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PECULIARITIES OF THE ADMINISTRATIVE PROCEDURE FOR THE ADMISSION AND ACCOUNTING OF HUMANITARIAN AID UNDER MARTIAL LAW

The article examines the peculiarities of the administrative procedure for the admission and accounting of humanitarian aid under martial law. It is substantiated that such a procedure has a special, simplified, time-bound, digitalized and control-oriented character, since it combines the need for the rapid import of humanitarian cargo into the customs territory of Ukraine with the need to ensure proper accounting, transparency, reporting and targeted use of such aid. It is determined that the administrative procedure in the field of admission and accounting of humanitarian aid is formed with due regard to the provisions of the Law of Ukraine "On Humanitarian Aid", the Law of Ukraine "On Administrative Procedure", the Customs Code of Ukraine and Resolution of the Cabinet of Ministers of Ukraine No. 953 of September 5, 2023.

The article analyzes the main stages of this procedure: automatic registration of the recipient in the Unified Register of Recipients of Humanitarian Aid, entering information on goods into the automated system, assigning a unique humanitarian aid code, preparing and submitting a declaration, customs admission and customs clearance, keeping records of actually received aid, preparing an inventory description, submitting a report on the availability and distribution of humanitarian aid, data monitoring and applying legal consequences in case of violation of established requirements.

Particular attention is paid to the legal significance of the declaration, the unique humanitarian aid code, the electronic cabinet, the inventory description and the report. It is concluded that under martial law the administrative procedure for the admission and accounting of humanitarian aid performs not only a registration and admission function, but also guarantee, control, evidentiary and law-enforcement functions.

Key words: *humanitarian aid, administrative procedure, martial law, admission of humanitarian aid, accounting of humanitarian aid, declaration, unique humanitarian aid code, automated system, Unified Register of Recipients of Humanitarian Aid, inventory description, reporting, targeted use.*

Р. А. Захарчук. Особливості адміністративної процедури пропуску та обліку гуманітарної допомоги в умовах воєнного стану

У статті досліджено особливості адміністративної процедури пропуску та обліку гуманітарної допомоги в умовах воєнного стану. Обґрунтовано, що така процедура має спеціальний, спрощений, строковий, цифровізований та контрольний характер, оскільки поєднує потребу у швидкому ввезенні гуманітарних вантажів на митну територію України з необхідністю забезпечення їх належного обліку, прозорості, звітності та цільового використання. Визначено, що адміністративна процедура у сфері пропуску та обліку гуманітарної допомоги формується з урахуванням норм Закону України «Про гуманітарну допомогу», Закону України «Про адміністративну процедуру», Митного кодексу України та постанови Кабінету Міністрів України від 5 вересня 2023 року № 953.

Проаналізовано основні стадії цієї процедури: автоматичну реєстрацію отримувача в Єдиному реєстрі отримувачів гуманітарної допомоги, внесення інформації про товари до автоматизованої системи, присвоєння унікального коду гуманітарної допомоги, формування та подання декларації, митний пропуск і митне оформлення, ведення обліку фактично отриманої допомоги, складання інвентаризаційного опису, подання звіту про наявність і розподіл гуманітарної допомоги, моніторинг даних та застосування правових наслідків у разі порушення встановлених вимог.

Особливу увагу приділено юридичному значенню декларації, унікального коду гуманітарної допомоги, електронного кабінету, інвентаризаційного опису та звіту. Зроблено висновок, що в умовах воєнного стану адміністративна процедура пропуску та обліку гуманітарної допомоги виконує не лише дозвільно-реєстраційну, а й гарантійну, контрольну, доказову та правоохоронну функції. Відзначено, що ефективність процедури пропуску та обліку гуманітарної допомоги в умовах воєнного стану має оцінюватися не тільки за швидкістю пропуску гуманітарних вантажів через кордон, а й за здатністю держави забезпечити простежуваність їх руху, захист добросовісних отримувачів, недопущення нецільового використання та реальне надходження допомоги до набувачів.

Ключові слова: *гуманітарна допомога, адміністративна процедура, воєнний стан, пропуск гуманітарної допомоги, облік гуманітарної допомоги, декларація, унікальний код гуманітарної допомоги, автоматизована система, Єдиний реєстр отримувачів гуманітарної допомоги, інвентаризаційний опис, звітність, цільове використання.*

Statement of the problem. Under martial law, humanitarian aid is one of the key instruments for ensuring the vital needs of the population, supporting internally displaced persons, affected territorial communities, healthcare institutions, the social sphere, public authorities, military administrations and other entities that require urgent material, medical, technical or organizational support. The large scale of humanitarian flows, the involvement of foreign and domestic donors, the activities of charitable organizations, volunteer networks and international humanitarian structures have made it necessary to introduce a special administrative procedure that enables humanitarian aid to pass quickly across the customs border of Ukraine while at the same time ensuring its accounting, transparency, control and targeted use. The peculiarities of the administrative procedure for the admission and accounting of humanitarian aid require scientific analysis as a special legal mechanism that combines the promptness of humanitarian response with the requirements of legality, public interest, digital accounting and control.

Analysis of recent research and publications. The issue of the administrative procedure for the admission and accounting of humanitarian aid under martial law is relatively new for Ukrainian legal science, since the modern model of digital declaration, automated registration, the unique humanitarian aid code, electronic inventory description and reporting was formed after the beginning of the full-scale armed aggression against Ukraine. At the same time, certain aspects of this issue are addressed in contemporary scholarly works devoted to the digitalization of humanitarian aid, the protection of aid recipients' data, customs declarations, humanitarian logistics and the use of digital tools for managing crisis processes.

B. Wang, W. Lueks, J. Sukaitis, V. Graf Narbel and C. Troncoso, in their work "Not Yet Another Digital ID: Privacy-preserving Humanitarian Aid Distribution", examine the problem of digital identification in the field of humanitarian aid distribution. The authors note that traditional paper-based mechanisms for distributing aid do not scale to large population groups and have a low level of security, whereas digital systems may increase efficiency but at the same time create risks of excessive personal data collection [1]. This conclusion is important for Ukraine because the automated system for registering humanitarian aid must ensure traceability of the movement of humanitarian cargo without turning digital accounting into excessive interference with the rights of bona fide recipients and beneficiaries of aid.

E. Luvison, S. Chatel, J. Sukaitis, V. Graf Narbel, C. Troncoso and W. Lueks, in their study on a digital wallet for humanitarian aid, emphasize that digitalization of humanitarian distribution can improve the efficiency and fairness of aid, but requires clearly defined functional, security and privacy requirements [2]. In the context of the administrative procedure for the admission and accounting of humanitarian aid, this approach allows one to conclude that digital tools should not merely record data on humanitarian cargo, but should also ensure a balance between procedural speed, information reliability, accountability of recipients and protection of the rights of participants in the humanitarian process.

C. Jeong, S. Kim, J. Park and Y. Choi, analyzing customs import declaration datasets, state that under conditions of significant cross-border flows, effective control over the movement of goods requires the use of data, risk-oriented approaches and cooperation between customs specialists and data analysis researchers [3]. This study is relevant to the topic of the article because humanitarian aid under martial law also moves across the customs border, while its rapid admission must be combined with verification of the accuracy of declarations, identification of discrepancies and prevention of abuse.

R. Iradukunda, F. Rowe and E. Pietrostefani, in their study on the use of GPS mobile phone data to estimate internal displacement in Ukraine, emphasize that accurate and timely estimates of population displacement are necessary for timely humanitarian response and for prioritizing the allocation of resources to areas where they are most needed [4]. This provision is important for the analysis of humanitarian aid accounting, since accounting should not be reduced to formal reporting on imported goods. It must provide management information on where aid is directed, which needs it covers and whether its distribution corresponds to the actual humanitarian situation.

Thus, the available studies create an important scholarly basis for analyzing digitalization, accountability, data security, customs control and humanitarian logistics. At the same time, the administrative procedure for the admission and accounting of humanitarian aid in Ukraine under martial law, its stages, the legal significance of the declaration, unique code, inventory description, report and the consequences of violating the procedure remain insufficiently comprehensively studied. This determines the relevance of further scientific analysis of this topic.

The purpose of the article is to disclose the peculiarities of the administrative procedure for the admission and accounting of humanitarian aid under martial law, to determine its main stages, legal nature, functions, procedural guarantees, control elements and legal consequences of violating the established procedure.

Presentation of the main material. The administrative procedure in the field of admission and accounting of humanitarian aid has a special legal character. It cannot be reduced solely to customs clearance of cargo or to the technical entry of information into an electronic system. By its nature, it is a comprehensive procedure of public administration within which elements of registration, declaration, customs admission, information exchange, accounting, reporting, monitoring and control over the targeted use of humanitarian aid are combined.

The Law of Ukraine "On Humanitarian Aid" defines humanitarian aid as targeted, address-based, free-of-charge assistance in monetary or in-kind form, in the form of non-refundable financial aid or voluntary donations, as well as assistance in the form of performing works or providing services, provided by foreign and domestic donors for humanitarian reasons to recipients of humanitarian aid in Ukraine or abroad [5]. This Law also defines humanitarian response as a set of actions and measures aimed at ensuring the vital needs of the population, protecting life and health, evacuation, provision of humanitarian aid and social services, and overcoming the consequences of armed aggression or armed conflict [5]. Therefore, the procedure for admission and accounting of humanitarian aid should be considered not as an isolated customs procedure, but as a component of humanitarian response.

According to Article 2 of the Law of Ukraine “On Humanitarian Aid”, relations concerning the adoption, entry into force, administrative appeal, execution and termination of administrative acts in the field of receiving, providing, formalizing, distributing and controlling the targeted use of humanitarian aid are governed by the Law of Ukraine “On Administrative Procedure”, taking into account the specific features established by the special law [5]. This provision is of fundamental importance because it directly includes the field of humanitarian aid within administrative-procedural regulation.

The Law of Ukraine “On Administrative Procedure” defines an administrative procedure as the procedure established by law for considering and resolving a case, and an administrative act as a decision or legally significant action of an individual character adopted or performed by an administrative body to resolve a specific case [7]. The principles of administrative procedure include, in particular, the rule of law, legality, legal certainty, reasonableness, proportionality, openness, timeliness, efficiency, the presumption of lawfulness of a person’s actions and claims, guaranteeing a person’s right to participate in administrative proceedings and effective remedies [7]. In the field of humanitarian aid, these principles mean that even a simplified martial-law procedure must remain legal, predictable, proportionate and oriented toward the public interest.

The special procedure for the admission and accounting of humanitarian aid during martial law is established by Resolution of the Cabinet of Ministers of Ukraine “Certain Issues of Organizing the Operation of the Automated System for Registering Humanitarian Aid” of September 5, 2023 No. 953 (hereinafter – the Procedure). Paragraph 1 of the Procedure approved by this Resolution states that it establishes a simplified mechanism for recognizing goods as humanitarian aid, their admission through the customs border of Ukraine, customs clearance, receipt, provision, distribution and control over the targeted use of humanitarian aid imported into the customs territory of Ukraine [8]. It follows that Resolution No. 953 is a special procedural act that replaces general pre-war approaches to recognizing and formalizing humanitarian aid with a special regime adapted to martial law.

The first peculiarity of this procedure is its simplified and declarative character. The Procedure provides that during martial law, certain categories of goods imported into the customs territory of Ukraine in accordance with the Procedure are recognized as humanitarian aid on a declarative basis without the adoption of a separate decision by specially authorized state bodies for humanitarian aid [8]. This approach substantially changes the administrative logic of the procedure: the state shifts the emphasis from a preliminary individual decision recognizing aid as humanitarian to electronic declaration, accounting and subsequent control.

The second peculiarity is the digitalization of the procedure. Paragraph 2 of the Procedure provides that the formation and/or submission of a declaration is carried out electronically through the Unified State Information Web Portal “Single Window for International Trade” or through the automated system for registering humanitarian aid, while recipient registration, entering information on goods, preparing an inventory description and preparing a report are carried out using the automated system [8]. Thus, the automated system is not an auxiliary technical tool, but the central procedural instrument through which the legal regime of humanitarian aid is implemented under martial law.

The third peculiarity is the automatic acquisition of recipient status. According to paragraph 3 of the Procedure, a person acquires the status of recipient from the moment of automatic registration in the Unified Register, which is carried out by assigning a humanitarian aid recipient number [8]. This provision has significant administrative and legal importance, since recipient status arises not as a result of a lengthy permit procedure, but through an automated registration action. At the same time, this status is neither unconditional nor final, since its preservation depends on the recipient’s subsequent fulfilment of obligations regarding accounting, reporting and targeted use of humanitarian aid.

The fourth peculiarity is the use of the unique humanitarian aid code. According to paragraph 4 of the Procedure, before starting the declaration of goods, the recipient enters information on such goods into the automated system, and based on the entered information the relevant list of goods is automatically assigned a unique humanitarian aid code [8]. The entry of information and assignment of such a code certifies the fact that the goods have been recognized as humanitarian aid within the declarative procedure [8]. Thus, the unique code performs not only an identification function, but also a legal-confirmation function.

The fifth peculiarity is the special procedure for submitting the declaration. According to paragraph 6 of the Procedure, the declaration may be created electronically and submitted to the customs authority through information exchange between information and communication systems, or printed together with a unique electronic identifier for submission to customs authorities in paper form [8]. Submission of a declaration without the unique humanitarian aid code is not permitted, and the list of goods stated in the declaration must correspond to the list of goods whose information has been entered into the automated system under the relevant unique code [8].

The legal significance of the declaration lies in the fact that from the moment of its acceptance by the customs authority, it is a document certifying facts that have legal significance [8]. This means that the declaration in the procedure for admitting humanitarian aid is not an ordinary information form. It records data on the recipient, donor, goods, their quantity, weight, category, vehicle and other essential circumstances that may subsequently be relevant for accounting, reporting, control, establishing the fact of discrepancy or resolving the issue of liability.

The sixth peculiarity is the combination of customs admission with electronic verification of information. Paragraph 6 of the Procedure provides that if the data stated in the declaration do not correspond to the data of the automated system, the customs official refuses to admit the humanitarian aid cargo into the territory of Ukraine, except for the specified exception concerning a lower declared weight [8]. This indicates that in this procedure the customs authority verifies not only the physical fact of moving the cargo, but also the information consistency between the declaration and the entry in the automated system.

The seventh peculiarity is the limited possibility of amending the declaration. The general rule is that amendments to the declaration are allowed only before it is submitted to the customs authority at the checkpoint across the state border of Ukraine [8]. Exceptions concern, in particular, correction of certain technical errors, information about the vehicle, donor or recipient under a special procedure involving the submission of an application, supporting documents and adoption of a relevant decision by the authorized body [8]. This approach is aimed at ensuring the stability of the declaration as a legally significant document and preventing arbitrary correction of information after customs clearance.

The eighth peculiarity is the obligation to keep records of actually received humanitarian aid. According to paragraph 10 of the Procedure, certain recipients, in particular budgetary institutions and local self-government bodies, no later than 15 calendar days from the date of entering information on customs clearance of humanitarian aid under the declaration, keep records of actually received humanitarian aid by preparing an inventory description in the electronic cabinet of the automated system [8]. For recipients of medical humanitarian aid, a special period is established – no later than 60 calendar days – using the MedData information and analytical system [8].

The inventory description has important evidentiary significance. If the actually received humanitarian aid does not correspond to the data specified in the declaration, the recipient is obliged to prepare and submit an inventory description of the actually received humanitarian aid, which confirms the actual receipt of aid [8]. At the same time, submission of such a description is considered notification of law enforcement bodies about the established fact of discrepancy [8]. Therefore, the inventory description performs the function not only of an accounting document, but also of a primary means of recording the risk of violation or discrepancy.

The ninth peculiarity is recipient reporting. Paragraph 12 of the Procedure establishes that the recipient, except for recipients of medical humanitarian aid, by the 15th day of the month following the month of customs clearance of humanitarian aid, prepares and submits a report in the electronic cabinet of the automated system or uploads a copy of a paper or electronic report [8]. The report is submitted by the 15th day of each month on a cumulative basis separately for each list of goods until the humanitarian aid is fully distributed [8]. Thus, reporting has a continuing character and does not end with the first submission of a report if the aid has not been fully distributed.

The tenth peculiarity is the existence of a legal presumption of non-targeted use in the absence of a report. According to paragraph 13 of the Procedure, declared humanitarian aid for which no report has been submitted within 90 calendar days from the date of entering information on customs clearance of humanitarian aid under the declaration is considered aid for which there is no accounting regarding receipt and targeted use and is deemed to have been used not for its intended purpose [8]. This provision is one of the most important in the procedure because it directly links failure to fulfil the reporting obligation with a negative legal consequence for the recipient.

The eleventh peculiarity is the possibility of losing recipient status. Paragraph 14 of the Procedure provides that the recipient, with the exception of certain budgetary and public entities, loses the status of humanitarian aid recipient from the moment their account in the Unified Register is blocked [8]. Such blocking may be carried out automatically if a report is not submitted within 90 calendar days or if up-to-date information on the availability of humanitarian aid is not submitted for 90 consecutive days, as well as by the administrator of the automated system where the defined grounds exist [8]. In the case of the first violation, the recipient loses the status for three months, and in the case of a repeated violation, re-registration is possible no earlier than after six months [8].

The twelfth peculiarity is the openness of a significant part of the information. Paragraph 17 of the Procedure provides that declarations, reports, inventory descriptions and copies of primary documents generated in the automated system or uploaded to it are placed in free and open access, except for information concerning aid for certain entities of the security and defense sector, military administrations, law enforcement bodies and other defined entities [8]. This provision forms a public-control element of the procedure, since accounting for humanitarian aid becomes available not only to state bodies, but also to public monitoring within limits compatible with security requirements.

The thirteenth peculiarity is data monitoring. According to paragraph 16 of the Procedure, the National Social Service conducts monitoring of data on humanitarian aid and its distribution [8]. Monitoring in this field should not be viewed as formal observation. Its content lies in the possibility of analyzing information, identifying risks, discrepancies, repeated violations, absence of reporting or suspicious movement of humanitarian cargo. Thus, the administrative procedure for the admission and accounting of humanitarian aid has not only a registration but also an analytical and supervisory character.

From an administrative-law perspective, the procedure in question has several functions. The first is the operational function, which consists in ensuring the rapid admission of humanitarian aid through the customs border of Ukraine. The second is the legitimizing function, which consists in confirming the humanitarian status of goods through the declarative principle, the automated system and the unique humanitarian aid code. The third is the accounting function, which ensures recording of the actually received aid, its balances and distribution. The fourth is the control function, which allows verification of the correspondence between declared and actual data, as well as the targeted use of aid. The fifth is the evidentiary function, since the declaration, inventory description and report may confirm or refute the lawfulness of the recipient's actions. The sixth is the law-enforcement function, which is manifested in the possibility of transferring information to competent bodies and applying legal consequences.

Therefore, the administrative procedure for the admission and accounting of humanitarian aid under martial law is a procedure of a special type. It is not a classical permit procedure, since a significant part of actions is performed on a declarative basis and through automated mechanisms. At the same time, it is not a purely informational procedure, since its results have legal consequences: acquisition of recipient status, recognition of goods as humanitarian aid, admission through the customs border, emergence of the reporting obligation, the possibility of losing recipient status and liability for violations of legislation. It is important that simplification of the procedure does not mean deregulation. On the contrary, the wartime model for admitting humanitarian aid is built on replacing a preliminary administrative decision with subsequent digital control. That is, the state simplifies the entry of humanitarian aid into the customs territory of Ukraine, but strengthens the significance of accounting, reporting, monitoring and legal liability after such admission. This is precisely what distinguishes the modern model from a purely permit-based system.

Conclusions. The administrative procedure for the admission and accounting of humanitarian aid under martial law is a special legal mechanism that combines simplification of the import of humanitarian aid with requirements for electronic accounting, reporting, monitoring and control over its targeted use. Its peculiarity is that humanitarian aid is recognized on a declarative basis, while the legal significance of the procedure is ensured through the automated system, the unique humanitarian aid code, the declaration, the inventory description and the report.

The main stages of this procedure are: 1. automatic registration of the recipient in the Unified Register; 2. entering information on goods into the automated system; 3. assigning the unique humanitarian aid code; 4. preparing and submitting the declaration; 5. customs admission and customs clearance; 6. accounting for actually received aid; 7. preparing the inventory description; 8. submitting the report; 9. data monitoring and application of legal consequences in case of violation of the procedure.

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