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TASKS AND WAYS OF IMPLEMENTING ADMINISTRATIVE SUPERVISION BY THE NATIONAL POLICE UNITS IN THE FIELD OF AUTHORISATION SYSTEM

Abstract. Purpose. The purpose of the article is to determine the tasks and ways of implementing the procedure for administrative supervision by the National Police in the field of the authorisation system as a form of prevention. **Results.** In order to achieve the goal, the article analyses the scientific approaches and perspectives of scholars on understanding the content of the authorisation system. The article characterises the content of administrative supervision of the National Police as a form of prevention in the field of authorisation system. The author identifies the requirements for prevention in the form of administrative supervision and provides the characteristic features enabling to distinguish administrative supervision by the police in the field of authorisation system from other preventive measures. The authorisation system is one of the main means of ensuring public safety, since in its implementation the authorised executive bodies perform rule-making activities by establishing mandatory regulations with purpose of implementing its requirements; perform law enforcement activities; apply coercive measures provided for by law for offenses committed in the field of the authorisation system, and other activities. Administrative supervision in the field of the authorisation system can only exist if there is continuous control of compliance with the rules of the relevant activity, supported by the possibility of applying enforcement measures to persons who violate the established rules of the authorisation system, otherwise such a preventive measure loses its effectiveness. **Conclusions.** In conclusion, the article outlines the tasks and range of measures implemented by the relevant units of the National Police in the course of administrative supervision in the field of the authorisation system. The tasks are realised by the National Police due to a certain range of measures: obtaining complete information about the object of supervision for its initial inspection; full implementation of information and analytical measures on the data obtained; making appropriate competent decisions based on the results of these measures; systematic inspection of facilities in order to identify possible cases of violation of the rules of the authorisation system; taking actions to implement decisions made during supervision to prevent offenses in this field and applying legal liability to offenders.

Key words: National Police, preventive measures, authorisation system, prevention.

1. Introduction

The formation of Ukraine as a state governed by the rule of law, democracy and, undoubtedly, socialism, allowing for the provision of the Constitution of Ukraine that recognises a person, his or her life, honour and dignity as the highest value, requires certain steps to ensure the protection of rights, freedoms and interests guaranteed to people by the State. Therefore, facilitating an enabling environment for the proper protection of these rights and freedoms is one of the main tasks of modern Ukraine. Taking into account the armed aggression of the Russian

Federation against the sovereignty of Ukraine, the introduction of the legal regime of martial law on the territory of our country from February 24, 2022, Law of Ukraine "On ensuring the participation of civilians in the defence of Ukraine" No. 2114-IX of March 03, 2022 (Law of Ukraine On ensuring the participation of civilians in the defence of Ukraine, 2022) was adopted, as well as Order of the Ministry of Internal Affairs of Ukraine No. 175 of March 07, 2022, which established the " Procedure for obtaining firearms and ammunition by civilians who participate in repelling and deterring armed

aggression of the Russian Federation and/or other states" (Order of the Ministry of Internal Affairs of Ukraine approving the Procedure for obtaining firearms and ammunition by civilians who participate in repelling and deterring armed aggression of the Russian Federation and/or Other State, 2022).

Based on the provisions of these legal regulations, in order to create conditions and opportunities to protect human life and health, honour and dignity, inviolability and personal security, civilians are granted the right to participate in repelling and deterring the armed aggression of the Russian Federation by obtaining firearms and ammunition.

This situation leads to an increased demand of civilians to exercise their right to obtain firearms and hunting firearms and, accordingly, the authorisation system.

On May 25, 2022, on the initiative of the Minister of Internal Affairs of Ukraine, a nationwide survey on the free possession of firearms was launched in the Diia app, according to which the votes of the participants were distributed as follows: for special needs – 19.43%, for personal protection – 58.75%, against the right to own firearms – 21.82% (Social News, 2022).

Therefore, the process of administrative supervision by the National Police of Ukraine in the field of the authorisation system becomes increasingly relevant in order to avoid cases of non-compliance with the prescribed rules for obtaining permits for firearms and ammunition, storage and handling of firearms and hunting firearms and ammunition, cold steel, explosive materials and substances.

The theoretical basis for the study of tasks and procedures for prevention of the National Police in the field of authorisation system is the works by scholars such as: V.B. Averianov, O.M. Bandurka, D.M. Bakhrakh, Yu.P. Bytiak, V.A. Humeniuk, O.V. Dzharova, S.V. Kivalov, A.T. Komziuk, S.O. Kuznichenko, V.P. Petkov, S.O. Shatrava, Yu.S. Shemshuchenko, and others.

The purpose of the article is to determine the tasks and ways of implementing the procedure for administrative supervision by the National Police in the field of the authorisation system as a form of prevention.

2. The concept and essence of administrative supervision by the National Police units in the field of authorisation system

The study of the issue of administrative supervision in the field of authorisation system as a form of prevention of the National Police of Ukraine requires to reveal the concept of the authorisation system in the current legislative acts and to reviews works by administrative law scholars.

According to clause 1 of the Regulation on the Permit System, approved by Resolution of the Cabinet of Ministers of Ukraine No. 576 of October 12, 1992, the authorisation system is a special procedure for the manufacture, acquisition, storage, transportation, accounting and use of specially designated items, materials and substances, as well as the opening and operation of certain enterprises, workshops and laboratories in order to protect the interests of the state and the safety of citizens (Resolution of the Cabinet of Ministers of Ukraine on approval of the Regulation on the permit system, 1992).

O.V. Kharytonov characterises the authorisation system in a broad sense as a certain set of legal relations arising in order to ensure public safety between state executive authorities, local self-government bodies authorised to issue permits on the one hand (permittee), and individuals or legal entities on the other (applicant), the possibility for the latter to perform actions aimed at acquiring certain rights or powers by the applicant in a special procedure, regarding the use of such substances, materials, objects, or engaging in activities that may be dangerous to human life and health, threaten the public interest, with subsequent control and supervision by the permittee of compliance with the established rules, as well as bringing the perpetrators (in presence of the grounds) to the liability established by law (Kharytonov, 2004).

In his study, S.V. Didenko argues that the authorisation system in the field of firearms circulation is a special administrative law institution defined by administrative law provisions, which determines for legal entities a narrow legal "corridor" for issuing permits for the right to acquire, store, carry, transport certain types of firearms, as well as design, construction, opening and operation of facilities where firearms are stored or used, and a clear (permissive) list of possible and necessary variable actions for legal entities (Didenko, 2016).

A.T. Komziuk considers the authorisation system in two aspects. A broad understanding of the authorisation system implies a special procedure for various entities to perform any actions that require a special permit. The authorisation system in the narrow sense applies only to the objects listed in the Regulations on the authorisation system (Bandurka, 2000, p. 194).

The authorisation system is one of the main means of ensuring public safety, since in its implementation the authorised executive bodies perform rule-making activities by establishing mandatory regulations with purpose of implementing its requirements; perform law enforcement activities; apply coercive measures

provided for by law for offenses committed in the field of the authorisation system, and other activities. The author argues that the authorisation system is a specific form of activity of the entire state administration apparatus, and not its separate part or area (Kharytonov, 2004).

One of the elements of the proper functioning of the authorisation system is the activities of entities authorised to control the compliance with the rules of the system established by the state, in our case, it is the administrative supervision of the National Police.

In accordance with the current legislation, the public administration in the field of firearms circulation and use in Ukraine grants permits, carries out licensing, control and supervision, establishes prohibitions, authorises certain actions, and applies coercion. Therefore, the type of legal support in this field is the so-called type of special permit, which provides for the possibility to carry out only those actions that are expressly authorised by law (Didenko, 2016, p. 11).

Therefore, the authorisation system in the field of firearms circulation has a preventive purpose to prevent accidental or intentional use of firearms by unauthorised persons, to prevent encroachments on human life and health, to ensure public order, protection of property rights, public interest of the state and society by regulating the issuance, revocation, re-issuance of various permits and licenses in this field; establishing a list of full powers of public administrators to issue, revoke, re-issue various permits; preventing illegal firearms trafficking; establishing the procedure for handling firearms, including their storage, registration and carrying; regulating the procedure for actions in case of their sudden loss; preventing their unjustified use; preventing encroachments with their use; establishing and applying administrative liability for violation of permitting rules and creating conditions for bringing to criminal responsibility those who have committed criminal offenses in this field (Didenko, 2016).

3. Particularities of administrative supervision by the units of the National Police in the field of the authorisation system

An important element of the prevention of the National Police in the field of the authorisation system is administrative supervision over its proper functioning, namely over the objects of the authorisation system.

Instruction No. 622 of August 21, 1998 stipulates that the police supervise compliance with the rules of the authorisation system by officials of ministries and other central executive authorities, enterprises, institutions, organizations and citizens by inspecting the objects

of the authorisation system and approving the conclusion of labour contracts for work, related to the manufacture, acquisition, storage, accounting, protection, transportation and use of specially designated items and materials, by taking measures to prevent and deter violations of the authorisation system rules, as well as bringing the perpetrators of offenses to legal liability in accordance with the procedure established by law (Order of the Ministry of Internal Affairs on the approval of the Instructions on the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and cooled firearms, devices of domestic production for firing cartridges, equipped with rubber or metal projectiles with similar properties of non-lethal action, and cartridges for them, as well as ammunition for firearms, main parts of firearms and explosive materials, 1998).

The legislation introduces a number of basic requirements for preventive measures of the National Police, including administrative supervision in the field of authorisation system, which shall be

- legal, i.e., defined by law;
- necessary, for the proper implementation of the preventive measure;
- proportionate, i.e., the harm caused by the preventive measure does not exceed the benefit to which it is applied;
- effective, i.e., its application ensures the exercise of police powers (Law of Ukraine On the National Police, 2015).

As a preventive measure, administrative supervision in the field of the authorisation system has a special character and importance among the tasks and powers of the National Police. This preventive measure has the features of comprehensive activities of the relevant entity and is part of a separate area of activities of the National Police to prevent offenses and their negative consequences.

The tasks of the authorisation system of internal affairs bodies shall be implemented by the National Police through its structural units: – authorised unit for firearms control of the central police management body (hereinafter referred to as the CPMU); – authorised unit for firearms control and the authorisation system of the General Directorate of National Police in the Autonomous Republic of Crimea and the city of Sevastopol, regions and the city of Kyiv (hereinafter referred to as the GDNP); – territorial (separate) police units in districts, cities, districts in cities (hereinafter referred to as territorial police units) (Order of the Ministry of Internal Affairs on the approval of the Instructions on the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and cooled

firearms, devices of domestic production for firing cartridges, equipped with rubber or metal projectiles with similar properties of non-lethal action, and cartridges for them, as well as ammunition for firearms, main parts of firearms and explosive materials, 1998).

With regard to administrative supervision in the field of the authorisation system, it should be noted that it can only exist if there is continuous control of compliance with the rules of the relevant activity, supported by the possibility of applying enforcement measures to persons who violate the established rules of the authorisation system, otherwise such a preventive measure loses its effectiveness. According to V.A. Humeniuk, the main way to ensure compliance with the rules of the authorisation system is public control, which includes preliminary inspection of facilities before issuing the relevant permits (licenses), subsequent systematic inspections of these facilities, verification and admission of persons to work with objects and substances subject to the authorisation system, subsequent control of their activities, as well as accounting of these facilities. The main methods used by the internal affairs authorities in implementing the authorisation system are persuasion and coercion. With regard to the importance of persuasion in ensuring compliance with the rules of the authorisation system, the focus should be on the analysis of administrative coercion measures (prohibition of certain types of activities, closure of facilities, revocation or suspension of permits (licenses), orders to eliminate violations of certain rules, prohibition of certain individuals to work at facilities, etc.), since their application is associated with restriction of the rights of citizens and legal entities (Humeniuk, 1999).

Given the special nature of administrative supervision of the police in the field of authorising, this area of prevention of the police has specific features that separate it from other powers in law enforcement.

Firstly, the activities of the administrative supervisor are of a preventive (warning) nature,

aimed at preventing the commission of offenses rather than eliminating their negative consequences, although such supervision may result in enforcement measures as a result of violations of the rules established by the authorisation system.

Secondly, the activities of the administrative supervisor to verify compliance with the rules of the authorisation system are proactive, but do not require the consent of individuals or legal entities that are parties to relations in the field of the authorisation system (revocation of a license, seizure of an object of the authorisation system, etc.)

Thirdly, the parties to legal relations regarding the implementation of administrative supervision in the field of the authorisation system is regulated at the level of laws and regulations.

Fourth, the existence of a special object of administrative supervision, which, at the level of a regulation, includes items that are withdrawn from civilian circulation fully or in part, which, accordingly, requires the functioning of the authorisation system for the purpose of their legal and safe use and application.

4. Conclusions

Therefore, the main task of such administrative supervision is to identify possible violations, to prevent their consequences and eliminate shortcomings in functioning of the authorisation system, to establish conditions and causes that contribute to possible violations in the field of the authorisation system.

The National Police realises the outlined tasks through a number of measures: - obtaining complete information about the object of supervision for its initial inspection; - full implementation of information and analytical measures on the data obtained; - making appropriate competent decisions based on the results of these measures; - systematic inspection of facilities in order to identify possible cases of violation of the rules of the authorisation system; - taking actions to implement decisions made during supervision to prevent offenses in this field and applying legal liability to offenders.

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ЗАВДАННЯ ТА ШЛЯХИ РЕАЛІЗАЦІЇ АДМІНІСТРАТИВНОГО НАГЛЯДУ ПІДРОЗДІЛАМИ НАЦІОНАЛЬНОЇ ПОЛІЦІЇ У СФЕРІ ДОЗВІЛЬНОЇ СИСТЕМИ

Анотація. Мета. Мета статті полягає у визначенні завдань та шляхів реалізації процедури здійснення адміністративного нагляду Національною поліцією у сфері дозвільної системи як форми превентивної діяльності. **Результати.** У статті з метою досягнення поставленої мети здійснюється аналіз наукових підходів та позицій учених на розуміння змісту дозвільної системи. Характеризується зміст адміністративного нагляду Національної поліції як форми превентивної роботи у сфері дозвільної системи. Визначено вимоги, що висуваються до такої превентивної діяльності, як адміністративний нагляд, наведено характерні ознаки, які дають можливість виділити здійснюваний поліцією у сфері дозвільної системи адміністративний нагляд з-поміж інших превентивних заходів. Дозвільна система є одним з основних засобів забезпечення суспільної безпеки, оскільки у разі її здійснення повноважні органи виконавчої влади реалізують нормотворчу діяльність за допомогою встановлення загальнообов'язкових розпоряджень, спрямованих на втілення в життя її вимог; здійснюють правозастосовну діяльність; застосовують за вчинені у сфері дозвільної системи правопорушення передбачені законом примусові заходи, здійснюють іншу діяльність. Адміністративний нагляд у сфері дозвільної системи може існувати лише за умови безперервного контролю за дотриманням правил відповідної діяльності, підкріпленого можливістю застосування примусових заходів до осіб, які порушують встановлені правила дозвільної системи, інакше такий превентивний захід втрачає свою ефективність. **Висновки.** Як висновок, окреслено завдання та коло заходів, які реалізуються відповідними підрозділами Національної поліції в ході адміністративного нагляду у сфері дозвільної системи. Завдання реалізуються Національною поліцією завдяки визначеному

колу заходів: отриманням повної інформації стосовно об'єкта нагляду для його початкової перевірки; детального провадження інформаційно-аналітичних заходів щодо отриманих даних; прийняття за результатами цих заходів відповідних компетентних рішень; систематичного обстеження об'єктів з метою виявлення можливих випадків порушення правил дозвільної системи; провадженням дій щодо реалізації прийнятих у ході нагляду рішень для попередження правопорушень у цій сфері та застосування інституту юридичної відповідальності до правопорушників.

Ключові слова: Національна поліція, превентивні заходи, дозвільна система, превентивна діяльність.

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