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## CIVILIAN FIREARMS CIRCULATION AS A FOCUS OF PUBLIC POLICY AND AN OBJECT OF ADMINISTRATIVE AND LEGAL STUDY

**Abstract. Purpose.** The purpose of the article is to reveal the civilian firearms circulation as a focus of public policy and an object of the administrative and legal study. **Results.** The article reveals the concept of civilian firearms as technical and structurally specialised means of destruction which are permitted for circulation among individuals in accordance with the procedure established by law, which do not belong to the category of combat or special firearms, and are used for legitimate purposes of self-defence, hunting, sports activities, collecting or in cultural and artistic practices. Civilian firearms circulation is defined as a focus of public policy, which is a holistic, systematic and organised activity of the State aimed at regulating, controlling, developing and ensuring the safe operation of all stages of the life cycle of firearms allowed for possession by civilians, including their production, acquisition, storage, carrying, transportation, transfer, use, disposal and other forms of movement or change of legal status. It is determined that civilian firearms circulation, as a focus of public policy, is formed with due regard for national interests, constitutional rights of citizens to security and self-defence, current challenges (armed conflict, crime, terrorist threats), and the social context, with a view to achieving a balance between individual freedom, public security and stability of the constitutional order. It is revealed that civilian firearms circulation as an object of administrative and legal study is a system of public relations arising in the course of regulatory, licensing, supervisory, control and preventive and law enforcement activities of public administration bodies with regard to the lawful application of ownership rights in relation to civilian firearms. **Conclusions.** It is determined that, as an object of administrative and legal science, civilian firearms circulation covers the study of public administration mechanisms, legal status of actors, specific features of liability for offences in the field of firearms circulation, and the effectiveness of administrative and legal means of ensuring a balance between the citizen's right to security and the interests of national security. It is noted that civilian firearms circulation in the context of a full-scale invasion in Ukraine is of particular importance for the exercise of the constitutional right of citizens to personal security and for the protection of national security.

**Key words:** administrative regulatory framework, administrative legal relations, administrative procedures, administrative and legal mechanism, public policy, expertise, weapons, control, legal system, actors.

### 1. Introduction

The lawful conduct of actors operating within the administrative and legal regime of firearms circulation is a prerequisite for ensuring the rule of law in this field. Unfortunately, not everyone behaves in this way. The level of crime is directly related to firearms circulation, and a significant number of administrative offences are committed every year, which are the most common offences in this field. The legal norms that form the basis of firearms circulation regime provide for the use of coercive means to avoid or neutralise the negative consequences of violations of firearms circulation rules. Ensuring the public interest and law and order in the field of firearms circulation necessarily entails the use of coercion, which is inherent in

the activities of bodies empowered by the State (Bokii, 2010).

The main legal instrument for addressing key social needs regarding the possession of civilian firearms in Ukraine is through the provisions of administrative law, as they can be used to formulate and implement relevant public policy, combining imperative and dispositive methods of influence, ensuring the right of citizens to acquire, possess, use and dispose of legally permitted types of weapons in civilian circulation (Kurinyi, 2021).

Administrative and legal aspects of public policy on firearms circulation in Ukraine have been comprehensively studied by scholars such as: O. Bokii, I. Vasyliiev, S. Didenko, O. Drozd, K. Kastornov, M. Komissarov, M. Kulyk,

V. Litoshko, V. Makarchuk, V. Otsel, I. Pokhylenko, R. Serbyn, O. Fomenko, T. Shumeiko and others.

However, firearms circulation in Ukraine, unfortunately, is not sufficiently regulated, to a greater extent by administrative law, and therefore, scientific challenges in this area are timely and relevant.

The purpose of the article is to reveal the civilian firearms circulation as a focus of public policy and an object of the administrative and legal study.

## 2. Weapons as an object of civil legal relations

To begin the study, it is necessary to define the theoretical concept of 'weapon'. Historically, weapons have evolved along with humanity. Initially, it helped people to get food and defend themselves from animal attacks. Then people began to use weapons to attack their own kind and defend themselves against them. The evolution of weapons began with wooden sticks and spears. Later, bows appeared, which allowed shooting pointed arrows. In the Paleolithic era, daggers made of stone and bone appeared, and spearheads were made of flint and bone. With the development of bronze and iron, it became possible to create cold steel weapons that were strong, durable and effective (swords, iron spears) (Staritsyna, 2010).

A real revolution in arms production took place in the twelfth century, when gunpowder was invented. This was the beginning of the development of firearms, which, unlike cold steel, allowed for combat at a distance and accurate targeting. The first mention of the successful use of handguns dates back to the fourteenth century. Initially, such weapons were simply a metal tube closed at one end and mounted on a wooden bed. Then came squeakers and arquebuses, equipped with wooden stocks for easy aiming and wick locks for firing. Later, wheel and silicon locks were invented. However, firearms only reached their peak development in the mid-nineteenth century with the invention of the cartridge, which combined a metal case, bullet, powder charge and incendiary capsule. The use of a metal cartridge made it possible to create magazine firearms with a high rate of fire. Later, explosive weapons appeared, and then computerised weapons, which allow combat without human intervention (for example, homing missiles), which increases the degree of safety of soldiers, but at the same time is capable of delivering a devastating blow to the enemy (Staritsyna, 2010).

S.O. Staritsyna believes that weapons as an object of civil legal relations are an individually defined thing, the rights to which are acquired in a specially defined manner, which is intended to damage a living or other target

and has no other industrial or household purpose (Staritsyna, 2010). P. Melnyk argues that weapons are a certain set of devices and means used to destroy manpower, equipment (armoured vehicles, helicopters, aircraft, etc.), and structures during hostilities (Melnyk, 2015). According to Yu. Belinskyi, weapons are objects that are structurally designed and technically suitable for hitting a living or other target (Belinskyi, 2012). S. Didenko defines weapons in Ukraine as the following types: firearms; cold steel; cold throwing weapons; gas; pneumatic; incendiary; non-lethal; devices that have structural features but are not considered cold steel due to the lack of the possibility of inflicting life-threatening injuries (in particular, devices of dosed physical impact). These devices can be effective means of necessary defence, as they do not cause serious bodily harm and, in turn, cause severe painful shock. Moreover, they require administrative and legal support for their circulation and use, as they can be used to inflict beatings (Didenko, 2016).

In general, D.V. Andreev considers weapons to be factory-made or home-made items, devices designed specifically to hit living targets, destroy or damage the environment. Weapons include any firearms, including artillery and small arms, as well as grenade launchers; other conventional means of destruction, including mines and incendiary weapons; edged weapons; and nerve gas weapons; airguns with a calibre of more than 4.5 mm with a bullet velocity of more than 100 metres per second; special weapons for firing rubber bullets; electroshock weapons; explosives or ammunition, weapons of mass destruction (Andrieiev, 2017).

Ye. Kurinnyi proposes his own definition of civilian weapons, which should be understood as firearms and cold steel weapons permitted for circulation by the State, which may be owned by individuals or legal entities subject to a legally (normatively) provided permit for the purpose of hunting, self-defence, engaging in relevant sports, collecting, and use in the artistic and cultural spheres (cinema, theatre, museums, etc.) The term 'civilian firearms' includes hunting weapons, sporting weapons, self-defence weapons, collector's weapons, signal weapons and deactivated weapons. The scope of civilian firearms does not include items that have a different purpose (e.g., household or kitchen) (Kurinnyi, 2021).

Therefore, civilian firearms are technical and structurally specialised means of destruction which are permitted for circulation among individuals in accordance with the procedure established by law, which do not belong to the category of combat or special firearms, and are used for legitimate purposes of self-de-

fence, hunting, sports activities, collecting or in cultural and artistic practices. Civilian firearms do not have a domestic purpose, and their use, circulation and storage are regulated by administrative and legal provisions, with due regard for public and private interests and to ensure public safety.

### 3. Civilian firearms in the legal system of Ukraine

Civilian firearms in Ukraine include only those categories of weapons that are permitted for peaceful, non-combat purposes, are under state control and have a legal regime aimed at ensuring public safety, preventing criminal use and, at the same time, exercising the right of citizens to self-defence, hobbies and participation in cultural life.

In the national legal system, civilian firearms are divided into separate types depending on their design characteristics, functional purpose and legal regime of their circulation, and include the following types: hunting firearms; sports weapons; self-defence weapons (traumatic weapons, electric shock devices; devices of dosed physical impact, etc.); collection firearms; signal weapons (designed to give light or sound signals and be used in tourist, rescue or cultural and entertainment activities; cultural and artistic firearms; deactivated (unfit for fire) firearms).

Despite the war, our country continues to position itself in the international political arena as a legal State, with human and civil rights and freedoms at the core. Article 3 of the Constitution of Ukraine states that a person, his or her life and health, honour and dignity, inviolability and security are recognised as the highest social value in Ukraine. Human security is ensured by the State in the form of law enforcement bodies, courts and other state bodies. A sense of security enables a person to develop and, as a result, so do society as a whole. In addition, the notion of security, or rather the feeling of security for each person or individual, is unique and distinctive. It can be influenced by the actions or behaviour of other people, especially in conditions of increased risks (war, pandemic, etc.). Therefore, the need for a sense of security can be satisfied, for example, by owning firearms. On the other hand, the presence of a large number of firearms in the possession of citizens can pose a danger to society itself, in particular, lead to mass killings, overthrow of the constitutional order in the state, etc. Therefore, firearms and their use require increased control by the state, especially in times of war. In particular, the concept of civilian firearms circulation is of scientific interest. After all, this very concept and this type of firearms circulation causes a lot of debate and is the subject of legislative battles

(Khvostovtsov, 2023).

“Circulation” means “use,” “application” of something (Andrieiev, 2017). However, in our opinion, the use of weapons, that is, their use for their intended purpose - to destroy a living target, etc. is not a component of the concept of “circulation.” Circulation is considered to be the process of producing firearms, their further movement from a state or criminal producer (manufacturer) to a legal or illegal (criminals, citizens who illegally purchase firearms for self-defence, collecting, etc.) consumer, as well as maintaining them in good condition, transferring them from one owner to another, etc., until they are destroyed. The physical impact on firearms (manufacturing, processing), their spatial (carrying, transportation), temporary (storage), and social (change of ownership) movement have legal designations that determine the qualification of the relevant actions. Each such influence is a structural element of firearms circulation (Andrieiev, 2017). O. Bokii highlights that the concept of ‘firearms circulation’ contains a significant number of elements that, to varying degrees, are activities directly related to firearms and ammunition (Bokii, 2010).

According to S. Khvostovtsov, civilian firearms circulation is the state's granting of permission to citizens to acquire the right to own firearms (of a certain category) in accordance with the procedure established by law, as well as all other actions related to firearms circulation, namely: production, trade, sale, exchange, gift, transfer, acquisition, collection, display, inheritance, accounting, storage, carrying, transportation, transport, use, repair, withdrawal, theft, loss, dilution, deactivation, disposal, import (export) of firearms to (from) Ukraine that do not belong to military or service firearms, that is, are not related to the professional activities of law enforcement and other state authorities (Khvostovtsov, 2023).

### 4. Conclusions

З урахуванням всього вищевикладеного, можна сформулювати наступні висновки:

– Civilian firearms circulation as a focus of public policy is a holistic, systematic and organised activity of the State aimed at regulating, controlling, developing and ensuring the safe operation of all stages of the life cycle of firearms allowed for possession by civilians, including their production, acquisition, storage, carrying, transportation, transfer, use, disposal and other forms of movement or change of legal status. Civilian firearms circulation, as a focus of public policy, is formed with due regard for national interests, constitutional rights of citizens to security and self-defence, current challenges (armed conflict, crime, terrorist threats), and the social context, with a view to achieving

a balance between individual freedom, public security and stability of the constitutional order;

– Civilian firearms circulation as an object of administrative and legal study is a system of public relations arising in the course of regulatory, licensing, supervisory, control and preventive and law enforcement activities of public administration bodies with regard to the lawful application of ownership rights in relation to civilian firearms. As an object of administrative and legal science, civilian firearms circulation covers the study of public administration mechanisms, legal status of actors, specific features of liability for offences in the field of firearms circulation, and the effectiveness of administrative and legal means of ensuring a balance between the citizen's right to security and the interests of national security;

– Civilian firearms circulation in the context of a full-scale invasion in Ukraine is of particular importance for the exercise of the constitutional right of citizens to personal security and for the protection of national security. Як напрямок державної політики, обіг цивільної зброї виступає цілісним механізмом стратегічного управління, що поєднує нормотворчу, дозвільну, організаційно-контрольну, профілактичну та правоохоронну діяльність суб'єктів публічної адміністрації. Як об'єкт адміністративно-правового дослідження, обіг цивільної зброї репрезентує багаторівневу систему суспільних відносин, що виникають у процесі адміністративного регулювання, ліцензування, контролю, обліку та відповідальності за правопорушення. Обіг цивільної зброї, як об'єкт адміністративно-правового дослідження поєднує нормативне регулювання, процедурно-технічні аспекти використання зброї, та аспект ефективності адміністративно-правових засобів впливу на спеціальну сферу правовідносин (обіг зброї) для формування оптимальної моделі взаємодії між державою та громадянином, з врахуванням (на сучасний стан) безпекових викликів воєнного часу.

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## ОБІГ ЦИВІЛЬНОЇ ЗБРОЇ ЯК НАПРЯМОК ДЕРЖАВНОЇ ПОЛІТИКИ ТА ОБ'ЄКТ АДМІНІСТРАТИВНО-ПРАВОВОГО ДОСЛІДЖЕННЯ

**Abstract. Purpose.** Мета статті полягає у тому, щоб розкрити обіг цивільної зброї як напрямок державної політики та об'єкт адміністративно-правового дослідження. **Results.** У статті розкрито поняття цивільної зброї як технічно придатних та конструктивно-спеціалізованих засобів ураження, що дозволені для обігу серед фізичних осіб у встановленому законом порядку, які не належать до категорії бойової або спеціальної зброї, та використовуються з легітимною метою самозахисту, полювання, спортивної діяльності, колекціонування чи в культурно-мистецьких практиках. Визна-

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чено обіг цивільної зброї як напрямок державної політики, що є цілісною, системно-організованою діяльністю держави, яка спрямована на правове регулювання, контроль, розвиток та безпечне функціонування усіх стадій життєвого циклу зброї, яка допускається до володіння цивільним населенням, включаючи її виробництво, придбання, зберігання, носіння, транспортування, передачу, використання, утилізацію та інші форми переміщення або зміни правового статусу. Визначено, що обіг цивільної зброї, як напрям державної політики, формується з урахуванням національних інтересів, конституційних прав громадян на безпеку та самозахист, сучасних викликів (збройний конфлікт, злочинність, терористичні загрози), а також соціального контексту, з метою досягнення балансу між свободою особи, публічною безпекою та стабільністю конституційного ладу. Розкрито, що обіг цивільної зброї як об'єкт адміністративно-правового дослідження є системою суспільних відносин, що виникають у процесі здійснення органами публічної адміністрації нормативного регулювання, дозвольно-наглядової, контрольної-превентивної та правоохоронної діяльності щодо правомірного застосування права власності відносно цивільної зброї. **Conclusions.** Визначено, що як об'єкт адміністративно-правової науки, обіг цивільної зброї охоплює вивчення механізмів публічного управління, правового статусу суб'єктів, особливостей відповідальності за правопорушення у сфері обігу зброї, а також ефективності адміністративно-правових засобів забезпечення балансу між правом громадянина на безпеку та інтересами національної безпеки. Зазначено, що обіг цивільної зброї в умовах повномасштабного вторгнення в Україні набуває особливого значення для реалізації конституційного права громадян на особисту безпеку та для захисту національної безпеки.

**Ключові слова:** адміністративне регулювання, адміністративні правовідносини, адміністративні процедури, адміністративно-правовий механізм, державна політика, експертиза, зброя, контроль, правова система, суб'єкти.