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Transparency of the Parliament's Activities During the Legal Regime of Martial Law in Ukraine

• Abstract •

The article provides a general analysis of the legal nature of the principle of transparency in the activities of public authorities and identifies the main doctrinal approaches to its definition and standards of compliance with this principle by public authorities. The author emphasises the importance of its observance given the need to create conditions for accountability in the activities of public authorities.

It describes the constitutional and legislative regulation of transparency, openness, and publicity in the activities of the *Verkhovna Rada* of Ukraine (Supreme Council of Ukraine) as the only legislative body in Ukraine that directly affects the legitimacy of decisions made even in times of war. Provides analyses of the main practical elements of transparency of the functioning of the *Verkhovna Rada* during the martial law regime in Ukraine. Furthermore, the article identifies possible restrictions on the principle of transparency in the activities of the Parliament during martial law, which are permissible in extraordinary circumstances to ensure the safety of parliamentarians on the one hand, and, on the other hand, to continue to adhere to the principle of transparency in their activities.

Attention is drawn to the vulnerability of some approaches to transparency, openness, and publicity, which may lead to violations of human rights and freedoms. This refers to the prohibition to publish any information related to the *Verkhovna Rada* session before its completion and for some time afterwards. As a result, recommendations are provided to improve the coverage of the *Verkhovna Rada*.

Keywords: *Verkhovna Rada* of Ukraine, Parliament, Transparency, Openness, Publicity, Martial law.

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Introduction

Transparency in the activities of public authorities is a civilisation requirement that obliges such authorities to be public, open and transparent at all stages of their functioning. The legislative branch of power, namely the parliament, is no exception. The requirement for maximum accessibility of any information related to the activities of the parliament are stipulated not only by international standards and recommendations, but also by national regulations, internal organisational acts and policies. The origins of this requirement lie primarily in ensuring maximum legitimacy of any action of a public authority in general and of the parliament in particular.

However, it is difficult to deny the existence of exceptions when the above-mentioned transparency in activities may be limited. We are talking about extraordinary situations in the country or its individual parts. The question of the extent of such restrictions, their duration and permanence over a certain period in the activities of the Parliament, and the legal analysis of specific cases of restrictions remains open.

The purpose of the article is to analyse the implementation of the main components of the transparency principle in accordance with international standards and national legislation in the activities of the *Verkhovna Rada* of Ukraine (hereinafter – the *Verkhovna Rada*), during the martial law regime in Ukraine.

General Framework about the Rule of Law and Principles

An indispensable component of modern democracy and the democratic process in the activities of public authorities is the observance and implementation of the principle of transparency. In general, transparency is defined as the provision of information to citizens on how public authorities, their officials and employees use the powers they have been granted. However, this definition is somewhat limited. Any primitivities or excessive legal regulation in the context of the principle of transparency, for example, a legislative definition of publishing or disseminating information about the activities of a public authority, is unlikely to help achieve the goal and ensure an effective result (Venher, 2017, p. 80). Providing certain characteristics, defining key features of the transparency principle allows to understand its essence, to carry out the necessary implementation in legal acts and, most importantly, to implement it qualitatively and inclusively.

The principle of transparency in the activities of public authorities primarily applies to all information at the disposal of the authorities, including both the

executive and legislative branches of government and the judiciary (Open Government Standards, 2013, p. 2). Therefore, we can conclude that the requirement to adhere to the principle of transparency in their activities applies to any public institutions and agencies. In turn, information held by the relevant authorities is subject to transparency. This interpretation of the principle is related to the right of access to information, which is guaranteed by both international and national legislation. In addition, the principle of transparency should also be considered as a basis for legitimacy and a component of accountability in the activities of public authorities.

Transparency means being open to stakeholders and the public, as well as exercising their powers in a transparent manner. On this basis, public authorities are obliged to make public all information related to their activities, namely: to publish decisions made, to provide physical access to the public and/or media to their meetings, to explain aspects of the exercise of their powers. On the other hand, stakeholders should have equal access to data and information sources (Jashari and Pepaj, 2018, p. 61). Therefore, the legal nature of the principle is to create ways, methods and mechanisms by which a person can access all possible information about the authority itself and all aspects of its work, namely, the decisions it makes, the process preceding such decisions, the internal organisational structure, powers in the most accessible and understandable way.

One of the main hypotheses of our study of the principle of transparency as an integral part of modern democracy and its importance in ensuring the public interest means that the qualitative implementation of the principle of transparency as a component of the rule of law is possible through a combination of legislative definition and regulation of transparency, openness and publicity in the activities of public authorities, local and “internal” (official) legal regulation and the use of indirect means and methods to stimulate such transparency and openness.

The next important element in the study of the nature of the transparency principle is to determine its reflection directly in the various constituent elements (principles) of the rule of law, namely the principle of legality and the principle of legal certainty.

The principle of legality is a rather multifaceted phenomenon. Its main feature is the requirement for public authorities to act exclusively in accordance with the provisions of law. In their activities, such bodies must comply with the rule of law, for example, when adopting regulations, bylaws. In addition, a system is created and operates where laws are strictly enforced and respected, which contributes to the protection of human rights and fundamental freedoms and prevents arbitrariness and chaos (Venher et al., 2021, pp. 27–28). One of the criteria used to assess

compliance with the principle of legality is the degree of development of legislative procedures. Therefore, the assessment includes an analysis of the transparency and efficiency of the process of drafting parliamentary acts, and the extent to which the law regulates the procedures for drafting, discussing, adopting and publishing laws (or major draft laws).

The principle of legal certainty primarily means clarity of the grounds, content and objectives of legal provisions (Venher et al., 2021, p. 53). Any person should be able to foresee the consequences of their actions with the help of legal provisions, and there should be a model of consistent rule application by all public authorities. One of the criteria used to assess compliance with the principle of legal certainty is the accessibility and stability of legislation. This applies to the methods of promulgation of normative acts (compliance with the procedures of official promulgation), identification of sources of promulgation (their quality, accessibility, speed), and assessment of the period between the promulgation of a normative act and its entry into force.

As noted above, the origins of legal regulation of the principle of transparency in the activities of public authorities stem from the Rule of Law, but they are also reflected in the provisions of the Constitution of Ukraine. In particular, Part 2 of Article 19 of the Constitution of Ukraine enshrines the special permissive principle, according to which public authorities may act only as prescribed by the Constitution and the laws of Ukraine.¹ Therefore, when it comes to regulating the transparency of public authorities, it is necessary to use constitutional provisions and laws.

The right to access information is a constitutional human right. Article 34 of the Constitution of Ukraine provides that a person has the right to freely collect, store, use and disseminate information orally, in writing or in any other way. The existence of such a right gives rise to a positive obligation on the part of the state to ensure that this right can be exercised. However, this right is not absolute and may be restricted by law in the interests of national security, territorial integrity or public order in order to prevent disorder or crime, protect public health, protect the reputation or rights of others, prevent the disclosure of information received in confidence, or maintain the authority and impartiality of justice in accordance with the provisions of part 3 of Article 34 of the Constitution of Ukraine.

When it comes to the main elements of the transparency principle, there are three, namely publicity, openness and transparency itself. Each of these concepts

¹ *Verkhovna Rada of Ukraine. Constitution of Ukraine. Vedomosti Verkhovna Rada of Ukraine (VVR)*, 1996, No. 30, p. 141. June 28, 1996. Retrieved April 24, 2025, from <https://zakon.rada.gov.ua/laws/show/254к/96-вп#Text>

has its own characteristics and needs to be defined to avoid confusion that could harm the exercise of the right to access information and the principle of transparency itself.

Transparency is characterised by ensuring a certain level of publicity in the functioning of public authorities.² This refers both to the actual publication of any information and to the processes and procedures for covering the activities of public authorities. According to Venher (2007, p. 80), this means holding public meetings, requirements for the advance publication of meeting agendas, draft acts, publication or publication of adopted decisions in the print media, the moment when the decisions come into force.

Openness, in turn, can be defined as the availability of actual access to the premises of the public authority, access to the transcripts of meetings, minutes, recordings (both video and audio) of meetings (Venher, 2017, p. 80), which means that everyone can directly receive information about the activities of public authorities. In other words, anyone who wishes to do so should be able to access information posted on official websites, information stands, in print media or any other media that have such data.

The practical application of the principle of transparency can be seen in the activities of the Parliament. As one of the branches of power, a constitutional representative body, it is obliged to directly adhere to the principle of transparency in its activities, since the said principle is, firstly, a component of the Rule of Law, secondly, defined in the Constitution of Ukraine and also provided for by international standards for representative bodies in functional constitutional democracies, and thirdly, it is necessary to reflect the actual functioning of the body to a wide range of people. The legitimacy of the parliament and its decisions also depends on the quality of transparency. Therefore, we need to identify the key features provided for by both national legislation and international legal acts that characterise the principle of transparency in parliamentary activities.

The Declaration of Parliamentary Openness defines key characteristics such as informing citizens about the parliamentary agenda, publishing draft laws, publishing minutes of plenary sessions and committee meetings, recording parliamentary votes (Organization for Security and Co-operation in Europe Parliamentary Assembly, Commonwealth Parliamentary Association, 2012). In conclusion, the Declaration lists the main requirements for the parliament, what information it

² For example, Article 11 of the Treaty on European Union: "2. The institutions shall maintain an open, transparent and regular dialogue with representative associations and civil society." Retrieved April 20, 2025, from <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:12016M/TXT>

should disseminate or make available to the public as much as possible for its activities to comply with the principle of transparency. This list includes elements of publicity and openness in the parliament's activities, but it does not consider one important feature of the concept of "openness" that has gained popularity in the twenty-first century – the activities of the media.

The study "Parliament and Democracy in the Twenty-First Century" analyses the main aspects of ensuring the principle of transparency and its components by parliaments. Transparency, and thus openness, is defined as physical access to parliamentary sessions. However, it is impossible to provide access to parliamentary sittings to everyone. Therefore, a possible balance for maintaining openness was found in the openness of meetings to the press and journalists, who in this case act as the "eyes and ears" of the public at large (Beetham, 2006, p. 43). Of course, the relationship between the parliament and the media is important, as their task is to inform the public about the general principles of the parliament's functioning, the course of parliamentary sessions, to enable representatives (parliamentarians) of different political views to express their opinions on political life.

The basis for legal regulation of the principle of transparency in the activities of the *Verkhovna Rada*, in addition to the already mentioned Articles 19 and 34 of the Constitution of Ukraine, is part 1 of Article 84 of the Constitution of Ukraine, which provides that the meetings of the *Verkhovna Rada* shall be held in open session, and closed meetings may be held only by the decision of the majority of the constitutional composition of the *Verkhovna Rada*. The constitutional provisions on transparency of the *Verkhovna Rada* directly mention only one component of the principle – openness – and only one form of the Parliament's activity. However, part 5 of Article 83 of the Constitution of Ukraine stipulates that the procedure of the *Verkhovna Rada*'s work is established not only by the Constitution of Ukraine, but also by the Rules of Procedure of the *Verkhovna Rada*. As a rule, the regulation of forms, methods and ways of implementing the principle of transparency (openness and publicity) in the activities of parliaments is enshrined in laws, not in the Constitution.

When assessing the constitutional and legal framework for the principle of transparency, it is also worth noting that parts 2, 3 and 4 of Article 94 of the Constitution of Ukraine define the issue of official publication of adopted laws, and part 5 of Article 94 of the Constitution of Ukraine provides for the mandatory publication of laws for their entry into force.

To understand the principles of the *Verkhovna Rada*'s activity and the requirements set for the Ukrainian parliament in terms of ensuring the implementation of the principle of transparency and access to information on all aspects of the

parliament's activity, we should analyse the Rules of Procedure of the *Verkhovna Rada* of Ukraine (hereinafter – the Rules). In addition to the constitutional provision on the openness of the *Verkhovna Rada's* meetings, Article 3 of the Rules of Procedure states that they are also public, except in cases established by the Constitution of Ukraine and these Rules.³

The legislator understands openness (as a component of the principle of transparency) of the *Verkhovna Rada's* meetings as access to the meetings of any persons, except in cases provided for by law. The procedure for access to open meetings is determined by an order of the Chairman of the *Verkhovna Rada* in accordance with part 2 of Article 3 of the Rules of Procedure. In turn, the publicity of the meetings of the *Verkhovna Rada*, in accordance with part 3 of Article 3 of the Rules of Procedure, is ensured by broadcasting them on television and radio, publishing verbatim bulletins of the meetings of the *Verkhovna Rada* and its decisions in the Bulletin of the *Verkhovna Rada* of Ukraine, the newspaper “Holos Ukrainy” and other publications of the *Verkhovna Rada*, as well as by posting information on the official website of the *Verkhovna Rada*. The time, scope, form of broadcasting, and volume of printing are determined in accordance with the law by the Rules of Procedure and individual resolutions of the *Verkhovna Rada*.

It is worth noting that a well-established form of active access to information about the activities of any public authority, which includes the Parliament, is a request for public information held by the relevant authority in accordance with the procedure established by a special regulatory act. In Ukraine, such act is the Law of Ukraine “On Access to Public Information”.⁴ The *Verkhovna Rada* is not an exception, as the paragraph 2 of part 5 of Article 3 of the Rules of Procedure stipulates that it provides information upon requests in accordance with the Law of Ukraine “On Access to Public Information”. Consideration and response to requests for information are provided by the Secretariat of the *Verkhovna Rada*.

As mentioned above, the media are actively involved in indirectly engaging the public in the activities of the *Verkhovna Rada*. This is an important component of high-quality and strict adherence to the principle of transparency. Therefore, media representatives and journalists are accredited to the *Verkhovna Rada* for a certain period or for the entire term of the current convocation of the *Verkhovna Rada* in accordance with the Law of Ukraine “On Information” under part 3 of

³ *Verkhovna Rada* of Ukraine. “Rules of Procedure of the *Verkhovna Rada* of Ukraine”. February 10, 2010. Retrieved April 20, 2025, from <https://zakon.rada.gov.ua/laws/show/1861-17#Text>

⁴ This Law defines the procedure for exercising and ensuring the right of everyone to access information held by public authorities, other public information managers as defined by this Law, and information of public interest.

Article 3 of the Rules of Procedure. Moreover, media representatives may be provided with materials that are provided to MPs, except for those materials that are not disclosed or not provided in accordance with the law.

When analysing the observance of the principle of transparency in the activities of the *Verkhovna Rada*, it is worthwhile to focus on the peculiarities of observing this principle in emergency circumstances, namely during the legal regime of martial law in Ukraine, which was introduced on 24 February 2022 in connection with the full-scale armed aggression of the Russian Federation against Ukraine. Article 34 of the Constitution of Ukraine provides, as mentioned above, that the right to access information may be restricted by law in the interests of national security, territorial integrity or public order. According to Article 64 of the Constitution of Ukraine, constitutional rights and freedoms may not be restricted except in cases provided for by the Constitution of Ukraine. However, the Constitution allows for restrictions on the right of access to information under martial law. Clause three of the Presidential Decree “On the Introduction of Martial Law in Ukraine” states that the constitutional right to access information may be restricted during the period of martial law⁵ and, therefore, public authorities retain discretionary powers to (un)restrict this right.

Therefore, we need to find out whether the *Verkhovna Rada* applies restrictions to the principle of transparency in its activities during the martial law regime, and if so, to what extent, whether such restrictions violate the fundamental principles of democracy, human rights and the Rule of Law, and whether such restrictions are proportionate to the level of threat that exists. First, we will focus on the following information: announcements of plenary sessions of the *Verkhovna Rada*, agendas of relevant meetings, availability of draft laws, broadcasts of plenary sessions, publication of adopted decisions, and analysis of the activities of the *Verkhovna Rada* committees in terms of compliance with the principle of transparency.

It is important to note that in the first days of the full-scale armed aggression of the Russian Federation against Ukraine, access to the official website of the *Verkhovna Rada* was restricted, but there was no relevant decision of the *Verkhovna Rada* or the Chairman of the *Verkhovna Rada* on such actions. Since 23 February 2022, the State Service for Special Communications and Information Protection in Ukraine has reported constant hacker attacks on public and private telecommunications infrastructure,⁶ and therefore, we can assume that the

⁵ President of Ukraine. “On the introduction of martial law in Ukraine”. Decree of the President of Ukraine No. 64/2022. February 24, 2022. Retrieved April 20, 2025, from <https://zakon.rada.gov.ua/laws/show/64/2022/sp:max50:nav7:font2#n2>

⁶ State Service for Special Communications and Information Protection of Ukraine. “An-

decision to restrict access to the *Verkhovna Rada* website was made by another public authority exercising cyber defence powers.

Announcement of Plenary Sessions of the *Verkhovna Rada* of Ukraine

Informing the public in advance about the holding of plenary sessions, time and place of such sessions allows all interested parties and the public, firstly, to be informed about the meeting where decisions are made, secondly, to know when to come to the Parliament to participate in the relevant session, and thirdly, to draw a conclusion about the overall activity and fulfilment of constitutional duties by the Parliament. The media, in turn, have the opportunity to attend and report on plenary sessions.

However, due to the legal regime of martial law in Ukraine, the *Verkhovna Rada* has not announced its plenary sessions since 24 February 2022 and until now, on 1 December 2024. Therefore, we can state that to ensure the life and health of the Members of Parliament of Ukraine, prevent any unlawful obstruction of the *Verkhovna Rada*'s activities, and preserve confidentiality regarding the date, time and place of plenary sessions, information on the advance notification of the public about the relevant meetings of the *Verkhovna Rada* was limited.

It is worth noting that the *Verkhovna Rada* adopted the Resolution "On the Organisation of the Work of the *Verkhovna Rada* of Ukraine in the Conditions of Emergency and/or Martial Law" of 23 February 2022 (no longer in force), the Resolution "On the Organisation of the Work of the *Verkhovna Rada* of Ukraine in connection with the Act of Armed Aggression of the Russian Federation against Ukraine on 24 February 2022" of 24 February 2022 (no longer in force), as well as the Resolution "On Some Issues of Organisation of the Work of the *Verkhovna Rada* of Ukraine of the Ninth Convocation during the Eighth Session under Martial Law" of 6 September 2022 (in force), which states that the Speaker of the *Verkhovna Rada* determines the time and place of continuation of the *Verkhovna Rada*'s meeting.⁷ It can be concluded that only MPs of Ukraine and some

other cyberattack on the websites of state bodies and banks". February 23, 2022. Retrieved November 03, 2024, from <https://cip.gov.ua/ua/news/cherhova-kiberataka-na-saiti-derzhavnikh-organiv-ta-banki>

⁷ *Verkhovna Rada* of Ukraine. "On some issues of organisation of the work of the *Verkhovna Rada* of Ukraine of the ninth convocation during the eighth session under martial law". Resolution No. 2558-IX. September 6, 2022. Retrieved April 20, 2025, from <https://zakon.rada.gov.ua/laws/show/2558-20/sp:max50:nav7:font2#n13>

authorised employees of the *Verkhovna Rada* Secretariat are informed about the continuation of the plenary session of the *Verkhovna Rada*.

Announcement of the Agenda of the Meeting

The agenda of a parliamentary meeting or any other document relating to the parliament's work schedule, plans for consideration of draft laws or other documents must be made available to the public for preliminary review and study (Organization for Security and Co-operation in Europe Parliamentary Assembly, Commonwealth Parliamentary Association, 2012). This allows people to be informed about the legislators' plans to regulate certain legal relations. In this case, it is primarily about due respect for legislative procedures and proper regulation of legislative activity, namely, the notification of decision-making. Although in rare cases the parliament may announce the adoption of a decision within a short period of time, it should be sufficient to allow the public and civil society to comment.

At present, the *Verkhovna Rada* does not announce or otherwise publish the agenda of its meetings (the *Verkhovna Rada* operates in the mode of one plenary session, during which breaks are announced). Therefore, this component of the principle of transparency in the activities of the *Verkhovna Rada* is also limited due to the legal regime of martial law. It is worth noting that the *Verkhovna Rada* has not adopted any decision to restrict public access to the agendas of plenary sessions, or which is also possible, such a decision has not been publicly announced.

One of the ways to partially ensure transparency in the activities of the *Verkhovna Rada* during martial law in the context of announcing the agenda is, indeed, to publish and make available all draft laws or other acts on the official website of the *Verkhovna Rada*.⁸ An example is the draft Law of Ukraine "On Amendments to Certain Laws of Ukraine on Optimisation of Certain Issues of Compulsory Alienation and Seizure of Property under the Legal Regime of Martial Law", which was submitted to the *Verkhovna Rada* on 27 July 2022.⁹ On the same day, 27 July 2022, the text of the draft law with supporting documentation was published on the official website of the *Verkhovna Rada*. On 29 July 2022, it was included

⁸ Official website of the *Verkhovna Rada* of Ukraine. <https://www.rada.gov.ua>

⁹ *Verkhovna Rada* of Ukraine. "Proposals of the President of Ukraine to the Law 'On Amendments to Certain Laws of Ukraine on Optimisation of Certain Issues of Compulsory Alienation and Seizure of Property under the Legal Regime of Martial Law'". Official web portal of the Parliament of Ukraine, July 27, 2022. Retrieved November 02, 2024, from <https://itd.rada.gov.ua/billInfo/Bills/Card/40137>

in the agenda and adopted as a basis with a shortened timeframe for preparation for the second reading. On 15 August 2022, the draft law was adopted.¹⁰

Therefore, in general, the *Verkhovna Rada* tries to provide a minimum amount of time to review the text of draft laws before they are considered at the plenary sessions of the *Verkhovna Rada*.

Broadcasting of Meetings

A separate issue of transparency in the activities of the parliament is the availability and accessibility of broadcasts of plenary sessions of the parliament, its committees, and commissions. In addition to the information on the recordings of the parliament's votes, which are provided directly by the parliament, usually on its official website, it is a well-established practice to broadcast the parliamentary sessions on television or other information resources. Broadcasting sittings is a direct expression of the transparency of the parliament, as de facto its activities are "visible through", and anyone can see the decision-making process and other aspects that are subject to coverage.

As mentioned above, the Rules of Procedure of the *Verkhovna Rada*, in part five of Article 3, states that publicity of the *Verkhovna Rada*'s meetings is ensured, among other things, by broadcasting them on television and radio. For the official broadcasting of the *Verkhovna Rada*'s sessions, the state enterprise "Parliamentary TV Channel Rada" was created and operates. Its main tasks are to comprehensively cover the activities of the *Verkhovna Rada*, committees, commissions, MPs of Ukraine, parliamentary factions (deputy groups), and local self-government bodies (Charter of the State Enterprise, 2016).

However, we are forced to state that after 24 February 2022, the *Verkhovna Rada* meetings are not broadcast.¹¹ On 6 September 2022, the *Verkhovna Rada* adopted Resolution No. 2568-IX "On Certain Issues of Coverage of the Work of the *Verkhovna Rada* of Ukraine of the Ninth Convocation under Martial Law",¹²

¹⁰ *Verkhovna Rada* of Ukraine. "Proposals of the President of Ukraine to the Law 'On Amendments to Certain Laws of Ukraine on Optimisation of Certain Issues of Compulsory Alienation and Seizure of Property under the Legal Regime of Martial Law'". Official web portal of the Parliament of Ukraine, July 27, 2022. Retrieved November 02, 2024, from <https://itd.rada.gov.ua/billInfo/Bills/Card/40137>

¹¹ *Verkhovna Rada* of Ukraine. "On some issues of organisation of the work of the *Verkhovna Rada* of Ukraine of the ninth convocation during the eighth session under martial law". Resolution No. 2558-IX. September 6, 2022. Retrieved April 20, 2025, from <https://zakon.rada.gov.ua/laws/show/2558-20/sp:max50:nav7:font2#n13>

¹² Ibid.

which stipulates that during the period of martial law, live broadcasts of open plenary sessions of the *Verkhovna Rada* may be limited to the state enterprise “Parliamentary TV Channel Rada” in the interests of national security and in order to ensure the security of the *Verkhovna Rada* in accordance with the Constitution and other laws of Ukraine. Thus, the *Verkhovna Rada* has decided to restrict the principle of transparency in terms of broadcasting the *Verkhovna Rada*’s meetings in the interests of national security and in order to ensure the security of the *Verkhovna Rada*, despite the fact that broadcasting is an integral element of coverage of the *Verkhovna Rada*’s activities and a possibility of indirect access to the *Verkhovna Rada* for the public. It should be noted that in the period from 24 February 2022 to 1 December 2024, there is no document or information on restrictions on the broadcasting of the *Verkhovna Rada*’s sessions.

In fact, an analysis of the transcripts of the *Verkhovna Rada*’s sessions, which were not available during the first months after the start of the Russian Federation’s full-scale armed aggression against Ukraine, shows that information on the announcement of meetings, agendas and broadcasts of the *Verkhovna Rada*’s sessions is limited by the conditional consent of all MPs of Ukraine and at the request of the Speaker of the *Verkhovna Rada*. For example, in the transcript of the *Verkhovna Rada* session of 3 March 2022, the Speaker of the *Verkhovna Rada* asked MPs to publish photos and information about the *Verkhovna Rada* sessions no earlier than 3 hours after the end of the session.¹³ In the transcript of the *Verkhovna Rada* meeting of 15 March 2022, the Chairman of the *Verkhovna Rada* asks MPs to publish any information, photos and videos of the meeting no earlier than 3 hours after the end of the meeting.¹⁴

The practical implementation of the restriction on broadcasting parliamentary sessions raises many questions. Some MPs broadcast video of parliamentary sessions on their TikTok pages, as well as text broadcasts on their Telegram pages, where they publish information not only about adopted or rejected draft laws (name of the draft law, its number, number of votes), but also about the presence of representatives of public authorities at such sessions. This practice became widespread in 2024, which suggests that the logic and legitimacy of such a restriction is violated even among parliamentarians themselves.

¹³ *Verkhovna Rada* of Ukraine. Transcript of the plenary session of the *Verkhovna Rada* of Ukraine. March 3, 2022. Retrieved November 4, 2024, from <https://www.rada.gov.ua/meeting/stenogr/show/7984.html>

¹⁴ *Verkhovna Rada* of Ukraine. Transcript of the plenary session of the *Verkhovna Rada* of Ukraine. March 15, 2022. Retrieved November 4, 2024, from <https://www.rada.gov.ua/meeting/stenogr/show/7983.html>

Activities of the *Verkhovna Rada* of Ukraine Committees

Committees are the main structural unit of the Parliament where the bulk of law-making work is carried out. The requirements for transparency of the activities of the parliamentary committees are the same as for the Parliament. Given the specific characteristics of the committee, it is during their activities that transparency, openness and publicity can achieve the maximum effect of public engagement in the work of the Parliament. After all, when drafting laws, discussing them, introducing amendments, holding roundtables and meetings, public participation is key to influencing the work of the Parliament. As a general rule, draft laws are published on the official website of the Parliament after they are submitted. It is important that the public is informed about the issues under consideration. Therefore, the Parliament should seek to ensure that the public has access to preliminary analysis and background information to facilitate a broad understanding of the political debate on proposed legislation, and the role of committee activities in this regard is central (Organization for Security and Co-operation in Europe Parliamentary Assembly, Commonwealth Parliamentary Association, 2012).

According to Article 3 of the Law “On Committees of the Verkhovna Rada of Ukraine”, one of the principles of the *Verkhovna Rada* committees’ activity is publicity.¹⁵ However, part 1 of Article 9 of the same law, which refers to the coverage of the committees’ activities, mentions not only publicity but also openness as a component of the transparency principle. Such a mistake in rulemaking may have negative consequences in its application, leading to a restriction of the principle of transparency and violations of human rights and freedoms in terms of access to information.

The committees inform the public about their activities, in particular, by publishing the work plan, schedule of committee meetings, acts adopted by the committees, minutes and transcripts of committee meetings and hearings in the committees. Meetings and other events of the committees held in public are open to journalists, media workers and representatives of NGOs.

The Committee of the *Verkhovna Rada* on the Organisation of State Power, Local Self-Government, Regional Development and Urban Planning (hereinafter referred to as the Committee) can serve as an example for our analysis. The agendas of the Committee’s meetings have not stopped being published on the Committee’s official website since 24 February 2022. The peculiarity is that the

¹⁵ *Verkhovna Rada* of Ukraine. “On Committees of the *Verkhovna Rada* of Ukraine”. Law of Ukraine No. 116/95-VR. April 4, 1995. Retrieved April 20, 2025, from <https://zakon.rada.gov.ua/laws/show/116/95-%E2%F0#Text>

agendas are not published in advance, but rather at the beginning of the Committee's meeting. Therefore, in general, the Committee did not apply any restrictions due to the martial law in this regard. As for the announcement of the Committee's meetings, it is worth noting that such information is not available on the official website. Transcripts, as well as audio and video materials of the Committee's meetings, are available and published by the Committee despite the martial law in Ukraine. The Committee's website also contains publicly available materials of its activities, such as conclusions, decisions. It is worth noting that they are published on the same day that the Committee adopted the relevant document. No restrictions on its publicity were applied to this information either.

Instead, we could observe certain restrictions on access to information on the activities of other committees during 2022. In 2023 and 2024, all committees except the Committee on National Security, Defence and Intelligence and the Committee on Law Enforcement have already published their agendas, minutes and transcripts of meetings.

Publication of Adopted Draft Laws

A fundamental and basic component of the Rule of Law is the communication, promulgation or even publication of laws. All legal acts, once adopted by the legislature, must be promulgated and published before they enter into force, as this is a basic requirement of the principles of legality and legal certainty (Venher et al., 2021, p. 152). There can be no compromise on the possibility of neglecting this obligation by the Parliament or any other public authority. Except for laws on national security and territorial integrity, the Constitution and laws may provide for certain specifics regarding the public information on their adoption.

Article 94 of the Constitution of Ukraine clearly regulates the timing and specifics of the official promulgation of adopted laws of Ukraine, as well as their entry into force upon official promulgation. Most of the draft laws considered and adopted by the *Verkhovna Rada* between 24 February 2022 and 31 August 2022 were immediately signed by the Speaker of the *Verkhovna Rada*, sent to the President of Ukraine for signature, and published on the official website of the Voice of Ukraine the day after the President signed them. It is also important to note that most laws came into force the day after their publication.

Such efficiency in terms of the speed of signing and promulgation of most adopted draft laws may be explained by the need to regulate a significant number of legal relations that arose in connection with the martial law regime and the full-scale aggression of the Russian Federation against Ukraine. A novelty in

the publication of adopted draft laws in the activities of the *Verkhovna Rada* was the publication of the text of the adopted draft law signed by the Speaker of the *Verkhovna Rada* before it was signed by the President of Ukraine, despite the absence of relevant requirements in the legislation. For example, the adopted Law of Ukraine “On Amendments to Certain Laws of Ukraine on the Activities of Private Enforcement Officers and the Enforcement of Court Decisions, Decisions of Other Bodies (Officials) during the Period of Martial Law” was returned with the signature of the Speaker of the *Verkhovna Rada* on 1 August 2022 and immediately published on the official website of the *Verkhovna Rada*.¹⁶ However, an analysis of the implementation of these procedures showed that the *Verkhovna Rada* complied with the provisions of the Constitution of Ukraine, the legislation, and the Rule of Law, despite the extraordinary nature of the events in the country.

Certain Issues of the *Verkhovna Rada*’s Activities in the Context of the Principle of Transparency

There are sensitive issues, such as those related to national security and defence, territorial integrity, preservation of the constitutional order, that may be considered at a parliamentary session. Their specificity allows, based on constitutional provisions, to hold closed sessions of parliament, to which the public either has extremely limited access or no access or information at all. However, to prevent abuse of this right, there should be mechanisms, firstly, to define the range of issues on which closed sessions can be held, and secondly, procedures with a high level of complexity for deciding on holding such a session.

Article 84 of the Constitution of Ukraine stipulates that a closed meeting is held by a decision of the majority of the constitutional composition of the *Verkhovna Rada*. The Rules of Procedure detail the relevant provisions in Article 4, which states that closed plenary sessions of the *Verkhovna Rada* to consider certain issues shall be held by a decision of the *Verkhovna Rada* adopted after a shortened discussion by a majority of votes of the MPs from the constitutional composition of the *Verkhovna Rada*. In addition to the persons specified by law, persons additionally designated by the *Verkhovna Rada* may be present at a closed session. In general, these provisions are rarely applied and only in exceptional cases.

¹⁶ *Verkhovna Rada* of Ukraine. “Proposals of the President of Ukraine to the Law ‘On Amendments to Certain Laws of Ukraine on the Activities of Private Enforcement Officers and the Enforcement of Court Decisions, Decisions of Other Bodies (Officials) during the Period of Martial Law’”. Official website of the Parliament of Ukraine, April 26, 2022. Retrieved November 02, 2024, from <https://itd.rada.gov.ua/billInfo/Bills/Card/39503>

The official website of the *Verkhovna Rada* failed to provide information on the presence or absence of closed meetings between 24 February 2022 and 10 October 2022. It is worth noting, however, that most of the restrictions on the principle of transparency in the activities of the *Verkhovna Rada* since 24 February 2022 are in line with the provisions of the Rules of Procedure on closed meetings, despite the absence of a relevant decision of the *Verkhovna Rada* on their application.

Conclusion

The analysis of the general features of the principle of transparency in the activities of public authorities, the study of the presence and implementation of the constituent elements of the said principle in the activities of the *Verkhovna Rada* during the legal regime of martial law in Ukraine, the introduction of which is associated with the full-scale armed aggression of the Russian Federation against Ukraine, allows us to draw the following conclusions:

- a. The principle of transparency in the activities of public authorities is a civilised requirement, stemming from the very essence of the existence of such bodies, allowing the public not only to be informed as much as possible about all aspects of the functioning of public authorities, to create a basis for accountability, but also to be part of the process of work of the relevant bodies through the information they know.
- b. The Rule of Law does not have a separate constituent element (principle) that would correspond to the principle of transparency, but the essence of the principle of legality and legal certainty contains mandatory characteristics that correspond to the principle of transparency. Therefore, there are requirements for public authorities, including the Parliament, to strictly adhere to transparency, openness and publicity in their activities to ensure the legitimacy of decisions made at the highest level.
- c. The Parliament should be guided by general standards and rules to ensure its transparency. However, it also has certain specific features, which are usually defined in the Constitution and other national legal acts. Such requirements are more stringent than those for other public authorities, as the constitutional role of the Parliament is extremely high, which creates additional opportunities for its full and maximum transparency, openness and publicity to avoid secrecy, corporatism and doubts about the legitimacy of its decisions, as well as to ensure public awareness and involvement in its activities.
- d. The Constitution of Ukraine provides for the openness of the *Verkhovna Rada's* sessions and provides for the possibility of holding sessions in

a closed session. The constitutional provisions also guarantee everyone the right to access information. The Rules of Procedure of the *Verkhovna Rada* detail the specifics of transparency, openness and publicity in the activities of the *Verkhovna Rada*. It defines the requirements for openness of meetings, participation of media representatives, announcement of plenary sessions, publication of agendas and decisions adopted by the *Verkhovna Rada*. Thus, the totality of the national legislation allows us to conclude that the principle of transparency in the activities of the *Verkhovna Rada* is enshrined in the law.

- e. The analysis of the key components of the principle of transparency in the activities of the Parliament during the martial law in Ukraine, namely: announcement of plenary sessions of the *Verkhovna Rada*, announcement of the agenda of the session, broadcasting of sessions, activities of the *Verkhovna Rada* committees, publication of adopted draft laws, as well as certain issues of the *Verkhovna Rada's* activities in the context of the principle of transparency, showed that despite the extraordinary circumstances that have arisen in the country, the *Verkhovna Rada* is trying to generally continue to adhere to the principle of transparency in its activities. This is especially true for the publication of adopted decisions, as well as for the transparent activities of the committees.
- f. However, the announcement of sittings, agendas, and broadcasting of sittings were subject to severe restrictions. Members of Parliament are prohibited from publishing any information related to the *Verkhovna Rada's* sittings before and sometime after the end of the session. An assessment of the respective restrictions on the principle of transparency shows that in a certain period, when the threat level was high and the overall security situation was extraordinary, such restrictions could be permissible, but they should also have been based on officially adopted decisions and comply with the law. Currently, these restrictions are still in place, some of them are based on relevant organisational decisions of the parliament, but the assessment of their continued expediency raises some doubts.

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