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**SPECIFICS OF POLICE PARTICIPATION IN THE OPERATION
OF THE PERMIT SYSTEM DURING MARTIAL LAW**

Олександр Юнін. ОСОБЛИВОСТІ УЧАСТІ ПОЛІЦІЇ В ФУНКЦІОНУВАННІ ДОЗВІЛЬНОЇ СИСТЕМИ В ПЕРІОД ВОЄННОГО СТАНУ. У дослідженні висвітлено підходи науковців та нормативне визначення поняття дозвільної системи, її основних елементів у контексті участі в її функціонуванні Національної поліції України. Вказується, що дозвільну систему можна розглядати в широкому та вузькому розумінні. Також дозвільна система – це певна дозвільна процедура, яка регламентує дії різних учасників суспільних відносин; це специфічна діяльність органів державної влади щодо здійснення контролю за дотриманням спеціальних правил дозвільної системи; дозвільна система є засобом забезпечення реалізації фізичними та юридичними особами конкретних прав на об'єкти, що перебувають у обмеженому користуванні. У статті також наголошується, що адміністративні послуги Національної поліції України у сфері дозвільної діяльності є складовою надання поліцейських послуг, які включають контроль за дотриманням фізичними та юридичними особами правил, передбачених дозвільною системою (зберігання зброї тощо).

Наголошується, що під час воєнного стану повноваження поліції видавати дозволи на придбання, зберігання та носіння мисливської зброї набули актуальності та важливості для відсічі збройної агресії росіян, а іншим важливим напрямком діяльності поліції став облік вогнепальної зброї, особливо на деокупованих територіях. У статті наголошується, що в умовах воєнного стану з метою відсічі збройної агресії російських окупантів лібералізовано порядок отримання громадянами дозволу на придбання, зберігання та носіння мисливської нарізної, гладкоствольної зброї та патронів. При цьому головною особливістю є те, що така лібералізація, яка полягає у скороченні переліку документів, необхідних для отримання дозволу, припиняється після закінчення воєнного стану, оскільки до уповноважених органів все одно потрібно буде подавати весь необхідний пакет документів для отримання дозволу.

Ключові слова: *вогнепальна зброя, дозвіл, контроль, деокупована територія, підрозділи міліції.*

Relevance of the study. The licensing system in Ukraine performs an extremely important controlling role of the state over objects that are potentially dangerous for the state and society, for the environment. It is especially important to control such objects in a state of war, because such a state means that the state and society are under stress due to war and all the calamities that it brings. The National Police of Ukraine, in accordance with the tasks assigned to it and the powers granted, carries out control over the circulation of firearms or cold

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weapons, control over compliance with all the necessary rules at the facilities of the permit system, etc., thereby, in the conditions of martial law, it supports the observance of law and order in the field of operation of the permit system. We believe that all the activities of the police, not only regarding the functioning of the permit system, in times of martial law acquire great importance, therefore we consider the selected issue to be relevant.

Recent publications review. Researchers K. Bakhchev, O. Bezpalova, I. Volokitenko, N. Daraganova, D. Denisyuk, S. Myronyuk, A. Fomenko deal with the specifics of the participation of the National Police of Ukraine in ensuring the functioning of the permit system under martial law. and other.

The research paper's objective is to highlight the peculiarities of the powers of the National Police of Ukraine in the issue of the functioning of the permit system in the conditions of martial law, changes in the relevant regulatory provisions regarding the functioning of the permit system.

Discussion. The question of the definition and content of the permit system is actively considered in the scientific legal literature, as well as the permit system as it is termed in normative legal acts. Among researchers, there is no single point of view on the definition of the concept of the permission system, the latter concept includes a fairly wide range of regulated legal acts of social relations.

When considering the meaning of the concept of the permission system, more researchers use the approach of a broad and higher understanding of the term. F. Finochko, for example, points out that the permit system is a regulated right to the order of manufacture, accounting, use of specially defined objects, materials and substances, opening and functioning of enterprises, workshops and laboratories with the protection of the interests of the state and the safety of citizens (this term almost coincides with the normative definition of the permit system in the Regulation on the permit system, which will be discussed later, although the author did not indicate such an important requirement as the transportation of certain materials, etc., which also requires a special order of legal regulation). At the same time, the researcher points to the requirement to consider the permit system in two aspects. In a broad sense, this is a special procedure for the execution of additional subjects of actions, for which a special permit must be obtained (the right to issue such a permit is vested in other bodies of executive power, among which is also the National Police of Ukraine, which not only supervise compliance with the rules of the permit system, but and itself provides services in the field of obtaining permits). Instead, in a higher sense, the researcher proposes the permission system to extend the participants to the objects that are listed in the provision of the permission system. [3, pp. 47-48; 5, pp. 504-505].

O. Kharitonov, on the other hand, believes that the permit system consists of basic and additional elements that allow it to be considered in a broad sense as a set of legal relations that arise with the aim of ensuring public safety between executive authorities, local self-government bodies, authorized to issue permits, on the one hand (the author refers to this party as permitters), as well as between natural or legal persons (participants), which arise in connection with the possibility of the applicants taking actions aimed at acquiring in a special order certain rights or powers by the applicant, regarding the use of such substances, materials, objects, or engaging in activities that may be dangerous to human life and health or pose a threat to the interests of the state, in the event of the emergence of such legal relations, in the future, control or supervision will be carried out by the permit holder in compliance with the established rules, and in the event of violation of such rules, the guilty will be held accountable. Note that it would be more appropriate to use the term not the acquisition of rights, but their acquisition, since individuals and legal entities receive certain services from the state, rather than purchase them. In a narrow sense, the author notes that in the presence of all the elements listed above, the permit system applies only to a limited range of things, substances, objects of the material world that represent a potential danger [3, p. 48; 17, p. 17].

V. Tkachenko in a broad sense calls the permit system. Regulated by the norms of administrative law, the procedure for obtaining permits by legal entities or natural persons in the bodies of executive power or specially authorized executive bodies of local councils for the implementation of the specified type of economic activity, as well as other actions (types of activities) that require legal or natural persons to obtain permits for their implementation within a specified period, provided that they comply with certain rules. Instead, in a narrow sense, the researcher considers the permit system to be the administrative-procedural activity of internal affairs bodies regulated by administrative and legal norms (the author's work is dated back to

2007, but it is more appropriate to use the term National Police of Ukraine at the moment), as well as other specially authorized bodies for issuing physical or to legal entities, permits to carry out relevant activities or actions in the sphere of circulation of specially defined objects, materials and substances, opening, functioning, suspension and termination of the activities of individual enterprises, workshops and laboratories; supervision of their activities, as well as the application of administrative coercion measures in case of violations of the rules that a natural or legal person undertakes to follow after obtaining a permit [8, p. 29, 37; 16, pp. 250-251]. By the way, regarding the implementation of the permit system by the National Police of Ukraine, A. Fomenko writes that this happens by providing administrative services to individuals and legal entities based on their application.

At the same time, A. Fomenko calls the administrative services of the National Police of Ukraine in the field of the permit system a formally defined, legal, paid public service activity of the structural divisions of the National Police of Ukraine regarding the issuance of permits to individuals or legal entities for the implementation of relevant activities (actions) in the field of circulation of specially defined objects, materials and substances, as well as the opening and functioning of objects of the permit system [16, p. 252]. It should be added that the administrative services of the National Police of Ukraine in the field of permit activity are a component of the provision of police services, which also include control (supervision) of compliance by individuals and legal entities with the rules stipulated by the permit system (storage of weapons, etc.).

It should be noted that in the matter of the content of the concept of the permit system, D. Denysyuk made a valid observation that the activities of individuals and legal entities are related to objects that may pose a potential danger to public safety, life and health of citizens [4, p. 139]. V. Humeniuk also emphasizes that the permit system is related to objects of management, production, acquisition, sale, storage, transportation, use and destruction of objects and substances, the illegal use of which can cause significant damage to the interests of society and the state and directly to life and health of citizens [2, p. 29]. In the conditions of martial law, the control and supervision of such objects is particularly important and relevant, especially in matters of compliance with the rules of the permit system for firearms, explosives, etc. We agree with the opinion of O. Sosnovyuk that the permit system should be considered in three aspects. First, it is a certain permissive procedure that regulates the legal actions of various subjects. Secondly, this system can be considered as a specific activity of authorized state authorities to supervise and control compliance with special rules regarding the objects of the permit system. Thirdly, the permit system can be considered as a means of ensuring the realization of rights by individuals and legal entities regarding objects (objects, materials, etc.) that are in limited use [15, p. 392].

At the legislative level, in the Law of Ukraine "On the permit system in the sphere of economic activity" of 2005, Art. 1 defines the concept of the permit system in the field of economic activity: "a set of relationships regulated by legislation that arise between permit authorities, administrators and business entities in connection with the issuance of permit documents, reissuance, cancellation of permit documents" [11]. At the sub-legal level, in the Regulation "On the Permit System" of 1992, such a system is understood as: a special procedure for the manufacture, acquisition, storage, transportation, accounting and use of specially defined objects, materials and substances, as well as the opening and operation of individual enterprises, workshops and laboratories in order to protect the interests of the state and the safety of citizens [10]. The Regulation also defines the list of objects, materials and substances, enterprises, workshops and laboratories to which the permit system applies, including firearms, melee weapons, pneumatic weapons, explosive materials and substances, potent poisonous substances, pathogens of infectious diseases, toxins, storage facilities, warehouses and bases where they are stored, shooting ranges and shooting ranges, hunting and sports stands, as well as enterprises and workshops for the manufacture and repair of firearms and cold weapons, pyrotechnic workshops, points of study of the material part of weapons, special tools, rules for handling them and their use, stores selling weapons and military supplies for them, organizations engaged in the sale of highly effective poisonous substances, and laboratories that conduct analyzes of these means and substances, work with pathogens of infectious diseases and toxins) [10].

K. Bakhchev, in his research on the peculiarities of the activities of the units of the police permit system, emphasizes the importance of issuing permits by the police for hunting weapons, etc., during a state of war. Police officers of the permit system also carry out

measures to prevent offenses in the field of arms trafficking. Another important area of activity of the units of the permit system of the National Police of Ukraine, the author singles out the accounting of firearms, which was particularly positively affected by the introduction in 2022 of the "Unified Register of Weapons" of the information system of the Ministry of Internal Affairs [1]. The main tasks of controlling the circulation of firearms are assigned in the police to units or sectors of the permit system in the police structure of preventive activities. And coordination takes place through the heads of departments (departments) of preventive police activities. Back in 1998, the Instruction "On the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and cooled weapons, devices of domestic production for firing cartridges, equipped with rubber or metal projectiles with similar properties of non-lethal action, was approved. and cartridges for them, as well as ammunition for weapons, main parts of weapons and explosive materials", which determined the conditions and procedure for issuing and canceling permits for the acquisition, storage, registration, protection, carrying, transportation and use of weapons, devices of domestic production for firing cartridges, equipped with non-lethal rubber or metal projectiles similar in their properties, and cartridges for them, ammunition, other objects, materials and substances, for the storage and use of which special rules and procedures are established and which are covered by the permit system, rules for handling them and their application [9, p. 32; 6] and the participation in this of units of the National Police of Ukraine and its officials.

Among the peculiarities of the permit activity of the National Police of Ukraine during the state of war, it is worth highlighting that after the full-scale aggression of Russia, Ukrainian legislation was liberalized in the matter of simplifying the procedure for citizens to obtain a permit to purchase, store, and carry hunting weapons and cartridges for them. Of course, this step is due to an objective reason in the form of the need to oppose the armed aggression of the russians against the citizens of Ukraine in the status of not only a serviceman of the Armed Forces or in the ranks of other subjects of the security and defense sector, but as a partisan movement of civilians using hunting weapons, many volunteers in the initial stages of a full-scale aggression with hunting weapons were sought by subversive groups of russians deep in the territory controlled by Ukraine.

The regulatory regulation of such liberalization was enshrined in the order of the Ministry of Internal Affairs "On the peculiarities of issuing permits to citizens of Ukraine to purchase, store and carry hunting weapons and cartridges for them during martial law" on March 1, 2022, that is, a few days after the start of a full-scale war. The norms of the order regarding the participation of the National Police in the permit system related only to the issuance of permits to citizens for hunting weapons, and they also apply only during a special period of martial law in Ukraine [13]. At the same time, the order of the Ministry of Internal Affairs "On extending the validity period of permits in the field of circulation of weapons, devices and explosive materials during martial law in Ukraine" on March 18, 2022, was extended for a period of up to 10 days after the termination or cancellation of martial law of already received permits issued in accordance with the Instruction mentioned in the study. Such extension of the validity period of permits will be carried out by authorized units of the National Police of Ukraine at the request of citizens of Ukraine, authorized representatives of legal entities in accordance with the requirements of the Instruction [14].

According to the order of the Ministry of Internal Affairs dated 01.03.2022, the issuance by authorized units of the National Police of Ukraine to citizens of a permit for the purchase, storage and carrying of hunting firearms, smoothbore weapons and cartridges for them began to be carried out upon a written application at the place of residence or stay of the applicant for the issuance of a permit, subject to the presence of a document, ID, and it was necessary to add copies of the pages of the passport of a citizen of Ukraine to the application and, if available, a copy of a military ticket, a copy of a certificate of a member of a public organization for the protection of public order, or a copy of a weapon permit. The permit was granted for the period of martial law, after which the persons had to provide a complete package of documents specified in the 1998 Instructions. During the period of martial law, the following list of circumstances is given that make it impossible to issue permits: being brought to administrative responsibility two or more times during the year according to Art. Art. 173, 174, 190, 191, 193, 194, 195 of the Code of Administrative Offenses, i.e. for systematic violation of the rules stipulated by the Instruction; bringing to administrative responsibility within a year for ch. 2, 3 Art. 130, Art. Art. 44, 1732 KUpAP; availability of information about notification to such a person of suspicion; having an outstanding or unexpunged criminal record for a serious or

particularly serious crime; within a year from the date of entry into force of the court decision on confiscation or paid removal of weapons [13; 1, p. 30].

At the same time, there were also important wartime legislative changes in the issue of police control over circulation and use. In accordance with the law of Ukraine "On ensuring the participation of civilians in the defense of Ukraine", during the period of martial law, civilians were given the opportunity to participate in repelling and deterring the armed aggression of the Russian Federation, including obtaining firearms and ammunition for them in accordance with the procedure and requirements established by the Ministry of Internal Affairs of Ukraine. But civilians had to surrender the received weapons within 10 days of the end of martial law [12]. The use of weapons by civilians during the period of martial law is determined in the Procedure for the use of firearms by civilians during participation in repelling and deterring armed aggression of the Russian Federation and/or other states against Ukraine during the period of martial law, approved March 15, 2022 [7]. But such an application rather refers to the immediate theater of hostilities or the situation when, in the initial stages of the war, firearms were issued to civilians in large cities in the critical need to hold the city from the Russian invaders.

Conclusions. During the conducted research, we came to a number of conclusions:

– The participation of the National Police of Ukraine in the permit system can be conditionally divided into three elements, namely: the provision of administrative services (public service activities of police units) in relation to obtaining permits by individuals and legal entities for carrying out relevant activities (actions) in the sphere of circulation of specially defined items, materials and substances, as well as opening and functioning of objects of the permit system; implementation by authorized units of the National Police of Ukraine of control and supervision of compliance by entities that have received permits to carry out the specified activity with the legislation on the functioning of the permit system; prevention of offenses and bringing to administrative responsibility for violations of the legislation on the functioning of the permit system.

– In the conditions of martial law, in order to repel the armed aggression of the Russian occupiers, the procedure for obtaining a permit for citizens to purchase, store and carry hunting rifles, smooth-bore weapons and their cartridges was liberalized. But the main feature is that such liberalization, which consists in reducing the documents required for obtaining a permit, stops after the end of martial law, since it will still be necessary to submit the entire necessary package of documents to the authorized bodies in order to obtain a permit. Also, under the conditions of martial law, there was an extension of the validity period of permits in the field of circulation of weapons, devices and explosive materials during martial law in Ukraine (for a period of up to 10 days after the termination or cancellation of martial law in Ukraine). In wartime conditions, the control and supervision of compliance by physical and legal entities with the rules stipulated by the permit system (weapons storage, etc.), restoration of weapons records in de-occupied territories, inspection of permit system facilities, etc., became particularly important tasks of the police.

Conflict of Interest and other Ethics Statements

The author declares no conflict of interest.

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виробництва для відстрілу патронів, споряджених гумовими чи аналогічними за своїми властивостями металевими снарядами не смертельної дії, та патронів до них, а також боеприпасів до зброї, основних частин зброї та вибухових матеріалів: затв. Наказом Міністерства внутрішніх справ України від 21.08.1998 № 622. URL : <https://zakon.rada.gov.ua/laws/show/z0637-98#n65>.

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ABSTRACT

The research highlights the approaches of researchers and the normative definition of the concept of the permit system, its main elements in the context of participation in its functioning by the National Police of Ukraine. It is indicated that the permit system can be considered in a broad and narrow sense. Also, the permit system is a certain permit procedure that regulates the actions of various participants in social relations; this is a specific activity of state authorities regarding the implementation of control over compliance with special rules on the permit system; the permit system is a means of ensuring the realization by individuals and legal entities of specific rights to objects that are in limited use. The article also emphasizes that the administrative services of the National Police of Ukraine in the field of permit activity are a component of the provision of police services, which include control over compliance by individuals and legal entities with the rules provided for by the permit system (weapons storage, etc.).

It is emphasized that during the state of war, the authority of the police to issue permits for the purchase, storage and carrying of hunting weapons became relevant and important for repelling the armed aggression of the russians, and another important area of police activity was the accounting of firearms, especially in the de-occupied territories. The article emphasizes that in the conditions of martial law, in order to repel the armed aggression of the russian occupiers, the procedure for obtaining a permit for citizens to purchase, store and carry hunting rifled, smooth-bore weapons and cartridges was liberalized. At the same time, the main feature is that such liberalization, which consists in reducing the documents required for obtaining a permit, stops after the end of martial law, since it will still be necessary to submit the entire necessary package of documents to the authorized bodies in order to obtain a permit.

Keywords: *firearms, permit, control, de-occupied territory, police units.*