the consequences (Alexy, 2002; Barak, 2012). In the practice of the ECtHR, this is consistent with the requirement of necessity in a democratic society and the analysis of the limits of state discretion, which is of particular importance in the context of crisis regulation and martial law, when the risk of excessive interference objectively increases (Handyside v. the United Kingdom, 1976).

### 3. Institutional and Judicial Guarantees in Economic Relations

Normative guarantees enshrined in the Constitution of Ukraine acquire real force only if there are institutions that are able to ensure their supreme effect in the legal system. In this context, the Constitutional Court of Ukraine performs a defining function, since through the control of constitutionality and official interpretation, it ensures the priority of the Constitution as a legal criterion for the legislator and for Public Administration (Verkhovna Rada of Ukraine, 1996; Verkhovna Rada of Ukraine, 2017).

The economic and legal dimension of this function is that economic rights and freedoms significantly depend on the content and boundaries of regulation. When a state establishes rules that affect ownership, business, work, access to resources or markets, there is a need for a legal mechanism that is able to assess whether such regulation does not go beyond the limits of constitutionally permissible interference. In this logic, constitutional control works as a tool for ensuring the legal quality of norms and the stability of the legal environment.

This logically implies the meaning of the proportionality standard. The state may restrict rights for legitimate purposes, but restrictions must be established by law, pursue a legitimate goal, and be proportionate. In the economic sphere, this has direct implications for the predictability of regulation, legitimate expectations, and investment behaviour. That is why decisions of the body of constitutional jurisdiction are important not only as a reaction to a specific act, but as a way to form standards that should be taken into account in rule-making and law enforcement.

Since constitutional standards affect the activities of other bodies, the role of the Constitutional Court should be considered in conjunction with courts of general jurisdiction and administrative courts that ensure the application of these standards in specific legal relations.

After determining the role of constitutional control, it is advisable to move to the level at which guarantees are implemented on a daily basis. The main body of disputes concerning economic rights arises not at the level of abstract constitutionality, but in connection with individual decisions of the authorities: Permits, Licenses, Inspections, sanctions, tax notices, refusals to provide services or access to public resources. In these situations, judicial control determines whether the discretion of the authority remains within the law and the purpose of the authority, or turns into arbitrariness.

Administrative courts are the central mechanism of such control, since their purpose is to consider public law disputes and verify acts, actions or omissions of subjects of power (Verkhovna Rada of Ukraine, 2005). It is important that the administrative court evaluates not only the formal existence of authority, but also the procedural correctness and motivation of the decision, the compliance of the procedure with the principles of good governance, as well as the proportionality of the chosen measure.

Courts of general jurisdiction supplement this mechanism in cases where economic rights are exercised through private law relations or when a violation of the right gives rise to claims for compensation for damage, restoration of property status or protection of property rights. The unity of the judicial system and guarantees of the independence of judges form the conditions for ensuring that control over public power is not selective, but systematic (Verkhovna Rada of Ukraine, 2016).

Since judicial protection is a mechanism for restoring a violated right, it cannot be the only channel for ensuring guarantees. Excessive dependence on legal disputes means that violations become a mass phenomenon, and the restoration of rights turns into a long and costly process. Therefore, it is logical to consider institutions that work to prevent violations and improve the quality of Public Administration.

Non-judicial institutional safeguards have two main functions. First, they reduce the risk of violations at the decision-making stage. Second, they create a framework of integrity and accountability, without which equality of access to economic opportunities remains formal. In this context, the activities of the Verkhovna Rada Commissioner for human rights are important as an instrument of parliamentary control over the observance of rights and freedoms, complementing the judicial protection mechanism (Verkhovna Rada of Ukraine, 1997). Through appeals, submissions, recommendations and monitoring mechanisms, the Ombudsman promotes the correction of practices that systematically create violations of rights in areas with economic consequences.

The next element is the anti-corruption infrastructure, as corrupt practices undermine legal equality and distort competition. In a legal sense, anti-corruption mechanisms aim to ensure that decisions on access to resources, permits, budget contracts or control measures are made through procedure and criteria, rather than through informal incentives. The legislative framework for preventing corruption defines restrictions, conflicts of interest, control tools and Responsibility (Verkhovna Rada of Ukraine, 2014b). Institutionally, these mechanisms are supported by specialized bodies established to prevent, detect and investigate corruption offenses, as well as to administer justice in the relevant categories of cases (Verkhovna Rada of Ukraine, 2014a; Verkhovna Rada of Ukraine, 2018).

At the same time, there are regulators and control bodies that ensure compliance with the rules in the sectors of the economy and in the field of Public Finance. For economic rights, the protection of competition is important, since freedom of business activity has real meant only if there are fair conditions for market access and the absence of anti-competitive practices (Verkhovna Rada of Ukraine, 2001). Control over the legality and effectiveness of the use of budget funds, in turn, is important because funding determines the actual ability of the state to ensure a significant part of rights and freedoms, in particular social ones (Verkhovna Rada of Ukraine, 2015a).

Given that national institutions operate in the wider European legal space, it is necessary to consider how international standards and practice of the ECHR affect the interpretation and protection of economic rights in Ukraine.

International human rights standards are of systemic importance for Ukraine, as they establish criteria for assessing state interference, which are applied in both international and domestic legal discourse. The European Convention on human rights forms the basic framework for protection, and the practice of the European Court of human rights specifies the requirements for the legality, due process, reasonableness and proportionality of interference (Council of Europe, 1950).

For economic rights, the standard of protection of property under Article 1 of the first protocol to the convention, which covers issues of deprivation of property, control over its use, and a fair balance between public interest and individual rights (Council of Europe, 1952). The court's practice demonstrates that interference can only be permissible if there is a legal basis, legitimate aim and proportionality, and if there are procedural safeguards that minimize the risk of arbitrariness (Sporrong and Lönnroth v. Sweden, 1982; James and Others v. the United Kingdom, 1986).

The ECtHR's approaches to non-discrimination, which are important for access to economic opportunities, including the labor market, professions, licensing regimes and social benefits, have a separate impact. Judicial practice emphasizes that the assessment of discrimination goes beyond formal equality and requires an analysis of the validity of differences in legal regulation and their actual consequences (Thlimmenos v. Greece, 2000).

Thus, international standards and practice of the ECHR affect economic rights not only as an additional level of control, but also as a source of legal tests that can be integrated into the internal practice of rulemaking, administration and judicial proceedings. This increases the legal certainty and quality of state procedures, which ultimately strengthens the effectiveness of constitutional guarantees in economic relations.

#### 4. Ukraine's Procedural and Financial Guarantees in Economic Relations

In most cases, economic rights are realized through individual decisions of public authorities, which makes not only the substance of legal norms important but also the way they are applied. In the areas of permits, licensing, supervision, public services, and decisions affecting property, administrative procedure determines whether state intervention is predictable and verifiable (Verkhovna Rada of Ukraine, 1996; Verkhovna Rada of Ukraine, 2022).

For this reason, transparency in handling a case and access to information have a direct economic dimension. If an individual or a business cannot understand the decision-making criteria, time limits, competence, and factual grounds, the costs of interacting with the state increase, and the risk of error or selective enforcement becomes systemic. Requirements on access to public information establish a minimum standard of openness that enables oversight of administrative conduct and the reasoning behind decisions (Verkhovna Rada of Ukraine, 2011).

Transparency, however, is not sufficient without reasoned decisions. When an authority must explain the facts and legal norms that support its conclusion, disputes move from assertions to evidence and law. At the same time, reasoning is a prerequisite for

effective judicial review, because a court evaluates not a declaration, but the logic of how powers were exercised (Verkhovna Rada of Ukraine, 2005).

Another procedural element with a direct impact on economic interests is the right to be heard. The ability to submit explanations and evidence before a decision is adopted reduces the risk of erroneous bans, sanctions, or refusals that later require appeal. This matters not only for rights protection in itself, but also for minimizing indirect losses associated with business interruption, contract losses, or delays in access to resources (Verkhovna Rada of Ukraine, 2022).

Because procedure sets the rules of interaction, it functions best when supported by the state's resource capacity to fulfil positive obligations. This naturally links procedural safeguards with tax and budget mechanisms.

Many constitutional rights have a material component that cannot be ensured without stable funding: justice, social protection, education, healthcare, public services, and institutional oversight. Therefore, the tax system and the budget process are not a background context but instruments through which rights are realized, determining the actual availability of guarantees (Verkhovna Rada of Ukraine, 1996; Verkhovna Rada of Ukraine, 2010a; Verkhovna Rada of Ukraine, 2010b).

Tax rules affect rights in two ways. On the one hand, they generate budget revenues used to finance the state's positive obligations in the field of human rights. On the other hand, taxation and its administration directly touch property rights, entrepreneurial freedom, and the freedom to work, because they define the financial burden, sanctions, and audit procedures (Verkhovna Rada of Ukraine, 2010b).

The budget dimension is equally decisive. Even where resources exist, legal significance lies in transparency of allocation, targeted spending, oversight mechanisms, and accountability for breaches of budget discipline. Budget rules determine whether political commitments related to rights become implementable programs or remain declarative (Verkhovna Rada of Ukraine, 2010a).

At the same time, tax and budget decisions are rarely neutral, because they always involve redistribution, restrictions, or prioritization. This is why the assessment of financial mechanisms inevitably leads to the issue of proportionality and the balance between private rights and public objectives.

Economic regulation covers markets, access to infrastructure, tariffs, pricing in socially significant sectors, competition rules, and mechanisms of support for the population. Such decisions often constrain individual opportunities in pursuit of public goals, yet constitutional guarantees require that any interference be lawful and proportionate (Verkhovna Rada of Ukraine, 1996).

In practical terms, balance is ensured through a combination of three elements. The first is legality, meaning a clear legal basis and legal certainty of rules. The second is due process, which enables the collection of relevant data, consideration of stakeholders' arguments, and reasoned decision-making. The third is proportionality, meaning the chosen instrument should not impose an excessive burden on particular individuals or groups without sufficient justification and, where appropriate, compensatory mechanisms (Sporrong and Lönnroth v. Sweden, 1982).

In pricing and tariff regulation, the decisive issue is methodology and criteria. When state intervention is carried out without transparent formulas, without explaining underlying data, and without procedures for review, it creates risks for both consumers and providers and thus for market stability. In the area of social benefits, balance is expressed through clear eligibility criteria, non-discrimination, predictable timelines, and the availability of effective appeal against refusals or termination of benefits (Verkhovna Rada of Ukraine, 1996; Council of Europe, 1950).

Where regulation or an administrative decision result in material losses, the issue of balance moves into the domain of state liability. Without workable compensation mechanisms, guarantees lose practical value, because a violation does not lead to a meaningful restoration of the person's position.

A constitutional standard requiring compensation for damage caused by unlawful decisions, actions, or omissions of public authorities and their officials is a foundational guarantee that connects legal and economic dimensions: rights violations must not only be recognized but also remedied (Verkhovna Rada of Ukraine, 1996).

This approach is further developed in civil-law mechanisms of state liability that allow claims for damage caused by public authority, as well as in special rules on compensation in certain categories of cases (Verkhovna Rada of Ukraine, 2003; Verkhovna Rada of Ukraine, 1994). As a result, a legal framework emerges in which the state bears financial consequences for unlawful interference, creating incentives to follow procedures and improve the quality of administrative decision-making.

The effectiveness of compensation depends not only on the formal right to recovery but also on the practical accessibility of the mechanism: access to court, the ability to gather evidence, consistency of approaches to damage assessment, and actual enforcement of judgments. In this respect, European standards of a fair trial and the right to an effective remedy strengthen requirements for domestic procedures and the practice of restoring violated rights (Council of Europe, 1950).

## 5. Constitutional Guarantees under Martial Law and During Recovery

Martial law may justify special restrictions on rights and freedoms; however, any such restrictions must have a constitutional basis, be time-bound, and be formulated in a way that ensures legal certainty. The Constitution of Ukraine expressly allows for the introduction of special restrictions during martial law with an indication of their duration and establishes a list of rights that cannot be restricted, including the right to judicial protection (Verkhovna Rada of Ukraine, 1996).

At the statutory level, the framework for these measures is provided by the Law of Ukraine on the legal regime of martial law, which defines the instruments available to public authorities and the limits of their application (Verkhovna Rada of Ukraine, 2015b). At the same time, the economic consequences of restrictions are reflected not only in the narrowing of permissible conduct but also in changes to compliance costs, access to resources, and the ability to forecast the legal environment. This is why the legal quality of interference depends on clear legal grounds, transparent criteria, and review mechanisms, since these parameters shape risk levels for property, contracts, and entrepreneurial activity.

An additional standard is established by Article 15 of the European Convention on Human Rights, which permits derogation from certain obligations only to the extent strictly required by the exigencies of the situation and subject to consistency with other international obligations (European Court of Human Rights, 2025). From this perspective, the assessment concerns not merely the fact of restriction, but also its scope, justification, and effective temporal control.

Under martial law, property rights are among the most sensitive areas because the state may use special measures for defense and other public needs. Legally, it is important to distinguish between the regimes of forced alienation and seizure of property, as well as their documentation requirements and compensation consequences. The special law on the transfer, forced alienation, or seizure of property under martial law establishes the grounds, procedures, and the general logic of compensation (Verkhovna Rada of Ukraine, 2012).

Because interference with property rights always carries a risk of imposing an excessive burden on an individual, the criteria of legality and fair balance become practically significant. In European law, this is reflected in the interpretation of Article 1 of Protocol No. 1, where interferences with property are assessed through legality, public interest, and proportionality, including the role of compensation and procedural safeguards (European Court of Human Rights, 2023). In practical terms, this means that compensation mechanisms should be procedurally accessible, with

clear valuation rules, time limits, and available avenues for appeal.

Alongside compensation under special emergency regimes, the question arises of compensating losses caused by unlawful decisions or actions of public authorities. Here, the general constitutional principle of state liability applies, together with civil-law mechanisms that provide compensation for damage caused by an authority or its officials, including through the model reflected in Articles 1173–1174 of the Civil Code of Ukraine (Fortetsya, MPP v. Ukraine, 2020; University of Oxford, 2022). In crisis conditions, it is important that these mechanisms are not undermined by procedural barriers; otherwise, state liability loses its deterrent effect.

Even where restrictions are lawful, access to judicial protection remains a core guarantee. The Constitution of Ukraine enshrines judicial protection of rights and freedoms and explicitly treats it as a right that cannot be restricted even during martial law (Verkhovna Rada of Ukraine, 1996). In procedural terms, this requires the effective capacity of administrative courts to review disputes concerning decisions and actions of public authorities, including in the areas of oversight, sanctions, permits, property interference, and social benefits. The normative basis for these procedures is set out in the Code of Administrative Proceedings of Ukraine (Verkhovna Rada of Ukraine, 2005).

At the same time, resource scarcity directly affects the realization of social rights because many guarantees are budget-dependent. In this context, budget discipline and transparency are decisive, since they determine whether restrictions follow from objective fiscal necessity or from non-transparent reallocation. The Budget Code of Ukraine sets out the legal foundations of the budget process and liability for violations of budget legislation (Verkhovna Rada of Ukraine, 2010a).

Social support under martial law also requires legal criteria of accessibility, targeting, and quality standards. The legislative framework for social services includes principles of accessibility and openness and imposes transparency requirements regarding the use of public funds by social service providers (Verkhovna Rada of Ukraine, 2019). This is directly linked to procedural guarantees, because decisions on granting or refusing support must be reasoned and subject to appeal; otherwise, resource scarcity turns into selective administration.

Crisis regimes often involve decisions intended for a short period but which in practice alter the regulatory model for much longer. This creates the risk of an institutional shift in which exceptions become normalized and the controllability of administrative discretion diminishes. The Convention requirement that derogation measures be only to the extent strictly required by the situation translates, in domestic legal

policy, into a need for periodic review and justification of continued restrictions (European Court of Human Rights, 2025).

Practical safeguards include, first, time limits and automatic sunset clauses unless an explicit decision extends the measure; second, mandatory reasoning based on publicly stated criteria; third, the availability of effective judicial review; and fourth, informational openness regarding both the grounds and effects of interference. In this context, the right of access to public information performs an oversight function by enabling verification of the grounds for regulatory decisions and the use of public resources (Verkhovna Rada of Ukraine, 2011).

Strengthening guarantees during wartime and recovery is best achieved through a combination of procedural, judicial, and financial instruments that reinforce one another.

A first step is to standardize procedures for economically significant decisions of public authorities, with minimum requirements for reasoning, evidentiary basis, competence recording, and time limits, as well as ensuring the right to be heard where a decision worsens an individual's position. A supporting instrument is access to information, which should operate as the default, while exceptions should be narrowly defined and justified (Verkhovna Rada of Ukraine, 2011).

A second step is to reinforce judicial review of property interference and sanctions decisions through stable criteria for assessing legality and proportionality, including analysis of less restrictive alternatives and evaluation of compensation mechanisms. Guidance may be drawn from ECtHR approaches to property protection and the fair-balance test, as reflected in relevant case-law guides and summaries (European Court of Human Rights, 2023).

A third step is budget transparency as a condition for the practical enforceability of social guarantees, including mandatory publication of allocation criteria, program parameters, and performance reporting. The normative basis for this is provided by the principles of the budget process and liability for violations of budget legislation, which should be complemented by managerial standards for monitoring and auditing social programs (Verkhovna Rada of Ukraine, 2010a; Verkhovna Rada of Ukraine, 2019).

A fourth step is to increase the effectiveness of compensation for both property interference and unlawful administrative decisions. This includes lowering evidentiary barriers where documents are held by the state, harmonizing approaches to damage assessment, and ensuring enforcement of judicial decisions. In the area of state liability, both domestic legal rules on compensation and the requirements concerning the application of ECtHR case-law within

the domestic legal order are relevant (Verkhovna Rada of Ukraine, 2006; Fortetsya, MPP v. Ukraine, 2020).

## 6. Conclusion

This study has shown that constitutional guarantees of human rights and freedoms in Ukraine should be assessed not only as a normative catalogue but as an operating system that determines the predictability of public power, the stability of property and contractual relations, and the credibility of regulatory policy in ordinary and extraordinary conditions. The economic and legal perspective clarifies that rights protection depends on the combined performance of norms, institutions, procedures, and public finance: when one element is weak, the overall protection becomes fragile, and the costs of uncertainty are transferred to citizens, businesses, and the state itself through higher dispute rates, lower compliance, and reduced investment willingness.

The analysis of the normative core confirms that the rule of law, legal certainty, equality, and non-discrimination function as cross-cutting constraints on state intervention in the economic sphere, while proportionality operates as the main quality test for restrictions, requiring suitability, necessity, and balanced effects. The case-law logic developed in European human rights adjudication supports this architecture by operationalizing the fair balance requirement in property matters and by clarifying the standards for differential treatment, especially where access to economic opportunities or benefits is at stake.

At the institutional level, the study has argued that constitutional review and ordinary judicial control are indispensable for turning constitutional standards into enforceable limits on administrative discretion. The Constitutional Court shapes binding interpretive constraints for the legislature and executive, while administrative courts provide routine control over individualized interferences that typically generate the largest share of economic rights disputes, including licensing, inspections, sanctions, and access to public resources. Complementary guarantees delivered by the Ombudsman, anti-corruption bodies, regulators, and financial oversight institutions strengthen equality of access and integrity of decision-making, which are prerequisites for a functioning market order and credible social policy.

Procedural and financial guarantees were identified as the practical bridge between constitutional promises and real outcomes. Due process requirements – transparency, reasoning, the right to be heard, and access to information – reduce arbitrariness risks, improve reviewability, and lower transaction costs associated with compliance and dispute resolution. At the same time, tax and budget governance

defines the state's resource capacity to fulfill positive obligations and stabilizes expectations regarding social rights and public services; therefore, budget transparency and accountability are not auxiliary governance tools but part of the constitutional protection environment.

Finally, the wartime and recovery context amplify both the need for regulatory flexibility and the danger of normalization of emergency practices. Derogation-compatible governance requires time-bounded measures, clear legal grounds, public criteria, review mechanisms, and effective remedies, including compensation where property is affected or losses

are caused by unlawful action. On this basis, the study supports a practical direction for strengthening guarantees: standardize economically significant administrative procedures, embed proportionality and evidence standards in decision templates, ensure robust judicial review capacity, and institutionalize budget transparency and enforceable compensation mechanisms. If these elements are implemented as a coherent governance routine rather than as isolated reforms, constitutional guarantees can function as a stabilizing framework for rights protection and for economically sustainable recovery, even under the pressure of extraordinary circumstances.

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