

allow to clearly determine which of them is the most acceptable from a legal point of view. At the same time, all such procedures and forms provide for one thing – the right of a terminally ill or chronically ill person to independently determine how and when to die. It was concluded that euthanasia is a person's own choice and this is the most important thing in his awareness as a component of the right to life. The position regarding the possibility of its legalization in Ukraine in the future is supported.

Keywords: *euthanasia, intentional killing, right to life, right to a dignified death, choice.*

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FEATURES OF THE ADMINISTRATIVE AND LEGAL STATUS OF VOLUNTEER ORGANIZATIONS IN UKRAINE AND ITS IMPLEMENTATION UNDER THE CONDITIONS OF MARTIAL LAW

Роман Миролюк, Майкл Антонів. ОСОБЛИВОСТІ АДМІНІСТРАТИВНО-ПРАВОВОГО СТАТУСУ ВОЛОНТЕРСЬКИХ ОРГАНІЗАЦІЙ В УКРАЇНІ ТА ЙОГО РЕАЛІЗАЦІЇ В УМОВАХ ВОЄННОГО СТАНУ. В межах статті здійснено аналіз адміністративно-правового статусу волонтерських організацій в Україні та виокремлено особливості його реалізації в умовах воєнного стану. З'ясовано, що для належної реалізації адміністративно-правового статусу волонтерських організацій в Україні доцільно: 1) урегулювати процедури реєстрації волонтерських організацій та фізичних осіб-волонтерів, та надати можливість фізичним особам-волонтерам здійснювати таку діяльність через застосунок «Дія»; 2) визначити Міністерство юстиції України як центральний орган виконавчої влади, що реалізує державну політику у сфері волонтерської діяльності; 3) запровадити відкритий реєстр волонтерських організацій та фізичних осіб-волонтерів, адміністратором якого має стати Мінюст України; 4) урегулювати в Законі «Про волонтерську діяльність»: статус «волонтерської організації» та «фізичних осіб-волонтерів»; перелік напрямів волонтерської діяльності з урахуванням її проведення під час надзвичайних ситуацій чи бойових дій; деталізувати повноваження повноважного центрального органу виконавчої влади у сфері волонтерської діяльності; запровадити процедуру заключення договорів про надання волонтерської допомоги під час надзвичайних ситуацій чи бойових дій; визначити обов'язковість страхування волонтерів; запровадити пільги для волонтерів під час вступу до вищих навчальних закладів та при прийомі на роботу; зарахування часу здійснення волонтерської діяльності до навчально-виробничої практики в разі її здійснення за напрямом, що відповідає отримуваній спеціальності; переліку відшкодувань витрат волонтеру; внесення норми «про зарахування діяльності офіційно оформленого волонтера – фізичної особи, яка здійснює свою волонтерську діяльність не менше ніж 40 годин тижня неділі до загального трудового стажу, а також виплати заробітної плати з надбавками та преміями за основний місцем роботи і збереження робочого місця цієї особи в період дії режиму воєнкового або надзвичайного стану».

Ключові слова: *волонтерство, волонтерські організації, адміністративно-правовий статус волонтерських організацій, реалізація в умовах воєнного стану.*

Relevance of the study. The introduction of martial law in Ukraine poses new challenges for Ukraine, which arise for the first time in the 30-year history of the existence of modern independent Ukraine and lead to the application of critical norms (not inherent in the normal development of the state), the implementation of which can, due to the restriction of certain rights of citizens, ensure the proper defense capability of the country, create opportunities to repel armed

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aggression and ensure the constitutional rights of citizens, in particular, including the protection of their property rights [1]. Since 2014, since the violation of the territorial integrity of Ukraine by the armed invasion of Russia and until today, the significant burden of eliminating the consequences of such aggression falls on volunteer organizations, which, starting from the organization of the collection and provision of humanitarian aid to the victims, to helping the military with means of protection, food products, and medicines, provide their effective resistance to armed aggression. It was with the participation of volunteer organizations that the post-war crisis of 2014 was overcome [2, p.34-35].

At the same time, it should be noted that in order to properly ensure the activities of volunteer organizations, they must have a clearly defined legal field of activity, their activities must be carried out on the principles of selflessness, publicity, and legality; economic activity under the guise of volunteering should be excluded, and there should be other safeguards and guarantees for their activity. In this regard, below it is advisable to analyze the administrative and legal status of volunteer organizations in Ukraine and highlight the peculiarities of its implementation in the conditions of martial law.

The article's objective is to analyze the features of the administrative and legal status of volunteer organizations in Ukraine under the conditions of martial law and the mechanisms of its implementation.

Recent publications review. In general, the legal status of volunteer organizations in Ukraine was the subject of research by scientists both in the field of public administration (management) and constitutional and administrative law, among which we can highlight the works of V. Golub, R. Serbin, V. Shamray, M. Olkhovskiy and others. [3-5]. At the same time, in the works of these authors, separate elements of the legal status of volunteer organizations are singled out, without their comprehensive study and without taking into account the peculiarities of its implementation in the conditions of martial law, which actualizes the research issues within the scope of our article.

Discussion. The world experience of volunteer organizations shows the significant impact of the results of their activities aimed at overcoming the lack of financial and material resources to cover the needs of society in critical situations – natural disasters, epidemics, armed conflicts, which lead to a threat to the lives and health of citizens. Today, volunteers from more than 100 countries are united in a global world movement that is becoming more and more influential. Thus, in the USA, the number of volunteers is about 60 % among women, who devote an average of 3.4 hours to volunteering. per week, and about 50 % among men (3.6 hours per week). Canadian citizens work as volunteers for an average of 191 hours. per year, equivalent to 578,000 full-time jobs. In France, 19 % of the adult population participates in the actions of volunteer organizations (60 % of them regularly), giving more than 20 hours to volunteering. per month [6]. Every third citizen of the Federal Republic of Germany (22 million people) is a volunteer and devotes more than 15 hours to work in volunteer associations, projects and mutual aid groups. month. In South Korea, the value of volunteering services exceeds \$ 2 billion per year. 26 % of Japanese citizens have volunteer experience, 48 % of them are sure that volunteer work is very useful for personal growth and society as a whole. 72 % of volunteers in Ireland believe they are doing things that could never be done by paid workers. In general, more than 100 million people of the adult population of the planet are involved in volunteer activities every year [7, p.75].

The main activity of volunteers from 2014 to today is helping the Ukrainian army and the wounded – 70 % of volunteers are engaged in this. Before the invasion of Russia and the temporary seizure of certain territories of Ukraine, the most relevant activities of volunteers were helping socially vulnerable population groups and improving public space. Today, in connection with the armed invasion of Russia on the territory of Ukraine, a crisis situation has arisen in the maintenance of the vitality of citizens, significant damage has been caused to the infrastructure of Ukraine, and a daily threat to the life and health of Ukrainian citizens is created from constant shelling of its territory. All this led to a shift in emphasis from helping the civilian population and supplying everything necessary to contain armed aggression and liberate the territory of Ukraine. Of the many areas of work of volunteers aimed at countering external aggression and its consequences, four main areas can be singled out, which they take care of the most: collection and delivery of necessary resources to the military operations zone; provision of medical assistance to victims during their implementation; assistance to forced migrants; search for missing persons and release of prisoners; demining territories.

Below, in order to fulfill the tasks of the research, it is advisable to carry out an analysis

of the administrative and legal status of volunteer organizations in Ukraine and to highlight the peculiarities of its implementation in the conditions of martial law.

One of the main elements of the administrative and legal status of volunteer organizations is their legal capacity. Only since November 19, 2011, with the adoption of the Law of Ukraine "On Volunteering" (hereinafter – the Law) [8], this type of voluntary socially oriented, non-profit activity carried out by volunteers through the provision of volunteer assistance (free work and services) has undergone legal regulation.

The list of areas of volunteer activity is provided for in part 3 of Article 1 of this law and is defined in the Decree of the Cabinet of Ministers of Ukraine dated August 5, 2015 No. 556 "On approval of the Procedure for providing volunteer assistance in certain areas of volunteer activity" [9]. However, this list is not exhaustive, and therefore other types are allowed that are not prohibited by law.

In fact, the concept of legal capacity of any legal entity is enshrined in the Central Committee of Ukraine. Yes, according to Art. 91 of the Civil Code of Ukraine, civil legal capacity of a legal entity is its ability to have civil rights and obligations, which arises from the moment of creation of a legal entity and ceases from the date of entry into the Unified State Register of its termination [10]. The law does not provide an unequivocal answer to the exclusive form of volunteering.

Yes, Part 2 of Art. 17 of the Law indicates that "volunteers provide volunteer assistance on the basis of an organization or institution that involves volunteers in its activities, on the basis of a contract on conducting volunteer activities concluded with such an organization or institution, or without such a contract," and in part 1, Article 5 of the Law defines that "non-profit organizations and institutions registered in the Register of Non-profit Institutions and Organizations may involve volunteers in their activities." In turn, part 2 of Article 17 of the Law states that "volunteers can provide volunteer assistance individually, while they are obliged to inform recipients of volunteer assistance that they do not cooperate with organizations and institutions that involve volunteers in their activities ". However, exceptions are made here (restrictions on individual volunteer activities), namely "volunteers cannot provide voluntary assistance individually in the following areas: 1) providing volunteer assistance to eliminate the consequences of man-made or natural emergency situations; 2) provision of volunteer assistance to the Armed Forces of Ukraine, other military formations, law enforcement agencies, state authorities during a special period, a legal regime of emergency or martial law, conducting an anti-terrorist operation, implementing measures to ensure national security and defense, repelling and deterring armed forces the aggression of the russian federation in the Donetsk and Luhansk regions, the implementation of measures necessary to ensure the defense of Ukraine, the protection of the safety of the population and the interests of the state in connection with the military aggression of the russian federation against Ukraine and/or another country against Ukraine. That is, they can carry out such activities exclusively by cooperating with volunteer organizations as legal entities that carry out non-profit activities.

A volunteer is a natural person who voluntarily carries out socially oriented non-profit activities by providing volunteer assistance (Article 7 of the Law of Ukraine "On Volunteering"). Citizens of Ukraine, foreigners and stateless persons who are in Ukraine on legal grounds and are able to act can become volunteers. Persons aged 14 to 18 perform volunteer activities with the consent of their parents (adoptive parents), adoptive parents, foster parents or guardian. At the same time, persons aged 14 to 18 cannot provide volunteer assistance to: the Armed Forces of Ukraine, other military formations, law enforcement agencies, state authorities during a special period, legal regimes of emergency or martial law, conducting an anti-terrorist operation, implementing measures for ensuring national security and defense, repelling and deterring the armed aggression of the russian federation in the Donetsk and Luhansk regions; in the direction of assisting the authorized body on probation issues in supervision of convicts and carrying out social and educational work with them; in medical institutions. Foreigners and stateless persons carry out volunteer activities through organizations and institutions that involve volunteers in their activities, information about which is posted on the official website of the central executive body that implements state policy in the field of volunteer activities. A volunteer can obtain a volunteer certificate by performing volunteer activities in organizations and institutions that involve volunteers in their activities.

After analyzing the legislation, a number of conclusions can be drawn regarding the administrative legal capacity of volunteering: firstly, volunteering in all areas of volunteer assistance can be carried out exclusively by legal entities that are non-profit organizations and

institutions entered into the Register of non-profit institutions and organizations, the administrator of which there is a State Tax Service and you can familiarize yourself with this register in the open and private part of the electronic cabinet located on the official web portal of the State Tax Service (<https://cabinet.tax.gov.ua>); secondly, a natural person can volunteer in all areas of volunteer activity by concluding a contract on conducting volunteer activities with a volunteer organization or institution; thirdly, a natural person can volunteer in separate areas of volunteer activity, not related to the assistance of the Armed Forces and elimination of man-made consequences, independently without registration, and at the same time they are obliged to inform the recipients of volunteer assistance that they do not cooperate with organizations and institutions involving volunteers in their activities.

However, volunteering in most cases involves receiving funds from individuals and legal entities for volunteering. Receipt of charitable contributions by a natural person by a taxpayer, as practice shows, on his own account – a bank card opened in a banking institution requires reporting to the authorities of the DPS of Ukraine, and can be considered as receiving undeclared profit, for which legal responsibility is waived. In addition, it is not an exception to the fraudulent activity of individual individuals who, under the guise of volunteering, accumulate funds on the bank cards of false individuals, withdraw these funds for their own needs, carrying out criminal activities, for which, in our opinion, in the conditions of martial law, the responsibility for be strengthened at least twice. That is, the issue of registration of natural persons who carry out volunteer activities with the aim of legalizing their activities, ensuring the possibility of exemption from taxation and taking appropriate control measures for their activities are urgent.

It should be noted that the attempt to legally register the status of "volunteer of anti-terrorist operation" and maintain the Register of volunteers of anti-terrorist operation was initiated by the order of the Ministry of Finance of Ukraine dated 10.30.2014 No. 1089, which approved the Procedure for the formation and maintenance of the Register of volunteers of anti-terrorist operation [11], in accordance with an ATO volunteer is an individual benefactor (a citizen of Ukraine or a foreigner or a stateless person residing in Ukraine on legal grounds), who has reached the age of eighteen, performs volunteer activities on a voluntary and unpaid basis, entered in the Register of ATO volunteers. This normative act defines the procedure for inclusion and exclusion from the Register of ATO and/or OOS volunteers, their registration in the bodies of the DPS of Ukraine, the procedure for publishing information about the register.

This should be noted as an important step towards the legalization of volunteer activities, especially in the conditions of martial law, where without the activities of volunteers (both legal entities and individual citizens) it is impossible to ensure the defense capability of Ukraine and the normal operation of infrastructure facilities. At the same time, we agree with the opinion of individual authors regarding the fact that "the undoubtedly significant contribution of volunteers during the anti-terrorist operation, the legislative definition of the concept of "volunteer of anti-terrorist operation" exclusively in the normative legal act approved by the Ministry of Finance of Ukraine, indicates the improper recognition of the activity by the state volunteers" [12, p.105], this can also be said about volunteers who carry out their activities today under martial law. In this regard, we believe that today there is an objective need to legalize volunteering in Ukraine at a higher level of legal regulation. it is expedient to determine: separately the procedure for registration of legal entities that carry out volunteer activities, separately – individual volunteers; establishing the legal status of "receipts for the implementation of volunteer assistance", determining the procedure for reporting receipts for the implementation of volunteer assistance and their use; procedure for publishing this report.

It should be noted that today the Verkhovna Rada of Ukraine is carrying out activities to improve the normalization of volunteer activities. Thus, draft laws No. 8076 and No. 7492 were adopted, which simplify the official registration of volunteers and exemption from taxation of charitable contributions. In particular, Law No. 8076 simplifies the registration of volunteers as much as possible, applications for inclusion in the Register of Volunteers can be submitted both in paper and electronic form (including using the Unified State Web Portal of Electronic Services). Draft Law No. 7492 expands the areas of spending: they include charitable assistance during the wartime and state of emergency for the benefit of combatants throughout Ukraine, civil defense workers and their family members, forcibly displaced people from war zones throughout Ukraine. Also, the tax benefit now extends not only from the date of registration, but also from the beginning of the current accounting year [13]. Thus, a large number of Ukrainians who, with the beginning of the full-scale russian aggression, became volunteers and joined the assistance of the Armed Forces, namely, collected funds for the purchase of helmets, bulletproof vests, cars, etc., through

personal cards should have a guarantee of exemption from taxation, namely through simplified registration in the Register of Volunteers, including through the "Action" application, which will significantly save time for volunteers.

It is obvious that the main components of the administrative and legal status of volunteer organizations are the rights, duties and guarantees for the realization of rights. Despite the imperfection of some of its provisions, the law enshrines the rights of volunteers. In particular, in accordance with Art. 7 of the Law, a volunteer has the right to: proper conditions for performing volunteer activities, in particular, receiving reliable, accurate and complete information about the procedure and conditions for conducting volunteer activities, provision of special means of protection, equipment and equipment; crediting the time of volunteering to the educational and industrial practice in the case of its passing in the direction that corresponds to the specialty received, with the consent of the educational institution; reimbursement of expenses related to the implementation of volunteer activities; other rights provided for by the contract on conducting volunteer activities and legislation.

At the same time, the volunteer is obliged to: conscientiously and timely fulfill the duties related to the conduct of volunteer activities; in cases specified by law, undergo a medical examination and provide a health certificate; if necessary, undergo further training (retraining); to prevent actions and deeds that may negatively affect the reputation of the volunteer, the organization or institution on the basis of which volunteer activities are carried out; comply with the legal regime of information with limited access; in the case of concluding a contract on conducting volunteer activities and unilaterally terminating the contract at the initiative of the volunteer, to compensate for direct damages caused by him, if this is provided for in the contract; to compensate property damage caused as a result of his volunteer activities, in accordance with the law. However, it should be noted that the Law separately regulates the rights and obligations of volunteer organizations. In particular, organizations and institutions that involve volunteers in their activities have the right to: carry out activities with the conclusion of a contract on conducting volunteer activities with a volunteer or without such a contract in the manner specified by this Law; receive funds and other property for volunteer activities; independently determine the areas of volunteering; issue certificates to volunteers certifying their identity and the type of volunteer activity within the organization; to reimburse volunteers for expenses related to their provision of volunteer assistance; to invite foreigners and stateless persons to carry out volunteer activities on the territory of Ukraine, to send citizens of Ukraine abroad to carry out volunteer activities; to insure the life and health of volunteers for the period of their volunteering in accordance with the Law of Ukraine "On Insurance".

At the same time, the latter, namely life and health insurance of a volunteer operating under martial law, should not be attributed to the rights, but to the duty of the volunteer organization. Volunteer organizations are obliged to: provide volunteers with safe and appropriate conditions for volunteering; train volunteers; to provide volunteers with reliable, accurate and complete information about the content and specifics of volunteer activities; to provide free access to information related to the implementation of volunteer activities by organizations and institutions that involve volunteers in their activities.

Separately, it is necessary to point out the guarantees of protection of the rights of volunteers, which should include the following: 1) reimbursement of travel expenses in the territory of Ukraine and abroad within the limits of reimbursement of travel expenses established for civil servants and employees of enterprises, institutions and organizations that are fully or are partially supported (financed) at the expense of budget funds (Article 11 of the Law), travel expenses (including luggage transportation) to the place of volunteering, expenses for obtaining a visa, for food, when volunteering lasts more than 4 hours a day, for accommodation in the case of a volunteer's business trip to another populated place for the implementation of volunteer activities, which will last more than 8 hours, etc., which are confirmed by relevant documents (Article 11 of the Law); 2) volunteers are paid a one-time cash benefit in the event of death or disability of the volunteer as a result of an injury (contusion, trauma or mutilation) received during the provision of volunteer assistance in the area of anti-terrorist operations, implementation of measures to ensure national security and defense, repulsion and deterrence armed aggression of the Russian Federation in the Donetsk and Luhansk regions, hostilities and armed conflicts; 3) in the event of the death of a volunteer during the provision of volunteer assistance in the area of anti-terrorist operations, implementation of measures to ensure national security and defense, repelling and deterring armed aggression of the Russian Federation in the Donetsk and Luhansk regions, hostilities and armed family conflicts the deceased, his/her parents

and dependents are paid in equal parts a one-time cash benefit in the amount of 500 subsistence minimums, established by law for able-bodied persons on the date of death; 4) in the case of establishing a volunteer's disability as a result of an injury (contusion, trauma or mutilation) received during the provision of volunteer assistance in the area of anti-terrorist operations, implementation of measures to ensure national security and defense, repel and deter armed aggression of the Russian Federation in the Donetsk and Luhansk regions, hostilities and armed conflicts, depending on the degree of disability, he is paid a one-time cash benefit in the amount determined by law. The amount of one-time cash benefit in case of disability due to injury (contusion, trauma or mutilation) is determined based on the subsistence minimum effective on the date of disability (Article 6 of the Law).

The payment of one-time cash assistance is carried out in the order and under the conditions determined by the Decree of the Cabinet of Ministers of Ukraine of August 19, 2015 No. 604 "Some issues of payment of one-time cash assistance in the event of death or disability of a volunteer due to injury (concussion, trauma or mutilation) received during the provision of volunteer assistance in the area of the anti-terrorist operation..." [14]. Another element of the administrative and legal status of volunteer organizations is legal (primarily administrative) responsibility. There are two types of such responsibility: financial responsibility – for a legal entity that is engaged in volunteer activities and has violated the rules of financial accounting and tax reporting; personal responsibility of the volunteer for covering up volunteer activities.

Thus, an urgent issue in connection with the introduction of martial law and the need for mobilization is the issue of evasion of a conscript who, having registered, went abroad for humanitarian aid and does not return to the territory of Ukraine in order to avoid mobilization. As of now, direct responsibility for such actions is not provided, theoretically we can talk about responsibility for evading mobilization, which is provided for in Art. 210-1 of the Criminal Procedure Code "Violation of the legislation on defense, mobilization training and mobilization", which provides for the imposition of a fine on citizens from one hundred to two hundred tax-free minimum incomes of citizens and on officials – from two hundred to three hundred tax-free minimum incomes of citizens, and for the repeated commission of such an act – imposing a fine on citizens from two hundred to three hundred non-taxable minimum incomes of citizens and on officials – from three hundred to five hundred non-taxable minimum incomes of citizens [15].

Conclusions. In conclusion, it should be noted that the main problems in the proper implementation of the administrative and legal status of volunteer organizations, in my opinion, are: 1) the need to regulate the registration procedure of volunteer organizations and individual volunteers, and to provide the opportunity for individual volunteers to carry out such activities through the "Action" application"; 2) definition of the Ministry of Justice of Ukraine as the central body of the executive power implementing state policy in the field of volunteering; 3) creation of an open register of volunteer organizations and volunteer individuals, whose administrator should be the Ministry of Justice of Ukraine; 4) regulation in the Law "On Volunteering": the status of "volunteer organization" and "volunteer individuals"; a list of areas of volunteer activity, taking into account its implementation during emergency situations or hostilities; determination of the authorized central body of executive power in the field of volunteering; regulations on the application of contracts on the provision of volunteer assistance during emergency situations or hostilities; the need for compulsory insurance of volunteers; benefits for volunteers during admission to higher education institutions and when hiring; crediting the time of volunteer activity to educational and industrial practice in the case of its implementation in the direction that corresponds to the received specialty; a list of volunteer expenses reimbursements; introduction of the rule "on the inclusion of the activity of an officially registered volunteer – a natural person who performs his volunteer activity for at least 40 hours on a Sunday to the total length of service, as well as the payment of wages with allowances and bonuses for the main place of work and the preservation of this person's place of work in the period of operation of the regime of martial law or state of emergency".

Conflict of Interest and other Ethics Statements

The authors declare no conflict of interest.

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ABSTRACT

The article analyzes the administrative and legal status of volunteer organizations in Ukraine and highlights the specifics of its implementation under martial law. Peculiarities of the administrative and legal status of volunteer organizations in Ukraine and its implementation in the conditions of martial law are discussed.

It was found that in order to properly implement the administrative and legal status of volunteer organizations in Ukraine, it is advisable to: 1) regulate the registration procedures of volunteer organizations and individual volunteers, and provide the opportunity for individual volunteers to carry out such activities through the "Action" application; 2) define the Ministry of Justice of Ukraine as the central body of the executive power that implements state policy in the field of volunteering; 3) introduce an open register of volunteer organizations and volunteer individuals, whose administrator should be the Ministry of Justice of Ukraine; 4) regulate in the Law "On Volunteering": the status of "volunteer organization" and "volunteer individuals"; a list of areas of volunteer activity, taking into account its implementation during emergency situations or hostilities; to detail the powers of the authorized central body of the executive power in the field of volunteering; introduce the procedure for concluding contracts on the provision of volunteer assistance during emergency situations or hostilities; determine the mandatory insurance of volunteers; introduce benefits for volunteers during admission to higher education institutions and when hiring; crediting the time of volunteer activity to educational and industrial practice in the case of its implementation in the direction that corresponds to the received specialty; a list of volunteer expenses reimbursements; introduction of the rule "on the inclusion of the activity of an officially registered volunteer – a natural person who performs his volunteer activity for at least 40 hours on a Sunday to the total length of service, as well as the payment of wages with allowances and bonuses for the main place of work and the preservation of this person's place of work in the period of operation of the regime of martial law or state of emergency".

Keywords: *volunteerism, volunteer organizations, administrative and legal status of volunteer organizations, implementation under martial law.*