

## CONDITIONS FOR OBTAINING LICENSES FOR TRADE IN WEAPONS, AMMUNITION AND EXPLOSIVES

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### **Abstract:**

*Trafficking in weapons, ammunition and explosives is the activity that is specific, rare, strictly regulated, requiring a license and subject to a detailed inspection by the state authorities in the Polish legal system. This is justified by the need to ensure national security and public order. The author discusses in detail the applicable provisions of the so-called “act on special trading” and a number of priority implementing acts. He presents the following sources of regulations, defines the subject of the licensed activity and discusses requirements for applicants, including issues related to professional preparation, health and technical-organizational conditions. He also analyzes the content of the application for a license, the procedure for granting a concession by a licensing authority and the content of the decision issued. He also takes into account the possibility of a refusal to grant a license, its revocation and changes in the scope of a license, indicating the applicant’s right to challenge the decision by requesting for review with extraordinary rendition or in the course of administrative court proceedings.*

### **Keywords:**

*license, weapons, ammunition, explosives, sale, trade*

## INTRODUCTION

Weapons, ammunition and explosives market in Poland has taken place on a minor scale. The demand is generated primarily by the armed forces, uniformed services, specialist armed security formations, hunters and shooting organizations, and in only a slight degree by ‘private persons’. In Poland the firearms license has been issued to



197595 natural persons<sup>1</sup>. The permit holders registered a total of 381588 pieces of weapons<sup>2</sup>. Trends in legislation justify the supposition that in the foreseeable future no liberalization of citizens' access to firearms should be expected, although recently some exceptions have been allowed in this area, such as the lack of regulations in the field of possessing the so-called gunpowder weapons, which can be as dangerous as other types of firearms. Such exceptions are a breakthrough in the restrictive approach of the state to the distribution of weapons among citizens.

Statistics show that in the years 2003-2015 in Poland there was a total of 1290 licenses issued for the so-called special trading<sup>3</sup>. Today, there is a growing interest in defense sports, target shooting and belonging to paramilitary groups. Perhaps some entrepreneurs will see this trend as the chance for a new, though not an easy business. In the next few years, this may result in an increase in the number of licensees.

## 1. THE SOURCE AND SUBJECT OF REGULATIONS

Rules for granting licenses are regulated by Chapter 2 of the Act of 22 June 2001 on economic activity in the sphere of manufacturing of and trade in explosives, weapons, ammunition as well as products and technologies used by the Armed Forces and the Police<sup>4</sup>, often referred to as the "Act on special trading" (hereinafter abbreviated as u.o.s.). Pursuant to Art.2 of u.o.s., the implementation of economic activities to the extent specified in the Act is allowed only if the conditions specified in the Act are met. The basic prerequisite is to obtain a license.

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<sup>1</sup> Out of whom 62,693 people obtained a firearms license for the user's own personal protection, 67 people in order to protect persons or property, 116293 people for hunting purposes, 14894 people for sporting, 33 persons for historical reconstructions, 1,520 persons to pursue their collecting interests, 1,755 people for commemorative purposes, 149 people for training, 191 people for any other purposes. Data from the National Police Headquarters as of 31 December 2014 with the proviso that it did not include the people who had been issued decisions pursuant to Art.155 of the Code of Administrative Proceedings (hereinafter - k.p.a.) amending the decision as regards the part on the number of firearms or people who obtained the license for the same purposes issued after 2011 on the basis of Art.10 of the Act of 21 May 1999 on weapons and ammunition (i.e. Journal of Laws of 2012, item 576, as amended).

<sup>2</sup> Out of which 66782 pcs. of weapons were registered for personal protection, 68 pcs. in order to protect persons or property, 272,313 pcs. for hunting purposes, 30551 pcs. for sporting, 126 pcs. for historical reconstructions, 8357 pcs. to pursue people's collecting interests, 2483 pcs. for commemorative purposes, 741 pcs. for training, 167 pcs. for any other purposes. Data from the National Police Headquarters as of 31 December 2014 with the proviso that it included the number of firearms obtained based on the decision under Art. 155 of the Code of Administrative Proceedings amending the decision as regards the part on the number of firearms and subsequent weapon license for the same purposes issued after 2011 on the basis of Art. 10 of the Act on weapons and ammunition.

<sup>3</sup> Data from the Ministry of Internal Affairs of 7 June 2015. It should be noted, however, that the data applies to the entire special trading, and so the implementation of economic activity in the sphere of manufacturing of and trade in explosives, weapons, ammunition and products for military and police use as well as technologies for such purposes. The data is not reliable, however, as it does not include information on entities which have ceased business activity entirely or only partially covered by the license

<sup>4</sup> i.e. Journal of Laws of 2012, item 1017, as amended.



The provision of Art.6 (1) of u.o.s. enumerates the types of activities requiring a license. In accordance with the Title of the Act, this category comprises: the implementation of economic activity in the sphere of manufacturing of and trade in explosives, weapons, ammunition and products for the military or the police, and trading in technologies for military or police use. However, there are some exceptions to this general regulation, which are mentioned in Art.6 (2) of u.o.s. It is not required to obtain a license to trade in the so-called "small pyrotechnic articles"<sup>5</sup>, deactivated firearms, in accordance with the provisions of the Act of 21 May 1999 on weapons and ammunition<sup>6</sup>, weapons other than firearms as well as products for military or police purposes, deprived of a permanent and irreversible combat traits, as referred to in Art.19a of u.o.s. The types of weapons and ammunition, as well as a list of products and technologies for military or police use, where the production or trade is required to get a license are enumerated in the Regulation of the Council of Ministers of 3 December 2001 on the types of weapons and ammunition and a list of products and technologies for military or police use, manufacturing of or trading in which requires obtaining a license<sup>7</sup>.

## 2. LEGAL DEFINITIONS

A proper understanding of the scope of the statutory regulations requires precise definitions of the concepts of key importance from the point of view of special trading. The provisions of the Act contain a number of legal definitions. In particular, they specify the notion of explosives, weapons, ammunition, and products and technologies for military or police to use. However, in the case of weapons and their relevant elements, the legislator indicates the provisions of the Act on weapons and ammunition, while expanding the definition of other devices applied to destroy or incapacitate targets (Art.3 (2) point 2 of u.o.s.). In other respects, the Act introduces its own definitions. For example, the ammunition means articles filled with explosives intended for shooting with the use of firearms, applied to destroy or incapacitate targets, as well as for training purposes (Art.3 (2) point 3 of u.o.s.). There was also added the concept of relevant parts of ammunition, considered as the bullets filled with explosives, chemical incapacitating or inflammatory agents or other life or health threatening substances, as well as primers initiating combustion, and propellant in the form of gunpowder (Art.3 (2) point 3a of u.o.s.). Within the meaning of the Act, explosives are primarily solid, liquid or mixed chemical substances that react chemically with the production of gas having such a temperature and pressure and at such a speed that may cause damage to the surrounding environment, as well as articles filled with explosive, except ammunition (Art.3 (2) point 1a of u.o.s.). Among the explosives the Act separately defines pyrotechnical and plastic explosives (Art.3 (2) point 1b,c of u.o.s.), as well as explosives intended for civil use (Art.3 (2) point 1c of u.o.s.).

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<sup>5</sup> More specifically, pyrotechnic articles referred to in Art.62c (1) point 1a-c, point 2a and 3a of the Act of 21 June 2002 on explosives for civil use (i.e. Journal of Laws of 2015, item 1100).

<sup>6</sup> Journal of Laws of 2012, item 576, as amended.

<sup>7</sup> Journal of Laws of 2001, No. 145, item 1625. See: regulations amending: Journal of Laws of 2003, No. 219, item 2152 and Journal of Laws of 2009, No. 106, item 881.



It is noteworthy that Art.3 (1) point 2 of u.o.s. defines trading not only as a commercial activity, but also as agency consisting in negotiations, sales consultancy, assistance in concluding contracts and organization of the movement of regulated goods<sup>8</sup> carried out within the Polish territory (hereinafter - RP). Thus, the definition of trading has been formulated considerably widely. The designation of 'trade' is not only to buy and sell but also link entities wishing to acquire or dispose of licensed goods, and even advise the parties. Taking up these actions without a license is a crime but only if this happens within economic activity performed, which follows directly from Art.36 (1) of u.o.s.<sup>9</sup>.

### 3. LICENSING AUTHORITY AND THE PROCEDURE OF ISSUING LICENSES

Under Art.7 (1) of u.o.s. the Minister responsible for internal affairs issues licenses to perform economic activities referred to in Art.6 (1) of u.o.s. The Act describes it as 'the licensing authority'. The same entity may also refuse to grant a license, change or revoke it as well as limit the scope of granted concessions.

Taking steps that are to determine whether an applicant for the license meets the requirements specified in the Act (Art.7 (2) of u.o.s.) precede granting of a license. For this purpose, the licensing authority compulsorily consults the Minister responsible for the economy, the Chief of the Internal Security Agency (hereinafter - ABW), the Head of the Military Counterintelligence Service (hereinafter - SKW) and the appropriate the Police provincial commander. When issuing other decisions (e.g. the refusal to grant the license, revocation of the license, change or limit of its scope) consulting those entities mentioned above is optional. In particular, it seems pointless in the case of the decision to refuse a license if the refusal occurs, among others, for formal reasons (e.g. the applicant has not submitted the set of documents required). It will be otherwise in the case of extending the scope of a license. It is *de facto* taking a decision on a new object of regulated activity. In such a situation the licensing authority should compulsorily request the abovementioned entities' opinions. There is practical evidence that the licensing authority exhaustively uses its powers and seeks the views even if it is not mandatory. However, when it comes to protecting national security and public order, the excessive caution should not be challenged anyhow.

Furthermore, under Art.7 (3) of u.o.s. the Chief Inspector of Labor, the Minister of Economy, the Head of ABW, the Head of SKW, and depending on the entrepreneur's

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<sup>8</sup> It does not apply to freight forwarders.

<sup>9</sup> The phrase 'within economic activity performed' used by the legislature requires explanations. It seems that an act does not have to be carried out in an organized and continuous way so as to fulfill the definition of a criminal offense, as the interpretation of the content of Art.2 of the Act of 2 July 2004 on the business activity freedom (Journal of Laws of 2015, item 584, as amended) might suggest. The grammatical interpretation indicates that it will be a criminal offense even when an entrepreneur makes it only once, but within his / her business activity, e.g. as a remunerated advisory or intermediation service. In turn, a person, who is not an entrepreneur, cannot commit such an act unless he / she carries out economic activities without satisfying the requirement of registration. It seems that this interpretation does not fully reflect the legislator's intention and the teleological interpretation would rather be followed when applying that provision.



seat of or place of implementing economic activity the appropriate provincial governor, the commander of the provincial State Fire Service the commander of the provincial Police are mandatorily notified about granting a license, its amendment or revocation by the licensing authority. On the other hand, the licensing authority informs only the Head of ABW, the Head of SKW and the appropriate commander of the provincial Police about the refusal to grant a license. Such notice has a preventive character. There is a possibility that the entity, which unsuccessfully applied for a license or had it revoked or limited, may decide to operate illegally. Having such knowledge relevant services can carry out checking operations after a certain time.

#### 4. STATUTORY REQUIREMENTS

According to Art.8 (1) point 1 of u.o.s. the license is granted to a person who meets the requirements on citizenship<sup>10</sup>, age (over 25 year-olds)<sup>11</sup> and education (having at least secondary education). An applicant is also obliged to complete specialist training and have full legal capacity determined on the basis of the provisions of the Act of 23 April 1964 – the Civil Code (hereinafter – k.c.)<sup>12</sup>. The additional requirement is the successful conclusion of medical (psychiatric) and psychological examinations. A candidate should also submit a certificate from the National Criminal Register (hereinafter - KRK), stating that he / she was not convicted by a final judgment for an intentional crime or an intentional tax crime or an intentional fiscal misdemeanor. In addition, a candidate has to consign a written statement that no court action is pending against him / her in any cases of the above specified acts.

According to the Art.8 (2) of u.o.s. the license is granted to an entrepreneur who is not entered in the Register of Insolvent Debtors conducted by the National Court Register (hereinafter - KRS). An applicant is also obliged to document the ability to meet technical and organizational conditions, which ensure the proper conduct of economic activity covered by the license. Attaching relevant opinions referred to in Art.9 of u.o.s. fulfills this requirement. However, according to Art.8 (3) point 2 of u.o.s. these entrepreneurs who are engaged in merchanting or trading without the right to store goods are exempted from the requirement to meet the technical and organizational conditions<sup>13</sup>.

The above-discussed requirements apply to all entrepreneurs, regardless of the adopted organizational and legal form. However, the legislature has tightened some of them

<sup>10</sup> The requirement on being a citizen of Poland, any other Member State of the European Union (hereinafter – the EU), the Swiss Confederation, the Member State of the European Free Trade Association (EFTA) - parties to the Agreement on the European Economic Area or a citizen of another country, if the person has received the permanent residence permit in the Republic of Poland or the EU long-term residence, or on a reciprocal basis, unless provided otherwise by international agreements ratified by the Republic of Poland.

<sup>11</sup> The legislator has decided to lower the requirement for gunsmiths being less than 21 years of age, thus facilitating the access to the profession to young students of the unpopular craft.

<sup>12</sup> See: Art.11 of k.c. in connection with Art.10 of k.c. (i.e. Journal of Laws of 2014, item 121, as amended.)

<sup>13</sup> However, this type of concession causes a major reduction not allowing entrepreneurs to run a “stationary” point of sale but only for merchanting.



towards entrepreneurs who are not natural persons. As a rule this relates to partnership and capital companies. Due to unjustified reasons, the requirement to undergo professional training has been extended to two people. In accordance with Art.8 (1) point 2 of u.o.s. license training must be completed by at least two persons<sup>14</sup> who are members of the company management body or one member of the company management body and at least one additional person. This can be an attorney<sup>15</sup> or a proxy<sup>16</sup> assigned by the management body<sup>17</sup>. On the other hand, company owners, members of the management body and proxies must satisfy the requirement referred to in Art.8 (1) point 1g and 1h of u.o.s. concerning a clean criminal record. In the case of capital companies<sup>18</sup> and limited partnership companies this requirement must also be complied by members and shareholders who possess at least 20% of shares.

Three of the abovementioned requirements necessitate a somewhat more detailed analysis. These are license training, state of mental health and technical and organizational conditions. Their fulfillment requires additional activities and incurs costs. Hence, it is worthwhile to take a closer look at them.

#### 4.1. License training

The thematic scope of training, its course, the fee and the manner of documentation confirming its completion has been regulated by the Minister of Economy of 25 September 2002 on training confirming vocational qualifications to perform or manage economic activity in the sphere of manufacturing of and trading in explosives, weapons, ammunition and products for military or police use and trading in technology for this purpose<sup>19</sup>.

According to §5 (2) of the Regulation, the training program and a verification test should particularly include issues related to the conditions of performing or managing business, health and safety standards, general physical and chemical characteristics and the use of explosives and ammunition, the general construction, types and the rules of using weapons, technical and organizational conditions in force when manu-

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<sup>14</sup> The number of people with specialized vocational training should depend on the actual size of activity (e.g. trade volume), not on the legal form adopted. A sole proprietorship can take a comparable or even larger size than a commercial company, and yet the legislator has decided that one trained person is sufficient to implement such activity. Thus, there is no rational justification to require training of two people in the commercial companies. This provision is a vivid manifestation of discrimination and should *de lege ferenda* be subject to derogation during the next amendment of the Act.

<sup>15</sup> It should be evident from the power of attorney that he / she is authorized to manage activities specified in the license. Granting power of attorney is not synonymous with employment. The provisions of Art.22 (1) and 28 (1) of u.o.s. do not apply to a proxy, unless he does not perform other tasks (e.g. is employed as a seller) in addition to managing economic activity.

<sup>16</sup> In the case of a proxy the scope of empowerment stems from Art.1091 (1) of k.c. See also: Z. Radwanski, *Prawo cywilne – część ogólna*, Warsaw 2007, p. 332 and next.

<sup>17</sup> The establishment of an additional person is required in the case of a one-man management body.

<sup>18</sup> A limited liability company and joint stock company.

<sup>19</sup> Journal of Laws of 2002, No. 173, item 1415; amended twice (see: Journal of Laws of 2003, No. 176, item 1717 and Journal of Laws of 2012, item 947), whereby it should be noted that these changes concerned only the list of institutions authorized to carry out such training.



facturing of and trading in license-based products as well as principles of keeping stock records and the kinds of accountancy documentation. The scope of the training also includes rules for safe packaging, labeling and transport of dangerous goods and weapons, as well as action plans in the case of a threat to human life or health, property and the environment. Participants of the training should also know selected issues of the Community law linked to the discussed business activity, as well as regulations applicable to warehousing and storage, methods of prediction and assessment of risks that may occur depending on the scope of the business conducted.

It is worth noting that the training does not have to cover the full range referred to in the Regulation. A participant may decide on taking part in such a thematic group, which corresponds to the type of economic activity envisaged to be taken up in the future. Pursuant to §2 (2) of the Regulation training is conducted in thematic groups covering: the production of explosives and ammunition, trade in explosives and ammunition, the production of weapons, trade in weapons, the production of goods for the military or the police to use, trade in products for military or police use, trade in technology for military or police purposes. The fact of the participation in particular thematic groups is reflected in the content of the certificate confirming vocational qualifications.

The training program and a verification test are adapted to individual thematic groups (§5 (3) of the Regulation). According to §2 (1) of the Regulation the extent of training for different thematic groups includes rules for the performance of license-based economic activity, occupational health and safety standards related to the scope of economic activity, threats to human life and health, property, the environment and public safety, methods to reduce or eliminate these risks, as well as external threats to business carried out<sup>20</sup>.

In §3 (1) the Regulation specifies the maximum duration of the training that cannot last for more than four consecutive days. Practice shows that it is usually shorter, which is dictated by the desire to reduce the costs of organizing training and its price. The topics raised in the lectures are very extensive and difficult. Therefore, it is no secret that despite the efforts of a competent teaching staff, short training does not give a chance to acquire the full range / spectrum of knowledge required.

Persons undergoing training cover the costs (Art.8 (4) of u.o.s.)<sup>21</sup> and at the end of it their knowledge is verified through a test. If at least 75% of the answers are correct a participant receives the appropriate certificate, which specifies the terms of reference by indicating thematic groups, which were the subject of training. In the case of a

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<sup>20</sup> This should include cases of criminal activity (including organized crime and terrorism) and activities undertaken by services of foreign states. The concessionaire should be prepared for such an eventuality and know the procedures of proper conduct.

<sup>21</sup> According to §8 of the Regulation the fee for the training cannot exceed the amount of the average monthly salary in the quarter preceding the date of filing the application, announced by the President of the Central Statistical Office on the basis of Art.20 (3) of the Act of 17 December 1998 on pensions from the Social Insurance Fund (i.e. Journal of Laws of 2015, item 748). Moreover, it varies for different thematic groups referred to in §2 (2) of the Regulation.



negative test result it is possible to re-sit it not earlier than after 6 months (§3 (2-6) of the Regulation). The fact of issuing the certificate is recorded in the register of certificates issued, constituting a part of the minutes of the training course, which according to §7 of the Regulation is stored at the headquarters of the institution that conducted the training.

In §4 the Regulation contains a list of institutions authorized to conduct license training. Currently, only seven such institutions are enumerated there.

#### **4.2. The state of mental health**

Under the provision, every five years the persons referred to in Art.8 (1) of u.o.s. are obliged to submit to the licensing authority a valid medical and psychological certificate of no contraindications to exercise or manage economic activity in terms of the license (Art.11 (1 and 2) of u.o.s.). For safety reasons people who are to be liable for conducting the licensed business activity must have adequate health predispositions for its implementation<sup>22</sup>. Therefore, the requirement for systematic medical testing is fully justified. However, one should be aware that the human mind is difficult to diagnose, so even the positive test result does not constitute any guarantee of safety. In this context, the frequency of such examinations is debatable. Perhaps a decision on the matter should be left in the hands of a physician and a psychologist, not the legislator.

The examination procedure is governed in detail by the Regulation of the Minister of Health of 22 August 2002 on psychiatric and psychological examinations of persons applying for or having the right to perform or manage economic activity, or those directly employed in the production of and trade in explosives, weapons, ammunition and products for the military or the police<sup>23</sup>. According to §2 of the Regulation the psychiatric examination contains assessment of the state of mental health, including mental disorders, referred to in the Act of 19 August 1994 on the protection of mental health<sup>24</sup>. Significant psychological dysfunctions are also taken into consideration. On the other hand, under §3 of the Regulation, psychological testing includes the determination of the intellectual level and description of personality traits as well as the level of social maturity. The provision of §2 of the Regulation requires taking into account the content of Art.8 (1) point 1f of u.o.s., and thus a psychiatrist should consider a psychologist's opinion. Therefore, the medical examination should be preceded by a psychological examination, not vice versa.

It is worth noting that the medical examination is not psychological but solely psychiatric one. Only qualified personnel are entitled to conduct such an examination (Art. 4 and 5 of the Regulation). Physicians and psychologists who meet these requirements

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<sup>22</sup> As a side note it should be mentioned that also persons referred to in Art.22 and Art.28 of u.o.s., i.e. the staff employed at the company performing the licensed activity, are subject to the examinations.

<sup>23</sup> Journal of Laws of 2002, No 150, item 1246.

<sup>24</sup> Journal of Laws of 2011, No 231, item 1375.





should be sought on the lists published on the websites of the Provincial Police Headquarters<sup>25</sup>.

On the basis of the examination results an authorized physician issues a medical certificate together with a copy, but a person tested receives the original of a certificate, while the copy is left in the documentation. In the event of a negative assessment an additional copy of a certificate is submitted to the licensing authority<sup>26</sup>. This is a measure to prevent a tested person who has not received a positive examination result from the subsequent use of a false document. The same procedure is mandatory for an authorized psychologist (§8 (1,2) of the Regulation).

Medical and psychological certificates are valid for a period of 3 months from the date of the issuance (§9 of the Regulation). The costs are borne by an applicant<sup>27</sup>. The Regulation also determines certificate formats, which are attached as Annexes 1 and 2 to the Regulation.

According to §10 (1) of the Regulation both an examined person and the licensing authority have the right to appeal against medical and psychological findings. It is brought with its justification in writing through the physician or psychologist who issued the contested decision within 30 days from the date of receipt of the certificate. In the case of appealing against a medical certificate the appeal body is the provincial consultant in the field of psychiatry, and if against a psychological certificate – a psychologist appointed by the provincial governor. A physician or psychologist via whom the appeal is made forwards it with the documentation file to the appeal entity within 7 days from the date of receipt of the appeal. Re-examination should be carried out no later than 30 days from the date of receipt of the appeal by the appeal body<sup>28</sup>. A medical or psychological certificate issued under appeal is final. It closes the way to challenge the examination result in substantive terms. It may, however, be called into question when the appeal body fails to comply with the appeal procedure described above. The Regulation also defines the formats of decisions issued under appeal, which are attached as Annexes 3 and 4 to the Regulation.

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<sup>25</sup> These are list of physicians and psychologists authorized to examine and issue certificates in accordance with the Regulation of the Minister of Health of 7 September 2000 on the medical and psychological examinations of persons applying for or possessing a weapon license. (Journal of Laws of 2000, No. 79, item 898, amendments: Journal of Laws of 2001, No. 22, item 261 and Journal of Laws of 2002, No. 68, item 630).

<sup>26</sup> If a licensee employs the examined person, he / she receives an additional copy of the certificate, not the licensing authority (§7 (1,2) of the Regulation).

<sup>27</sup> Pursuant to §12 of the Regulation the fee for psychiatric and psychological examinations cannot be higher than 15%, and the fee for examinations under appeal not higher than 25% of the lowest monthly salary specified by the Minister for Labor on the basis of Art.77<sup>4</sup> (1) of the Act of 26 June 1974 — the Labor Code (i.e. Journal of Laws of 2014, item 1502, as amended).

<sup>28</sup> The provincial consultant in the field of psychiatry carries out a psychiatric examination, or a psychiatrist designated by him / her. A psychologist appointed by the provincial governor carries out a psychological examination.



In accordance with §11 (1) of the Regulation the documentation related to the medical and psychological examinations and issued certificates is kept for a period of 10 years<sup>29</sup>.

#### **4.3. Technical and organizational conditions**

The provision of Art.9 (1) of u.o.s. provides guidance on the opinion referred to in Art. 8 (2) point 2 of u.o.s. Under this provision, such opinions should be granted with the envisaged economic activity and its associated risks taken into account, and at the same time include an assessment of the correctness of the adopted location, construction and equipment of production, storage, social, auxiliary and other facilities from the point of view of the mutual threats to these objects and the environment, usability of areas held by an applicant for building construction as well as safety of technological processes assumed for realization, technological devices, raw materials and finished products occurring in these processes.

Frequently the fulfillment of the technical and organizational requirements incurs significant investment spending. Certainly, the scale of the undertaking depends on the type of projected business activity. It will be different for a small point of sale, and another for manufacturing explosives in a factory. Therefore, it is necessary for an entity intending to apply for a license to possess full knowledge of what requirements are to be met in order to obtain a license. The legislator has addressed expectations of future licensees and in the Art.9 (2) of u.o.s. predicted the possibility for an entrepreneur to request a preliminary list of specific requirements concerning the preparation of the planned economic activity before he / she applies for an opinion. Such a document should be classified as a kind of 'promise', which should give the entrepreneur confidence that meeting requirements specified will ensure him / her receiving a positive opinion on the compliance of technical and organizational conditions.

According to the Art.9 (3) of u.o.s the costs of an opinion are borne by the entity ordering its issuance. As a rule, even in the case of uncomplicated opinion this is the expenditure of a few thousand of PLN. In Poland there are only ten institutions that have the appropriate research and development potential and are authorized to issue such opinions (see: Annex to the Regulation of the Minister of Economy of 21 February 2002 on the institutions issuing opinions on the possibility of the fulfillment of technical and organizational conditions while manufacturing of and trade in explosives, weapons, ammunition and technology for military or police use<sup>30</sup>). However, these institutions differ as regards the scope of their opinion-giving competences.

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<sup>29</sup> As for dealing with the documentation see: the Act of 15 April 2011 on healthcare institutions (i.e. Journal of Laws of 2015, item 618, as amended), the Act of 6 November 2008 on patient's rights and the Ombudsman of Patient's Rights (i.e. Journal of Laws of 2012, item 159 as amended) and the Act of 5 December 1996 on the professions of a physician and a dentist (i.e. Journal of Laws of 2015, item 464).

<sup>30</sup> Journal of Laws 2002, No. 19, item 193, amended four times (see: Journal of Laws of 2003, No. 52, item 457, Journal of Laws of 2003, No. 143, item 1395, Journal of Laws of 2009, No. 53, item 437 and Journal of Laws of 2012, item 946).



A detailed discussion of technical and organizational requirements goes beyond the scope of this study. Each time they may be different, depending on the type of economic activity envisaged and the scale and location of an object, the immediate environment, the degree of safety risks, etc. The technical requirements are clearly defined in a number of implementing acts, including in the Regulation of the Minister of Economy of 27 October 2010 on warehouses and facilities for the storage of explosives, weapons, ammunition and goods for military or police purposes<sup>31</sup>.

## 5. THE CONTENT OF AN APPLICATION FOR THE LICENSE ISSUANCE

The format of the application for the issuance and change of the license is provided in the Regulation of the Minister of Internal Affairs of 2 February 2012 on the format of the application for the issuance or change of a license for performing economic activity in the sphere of manufacturing of and trading in explosives, weapons, ammunition and products for military or police use, and trading in technology for the military or the police<sup>32</sup>. According to the Art.12 (1) of u.o.s. the application for a license has to contain the entrepreneur's company name, its seat and address and the address of the place of business activity performance, the number in the Register of Entrepreneurs (KRS) or in the Business Activity Register (CEIDG)<sup>33</sup>, as well as the tax identification number (NIP). Furthermore, the application must specify the type and scope of economic activity as well as the proposed time period for which the license is to be granted. An entrepreneur is also obliged to indicate the planned date of business commencement, but it may cause some practical problems. The date indicated in the application is merely anticipatory<sup>34</sup>. It is obvious that this date may not fall before obtaining the license. An applicant does not know how long the examination of his / her license application is going to take. If a date indicated is earlier than the date of granting the license, it should be assumed that the activity started from the date when the license was received. However, as a rule, applicants indicate that the date of business commencement will be the same as the date of the license issuance, which is a rational solution that allows for avoiding ambiguity.

The application for a license must contain an entrepreneur's personal data (in the case of a sole proprietorship business) or data of members of an entrepreneur's management body, proxies and attorneys (in the case of commercial law companies). These data must include the: name, surname, date and place of birth, citizenship, personal identification number (PESEL)<sup>35</sup> and address of permanent or temporary residence. A certificate or a statement that an entrepreneur is not included in the Register of In-

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<sup>31</sup> Journal of Laws of 2010, No. 222, item 1451.

<sup>32</sup> Journal of Laws of 2012, item 234.

<sup>33</sup> The Business Activity Central Registry and Information Record.

<sup>34</sup> There is no clear provision allowing an entrepreneur for adjustment of the planned date of business activity commencement indicated in the license application.

<sup>35</sup> In the case of a person holding the citizenship of another country - the series and number of a passport, or in relation to citizens of another EU Member State, the Swiss Confederation or the Member State of the European Free Trade Association (EFTA) - parties to the Agreement on the European Economic Area - the series and number of another document confirming citizenship and identity.



solvent Debtors KRS, where such a declaration is submitted under penalty of criminal liability for making false statements<sup>36</sup>, must accompany the application. The application should also contain annexes documenting the compliance with the requirements set out in Art.8 (1 and 2) of u.o.s. The provision of Art.12 (2) of u.o.s. forces the attachment of documents confirming an entrepreneur's education and professional training of the persons referred to in Art.8 (1) of u.o.s., as well as a document setting out the applicant's legal form<sup>37</sup>. A statement indicating the persons mentioned in Art. 8 (1) point 2 of u.o.s. and these persons' statements about having full legal capacity, a list of shareholders and the volume of qualifying holdings possessed by them referred to in Chapter 4 of the Act of 29 July 2005 on public offering and conditions governing the introduction of financial instruments to organized trading and public companies<sup>38</sup>.

An entrepreneur should also enclose an extract from a judicial record from KRK stating that persons referred to in Art.8 (1) point 1 and 2 of u.o.s. have not been convicted for an intentional crime, an intentional tax crime or intentional fiscal misdemeanor and these persons' statements that no proceedings referred to in Art.8 (1) point 1h of u.o.s. are conducted against them. The application should also be accompanied by medical and psychological certificates of no contraindications to perform or manage economic activities specified in the license.

In the case of an applicant who applies for a license for an activity involving trade with the right for storage, it is necessary to submit the opinion referred to in Art.8 (2) point 2 of u.o.s. and attestations of the district commander of the State Fire Service, the State District Sanitary Inspector and the provincial Environmental Protection Inspector stating that the buildings and technical devices intended for performing business activity comply with the requirements set out in the provisions on fire safety, sanitary rules and environmental protection.

All annexes listed in Art.12 (2) of u.o.s. should be submitted in the original or in the form of copies certified by a notary. If the documents are in a foreign language the submission of an authorized translation made by a sworn translator is necessary. The provision of Art.12 (3) of u.o.s. gives an entrepreneur the opportunity to enclose other documents that may be relevant to the examination of the application. These can be, for example, documents certifying additional useful qualifications or previously gained professional experience in the position associated with the projected license-based economic activity, or other opinions on the fulfillment of technical and organizational conditions.

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<sup>36</sup> A person submitting such a statement should be instructed about criminal liability for making false statements by the authority. Due to the fact that the statement is made in writing and in such a situation the body cannot provide that information, an applicant is required to include a clause that reads: "I am aware of criminal liability for making a false statement".

<sup>37</sup> In particular the statute or the articles of partnership or other document prescribed by law concerning the establishment of business activity and the organization of an entrepreneur.

<sup>38</sup> i.e. Journal of Laws of 2013, item 1328, as amended.



Under Art.12 (4) of u.o.s. the licensing authority may require an entrepreneur to attach documents other than those mentioned in Art.12 (2) of u.o.s. or additional supplementary information, but only when in the course of the proceedings it turns out that in respect of defense, national security or other important public interests they are required to examine the application. This provision should not be interpreted broadly. The licensing authority should not require additional documents if no indications evidence a threat to the aforementioned values. Also entities consulted by the licensing authority before granting concessions have the right to require an applicant to provide information necessary to verify the data contained in an application for a license and check the veracity of information given in the application to determine whether the entrepreneur fulfills the statutory conditions for implementing planned economic activity (Art.12 (5) of u.o.s.). In special cases it may turn out that in the course of the licensing procedure, an applicant will have to be active at the level of evidence to make information contained in the application for a license credible and to convince the licensing authority to issue a decision in accordance with the application<sup>39</sup>.

## 6. THE CONTENT OF A LICENSE

A license, as an administrative decision, must meet the requirements of Art.107 (1) of the Act of 14 June 1960 - the Code of Administrative Procedure (hereinafter - k.p.a.)<sup>40</sup> and include other components required by specific provisions (Art.107 (2) of k.p.a.)<sup>41</sup>. Pursuant to Art.14 (1) of u.o.s. a license contains the legal basis for its granting, the entrepreneur's company name, its seat and address, the number in the Register of Entrepreneurs (KRS) or in the Business Activity Register (CEIDG)<sup>42</sup> and the tax identification number (NIP), as well as names and surnames of the members of the management body, proxies or / and attorneys if appointed to manage business activity specified in the license. Moreover, the license content must specify the type and scope of economic activity for which it was issued, the address and place of performing the activity, the planned date of the business commencement, an entrepreneur's duties in the event of cessation of the licensed activity, the license validity date and the date of its issuance.

Under justified circumstances, the licensing authority may impose on an entrepreneur the particular conditions of implementing business activity<sup>43</sup>. This can be due to the need to ensure the protection of human life and health, property and the environment

<sup>39</sup> In matters not regulated by the Act on special trading, the provisions governing an administrative procedure, including the rules of taking evidence, are applicable to the licensing procedure being an administrative one.

<sup>40</sup> That is Journal of Laws of 2013, item 267, as amended.

<sup>41</sup> In this case by the Act on special trading.

<sup>42</sup> The Business Activity Central Registry and Information Record.

<sup>43</sup> It seems that primarily it is possible to include an additional provision in the form of so-called "order", i.e. the obligation to perform further activities. One also cannot rule out the introduction of a suspensory or terminating condition. On the subject of additional provisions see: J. Borkowski [in:] B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądowno-administracyjne*, Warsaw 2009, p. 244.



(Art.14 (2) of u.o.s.). However, it is important to bear in mind that the license as any external administrative act is issued on the basis of and within the law. Hence, the licensing authority may not impose on an entrepreneur requirements other than those specified in the Act and implementing acts issued pursuant to the statutory delegation. Each conditioning with an additional obligation not reflected in the provisions should be classified as an offense against the law and may form the grounds for the appeal<sup>44</sup>. The imposition of additional duties, which admittedly are provided for in the Act and regulatory provisions but according to the addressee of a decision have been wrongly imposed, may give rise to the same effect.

According to Art.14 (3) of u.o.s. a license is granted for a limited period no less than five years and not more than fifty years. In this case, the legislator has allowed for the use of the institution of administrative discretion, which, on the one hand, gives the desired flexibility in procedures carried out, on the other hand is a source of potential disputes between an applicant and the authority. The proper use of this institution requires a thorough analysis of the collected evidence. A license consistent with an application does not require justification (Art.107 (4) of k.p.a.)<sup>45</sup>, while a license granted for time shorter than requested by an entrepreneur is not a decision taking into account the entire claim of an entity, and therefore requires not only legal, but above all the actual justification (Art.107 (3) of k.p.a.). A licensee has then the right to the appeal. The argument in favor of an applicant can be no objection to the opinions issued by the bodies which the licensing authority consulted with before the decision.

Obtaining a license is tantamount to imposing a number of obligations on an entrepreneur. Under Art.15 (1) point 1 of u.o.s. an entrepreneur who obtained a license is obliged to undertake economic activity within six months from the date of the license issuance or from the date of planned business commencement indicated in an application. An entrepreneur should also notify the licensing authority about starting economic activity within 14 days (Art.15 (1) point 2 of u.o.s.)<sup>46</sup>. This obligation is under pain of a penal sanction laid down in Art.38 (1) of u.o.s.<sup>47</sup> Importantly, if an applicant has indicated in the application that the expected date of commencement of activity will be the date of a license issuance, he / she is not exempted from the obligation to inform the licensing authority of the fact. The license content includes the information on the obligation to notify the licensing authority about undertaking economic activity within 6 months from the date of issue of the license or the planned date of business activity commencement under pain of revocation of the license granted (Art.14 (4) of u.o.s.).

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<sup>44</sup> It is also worth mentioning that the content of a license should not duplicate the provisions of the Act and regulations. It can be only concretized, specified in relation to the actual situation.

<sup>45</sup> Unless it has been issued as a result of the appeal lodged. Then both positive and negative decision must be justified.

<sup>46</sup> The provision of Art.15 (1) point 2 and 3 of u.o.s. requires an entrepreneur to notify the licensing authority within 14 days about the cessation of the licensed activity and on changes in the factual and legal situation in terms of the data contained in the application for a license and documents annexed to the application.

<sup>47</sup> The failure to comply with the obligation is liable to fine, limitation of liberty or imprisonment for up to 2 years.



It should be mentioned that the condition for revocation of the license for that reason is prior the ineffective request of an entrepreneur to take up activities covered by the license, which follows *expressis verbis* from Art.17 (1) point 2 of u.o.s.

## 7. THE REFUSAL TO GRANT A LICENSE, ITS REVOCATION OR AMENDMENTS TO THE SCOPE

The provision of Art.16 (1) of u.o.s. regulates situations in which the licensing authority mandatorily refuses to grant a license. This occurs because of any threat to defense, national security or public order and in the case of business liquidation or if the bankruptcy proceedings is pending against it, as well as if an entrepreneur was withdrawn a license in the past 10 years, with the exception of withdrawal for the reasons referred to in Art.17 (1) point 2 of u.o.s.<sup>48</sup> The refusal also occurs when an entrepreneur represents a person who was a shareholder, a member of the management body, a proxy or an attorney established by the entrepreneur to manage the licensed business, and their activities have an impact on the decision to revoke the license. Most doubts may be raised up by the first of the abovementioned grounds for refusal, i.e. a threat to defense, national security or public order. It is general, evaluative in nature and gives the possibility of using a discretionary decision. Its fulfillment should be justified by opinions of entities consulted by the licensing authority<sup>49</sup>.

What is more, the licensing authority refuses to grant a license, limits its scope or refuses to change a license, if an entrepreneur does not meet the conditions specified in the Act related to the performance of licensed activities (Art.16 (2) of u.o.s.).

The provision of Art.17 (1) of u.o.s. states that the licensing authority compulsorily withdraws a license if there has been issued a final decision prohibiting an entrepreneur from conducting economic activity covered by the license, and, as already mentioned above, when an entrepreneur has not taken economic activity covered by the license within 6 months from the date of the license issuance or from the planned date of its commencement, despite being called upon by the licensing body. The same effect occurs in the event of permanent cessation of activity covered by the license<sup>50</sup>. In accordance with Art.17 (2) of u.o.s. the licensing authority obligatory revokes a license

<sup>48</sup> As for the situation when an entrepreneur has not taken economic activity within 6 months from the date of the license issuance or of any other date indicated in the application despite the request of the licensing body, as well as the permanent cessation of license-based activity.

<sup>49</sup> Such an opinion should be evident to an applicant. It constitutes part of the evidence in an administrative case. An applicant, as a party to the proceedings, has, among others, the right to inspect the file (Art.73 (1-3) of k.p.a.). Unfounded derogation of this right is a breach of the principle of active participation of a party concerned in the proceedings, enshrined in Art.10 (1) of k.p.a. However, based on Art.74 (1) of k.p.a. the licensing authority may, in the way of a decision, refuse a party to employ its powers, arguing that it is necessary to protect classified information under the provisions of the Act of 5 August 2010 on protection of classified information (Journal of Laws of 2010, No. 182, item 1228, as amended). The decision issued in this regard may be appealed. It should be remembered that in the case of challenging the decision in court, all the evidence would be subject to the court's opinion, including classified information collected in the course of the licensing procedure.

<sup>50</sup> It is therefore both the permanent cessation of economic activity in general, and the abandonment of only this part of the wider business, which was covered by a license.



or amends its scope when an entrepreneur within the prescribed period has not removed factual or legal state inconsistent with the terms of a license or regulations governing business activity covered by a license, as well as he / she flagrantly violates the terms of the license or other conditions of licensed business activity execution covered by legislation. In particular, it is a situation when an entrepreneur (or a person representing him / her) no longer fulfills the conditions concerning the criminal record or has been entered into the Register of Insolvent Debtors, and also when prevents the competent authorities to carry out an inspection or when has not presented a valid medical and psychological certificate. The recasting of this provision indicates that this directory is open. There cannot be ruled out other premises, which in an evaluative way may be deemed flagrant and will result in the same sanction of administrative and judicial nature.

The provision of Art.17 (3) of u.o.s. gives the licensing authority the possibility of optional withdrawal of a license or amending its scope because of a threat to defense, national security or safety of citizens in the event of an entrepreneur's declaration of insolvency, and when an entrepreneur does not meet conditions specified in the Act concerning performing economic activity covered by a license. In the latter case, the legislator has also anticipated the open directory, including, for example, taking proceedings in the case of intentional crime, intentional tax crime or intentional fiscal misdemeanor.

Pursuant to Art.17b (1) of u.o.s. in the content of the decision to revoke a license, the licensing authority may determine an entrepreneur's duties on the disposal date of possessed explosives, weapons, ammunition, products for military or police use, technical documentation, as well as the way of protection of documentation and objects associated with the production and trading. According to Art.17b (2) of u.o.s. after a decision has become final an entrepreneur is obliged to dispose of explosives, weapons, ammunition, and products and technical documentation for the military or police purposes within the period specified in the decision. The deadline cannot be later than three months after the decision revoking a license has come into force. *Ratio legis* of such a provision should be sought in the desire to protect order and state security. Such a specific commodity must not be left in the hands of an entrepreneur, who has lost the license due to its withdrawal. This is especially justified when the revocation was caused by intentional violation of the conditions of the licensed activity implementation, for example committing an intentional crime against the Act on special trade. However, it seems that meeting the deadline laid down in that provision may be difficult, if at all possible. Weapons and ammunition market in Poland is marginal and fast sale of a large quantity of goods is virtually impossible. An entrepreneur will suffer loss on this account due to the forced sale of the company assets at a reduced price (a liquidation sale). Thus, the legislator should *de lege ferenda* diversify provisions depending on the reasons for license revocation. Stricter rules should apply to those entrepreneurs who have lost their licenses as a result of intentional acts or omissions contrary to the law, while milder ones to those who have lost their licenses for reasons beyond their control (including cessation of business activity). In the case of culpable





loss of a license, goods would be held in escrow until a decision becomes final<sup>51</sup> and then, under justified circumstances, they could even be forfeited<sup>52</sup>. For entrepreneurs who have lost licenses without fault, the deadline for goods disposal should be extended, taking into account the negligible demand limiting the ability to sell them quickly at the market price.

## 8. APPEALING DECISIONS (NOTE)

As already mentioned, the Minister of Internal Affairs is the licensing authority, and this, in turn, means that the license proceeding is one-instance. This is due to structural reasons, or rather a lack of an authority hierarchically situated over the Minister, who could be entrusted with the power to examine appeals. This does not indicate, however, that a decision given by the Minister is final. Applicants (licensee) are entitled to procedural rights set out in the provisions governing general administrative proceedings. The application of Art.127 (3) of k.p.a. provides for an appeal on the non-devolution base. A party dissatisfied with the ministerial decision may request the authority, which issued the decision to reconsider the case. This application constitutes the grounds for the proceedings again in the same case<sup>53</sup>. The provisions relating to appeals against decisions are applied for reconsideration. A party is entitled to the extraordinary remedies<sup>54</sup> and the possibility of review of the decision in the course of the administrative court proceedings<sup>55</sup>.

Art.107 (3 and 5) of k.p.a. is particularly important for the effective appeal procedure. A decision disregarding the applicant's full claim (e.g. the refusal to issue a license or granting a license in the range narrower than requested) and a decision issued as a result of the proceedings opened *ex officio* (e.g. the revocation of or amendment to a license) should contain specific factual and legal grounds. However, in a special situation, in the interests of national security or public order, the licensing authority may waive from justifying a decision<sup>56</sup>.

## CONCLUSIONS

The provisions governing granting a license seem clear. Serious interpretation difficulties can be caused by the reference to the general clauses such as public order, national security and important public interest. The need to protect these values may result

<sup>51</sup> J. Jendrońska, *Ogólne postępowanie administracyjne i sądowno administracyjne*, Kolonia Limited, Wrocław 2007, p. 118.

<sup>52</sup> For example, if the features of a prohibited act would give rise to the application of the forfeiture (see: Art.44 (1, 2) of the Act of 6 June 1997 – the Criminal Code (Journal of Laws of 1997, No. 88, item 553, as amended).

<sup>53</sup> B. Adamiak [in:] B. Adamiak, J. Borkowski, *op. cit.*, p. 285.

<sup>54</sup> Art.145 (1) and 156 (1) of k.p.a.

<sup>55</sup> Based on the provisions of the Act of 30 August 2002 – the Law of the Administrative Court Procedure (i.e. Journal of Laws of 2012, item 270, as amended).

<sup>56</sup> This applies in particular when the reasons for the decision could lead to disclosure of confidential information protected by law. See more: J. Borkowski, J. Jendrońska, R. Orzechowski, A. Zieliński, *Kodeks postępowania administracyjnego. Komentarz*, Warsaw 1989, p. 208.



in limiting or excluding the disclosure of certain information, which may have a direct impact on the content of decisions issued. This can hinder the active participation in the proceedings, guaranteed by Art.10 (1) of k.p.a. and, thus, prevent substantive reference to the circumstances that constituted the basis for the contested decision. As a rule, however, when security of the state and its citizens as well as conflict of public and private interests are at stake decisions ought to be taken in favor of the first mentioned party.

Any disputes may also result from the improper application of the institution of administrative discretion, which can undermine the substantive and legal position of a party to a license proceeding. It is necessary to leave a margin of well-understood “freedom” in the hands of the licensing authority so as to ensure flexibility of procedures. It does not necessarily mean the abandonment of full transparency of the licensing procedure. The negligible amount of litigations against this background proves that the licensing authority does not abuse the rights conferred on it by the legislator.

Obtaining a license requires the fulfillment of a number of requirements, some of which may entail high costs (e.g. meeting technical and organizational conditions). They are incurred at the stage preceding the issuance of a license. The legislator has secured the interest of a licensee *in spe* giving him / her the opportunity to request the authorized institution to identify the requirements for the preparation of envisaged business activity.

Some reservations may appear about short period of training, during which learners getting acquainted with special trading are not able to sufficiently acquire a wide range of knowledge necessary for the smooth and safe operation on this specific market. People undertaking business activity in the sphere of special trading usually have special technical expertise but suffer from a lack of knowledge about existing administrative procedures.

The frequency of medical and psychological examinations determined in advance by the legislature may raise concerns as well. Such a solution does not take into account the individual characteristics of a person examined. It would be better to leave the power to decide on the frequency of testing in the hands of qualified personnel, applying the rules of medical expertise. The minimum frequency of examinations could be established by the semi-mandatory provision<sup>57</sup>.

State authorities are obliged to particularly thorough inspection of entrepreneurs engaged in activities covered by a license and candidates applying for this “profession”. Thus, even minor manifestations of failure to comply duties may result in the refusal to grant a license, its change or withdrawal. It is important that the licensing authority properly distinguishes negligent misconduct from conscious action to the detriment of public interest. Only well understood cooperation between licensees and the licensing authority can ensure proper performance of special trading and contribute to strengthening national security and public order.

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<sup>57</sup> For example: “not less frequently than...”.



## REFERENCES

1. The Act of 14 June 1960 - the Code of Administrative Procedure (i.e. Journal of Laws of 2013, item 267, as amended).
2. The Act of 23 April 1964 - the Civil Code (i.e. Journal of Laws of 2014, item 121, as amended).
3. The Act of 26 June 1974 - the Labor Code (i.e. Journal of Laws of 2014, item 1502, as amended).
4. The Act of 19 August 1994 on the protection of mental health (i.e. Journal of Laws of 2011, No. 231, item 1375).
5. The Act of 5 December 1996 on the professions of a physician and a dentist (i.e. Journal of Laws of 2015, item 464).
6. The Act of 6 June 1997 - the Criminal Code (Journal of Laws of 1997, No. 88, item 553, as amended).
7. The Act of 17 December 1998 on pensions from Social Security Fund (i.e. Journal of Laws of 2015, item 748).
8. The Act of 21 May 1999 on weapons and ammunition (i.e. Journal of Laws of 2012, item 576, as amended).
9. The Regulation of Minister of Health of 7 September 2000 on medical and psychological examinations of persons applying for or holding a weapon license (Journal of Laws of 2000, No.79, item 898 as well as the regulation amending: Journal of Laws of 2001, No. 22, item 261 and Journal of Laws of 2002, No. 68, item 630).
10. The Act of 22 June 2001 on economic activity in the sphere of manufacturing of and trading in explosives, weapons, ammunition as well as products and technologies for military and police use (i.e. Journal of Laws of 2012, item 1017, as amended).
11. The Act of 21 June 2002 on explosives for civil use (i.e. Journal of Laws of 2012, item 1329 as amended).
12. The Act of 30 August 2002 – the Law of Administrative Court Procedures (i.e. Journal of Laws of 2012, item 270, as amended).
13. The Act of 2 July 2004 on freedom of economic activity (Journal of Laws of 2015, item 584, as amended).
14. The Act of 29 July 2005 on public offering, conditions governing the introduction of financial instruments to organized trading, and public companies (i.e. Journal of Laws of 2013, item 1382, as amended).
15. The Act of 6 November 2008 on patient's rights and the Ombudsman of patient's rights (i.e. Journal of Laws of 2012, item 159, as amended).



16. The Act of 5 August 2010 on the protection of classified information (Journal of Laws of 2010, No. 182, item 1228, as amended).
17. The Act of 15 April 2011 on healthcare institutions (i.e. Journal of Laws of 2015, item 618, as amended).
18. The Regulation of the Council of Ministers dated on 3 December 2001 r. on types of weapons and ammunition as well as the lists of products and technologies for military or police use, manufacturing of and trading in which require a license (Journal of Laws of 2001, No. 145, item 1625 and the regulation amending: Journal of Laws of 2003, No. 219, item 2152 and Journal of Laws of 2009, No. 106, item 881).
19. The Regulation of the Minister of Economy dated on 21 February 2002 on institutions issuing opinions on the ability to comply with technical and organizational conditions while manufacturing of or trading in explosives, ammunition and products and technologies for military and police purposes (Journal of Laws of 2002, No. 19, item 193 and the regulations amending: Journal of Laws of 2003, No. 52, item 457, Journal of Laws of 2003, No. 143, item 1395, Journal of Laws of 2009, No. 53, item 437, Journal of Laws of 2012, item 946).
20. The Regulation of the Minister of Health dated on 22 August 2002 on psychiatric and psychological examinations of persons applying for or holding the right for performing or managing economic activity, or persons directly employed in manufacturing of and trading in explosives, weapons and ammunition as well as products for military or police use (Journal of Laws of 2002, No. 150, item 1246).
21. The Regulation of the Minister of Economy dated on 25 September 2002 on training confirming professional qualification for executing or managing economic activity in the sphere of manufacturing of and trading in explosives, weapons and ammunition as well as products for military or police use and trading in technologies for military or police use (Journal of Laws of 2002, No. 173, item 1415 and regulations amending: Journal of Laws of 2003 No. 176, item 1717, Journal of Laws of 2012, item 947).
22. The Regulation of the Minister of Economy dated on 27 October 2010 on warehouses and facilities for storing explosives, weapons and ammunition as well as products for military or police use and trading in technologies for military or police use (Journal of Laws of 2010, No. 222, item 1451).
23. The Regulation of the Minister of Internal Affairs dated on 2 February 2012 on the format of the application for granting a license or amending a license for performing business activity in the sphere of manufacturing of and trading in explosives, weapons and ammunition as well as products for military or police use and trading in technologies for military or police use (Journal of Laws of 2012, item 234).
24. B. Adamiak, J. Borkowski, *Postępowanie administracyjne i sądownicze*, LexisNexis, Warsaw 2009.



25. J. Borkowski, J. Jendrońska, R. Orzechowski, A. Zieliński, *Kodeks postępowania administracyjnego. Commenters*, PWN, Warsaw 1989.
26. J. Jendrońska, *Ogólne postępowanie administracyjne i sądowo-administracyjne*, Kolonia Limited, Wrocław 2007.
27. Z. Radwański, *Prawo cywilne – część ogólna*, Wydawnictwo C.H. Beck, Warsaw 2007.

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