



ISSUES OF IMPROVING CONTROL AND REGULATION OF LICENSING AND PERMITTING ACTIVITIES OF INTERNAL AFFAIRS BODIES

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Abstract: This article examines the opinions of legal scholars on improving the control and regulation of licensing and permitting activities of internal affairs bodies, and the author has developed proposals and recommendations.

Key words: Internal affairs bodies, licensing and permitting, modernization, state control.

During the period of fundamental reforms aimed at modernizing and reforming the country and ensuring the transparency of public administration, scientific research into the theoretical and practical aspects of state control in the Republic of Uzbekistan, as well as its improvement, is one of the pressing issues.

Scientific research on the essence, characteristics, subjects and objects of control, and their interrelationships has been conducted by a number of scientists in our country, who have expressed various opinions on the nature, characteristics, and features of control. In particular, according to A.A. Rakhimov, who conducted scientific research on the issues of state control, "state control is a form of activity that implements state power, ensuring the implementation of legal acts, norms, and laws established by state bodies." [1] Z.S. Mukhitdinov expresses a similar view: "State control is one of the forms of activity of various state bodies to ensure legality and law enforcement, strengthen enforcement discipline, and monitor compliance with current legislation by citizens and officials." [2] The textbook published under the editorship of Kh.T. Odilkoriev and B.E. Kasimov defines control as "a constant, systematic observation by specially authorized bodies over non-subordinate bodies or individuals in order to detect violations of the law." [3] According to Z.S. Mukhitdinov, "State control is one of the forms of activity of various state bodies to ensure legality and law enforcement, strengthen enforcement discipline, and monitor compliance with current legislation by citizens and officials." [2] The textbook, published under the editorship of Kh.T. Odilkoriev and B.E. Kasimov, defines "Control is a constant, systematic observation by specially authorized bodies of non-subordinate bodies or individuals in order to detect violations of the law."

Based on the analysis of the above opinions, we cannot agree with A.A. Rakhimov's view that the supervisory body exercises constant control and applies necessary administrative measures, as these powers are inherent to the bodies exercising control; that is, the author has confused control and supervision. The activities of state bodies are interpreted differently in scientific and theoretical literature and legislation. In particular, the legal encyclopedia published under the editorship of U. Tadjikhanov states that "State control (in law) is one of the forms of exercising state power that ensures compliance with laws and other regulatory legal acts issued by state bodies." [4] N.V. Makareiko, in turn, believes that "state oversight is the function of special state bodies and their officials to systematically monitor the

implementation of laws and other regulatory legal acts by individuals and legal entities who are not subordinate to them on issues within the competence of these bodies." [5] N.V. Makareiko, in turn, believes that "state oversight is the function of special state bodies and their officials to systematically monitor the implementation of laws and other regulatory legal acts by individuals and legal entities who are not subordinate to them on issues within the competence of these bodies."

As we can see, most scholars have provided various definitions of the purpose of control, which can be interpreted differently. Based on the analysis of the above concepts, we believe that the following characteristics of control can be distinguished:

- control is carried out only by specially authorized state bodies;
- the activities of bodies and officials carrying out control are divided by directions and areas based on a special regulatory legal act of the state;
- a special state body in the field of control monitors the implementation of laws and other regulatory legal acts only within the scope of its powers;
- control is not carried out permanently, but on a regular basis;
- both legal entities and individuals can serve as objects of control;
- control is carried out in order to ensure the security of the state, society and citizens.

Supervision over compliance with licensing requirements and conditions is regulated by Articles 48-49 of the Law of the Republic of Uzbekistan "On Licensing, Permitting and Notification Procedures." These requirements apply to all types of activities subject to licensing in the territory of the Republic of Uzbekistan.

According to the eleventh and fifteenth paragraphs of the first part of Article 4 of the Law of the Republic of Uzbekistan "On Internal Affairs Bodies," among the main areas of activity of the internal affairs bodies, "control in the sphere of circulation of explosive materials intended for industry, as well as pyrotechnic products, narcotic drugs, psychotropic substances and their precursors" and "issuance of licensing and permitting documents, as well as control over compliance with licensing and permitting requirements and conditions" are specifically defined.

It should be noted that the Law of the Republic of Uzbekistan "On State Control of the Activities of Economic Entities" dated December 24, 1998, regulates two types of inspections for the purpose of exercising control. The first is a scheduled inspection, which is a one-time inspection by the regulatory bodies of how economic entities comply with the laws and other legislative acts regulating their activities, permitted on the basis of a decision by the Republican Council for Coordinating the Activities of Control Bodies of the Republic of Uzbekistan. The second form of control is a short-term inspection, according to which the supervisory authorities carry out an inspection based on appeals from individuals and legal entities regarding alleged violations of legislation.

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It should be noted that the Law of the Republic of Uzbekistan "On State Control of the Activities of Economic Entities" of December 24, 1998, regulates two types of inspections in order to exercise control [9]. The first is a scheduled inspection, which is a one-time inspection by the regulatory bodies of how economic entities comply with the laws and other legislative acts regulating their activities, permitted on the basis of a decision by the Republican Council for Coordinating the Activities of Control Bodies of the Republic of Uzbekistan. The second form of control is a short-term inspection, according to which the supervisory authorities carry out an inspection based on appeals from individuals and legal entities regarding alleged violations of legislation.

Issues concerning the legal regulation of supervisory and licensing activities of internal affairs bodies have always been the subject of scientific research. Various opinions are expressed regarding the essence and significance of the term "licensing-permitting activity." Specifically, according to foreign scholar A.B. Grokhman, control and licensing work is carried out in the general activities of internal affairs bodies, with its main form being the granting of access to objects by subjects and the issuance of licenses (permits) [10]. In turn, V.I. Shalashov considers the supervisory and licensing activities of internal affairs bodies as a type of administrative activity. These are comprehensive actions by law enforcement agencies to license individuals and legal entities, monitor their compliance with the rules of the licensing and permitting system, identify, prevent, and stop violations of these rules, and bring the perpetrators to legal responsibility [11]. A.V. Lugovaya states that the supervisory-licensing activities of the internal affairs bodies are an integral part of the licensing system and constitute subordinate, executive-regulatory activities of structures with special powers to issue licenses and permits for engaging in specific types of activities (work, services), as well as to monitor compliance with licensing rules, requirements, and conditions [12].

S.V. Kazimirov, who studied the issues of ensuring citizens' rights and freedoms in the licensing and permitting activities of internal affairs bodies, describes these supervisory and licensing activities as one of the institutions aimed at ensuring citizens' rights and legitimate interests, security, and maintaining public order [13].

It should be noted that A.B. Grokhman's opinion on the above points is incomplete, while V.I. Shalashov's opinion is based on the sequential stages of internal affairs bodies' activities.

It is difficult to agree with A.V. Lugovaya's view regarding "the right to use objects and means that have been completely or partially withdrawn from circulation," as licensing is carried out to regulate types of activities that may pose a threat to individuals, society, or the state. From this perspective, it is necessary to agree with S.V. Kazimirov's point of view.

In accordance with clause 6 of the Regulation on the Main Department of Patrol and Post Service and Public Order Protection of the Ministry of Internal Affairs of the Republic of Uzbekistan, approved by the Decree of the President of the Republic of Uzbekistan dated May 1, 2017 No. PP-2940 "On measures to radically improve the activities of internal affairs bodies in the field of maintaining public order and ensuring public safety":

organization and implementation of the formation and maintenance of an information database of civilian and service weapons, their analysis for the purpose of planning and conducting preventive measures (paragraph six of subparagraph a);

licensing and issuance of permitting documents in the field of circulation of civilian and service weapons, ammunition from them, explosives of industrial use, pyrotechnic articles, narcotic drugs, psychotropic substances and their precursors, aluminum powders and soot, control over compliance with licensing and permit requirements and conditions;

carry out investigations into cases of loss, embezzlement, other or criminal use of objects and substances, the circulation of which is limited by law;

organization of the seizure, transportation and placement for storage of civilian and service weapons, ammunition from them, explosive materials, pyrotechnic articles, narcotic drugs, psychotropic substances and their precursors, aluminum powders and soot stored in individuals and legal entities without a license and without permits, taking measures for their seizure and destruction (paragraphs eight to ten of subparagraphs b);

implementation of comprehensive measures aimed at ensuring reliable protection of objects for the storage of civilian and service weapons, industrial explosives, ammonium nitrate, pyrotechnic products, narcotic drugs, psychotropic substances and their precursors, compliance with internal and authorized access procedures and compliance of the territory, buildings and structures with the requirements of engineering and technical strength, safety and fire safety equipment;

creation of an effective system for analyzing the weaknesses of the security system when carrying out activities in the sphere of circulation of civilian and service weapons, explosives intended for industry, ammonium nitrate, pyrotechnic products, narcotic drugs, psychotropic substances and their precursors, establishing control over compliance with the rules for their purchase, accounting, distribution, transportation and targeted use (paragraphs five to six of subparagraph c);

methodological guidance for the activities of the internal affairs bodies on the accounting of civilian and service weapons (paragraph eight of subparagraph (g)) [14]

Therefore, in accordance with the Laws of the Republic of Uzbekistan "On Internal Affairs Bodies," "On Licensing, Permitting and Notification Procedures" [15], "On State Control over the Activities of Economic Entities" and the Resolution of the President of the Republic of Uzbekistan dated May 1, 2017 No. PP-2940 "On Measures to Fundamentally Improve the Activities of Internal Affairs Bodies in the Field of Public Order Protection and Ensuring Public Safety," the control and licensing units incorporated into the Main Directorate of the Patrol and Public Order Maintenance Service of the Ministry of Internal Affairs and its territorial departments have been granted authority to issue licensing and permitting documents, as

well as to monitor compliance with licensing and permitting requirements and conditions in the field of civilian and service weapons, their ammunition, industrial explosives, pyrotechnic products, narcotic drugs, psychotropic substances and their precursors, aluminum powders and soot in circulation in the country.

The control and licensing units of the internal affairs bodies, while monitoring compliance with licensing rules, prevent and identify violations related to the established rules in the field of civilian and service weapons, their ammunition, and pyrotechnic products circulation, as well as take administrative and criminal measures for these violations as provided by law.

Based on the above, in the process of controlling the circulation of civilian and service weapons, their ammunition, pyrotechnic articles, industrial explosives, narcotic drugs, psychotropic substances and their precursors, employees of the control and licensing units of the internal affairs bodies have the right to inspect places of their production, sale, storage and destruction, examine transported vehicles, seize and destroy objects and items prohibited for circulation on the territory of the Republic of Uzbekistan, and request oral and written information from citizens and legal entities to carry out their control activities. At the same time, when violations of the law are detected, according to A.R. Yarmukhamedova, they can issue written instructions that are mandatory for citizens and officials and have a specific deadline [16]. According to V.I. Shalashov, employees of the internal affairs bodies' licensing and control service and (senior) prevention inspectors of the region should inspect facilities where weapons or pyrotechnic devices, industrial explosives, narcotic drugs, psychotropic substances and their precursors are stored at least once a quarter [17]. An inspection report is drawn up in two copies. One is given to the head of the legal entity, the other is attached to the monitoring file. Facilities used as warehouses for weapons and ammunition, pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances and their precursors, as well as trading enterprises, are inspected at least once a month. Such inspections are directly attended by the heads of internal affairs bodies or their service deputies. Citizens who own weapons are inspected at least once a year. In case of the seizure of weapons and ammunition, a protocol is drawn up, which, together with the facility inspection report or the notification of inspection of the citizen who owns the weapon, is submitted to the leadership of the internal affairs bodies for decision-making in the prescribed manner within 24 hours [18].

Employees of the control and licensing service of internal affairs bodies use the following methods when monitoring the activities of legal entities engaged in the trade of civilian and service weapons, their ammunition, and pyrotechnic products:

- During inspections of these organizations, internal affairs officers first determine the presence of a license or permit granting the right to engage in the relevant activities;
- Inspect the technical equipment of places for selling, displaying, and storing weapons, pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances, and their precursors; check the secure storage of these items in trade showcases and shelves, as well as safety measures in their handling;
- Verify the availability and accuracy of accounting documents, and the storage of weapons and ammunition, pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances, and their precursors;

- Check the existence and adherence to internal control procedures for handling weapons and ammunition, pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances, and their precursors by persons responsible for their accounting, sellers (materially responsible persons), and employees assigned to work with, transport, and accompany weapons and ammunition during transportation;

- Verify the availability of documents related to previous inspections regarding incidents of damage or loss of weapons and ammunition, pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances, and their precursors.

The control conducted by the licensing departments of the internal affairs bodies can be internal or external in form. The control over the accounting, storage, and movement of civilian and service weapons, their ammunition, pyrotechnic products, and industrial explosives in warehouses, as well as compliance with established rules for their protection and technical security, may be checked monthly (internal control) by persons appointed by the enterprise head, and periodically (external control) by representatives of the State Committee for Industrial Safety of the Republic of Uzbekistan, the control and licensing system of internal affairs bodies, fire safety authorities, and higher organizations.

If a shortage or excess of pyrotechnic products or industrial explosives is detected during licensing control, it is mandatory to immediately inform the head of the enterprise, the State Committee for Industrial Safety of the Republic of Uzbekistan, internal affairs bodies, and higher organizations.

The above-mentioned control measures can be carried out by the control and licensing units of the internal affairs bodies in cooperation with representatives of the State Committee for Industrial Safety of the Republic of Uzbekistan.

Additionally, employees of the control and licensing system of the internal affairs bodies, together with National Guard representatives, are permitted to conduct control checks on: the proportionality of security post deployment to existing forces and means; the fitness of security service personnel for duty; preparedness for actions in extraordinary situations; knowledge of relevant instructions and rules for handling weapons; organization of security service for the facility; duration of posts; shift and replacement procedures; organization of meals and rest; proper documentation for the right to store and carry service (numbered) weapons and ammunition; ensuring conditions for proper accounting, use, and transfer-acceptance of service weapons and ammunition; and the organization of control over the integrity of weapons and ammunition[19].

Licenses and permits related to the circulation of civilian and service weapons, their ammunition, pyrotechnic articles, industrial explosives, narcotic drugs, psychotropic substances and their precursors shall be revoked by the internal affairs bodies in the following cases:

- voluntary relinquishment of a license and permit, liquidation of a legal entity, or death of the owner of the aforementioned items;

- systematic violation (at least twice a year) by legal entities or citizens of the requirements of regulatory legal acts governing the circulation of weapons;

- occurrence of circumstances that preclude the possibility of obtaining a license or permit;

- violations related to the circulation of pyrotechnic products, industrial explosives, narcotic drugs, psychotropic substances and their precursors;

- alteration of the ballistic and other technical characteristics of a firearm or its cartridges.

Thus, the activity of internal affairs bodies in carrying out licensing control is understood as a set of actions aimed at determining compliance with licensing requirements and conditions for specially designated objects by special authority units of internal affairs bodies in the manner prescribed by law, as well as implementing systematic and regular checks on the fulfillment of these requirements and conditions. The function of licensing supervision aims to ensure the safety of individuals, society, and the state by verifying compliance with the requirements and conditions for licensed activities.

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