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## DIRECTIONS FOR IMPROVING LEGAL AND REGULATORY FRAMEWORK FOR VOLUNTEERING UNDER MARTIAL LAW IN UKRAINE

**Abstract. Purpose.** The purpose of the article is to study the current state of affairs and identify the directions for improving the legal and regulatory framework for volunteering under martial law, allowing for the current legislative work in the relevant field. **Results.** The author studies the state of affairs and identifies the ways to improve the legal and regulatory framework for volunteering under martial law in Ukraine. The experience of volunteering demonstrates the charitable nature of work. The desire to help is one of the basic human distinguishing features. The ability and skill to be useful by demonstrating one's professional qualities sometimes overlap with career interests. The author emphasises that the level of development of volunteering is one of the factors contributing to the development of democracy in a country, while the State, relying only on its own institutions and resources, without involving the broadest segments of society, is unable to cope with the variety of problems arising in the world, especially in times of war. The author states that the beginning of military aggression against Ukraine on February 24, 2022, caused and revealed a number of global problems and consequences which the volunteer movement, having become the all-Ukrainian and international, helps public administration entities address, which requires the State to properly regulate volunteerism. Relying on the provisions of current legislation and the achievements of administrative law science, the author examines the provisions of the Draft Law of Ukraine amending the Law of Ukraine "On Volunteering". The authors formulate own perspectives on expanding and clarifying the terminology of the proposed directions for volunteer assistance, namely, on consolidating them as universal, independent of situational features (aggressor, place of its conduct, etc.) **Conclusions.** The author emphasises the gaps in legislative regulation and legislative work in this field in terms of legalising volunteer movements, their interaction with local public administration bodies, organising control over volunteerism, spending and using volunteer assistance, introducing an objective assessment of the quality of volunteer assistance, etc.

**Key words:** volunteering, volunteer, volunteer assistance, directions for volunteer assistance, volunteer movement.

### 1. Introduction

The outbreak of military aggression against Ukraine, the introduction of martial law on its territory on February 24, 2022, and a full-scale war resulted in human casualties, extensive material damage, including damage to citizens' homes and critical infrastructure, logistical problems, lack of logistical support

for the military and territorial defence forces, and the emergence of internally displaced persons. The state authorities and local governments cannot solve them in full, which has led to the emergence of a more powerful volunteer movement with new areas of activities, such as medical or psychological assistance, help with children, pets, financial, logistical and other

assistance, finding housing for displaced people both in Ukraine and abroad, etc. Since volunteering is subject to legislative regulation, there is an urgent need to respond to the changes that have taken place in the provision of volunteer assistance, protection of volunteers, and support from the public administration. In response to such changes, Draft Law "On Amendments to the Law of Ukraine "On Volunteering" regarding support for volunteerism" No. 7363 of May 10, 2022 was developed to promote the development of the volunteer movement in Ukraine. Though the importance and necessity of this document cannot be diminished, it should be noted that some of its provisions need to be improved, while others require to be additionally regulated.

It should be emphasised that the issues of charitable activities in general and volunteerism in particular have been under focus in legal science in the works by O. Akimov, V. Bocharov, V. Voronov, B. Vulfov, V. Vashkovych, O. Hlavnyk, T. Druzhchenko, N. Ivchenko, R. Larsen, V. Petrovych, Y. Polishchuk, N. Romanov, R. Serbin, K. Sydorenko and others. However, these scientific works cover the outlined issues in the context of studying more substantive issues, and, as a rule, do not consider the specificities of these activities under martial law.

The purpose of the article is to study the current state of affairs in and to identify the directions for improving the legal and regulatory framework for volunteerism under martial law, allowing for the current legislative work in this field.

## 2. Legal and regulatory framework for volunteering in Ukraine

Today, the formation and development of civil society in our country is closely linked to the activation of civil institutions that have a resource that is not available to public authorities and commercial entities. This resource is volunteerism. Volunteering, in its various manifestations, is an inherent sign of the times, especially in modern conditions. Various social projects, natural disasters and humanitarian problems that have been constantly arising lately, a number of factors related to the development of the country's economy – all this makes volunteer work very popular. Every day we have to deal with many problems, some of which we can solve on our own, and some of which we need help with. People give and receive help every day, whether it is support or just approval. It is especially needed by those who are in a difficult life situation.

Volunteers are motivated by the desire to participate in solving a socially significant problem. Free expression of will can be called

the main factor underlying the development of civil society. Therefore, this sector of human activities is primarily aimed at solving social problems by people themselves, united by common interests and goals. Therefore, the role of volunteerism in the development of civil society and the social economy, in particular in the development of social innovations, which are now widely expected to overcome the crisis and further develop the country, cannot be overestimated.

Therefore, volunteerism is of a public nature. According to V.V. Vashkovych, in understanding the concept of "volunteering", the legislator has not fully considered the factor of public coverage, which is an important and necessary feature for its definition, and proposed to define such activities as "voluntary, socially oriented, non-profit activities implemented in civil society, carried out by volunteers through the provision of volunteer assistance" (Vashkovych, 2018, p. 5).

The experience of volunteering demonstrates the charitable nature of the work. The desire to help is one of the basic human distinguishing features. The ability and skill to be useful by demonstrating one's professional qualities sometimes overlap with career interests. As a result, the volunteer movement, based on high and noble goals, is now a trend at the societal level. Volunteers come to the aid of victims of war, earthquakes, fires and floods, provide assistance to the disabled and elderly, etc., and are increasingly reported in the media.

Volunteerism is a powerful social movement that has its own organisations in all countries of the world, which has long outgrown national borders and the scope of volunteer labour, and year by year the work of volunteers is becoming an increasingly important resource for the development of the global economy (Liakh, Bezpalko, Zaveriko, Zvierieva, Zimovets, 2001, p. 139). The level of development of volunteerism is one of the factors contributing to the development of democracy in a country. International practice reveals that the State, relying only on its own public institutions created exclusively by itself, without involving the broadest segments of society, is unable to cope with the variety of problems arising in the world.

The volunteer movement, as evidenced by the experience of European countries develops within the so-called third sector. Governments of many countries use the resource of volunteering by financing its projects to implement state programs regarding support for youth, to solve social problems. The coordinator for participation in international volunteer programs is the European Volunteer Service (EVS), which

selects the project, sends and receives organisations, helps prepare all the necessary documents for participation in the program and opening visas (Official website of the European Voluntary Service, 2020). Volunteerism has no religious, racial, age or even political boundaries. Numerous transnational platforms and networks of volunteer non-profit organisations engage hundreds of millions of people annually in their projects and programs (Dutchak, 2007, p. 92).

As with any phenomenon that becomes widespread and massive, the volunteer movement is based on a legislative framework. Legal regulations on this issue were adopted first in individual countries and later at the international level. The most illustrative is the position of the General Assembly, which, allowing for the Recommendations of Economic and Social Council resolution 1997/44 of July 22, 1997, at its 52nd session, adopted the following decisions on the spread of the volunteer movement:

- to encourage Governments, as well as volunteer organisations public, governmental and non-governmental organisations to cooperate;
- to outline ways to improve the work, cooperation and popularisation of activities;
- to develop a program of work (the united organisation of volunteers) (Vainola, Kapska, Komarova, 2002).

The UN General Assembly Resolution 55/57 of September 24, 2002 strongly encourages all governments to promote the development of volunteerism.

Both the State and entire society are interested in volunteerism, which is reflected in the adoption of appropriate measures to promote volunteering.

In Ukraine, volunteerism relations are regulated by a number of legal instruments, the main of which is Law of Ukraine "On Volunteering" No. 3236-VI of April 19, 2011 (Law of Ukraine On Volunteering, 2011). Volunteering is defined as a form of charity, voluntary, socially oriented, non-profit activities carried out by volunteers through the performance of work, provision of services free of charge by volunteers (volunteer assistance).

Since the adoption of this Law, eight laws of Ukraine have been adopted to amend and supplement it. Unfortunately, there have been repeated cases of legislators reacting to solve problems in this field rather than preventing them. For example, in 2015, the trends in volunteering in the area of the operation and measures to counter the armed aggression of the Russian Federation in Donetsk and Luhansk regions were expanded, but it was not taken into account that after a short period of time the Anti-Terrorist Operation turned

into a Joint Forces Operation. Subsequently, the obligation to pay a one-time financial assistance in case of a volunteer's death or disability received in this area was established, etc.

Currently, a new major problem has arisen in Ukraine, which has led to a sharp intensification of the volunteer movement and, as a result, has exposed new flaws and gaps in the legal and regulatory framework for volunteering. On February 24, 2022, in connection with the military aggression of the Russian Federation against Ukraine, martial law was introduced by Presidential Decree No. 64/2022, initially for a period of 30 days, and later extended several times and continues to this day. The following areas of volunteering have gained urgency, importance and expansion: logistical assistance to military personnel and territorial defence forces, search and purchase of medicines, humanitarian aid, its delivery to the areas of military operations and liberated settlements, free accommodation of internally displaced persons due to the loss of housing, its restoration, repair, installation of windows, etc. According to research, almost every second Ukrainian is or has been involved in volunteer assistance, not to mention the assistance of most countries in the world in these activities. In Ukraine, the volunteer movement has reached an unprecedented level. The war has made significant adjustments to the processes of volunteering, which, unfortunately, again require an appropriate response from the legislator after the fact.

According to experts, the main ones as of 2020 were as follows.

- lack of financial support for volunteering from the state: the Budget Code of Ukraine does not contain provisions to support public initiatives in the field of volunteering and, as a result, there are no expenditures in the state and local budgets for it;
- lack of a state targeted program to promote volunteering;
- age restrictions on persons engaged in volunteerism and a low level of children's involvement in it;
- lack of state support for persons engaged in volunteerism in the form of compensation for daily expenses of volunteers (engaged by local governments) and travel expenses to the place of volunteering;
- low level of involvement of Ukrainian and international volunteers in working with executive authorities and local self-government bodies, etc. According to reform experts, the main reason for this is the lack of an effective mechanism for interaction between volunteers and public officials [7].

### 3. Directions for improving the legal and regulatory framework for volunteering in Ukraine

In order to overcome these and other challenges in the context of armed aggression against Ukraine, people's deputies developed Draft Law of Ukraine "On Amendments to the Law of Ukraine "On Volunteering" to support volunteerism" No. 7363 of May 10, 2022 [8]. The main positions of this draft law are as follows: to expand the areas of volunteering in times of war in order to overcome the consequences of the military aggression of the Russian Federation against Ukraine; to identify forms of state support for volunteerism in the form of: a) legal, financial, organisational, methodological, and informational assistance to volunteers, specialised organisations and institutions; b) development and implementation of nationwide targeted programs to support the development of volunteering and volunteer training, etc.; volunteer training; extension of the payment of one-time financial assistance in case of death or disability to volunteers engaged in activities to counter the armed aggression of the Russian Federation throughout Ukraine and its individual localities. Obviously, one of the challenges for the volunteer movement today is the need to ensure at least relative physical safety for volunteers. However, almost every day in the news feed we read stories of volunteers who, under fire, risk their lives and health to deliver humanitarian supplies to people who need food, water, medicine and are unable to provide for themselves. Unfortunately, many of the volunteers are killed, maimed and injured in the course of their mission. Therefore, the aforementioned provision in the law shall contribute to the social protection of volunteers and their families (Kakhnova, 2022).

The Committee on Human Rights, De-occupation and Reintegration of the Temporarily Occupied Territories in Donetsk and Luhansk Regions and the Autonomous Republic of Crimea, the City of Sevastopol, National Minorities and Interethnic Relations, the Committee on Social Policy and Protection of Veterans' Rights, the Main Legal Department of the Verkhovna Rada of Ukraine, central executive authorities, other institutions and organisations made many professional and reasonable suggestions and comments on this legislative initiative (Draft Law of Ukraine On Amendments to the Law of Ukraine "On Volunteering and Support for Volunteering", 2022). We would like to express own thoughts on this draft law.

Primarily, the focus should be on the expansion of the areas of volunteer assistance. *First*,

"providing citizens who have suffered as a result of an emergency of a man-made or natural nature, a special period, legal regimes of emergency or martial law, the anti-terrorist operation, the Joint Forces Operation, measures to ensure national security and defence, resistance and deterrence of the armed aggression of the Russian Federation against Ukraine, as a result of social conflicts, accidents, as well as victims of criminal offenses, refugees, and internally displaced persons". We believe that specification and linkage to the cases of providing such assistance in the form of the Joint Forces Operation, implementation of measures to resist and deter the armed aggression of the Russian Federation against Ukraine are unnecessary, as they narrow the scope of the law, are not universal and do not provide for a possible change of the aggressor country, the name of the special operation, etc. In this regard, we propose to exclude the words "the Russian Federation" from the article so that volunteer assistance can be provided regardless of who the aggressor country is. The same rationale can be applied to another area, "providing volunteer assistance to the Armed Forces of Ukraine, other military formations, law enforcement agencies, public authorities during a special period, the legal regime of a state of emergency or martial law, the anti-terrorist operation, the Joint Forces operation, the implementation of measures to ensure national security and defence, resistance and deterrence of the armed aggression of the Russian Federation against Ukraine", where we also consider such clarifications unnecessary. *Second*, with regard to the provision of volunteer assistance to overcome the consequences of a fire, natural disaster, catastrophe, hostilities, terrorist act, armed conflict, or temporary occupation, it should be noted that it duplicates the existing provisions of the Law. It is proposed to remove the phrase "fire, natural disaster, catastrophe" since these grounds are already provided for by the Law in Article 1, Part 3, subparagraph 7, in the form of "consequences of emergency situations of man-made or natural nature". *Third*, we believe that the proposed area of "providing volunteer assistance for the restoration of Ukraine after the armed aggression of the Russian Federation against Ukraine" contains the phrase "restoration of Ukraine", which contradicts the principle of legal certainty and covers the previous areas of volunteering. Therefore, it is proposed to clarify that such assistance should be directed to the restoration of critical infrastructure (in accordance with the provisions of the Law of Ukraine "On Critical Infrastructure"), removing the phrase "the Russian Federation against Ukraine". *Fourth*, an area,

"providing volunteer assistance to overcome the consequences of the armed aggression of the Russian Federation against Ukraine," should be excluded, as it repeats the provisions of the previous areas of volunteering as providing assistance to overcome the consequences of hostilities, terrorist acts, armed conflict, and temporary occupation."

In addition, we believe that some provisions of the draft law require clarification of terminology. In particular, it is proposed to establish a rule according to which "State and local authorities and their officials shall facilitate an enabling environment for volunteering, increase its public prestige...". We believe that the term "social prestige" is more appropriate in this context, as it is more stable and relevant. Its definition can be found in encyclopaedic dictionaries. This is "the recognition of the special social significance and value of a particular phenomenon based on its correlation with the system of norms and values characteristic of a given social community. A highly valued phenomenon is endowed with special attractiveness, desirability, and is the source of certain feelings, intentions, and actions of people, including the desire for recognition, approval of the existing social status, and identification with a particular social community. Prestige is manifested in the prestigiousness of certain objects. Prestige is a regulator of social behaviour and has an impact on the decisions of actors of a particular group in the community, leading to its special attractiveness and desirability" (Semigin, Ivanov, 2003).

Unfortunately, the draft law under consideration does not cover other equally important directions for the legal and regulatory

framework for volunteering in Ukraine: legalisation of volunteer organisations, guarantees of combining volunteerism with the main place of work, interaction of volunteer organisations with local public administration bodies, organisation of control over volunteering, spending and use of volunteer assistance, introduction of objective assessment of the quality of volunteer assistance, stimulation of volunteer movements, regulation of competitive procedures among volunteer organisations, etc.

#### 4. Conclusions

Today, state authorities and local governments, relying only on their own organisational structures and material resources, are unable to cope with the variety of problems arising from the military aggression against Ukraine without the involvement of the broadest segments of the population, including those formed in the form of volunteer movements. The attempts of lawmakers to regulate new social relations caused by the needs of today, in the form of the adoption of the Draft Law of Ukraine "On Amendments to Law of Ukraine "On Volunteering" to support volunteerism" No. 7363 of May 10, 2022, will certainly contribute to positive changes in this field, but only partially.

This Project needs to be finalised in terms of identifying new areas of volunteer assistance, facilitating an enabling environment for its implementation, raising its social prestige, supporting and encouraging volunteerism in Ukraine, as well as additional legal and regulatory framework for the legalisation of volunteer movements, their interaction with local public administration bodies, organisation of control over volunteering, spending and using volunteer assistance received, objective assessing the quality of volunteer assistance, etc.

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## НАПРЯМИ ВДОСКОНАЛЕННЯ ПРАВОВОГО РЕГУЛЮВАННЯ ВОЛОНТЕРСЬКОЇ ДІЯЛЬНОСТІ В УКРАЇНІ В УМОВАХ ВОЄННОГО СТАНУ

**Анотація. Мета.** Мета статті – розглянути сучасний стан та визначити напрями удосконалення правового регулювання волонтерської діяльності в умовах воєнного стану з урахуванням діючої натеper законопроектної роботи у цій сфері. **Результати.** Розглянуто сучасний стан та визначено напрями удосконалення правового регулювання волонтерської діяльності в Україні в умовах воєнного стану. Досвід волонтерської діяльності показує благодійну спрямованість роботи. Прагнення допомогти – одна з базових людських відмінностей. Можливість та вміння бути корисним, виявляючи свої професійні якості, часом перетинаються з кар'єрними інтересами. Наголошується, що рівень розвитку волонтерства є одним із факторів, що сприяють розвитку демократії в країні, а держава, спираючись лише на власні інституції та ресурси, без залучення найширших верств суспільства не здатна впоратися з різноманітністю проблем, що виникають у світі, особливо під час війни. Констатується, що початок військової агресії проти України 24 лютого 2022 року спричинив та виявив низку глобальних проблем та наслідків, з якими суб'єктам публічної адміністрації допомагає впоратися волонтерський рух, який отримав масштаби всеукраїнського та міжнародного, що вимагає від держави належного правового регулювання волонтерської діяльності. На основі положень чинного законодавства, досягнень науки адміністративного права розглянуто положення Проекту Закону України, якими вносяться зміни та доповнення до Закону України «Про волонтерську діяльність». Висловлено власні міркування стосовно розширення та уточнення термінології запропонованих напрямів надання волонтерської допомоги, а саме щодо закріплення їх як універсальних, які б не залежали від ситуативних особливостей (суб'єкта агресії, місця її здійснення тощо). **Висновки.** Наголошено на прогалинах законодавчого регулювання та законопроектної роботи у цій сфері в частині легалізації волонтерських рухів, їх взаємодії з місцевими органами публічної адміністрації, організації контролю за волонтерською діяльністю, витрачанням та використанням отриманої волонтерської допомоги, запровадженням об'єктивного оцінювання якості надання волонтерської допомоги тощо.

**Ключові слова:** волонтерська діяльність, волонтер, волонтерська допомога, напрями надання волонтерської допомоги, волонтерський рух.

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