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SPECIAL PRINCIPLES FOR MAKING PUBLIC POLICY ON FIREARM CIRCULATION IN UKRAINE

Abstract. The relevance of the article is the fact that the principles for making public policy on firearm circulation in Ukraine are a set of basic (fundamental) ideas, which contribute in a comprehensive manner to the legitimate, optimal and effective public policy-making in this field in a State that is legal, democratic and social. **The aim of the article** is to form a relevant scientific understanding of the nature and system of special principles for making public policy on firearm circulation.

Results. The importance of the principles for making public policy on firearm circulation derives from the fact that they are a complex, mutually agreed system, since the operation of a system of principles of law implies two levels (orders) of system relations: external or environmental (forward and backward) and internal (i.e., within a system of principles of law). The principles under study are considered as a set of individual sectoral (administrative and legal) and certain basic ideas of public administration, which together contribute to the legitimate, optimal and effective public policy-making in the field of firearm circulation in Ukraine as a legal, democratic and social State.

Conclusions. The system of special principles for making public policy on firearm circulation today involves the following principles: 1) openness and transparency; 2) harmonious consistency (non-conflict); 3) objective justification; 4) scientific soundness and harmonization (unity) of theory and practice; 5) reality and completeness; 6) planning and predictability; 7) rationality and efficiency; 8) relative flexibility and timeliness; 9) constancy. Today, in Ukraine, there is no special legislative act on arms trafficking in the country, and therefore, it is necessary to create and adopt a bill on arms trafficking, which will contain an article on a set of principles of arms circulation, which will apply to the formation and implementation of state policy sphere.

Key words: public policy on firearm circulation, firearms, firearm circulation, legal principles, implementation of public policy, special principles, public policy-making.

1. Introduction

The principles for making public policy on firearm circulation in Ukraine are a set of basic (fundamental) ideas, which contribute in a comprehensive manner to the legitimate, optimal and effective public policy-making in this field in a State that is legal, democratic and social. The importance of the principles for making public policy on firearm circulation derives from the fact that they are a complex, mutually agreed system, since “the operation of a system of principles of law implies two levels (orders) of system relations: external or environmental (forward and backward) and internal (i.e. within a system of principles of law). Internal system relations can be classified in genetic, structural (construction relations), coordination, subordination and confrontational ones” (Zakharova, 2009, p. 9). In other words, the principles for making public policy on firearm circulation facilitate the implemen-

tation of the relevant processes in accordance with objective and fundamental rules, which prevent actors of the law to make public policy to the detriment of the individual, society and the State.

Among these basic ideas, the special principles for making public policy on firearm circulation are of particular significance, because they comprehensively detail the basic ideas of general law (the principles of the rule of law, humanitarianism, justice and legal equality, legality and the inevitability of liability) in accordance with the actual needs of the sector in question. The importance of these principles is grounded on the fact that their totality is determined by separate sectoral (administrative and legal) principles and principles of public administration. Therefore, it should be noted that a comprehensive study of current special principles for making public policy on firearm circulation in Ukraine is required for practice.

2. Theoretical justification of the problem

Despite the importance of special principles for making public policy on firearm circulation in Ukraine, it should be noted that this issue has not yet been studied by domestic and foreign administrative law experts. In addition to this, the essence of the sectoral (administrative and legal) principles and principles of public administration have already been under focus of P.D. Baranchyk, M.V. Dzharova, Ye.A. Myronenko, N.D. Petrushyna, S.V. Potapenko, A.A. Pukhtetska, I.B. Stakhura, Yu.M. Frolov, A. Sharaia, A.M. Shkolyk, and other scientists. The scientific findings of these and other scientists confirm the actual possibility to distinguish and theoretically define the essence of special principles for making public policy on firearm circulation, taking into account the legal nature and legal content of this type of public policy, as well as the specificities of making this policy.

Consequently, the aim of this research is to form a relevant scientific understanding of the nature and system of special principles for making public policy on firearm circulation. This aim will be achieved by implementing *tasks* as follows: 1) To define the concept of "special principles for making public policy on firearm circulation in Ukraine"; 2) To outline the structure of the principles being studied and to analyse the requirements, established by these principles for the proper course of making public policy in this field; 3) To summarize the results of the study.

3. Formation of principles of realization of the state policy in the field of arms circulation in Ukraine

The special principles for making public policy on firearm circulation are a set of individual sectoral (administrative and legal) and certain basic ideas of public administration, which together contribute to the legitimate, optimal and effective public policy-making in the field of firearm circulation in Ukraine as a legal, democratic and social State. Therefore, the group of principles includes fundamental ideas such as:

1) The principle of openness and transparency in making public policy on firearm circulation in Ukraine. In our study, the rationale for considering the principle of openness and the principle of transparency as a generalized fundamental idea is in the fact that the principles of transparency and openness should be mutually agreed upon, since without transparency as citizens and their collectives' adequate awareness of the conditionality and content of the activities of public authorities" in corresponding field no conscious and effective public influence on these activities can be" (Lopushniak 2010, p. 76). Consequently, the principle

of openness and transparency in the context of the issue under consideration requires at least the following:

a) Making public policy on firearm circulation in Ukraine provides for the possibility for citizens (their associations) to carry out the active actions, not prohibited by law, related to determining the form (scope) and content of such policy, as well as its implementation specificities;

b) The process of making public policy on firearm circulation in Ukraine should be fully regulated at the level of national legislation, namely, involve the rules and standards in respect of: sufficient grounds and a (positive and negative) enabling environment for public authorities' actions related to making such public policy in this field; methods (expertise) for carrying out actions (decision-making) related to making public policy in this field; a set of criteria for the sufficiency of forming public policy under study, as well as the efficiency (rationality) of its implementation; legal effects of carrying out actions (decision-making), aimed at making public policy in question; legal effects of improper (unlawful) actions (decision-making) related to making public policy; the possibility of participation by citizens (their associations) at the various stages of making public policy in this field;

c) All citizens should be informed of all the processes related to making public policy on firearm circulation and must be aware of their rights and obligations with regard to the circulation and use of firearms;

2) The principle of harmonious (non-conflict) consistency in making public policy on firearm circulation in Ukraine. As is well known, making all public policies (public policy under study is no exception): a) should not harm making other public policies; b) should be consistent with other public policies, especially with security policies (in different sectors of public life, including law enforcement), economic (including budget) and social policies; c) be comprehensive (non-fragmentary) and shall be implemented in a coherent manner at all levels at which it is objectified and in all vectors within the same level; d) should not be contrary to the public interest or to the common good in society (first of all, it means that actions (decisions), aimed at making public policy on firearm circulation may not call into question the constitutional order in the State, the highest social value in the State, the national security of the State, etc.);

3) The principle of objective justification for making public policy on firearm circulation in Ukraine. This fundamental idea derives conceptually from the previous one and requires that,

in practical reality, the actions (decisions) by Parliament, public administrators (including the actors of civil society) always be conducted (made) exclusively: a) in compliance with the requirements of Article 19 of the Constitution of Ukraine, which provide for: the process of law-making, that is, preparation, elaboration, adoption (by: adopting a new provision; amending an existing one; finding the legal regulation or its individual provision null and void) and the formal promulgation of the relevant legal provision, which is based on the knowledge of objective social needs and interests of society" (Gladkii, 2016, p. 1); processes of compliance with and implementation of the results of law-making in practice; b) when these actions (decisions) are objectively required and inaction (failure to make these decisions) prevent the proper realization of the objective of public policy on firearm circulation in Ukraine (scientists also call this requirement "social necessity" of actions, which is "a certain problem or an 'acute issue' in Ukrainian society that today require a solution") (Pochtovyi, 2009, p. 7); c) when the relevant actions (decisions) of public authorities are based fully on real (and verified) data that constitute a sufficient ground and/or condition for carrying out (making) those actions (decisions);

4) The principle of the scientific soundness and harmonization (unity) of theory and practice in making public policy on firearm circulation in Ukraine. Making strategies and plans for the development of legislation on firearm circulation in the State, as well as the making and adopting laws in this field, institutional changes in the mechanism of firearm circulation, as well as the functioning of the mechanism, require relevant actions (decisions) to be directly based on the practical and relevant scientific thinking of domestic and foreign legal experts in administrative law. This is a general requirement of scientific soundness. Therefore, the relevant principle requires, at least, the following:

a) Making public policy on firearm circulation in the State should take into account the current scientific thought on issues related to firearm circulation. According to scientists, an important part of the principle of scientific soundness is "the broad, as much as possible, involvement of scientists in the discussion and justification of particular legislative provisions, especially those that determine the conceptual basis of the process construction" (Loboiko, 2016, p. 44);

b) Any amendments of the regulations governing firearm circulation in Ukraine should be consistent with the extent to which such amendments are scientifically justified. This is extremely relevant, since nowadays,

in our State, frequently the conclusions on the draft laws of Ukraine by the Central Scientific Experts Office, as well as the comments on the draft laws by the Main Legal Department are ignored and the draft legislation is adopted in the form that these actors consider to be scientifically unjustified, contradictory, irrelevant, declarative, etc., that calls into question the efficiency of the relevant changes, as well as the development of Ukraine as a modern State governed by the rule of law;

5) The principle of the reality and completeness of making public policy on firearm circulation, which requires making public policy on firearm circulation to meet all objective public needs for firearm circulation (as well as in respect of prevention of threats that have not yet emerged) and should genuinely address them. In this context, the relevant decisions of public authorities should not be declarations, as well as their actions should not be imitations of public administration;

6) The principle of planning and predictability of making public policy on firearm circulation in Ukraine. This principle requires making public policy in question to be practically planned, thus predictable (in terms of manifestations, effects) and controllable (the actor of monitoring can, on the basis of plans, strategies and evidence, form a control assessment of making public policy), as well as can prevent the risks in the field of firearm circulation and minimize the negative impact of those risks, which cannot be eliminated;

7) The principle of the rationality and efficiency of making public policy on firearm circulation in Ukraine. Taking into account scientific understanding of the essence of concepts "rationality" (Korablova 2011, p. 12; Stasenکو, 2015, p. 173) and "efficiency" (Hindes 2011, p. 3; Hontareva, 2019, pp. 27-45) we argue that this special fundamental idea requires: a) the processes of making public policy on firearm circulation in Ukraine to be carried out according to an objective logic, that is, their required (planned) results should be consistently achieved with the minimum effort (means) and/or using the optimal set of such efforts (means); b) making public policy on firearm circulation should have effects that genuinely address current problems (precedes certain problems in the field concerned), rather than imitate the activities of the State or justify expenditures from the State budget, etc.;

8) The principle of relative flexibility and timeliness in making public policy on firearm circulation in Ukraine, which requires: a) the change (repeal) of the forms and instruments for making public policy on firearm circulation to be as flexible as possible and as

required by the timeliness of appropriate adjustments at a certain stage of society; b) the flexibility of such changes to be relative, that is, they should not cause changes in the course of making this type of public policy, when the mechanism for firearm circulation does not require them; c) the process of making such public policy to take place in the light of current factors, which demand it, or the facts, which reveal the need to prevent real threats to the functioning of the mechanism for making public policy on firearm circulation in the future;

9) The principle of constancy of making public policy on firearm circulation, which requires: a) actions (decisions) of the public policy makers to be evaluated in relation to the actions (decisions) already implemented (made) and planned actions (decisions) that have been implemented (made) and are planned to be implemented (to be made); b) public policy-making to be sustainable in the static and dynamic manifestation of these processes.

4. Conclusions

In view of their social and legal significance, the special principles for making public policy

on firearm circulation in Ukraine are aimed holistically at ensuring successful (effective, rational, predictable, required) development of processes and relations in the field of firearm circulation in the State, conducting management of public policy makers and/or implementers in this field, in the process of which the tasks and the goal of the phenomenon under study are achieved. The importance of the principles revealed in this scientific article requires their list to be legislated (taking this into account, their implementation will be ensured by the requirements of the principle of legality: "an abstract idea, which expresses the principle of generally binding law, which complies with the legality" (Muravenko, 2012, p. 383). However, it should be noted that Ukraine still does not have a special legal regulation on the circulation of weapons in the State, and therefore, a draft law on the circulation of firearms should be made, adopted and include an article providing for a set of principles for firearms circulation that will govern processes of making public policy in this field.

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СПЕЦІАЛЬНІ ПРИНЦИПИ ФОРМУВАННЯ ТА РЕАЛІЗАЦІЇ ДЕРЖАВНОЇ ПОЛІТИКИ У СФЕРІ ОБІГУ ЗБРОЇ В УКРАЇНІ

Анотація. Актуальність статті полягає в тому, що принципи формування й реалізації державної політики у сфері обігу зброї в Україні є комплексом базових (засадничих) ідей, які сукупно сприяють законному, оптимальному та ефективному формуванню й реалізації державної політики в зазначеній сфері в державі, котра є правовою, демократичною та соціальною. **Метою статті** є формування актуальної наукової думки щодо сутності та системи спеціальних принципів формування й реалізації державної політики у сфері обігу зброї в Україні.

Результати. Важливість принципів формування й реалізації державної політики у сфері обігу зброї зумовлена тим фактом, що вони являють собою складну, взаємоузгоджену систему, оскільки функціонування системи принципів права передбачає виникнення системних зв'язків двох рівнів (порядків): зовнішніх зв'язки, або зв'язків із середовищем (прямих і зворотних), та внутрішньо-системних зв'язків, тобто зв'язків усередині системи принципів права. Досліджені принципи тлумачать як сукупність окремих галузевих (адміністративно-правових) і певних засадничих ідей публічного адміністрування, що сукупно сприяють законному, оптимальному й ефективному формуванню та реалізації державної політики у сфері обігу зброї в Україні як правовій, демократичній і соціальній державі.

Висновки. Встановлено, що систему спеціальних принципів формування та реалізації державної політики у сфері обігу зброї в Україні сьогодні становлять такі принципи: 1) відкритості та прозорості; 2) гармонійної узгодженості (неконфліктності); 3) об'єктивної виправданості; 4) наукової обґрунтованості та узгодження (єдності) теорії і практики; 5) реальності та повноти; 6) плановості та очікуваності; 7) раціональності й ефективності; 8) відносної гнучкості та своєчасності; 9) постійності. На сьогодні в Україні відсутній спеціальний законодавчий акт про обіг зброї в державі, а відтак необхідне створення та прийняття законопроекту про обіг зброї, у якому буде міститися стаття, присвячена комплексу принципів обігу зброї, що поширюватимуться на процеси формування й реалізації державної політики в зазначеній сфері.

Ключові слова: зброя, обіг зброї, державна політика у сфері обігу зброї, правові принципи, реалізація державної політики, спеціальні принципи, формування державної політики.

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