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**Proposals Regarding the Introduction of Martial Law
for Reasons of State Security and the Underlying
Consequences of Introducing Martial Law.**

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Summary:

A proposal for instituting martial law in Poland, in response to the protest movement there. The document breaks down the powers granted to the government through martial law, and notes that the powers of some government organs will need to be broadened.

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S E C R E T

Copy no. 1.

P R O P O S A L S

regarding the introduction of Martial Law for reasons of state security and the underlying consequences of introducing Martial Law.

1. The PRL [Polish People's Republic] Constitution in article 33, statute 2, states that the "Council of State may introduce Martial Law on part or the entire territory of the Polish People's Republic, if deemed necessary for the protection or the security of the state".

2. It is proposed that the introduction of Martial Law for reasons of state security, which would come about by presenting the appropriate resolutions through the Council of State, be accepted. In that resolution, the scope of territory on which Martial Law is to be binding ought to be emphasized (all the territory of the PRL or, for instance, respective provinces), as well as the day it is to be imposed, and also the extent of the application regulating the statutes of article 237, concerning the universal duty to defend the PRL (for reasons of the following formulation: "At the time Martial Law is in force, it [article 237] shall be used within the scope of obligatory military service, service in civil defense, and service in militarized units, as well as services linked to the enforcement of the codes (statutes concerning the universal duty to defend the PRL) in force in time of war, if the Council of State does not indicate otherwise when introducing Martial Law").

A sample outline draft of the resolutions of the Council of State, concerning the introduction of Martial Law, is presented in attachment No. 1. [\[1\]](#)

3. Due to the lack (among the binding codes of the PRL Constitution, as well as in other statutory acts) of regulations relating to the further consequences of introducing Martial Law, [and] determined to be necessary to guarantee state security under the conditions binding Martial Law, the need arises to take further legal measures restrict the rights of citizens and enlarge the duties of citizens, and also to expand the authority and duties of selected governmental organs, as well as [those of] the state administration and directors of national economic units.

The above, it would appear, should include:

1) in the area of defending the security of the state and public order:

a) the prospects for detaining a citizen [who is] threatening the security of the state or public order for a period of at least 48 hours from the time of detention, without a decision by the court or prosecutor - [but rather] on the basis of administrative decisions by the appropriate organ, such as the Citizens' Militia (that violates the code in article 87, statute 1, of the PRL Constitution, relating to the so-called immunity of the individual);

b) the prospects for introducing restrictions on activities that stir up citizens, with reference to a prohibition of assembly during designated months or during a designated period (such as the introduction of a so-called prohibition against leaving a place of residence [a curfew] and a prohibition on roaming the streets during designated evening hours)-(that violates the code in article 87, statute 1, of the PRL Constitution, relating to the immunity of the individual);

c) the prospects for conducting a search of [someone's] residence beyond the exceptions designated in presently valid statutory codes, including also those on the basis of administrative decisions (that violates the code in article 87, statute 2, of the PRL Constitution, relating to the inviolability of residence);

d) the prospects for introducing censorship on postal delivery and telecommunications correspondence, as well as telephone conversations (that violates the code in article 87, statute 2, of the PRL Constitution, relating to the confidentiality of correspondence);

e) the prospects for introducing expanded supervision and control on the dissemination of every possible means of information and the use of polygraphic devices (that violates the code in article 83 of the PRL Constitution, relating to freedom of speech and press);

f) the prospects for introducing expanded restrictions on activities that incite debates and rallies, marches and manifestations (that violates the code in article 83 of the PRL Constitution, relating to freedoms on this matter);

g) the prospects for suspending the activities of legally existing associations (including trade unions)-(that violates the code in article 84 of the PRL Constitution, relating to the legal guarantee of citizens to organize themselves).

2) in the area of employment rights:

a) the prospects for introducing mandatory work by employees at state-controlled enterprises, hired on the basis of an employee agreement or nomination, appointment, election or co-operative agreement on employment, as well as of designated groups of citizens (such as males between the ages of 18 to 60 years old), who to date have not taken up employment (that violates the code in article 68 of the PRL Constitution, in which there is only mention of the legal right of citizens to employment);

b) the prospects for introducing a ban on strikes (in all forms)-(that violates the decisions contained in the latest so-called social agreement);

c) the prospects for expanding the liability of employees and citizens for violating duties and prohibitions, discussed above under point 3.2a and 3.2b, in the area of criminal code regulations and laws on misdemeanors.

3) in the area of the substantive and procedural criminal code, as well as laws on misdemeanors:

a) the prospects for introducing simpler rules and procedures conducted by the organs of justice and prosecution organs;

□

b) the prospects for introducing more rigorous criminal liability for activities that reveal themselves to be socially perilous or grow after the introduction of Martial Law for reasons of state security.

4) in the area of economic livelihood and supplying citizens with basic day-to-day commodities:

a) the prospects for introducing mandatory supplies to the state of agricultural produce, restricting the trade and the means of processing that produce;

□

b) the prospects for introducing general regulations to provision the population with basic day-to-day commodities.

4.□Taking into account that the needs of state security, during the time Martial Law is in force, as it appears above in point 3, directly or indirectly violate the so-called rights of citizens, and concern expanding the duties of citizens, and also foresees expanding the competence and duties of specific governmental organs, as well as the state administration and the directors of national economic units, the need becomes apparent to work out, accept, assume, and to put forward-before or after introducing Martial Law-among the discussed package of statutory codes (in the form of statutes or directives), fundamental principles of law and order formulated in article 8 of the PRL Constitution, according to which all governmental organs and the state administration act on the basis of statutory codes, and that the strict observance of the laws of the Polish People's Republic is the fundamental duty of every state organ and every citizen.

The above, it would appear, ought to embrace:

1) supplementing the PRL Constitution with a code asserting that at the time Martial Law is in force, as regards the need for the protection or the security of the state, the Council of State may issue directives as valid as statutes that are able to violate the constitutional rights of citizens, as well as to impose specific duties on citizens connected with these needs, and also to set a specific criminal liability for not complying with laws in force at the time Martial Law is in force. Further, [it should] introduce changes in the organization, as well as the range of duties and authority of the leading and territorial governmental organs, of the administration of justice, as well as the state administration and social organizations, as the need arises. Supplementing the PRL Constitution with the above would have the aim of preserving the instrumental principles of the Constitutional codes, and in matters regulated by these codes, in light of article 90 of the Constitution, which in this part states that: "citizens of the Polish People's Republic has a duty to obey Constitutional codes and statutes...".

A sample outline draft of this statute is presented in attachment No. 2;

2) a directive safeguarding the security of the state and public order during the time Martial Law is in force, of which a sample outline draft is presented in attachment No. 3;

3) a directive on employment relations at the time Martial Law is in force, of which a sample outline draft is presented in attachment No. 4;

4) a directive on the administration of justice during the time Martial Law is in force, of which a sample outline draft is presented in attachment No. 5;

5) a directive on provisioning the population at the time Martial Law is in force, of which a sample outline draft is presented in attachment No. 6.

The above drafts were prepared on the basis of draft documents concerning Martial Law in order to defend the state, which had been prepared as a result of executing the orders of the Committee for the Defense of the Homeland, as expressed in the directive of 18 March 1976 on the activities pertaining to improving the state defense system for the years 1976-1980. The attached drafts were not subject to harmonization with interested governmental organs and the state administration.

5.□It is proposed, with relation to the above mentioned problems in points 2-4, to make

decisions regarding the following subjects:

- 1) the form of the legal act concerning the introduction of Martial Law by the Council of State;
- 2) defining, at the time Marital Law is in force, the range of compliance with article 237 of the statutes on the universal duty to defend the PRL;
- 3) the need and prospects for recommending to the PRL Sejm [Parliament] draft statutes on changes to the Constitution of the Polish People's Republic;
- 4) the need to recommend to the Council of State draft directives, emphasizing the further consequences of introducing Martial Law on the above mentioned subjects.

22 October 1980

[\[1\]](#) Not Printed.