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PARTICULARITIES OF FUNCTIONING OF THE MECHANISM FOR CONTROLLING CIVILIAN FIREARMS CIRCULATION IN UKRAINE

Abstract. Purpose. The purpose of the article is to analyse the specifics of the functioning of the mechanism for controlling civilian firearm circulation in Ukraine. **Results.** The article studies the particularities of functioning of the mechanism for controlling civilian firearm circulation in Ukraine and formulates a perspective on the role and place of the National Police of Ukraine in this structure, proving that the latter, as a public authority specially authorised to perform such activities, has the widest range of competence. It is proved that the importance of ensuring proper control of civilian firearm circulation in Ukraine is a duty of the State which requires immediate implementation, since in the current situation of repelling Russia's armed aggression against Ukraine, it is more important than ever to ensure that all Ukrainian citizens who have such an attempt can exercise the right to self-defence. **Conclusions.** The author substantiates the perspective that the mechanism of control of civilian firearm circulation in Ukraine consists of a controlling body and entities being controlled. It is important to underline that in this situation there is only one controlling authority – the National Police of Ukraine, and the entities being controlled are both organisations and individuals who manufacture such weapons or sell them legally and those who directly possess, store and use/apply them. Further research on the functioning of the administrative and legal mechanism for controlling civilian firearm circulation is the need to determine the methods and forms of its functioning.

Key words: mechanism, weapon, responsibility, control of circulation, police activity, law enforcement.

1. Introduction

Human and civil rights and freedoms determine the orientation of public policy. One of the most important rights in the world is the human right to life and free development of one's personality, which is primarily ensured by safe living conditions and the impossibility of violations of human and civil rights and freedoms by other social actors.

One of the most important rights, in our opinion, is also the right of a person to self-defence by available, legal and effective means and methods, which, in the context of Russia's active armed attack on the independence and sovereignty of the Ukrainian state and people, exacerbates a number of processes related to social interaction. For example, the issue of civilian firearm circulation as an effective way to protect one's rights and freedoms in the context of armed aggression, as well as to ensure effective control of this process by specially authorised entities, which is the key to the observance of human

and civil rights and freedoms, is being raised to a new level.

The issues of civilian firearms circulation have been repeatedly considered in the works by: V. Averianov, O. Bandurka, Y. Bytiak, A. Hetman, O. Dzhafarova, V. Zarosyl, S. Kivalov, V. Kolpakov, A. Komziuk, A. Korniiets, S. Kuznichenko, R. Myroniuk, V. Petkov, O. Frolov, S. Shatrava, O. Yarmysh, etc.

However, given the situation of the large-scale Russian invasion of Ukraine, the significant danger to society and its saturation with illegal firearms, which pose a potential threat to society, the need to regulate the mechanisms for ensuring the right of Ukrainian citizens to self-defence is urgent.

The purpose of the article is to analyse the specifics of the functioning of the mechanism for controlling civilian firearm circulation in Ukraine. This, in turn, necessitates solving the following research tasks: 1. To study the perspectives and opinions of scholars on the concept of control mechanism, control as a legal

phenomenon and the essence of the category "civilian firearm circulation"; 2. To substantiate the specificities of functioning of the mechanism of control of civilian firearm circulation in Ukraine, including through the legal regime of martial law and in the light of the activities of the police as the main controlling entity; 3. To outline the main scientific, theoretical and practical conclusions.

The object of the article is public relations in the field of ensuring public safety and law and order.

The subject matter of the study is the particularities of functioning of the mechanism of control of civilian firearm circulation in Ukraine.

2. The National Police as a law enforcement body in Ukraine

The National Police of Ukraine, as one of the important and most active law enforcement bodies, is an important element of the foundation of the architecture of public, community and any other security in the country. Moreover, along with the complexities of the functioning of the relevant structure and the ongoing armed aggression of Russia on the territory of Ukraine, an important issue is to organise the system of police activities in such a way that society and its environment take as a basis those standards and rules that cannot be violated.

This, in particular, is closely intertwined with the right of Ukrainian citizens to self-defence, as well as to protect themselves from armed aggression and violations of constitutional rights and freedoms. A wide range of citizens and scholars, as well as practitioners and professional lawyers, believe that a realistic solution in the context of the current situation is to regulate the system of civilian firearm circulation, which, in turn, will require the allocation of additional resources to ensure law and order in this segment of legal relations, in particular due to armed aggression. Thus, the role and place of the National Police in this context is crucial, since it is this state body that is responsible for ensuring control of weapon circulation, and it is logical to assume that this body will have the authority to control civilian firearm circulation.

Scholars emphasise that to date, no single legal regulation has been adopted in Ukraine that would regulate the circulation of weapons, including firearms. The history of formulating legislation on weapons in Ukraine, as well as discussions on their free (conditionally free) circulation, has been going on since Ukraine gained independence. To date, more than 7 draft laws have been prepared at different times, with different titles from the Law "On Weapons" to the Law "On Civilian Weapons and Ammuni-

tion," which were rejected at different stages of the legislative process due to the lack of political will to introduce the right to obtain firearms by civilians. Moreover, public opinion on regulating such a right is ambiguous. On 25 May 2022, the government launched an online poll in Diia on the legalisation of firearms by civilians. More than one million 700 users of the app took part in the survey: 62% of participants supported the legalisation of weapons for personal defence; 19% opposed firearm circulation among the civilian population; 18% supported the option "for special needs" (Official site of the "Pryamiy" channel, 2022).

Following O. Ilchenko, one of the main components of the Ministry of Internal Affairs of Ukraine is the National Police of Ukraine. In the course of reforming the law enforcement system of Ukraine, it is necessary to determine the place of the National Police in the system of the Ministry of Internal Affairs of Ukraine, the forms of their interaction and methods of coordination. In this regard, there is an urgent question of introducing new standards in the organisation and management of the National Police (Ilchenko, 2018). Accordingly, it should be noted that the National Police of Ukraine is entrusted with a significant number of responsibilities, including those related to control of weapon circulation. In particular, this issue relates to public safety and law and order, and therefore, it is a law enforcement body that has the broadest powers and rights in this segment.

3. The regulatory framework for firearm circulation in Ukraine

The Resolution No. 576 of the Cabinet of Ministers of Ukraine of October 12, 1992 "On Approval of the Regulations on the Permit System" stipulates that control of compliance by officials of ministries, other central bodies of state executive power, enterprises, institutions, organisations, business associations and citizens with the established procedure for the manufacture, acquisition, storage, accounting, transportation and use of items, materials and substances, opening and operation of enterprises, workshops and laboratories subject to the permit system is performed directly by the Ministry of Internal Affairs (Resolution of the Cabinet of Ministers of Ukraine on the approval of the Regulations on the permit system, 1992). The permit system is a special procedure for the manufacture, acquisition, storage, transportation, accounting and use of specially designated items, materials and substances, as well as the opening and operation of certain enterprises, workshops and laboratories in order to protect the interests of the state and the safety of citizens (Regulations on

the permit system, Section I, paragraph 1) (Kostiuk, Korzh, Motyl, Sakovskyi, Fedorovska, 2018).

According to Article 22 of the Law of Ukraine "On the National Police", the list of the main powers of the police includes the following:

Control of compliance by individuals and legal entities with special rules and procedures for the storage and use of weapons, special personal protective and active defence equipment, ammunition, explosives and materials, and other items, materials and substances subject to the permit system by the internal affairs bodies;

Reception, storage and destruction of seized, voluntarily handed over or found firearms, gas, cold steel and other weapons, ammunition, explosives and explosive devices, narcotic drugs or psychotropic substances in accordance with the procedure established by law (Law of Ukraine On the National Police, 2015).

These provisions clearly define the role and place of the National Police of Ukraine in the mechanism of control of civilian firearm circulation, since today, among other things, the police control the circulation of award firearms, the number of which is increasing in the context of repelling Russia's armed aggression against Ukraine.

For example, the Unified Register of Weapons, initiated by the Ministry of Internal Affairs of Ukraine, has recently been launched. According to I. Klymenko, the main advantages of the Unified Register of Weapons are that citizens will be able to easily obtain information about their registered weapons. In addition, the procedure for obtaining permits will be simplified through the digitalisation of services in the field of weapon circulation. The Unified Register of Weapons also provides for the creation of electronic offices. Therefore, Ukrainians will be able to receive the service from the comfort of their homes, without visiting the National Police, by submitting documents through the Single Citizen's Window <https://services.mvs.gov.ua> or in a gun shop (Klymenko, 2023).

Therefore, in the mechanism of control of civilian firearm circulation the National

Police of Ukraine is the determining entity exercising the powers to ensure its functioning, registering weapons, issuing permits for their purchase, and controlling the process of their storage.

4. Conclusions

The article studies the particularities of functioning of the mechanism for controlling civilian firearm circulation in Ukraine and formulates a perspective on the role and place of the National Police of Ukraine in this structure, proving that the latter, as a public authority specially authorised to perform such activities, has the widest range of competence.

It is proved that the importance of ensuring proper control of civilian firearm circulation in Ukraine is a duty of the State which requires immediate implementation, since in the current situation of repelling Russia's armed aggression against Ukraine, it is more important than ever to ensure that all Ukrainian citizens who have such an attempt can exercise the right to self-defence.

The author substantiates the perspective that the mechanism of control of civilian firearm circulation in Ukraine consists of a controlling body and entities being controlled. It is important to underline that in this situation there is only one controlling authority – the National Police of Ukraine, and the entities being controlled are both organisations and individuals who manufacture such weapons or sell them legally and those who directly possess, store and use/apply them.

In addition, the author proves that the mechanism of control of civilian firearm circulation has a multi-component structure and is administrative and legal in nature, since it regulates the relations between the State and individual actors of society. It is determined that in addition to the subjects and objects of control, it also contains the rights, obligations, powers and scope of competence of certain participants in these legal relations.

Further research on the functioning of the administrative and legal mechanism for controlling civilian firearm circulation is the need to determine the methods and forms of its functioning.

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ОСОБЛИВОСТІ ФУНКЦІОНУВАННЯ МЕХАНІЗМУ КОНТРОЛЮ ЗА ОБІГОМ ЦИВІЛЬНОЇ ВОГНЕПАЛЬНОЇ ЗБРОЇ В УКРАЇНІ

Анотація. Мета. Метою статті є аналіз особливостей функціонування механізму контролю за обігом цивільної вогнепальної зброї в Україні. **Результати.** У статті досліджено особливості функціонування механізму контролю за обігом цивільної вогнепальної зброї в Україні, сформовано бачення щодо ролі та місця Національної поліції України в указаній конструкції, доведено, що остання як орган державної влади, що спеціально уповноважений на здійснення такої діяльності, має найширше коло компетенції. Доведено, що важливість забезпечення належного контролю за обігом цивільної вогнепальної зброї в Україні є обов'язком держави, що потребує негайного виконання, оскільки у сучасних умовах відбиття збройної агресії росії проти України як ніколи важливо забезпечити можливість реалізації права на самозахист усім громадянам України, що мають таке намагання. **Висновки.** Авторкою обґрунтовується позиція, що механізм контролю за обігом цивільної вогнепальної зброї в Україні складається з контролюючого органу та підконтрольних суб'єктів. Важливим є зазначення того, що в цій ситуації контролюючий орган один – Національна поліція України, а поряд із цим підконтрольними є як організації та особи, що виготовляють таку зброю або здійснюють її реалізацію (продаж) у законний спосіб, так і ті, хто безпосередньо нею володіють, зберігають та використовують/застосовують. Додатково обґрунтовано, що механізм контролю за обігом цивільної вогнепальної зброї має багатокомпонентну структуру та за своїм змістом є адміністративно-правовим, оскільки регулює взаємини держави та окремих суб'єктів суспільства. Крім цього, визначається, що, крім суб'єктів і об'єктів контролю, він містить також права, обов'язки, повноваження та межі компетенції в тих чи інших учасників цих правовідносин. Перспектива подальшого дослідження питання функціонування адміністративно-правового механізму контролю за обігом цивільної вогнепальної зброї полягає в необхідності визначення методів і форм його функціонування.

Ключові слова: механізм, зброя, відповідальність, контроль за обігом, поліцейська діяльність, правоохорона.

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