

# COMBATING THE ILLEGAL CIRCULATION OF FIREARMS: LEGAL, CRIMINOLOGICAL AND FORENSIC ASPECTS

## LUTA CONTRA A CIRCULAÇÃO ILEGAL DE ARMAS DE FOGO: ASPECTOS JURÍDICOS, CRIMINOLÓGICOS E FORENSES

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**Abstract:** In the scientific publication, based on empirical data, analysis of current legislation and the viewpoints of scientists, a comprehensive analysis of combating the illegal circulation of firearms from a legal, criminological and criminological point of view was carried out. In order to implement the state policy of Ukraine in the specified area, the need for: standardization of legislation for joint crime control and improvement of information support for this activity is argued; strengthening measures of criminal liability for crimes related to the illegal circulation of firearms; ensuring proper accounting and control of firearms in organizations and citizens; carrying out joint coordinated measures to prevent and stop the most dangerous crimes committed with the use of firearms; conducting joint special operations to prevent the illegal manufacture and circulation of firearms, etc. The priority areas for effective countermeasures against the illegal circulation of firearms during the pre-trial investigation and in the course of investigative activities have been determined: using the possibilities of covert investigative (detective) actions; strengthening of cooperation between police bodies, border agencies, state security bodies and special services; active use of agency and intelligence activities, information-analytical and information-prognostic investigation support and others.

**Keywords:** Firearms. Illegal weapons trafficking. Criminality. Countermeasures. Investigations. Operational and search activity.

**Resumo:** Na publicação científica, com base em dados empíricos, análise da legislação atual e opiniões de cientistas, foi realizada uma análise abrangente da luta contra a circulação ilegal de armas de fogo de um ponto de vista jurídico, criminológico e criminológico. A fim de

implementar a política estatal da Ucrânia no domínio especificado, argumenta-se que é necessário: normalizar a legislação para o controlo conjunto da criminalidade e melhorar o apoio informativo a esta atividade; reforçar as medidas de responsabilidade penal por crimes relacionados com a circulação ilegal de armas de fogo; assegurar uma contabilidade e um controlo adequados das armas de fogo nas organizações e nos cidadãos; levar a cabo medidas coordenadas conjuntas para prevenir e pôr termo aos crimes mais perigosos cometidos com a utilização de armas de fogo; realizar operações especiais conjuntas para impedir o fabrico e a circulação ilegais de armas de fogo, etc. Foram identificadas áreas prioritárias para a adoção de contramedidas eficazes contra a circulação ilegal de armas de fogo durante a investigação pré-julgamento e durante as actividades de investigação: utilização das possibilidades de acções de investigação encobertas (detectives); reforço da cooperação entre organismos policiais, agências de fronteiras, organismos de segurança do Estado e serviços especiais; utilização ativa das actividades das agências e dos serviços de informação, apoio à investigação para análise e previsão de informação, e outros.

**Palavras-chave:** Armas de fogo. Tráfico ilegal de armas. Criminalidade. Contra-medidas. Investigações. Atividade operacional e de busca.

## 1. Introduction

One of the factors in the deterioration of the criminogenic situation in the world recently is the increasing armament of criminals and the open display of weapons. Armed attacks cause irreparable damage to the life and health of citizens, have a resonant character, increase fear and a sense of insecurity among the population, and neutralize in public consciousness the state's efforts aimed at the stable development of society, ensuring human rights and freedoms, and creating decent living conditions.

The multifaceted nature of the problem of illegal circulation of firearms is caused by the difficulty of tracking the circulation of weapons in general; using new ways of its distribution; imperfection of the legislative framework, etc. The illegal circulation of firearms and ammunition is an additional incentive for the commission of other, more serious crimes: terrorism and banditry, the creation of illegal armed formations, and leads to the expansion of the so-called "arms black market". The trade and smuggling of weapons is becoming an increasingly profitable criminal business, which, unlike a number of other offenses, has a relatively high availability and a lower degree of risk of detection and causes certain difficulties in the investigation.

The international community increasingly recognizes the threat of illegal arms trafficking as an internal problem of the state, but also as a significant factor influencing transnational organized crime. Organized crime groups take advantage of new technologies (Bruevich, Gubanova, Leinova, Tsechoev, Sitkova, 2019), continuing to use legacy channels

and established markets. The modern model of globalization, with its characteristics of interdependence, the opening of markets, the free flow of commodity capital and the marginalization of state intervention (Darío Enrique Cortés Castilloes, 2022) allowed to increase international crime in the world, terrorism with the use of firearms (Europe and the Middle East), street confrontation. between groups (Latin America).

In Ukraine, the illegal circulation of firearms also affects the manifestation of other threats to national security, related to the hybrid activities of the neighboring country, separatism, etc. In the conditions of the war on the territory of Ukraine, there is a threat of crime of a transnational and universal character, which derives profits from the illegal trade in firearms for its development. At the same time, it must be stated that the sphere of weapons circulation is by far the least regulated sphere of public life in Ukraine. Active law-making work, as well as a significant amount of scientific research on the investigated problem, have long failed to produce the expected results; the quality of legal regulation of this important issue remains low. The situation is becoming more complicated every year, acquiring serious dimensions and causing more and more various negative consequences (Shumeiko, Kovalenko, Hurkovskyy, Legenkyi, Komirchyi, 2021).

Along with legislative problems, the significance of activities in combating this type of crime, which is often identified with organizational measures at the national level, is increasing (Maistrenko, Gorelkina, Buzhdynanchuk, 2021). One of the priorities in countering the criminal manifestations of illegal firearms trafficking by law enforcement agencies is the task of improving the organizational-management, operational-technical and forensic nature.

The problems of increasing the efficiency of the organization of investigation, information and analytical support of operational and investigative activities in the fight against illegal firearms circulation do not lose their relevance. The specified problem is even more actualized against the background of the growing professionalism of crime and in the conditions of the special legal regime introduced on the territory of Ukraine.

## **2. Methodology for the implementation of the criminological policy of the state to combat environmental crime**

The methodological basis of the research is general scientific and special scientific methods, which are chosen in accordance with the topic, purpose and tasks of the article

(Kravchenko, Zherebko, Zaveryko, Velmozhna-Sydorova, Chashnytska, 2022), as well as methods of scientific knowledge, the use of which is determined by a systematic approach to considering relevant problems in the unity of their social content and legal form (Klymchuk, Marko, Priakhin, Stetsyk, Khytra, 2021). In addition, the mentioned research is based on the works of foreign and Ukrainian researchers, as well as on empirical material of national and international legal acts and legal (judicial) practice (Yefimov, Pavlova, Fedchenko, Pletenets, Kryvopusk, 2022).

The leading research method is *dialectical*. It made it possible to outline the general concept and structure of the study, and the use of its laws and categories contributed to the definition of the essence of firearms as a means of committing crime (Serhieieva, Kulyk, Antoniuk, Marko, Isagova, 2022), its illegal circulation, the main determinants of committing crimes of this category.

The *comparativist method* provided an analysis of the provisions of the legislation on the regulation of the circulation of weapons in Ukraine, as well as on the criminalization of certain acts involving the use of firearms; *dogmatic (legal)* – contributed to the identification and study of the possibilities of improving the legal, criminological and criminological components of countermeasures; *systemic-structural* – provided an opportunity to comprehensively investigate the issue of unification of norms on criminal responsibility for the crimes under investigation; *the method of scientific analysis and generalization* is used for the deductive study of the constituent parts of a single whole, namely, for the clarification and generalization of different points of view on the content of the investigation of crimes committed in the field of firearms, as well as operational and investigative support of the specified activity; *specifically sociological and statistical* – contributed to the study, generalization and analysis of survey results and materials of criminal proceedings; *the modeling method* made it possible to formulate proposals for the improvement of certain areas of combating the illegal circulation of firearms. The specified methods were used in a relationship and interdependence, which ensured the comprehensiveness, completeness and objectivity of the research, as well as the veracity of the obtained scientific results.

### **3. The legal basis for combating the circulation of firearms**

To date, lawyers have not developed a unified approach to the definition of the concept of “weapon”. Yes, according to point “a” of Art. 3 of the Protocol “Against the

Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components, and Their Ammunition Supplementing the UN Convention Against Transnational Organized Crime” dated May 31, 2001, a firearm is any portable barrel weapon, that fires, is intended, or may be readily adapted to fire or accelerate a bullet or projectile by the energy of an explosive substance, excluding antique firearms (On the accession of Ukraine to the Protocol against the illegal manufacture and trafficking of firearms, their component parts and components, as well as their ammunition, which supplements the United Nations Convention against Transnational Organized Crime, 2013).

In the annexes to the European Convention on the Control of the Acquisition and Storage of Firearms by Private Persons, adopted on July 28, 1978 in Strasbourg, “firearm” means: 1) any item prepared and owned as a weapon, from which shot charge, bullet or other projectile or noxious gas, liquid or other kind, can be released by means of explosive, gas or air pressure or other methods; 2) trigger mechanism, chamber, drum or barrel of any of the above items; 3) any charge or material clearly intended to be ejected using the above items; 4) optical sights with illumination or optical sights with an electronic light-amplifying-infrared device, intended for installation on one of the above-mentioned objects; 5) silencer for attachment to any of the above items; 6) any grenade, bomb or other projectile containing an explosive or incendiary device. The following types of weapons are distinguished: automatic, semi-automatic; multi-charge, disposable, short-barreled, long-barreled (European Convention on the Control of Acquisition and Storage of Firearms by Private Persons, 1978).

It is also worth emphasizing that today there is no general law on weapons in Ukraine, which would provide a legal definition of “arms trafficking” and other criminally significant terms. The process of manufacturing, acquisition, possession, operation (use), destruction and other actions with weapons are regulated by numerous regulatory acts. Relations related to the handling of explosive materials for industrial purposes are regulated “On the handling of explosive materials” (2019).

The main departmental legal act that regulates the circulation of weapons is the “Instruction on the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic and cold weapons, devices of domestic production for firing cartridges, equipped with rubber or metal projectiles similar in their properties non-lethal action, and cartridges for them, as well as ammunition for weapons,

main parts of weapons and explosive materials” of the Ministry of Internal Affairs of Ukraine (1998).

The problem of illegal arms trafficking is multidimensional. Firearms are produced and sold both legally and illegally, making the identification and tracking of illegally manufactured and illegally trafficked weapons very difficult. Further complicating the situation is the fact that most firearms are produced legally and then end up on the illegal market. As with other illicit products and services, new sales channels are increasingly being used to trade firearms, increasing the illegal circulation of weapons and making them more difficult to trace.

O. Shelkovnikova (1999) under the legal circulation of weapons understands the movement of specific types and types of weapons, ammunition and cartridges for it within the country (a specific region), which includes actions based on the relevant rules and restrictions contained in the current legislation, all operations with at the time of its creation or entry into sale, shipment, transfer through sales channels, receipt by the user or exporter. It defines the illegal circulation of weapons as its movement with deviations in the sphere of legal circulation.

In particular, in Art. 3 of the “Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components, as well as their Ammunition Supplementing the United Nations Convention Against Transnational Organized Crime” (2001) “illegal traffic” is interpreted as import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts, components and ammunition from or through the territory of one state to another state...”.

Given the subject of the study, it is important to find out which acts related to the illegal circulation of firearms are recommended to be recognized as criminal at the international level. In particular, in accordance with Art. 5 (Criminalization) of the “Protocol against the Illicit Manufacturing and Trafficking in Firearms, Their Parts and Components, and Their Ammunition, Supplementing the United Nations Convention against Transnational Organized Crime” (2001), each State Party shall take such legislative and other measures as may be necessary for the recognition of the following intentionally committed actions as criminal offenses.

According to the legislation of Ukraine, criminal arms trafficking includes actions that violate criminal law prohibitions and entail criminal liability. The most typical include: movement across the customs border of Ukraine outside of customs control or with

concealment from customs control of explosives, weapons, and ammunition (except for smooth-bore hunting weapons and ammunition for them) (Article 201 of the Criminal Code); theft, appropriation, extortion of firearms, ammunition, explosives or radioactive materials (Article 262 of the Criminal Code); carrying, storing, acquiring, transferring or selling firearms (except smooth-bore hunting), ammunition, explosives or explosive devices (Article 263 of the Criminal Code); manufacture, processing or repair of firearms or falsification, illegal removal or alteration of their markings, or illegal manufacture of ammunition, explosives or explosive devices (Article 263 1 of the Criminal Code); careless storage of firearms or ammunition (Article 264 of the Criminal Code). Also criminally punishable include actions provided for in Art. Art. 267, 333, 410, 411, 412, 413, 414, 440 of the Criminal Code of Ukraine (2001).

In general, at the national level, the illegal circulation of firearms can be divided into two types: 1) related to the commission of administrative offenses or other violations of administrative prohibitions; 2) actions that violate prohibitions defined by the law on criminal liability. Therefore, the elements of illegal trafficking, which together form the illegal trafficking of firearms, are administrative and criminal acts. Accordingly, the illegal circulation of firearms means any actions with firearms, other than their intended use, which are carried out without the permission prescribed by law and entail administrative or criminal liability.

In the aspect of the investigated problem, we share the point of view of V. Sokurenko (2023), that as means of combating crime, administrative and criminal law are separate and equal forms of implementation of criminological policy, which from the point of view of positivism can be considered as parts of criminological legislation.

In the next subsection of the study, we will focus on the determinants of committing crimes related to the illegal circulation of firearms.

#### **4. Determinants of committing crimes related to the illegal circulation of firearms**

Illegal handling of firearms, in our opinion and in the opinion of 89% of the interviewed investigators, is a crime with a high level of latency. This statement is due to the presence of certain factors affecting the latency of the analyzed crime. Let's explore some of them in more detail within this subsection.

As you know, the structure and dynamics of crime in today's conditions are

determined by both traditional determinants and other numerous negative processes and phenomena generated by new crisis situations in the political, socio-economic and other spheres related to the war on the territory of Ukraine. In particular, the illegal circulation of firearms is caused by the following determinants: the number of weapons on the territory of the country has increased; a negative socio-psychological climate has been created, which in the presence of weapons can lead to a threat to the life and safety of citizens; there was a need for personal protection, the satisfaction of which can be achieved through the realization of obtaining weapons by illegal means.

It is quite clear that the implementation of large supplies of weapons to Ukraine increased the threat of these weapons falling into illegal circulation. This requires strict methods of prevention, since its implementation can be used as an element of propaganda, reduce the level of trust in the authorities, which will negatively affect the further level of assistance to Ukraine. In June 2022, the Parliament of Ukraine created the Commission for Monitoring the Acquisition and Use of Weapons Coming to Ukraine, and from 2022, the Inspectors General of the State Department, the US Department of Defense, and the US Agency for International Development (USAID) will conduct an audit of aid flows from abroad, including military equipment, together with Ukrainian colleagues, their investigators are working on the ground. However, much of this aid is focused on heavy weapons, which are less likely to be illicitly circulated, and on weapons that are supplied by other countries rather than purchased domestically. The Ukrainian government should accelerate the development of a comprehensive strategy to solve this problem now, and primarily after the end of hostilities.

The main conditions contributing to the illegal circulation of firearms in Ukraine, among other things, according to the interviewed investigators and prosecutors, include: conducting active hostilities along more than 1,000 km of the border (71%); insufficient strengthening of borders (56%), which, as noted in the literature, are often strategic areas in the geopolitical sphere (Andrés Eduardo Fernández Osorio, y Yerlyn Ximena Lizarazo Ospina, 2022), are dynamic, linked to commercial transactions and the flow of people (Fabiana, 2021); deterioration of the general criminogenic situation in the country, which is primarily related to manifestations of organized crime and the growth of violent crimes (47%); weak interaction between various departments and services within the scope of powers in ensuring control over arms circulation (33%); non-compliance with the established technical requirements of a significant number of weapon storage locations (20%);



weakening of strict state control over the transportation and transportation of wholesale consignments of firearms and their ammunition (21%); weak technical security of such facilities (18%); decrease in the level of official and industrial discipline at enterprises and facilities involved in arms circulation (15%); low effectiveness of the state system for detecting and stopping the channels of illegal arms circulation due to their weak material and technical base (13%); miscalculations in the organization of activities of licensing and permitting units of police bodies (12%); deficiencies in legislative and departmental regulations (11%); lack of technical means of protection (8%).

If we talk about the subjective reasons that contribute to the illegal circulation of weapons, then the main ones can be distinguished: the manifestation of negative moral and psychological qualities of an antisocial attitude of a person existing in individuals; lack of arms control; shortcomings in the recruitment of persons responsible for the storage of weapons; shortcomings in the performance of their duties by military personnel responsible for the storage of weapons; violations by military personnel of the rules for guarding warehouses and bases.

In the conditions of a full-scale war, it is not easy to estimate the number of firearms in Ukraine, since they are massively used in the zone of active hostilities and are exported from there without control. In our opinion, in order to solve the problem of illegal circulation of firearms in Ukraine, the following measures should be taken: adopt legislative initiatives, improve cooperation between relevant departments (Ministry of Internal Affairs, Security Service of Ukraine, Border Guard Service, Ministry of Defense, Customs) and expand cooperation with neighboring states. Without such measures, the intensity and structure of illegal arms trafficking in Ukraine, as before, will be difficult to control and reduce, which will harm both national security and the security of citizens.

In order to prevent the illegal supply of weapons to Ukraine, coordinated actions of law enforcement agencies and special services of neighboring states are necessary. We believe that the priority direction for effective countermeasures against the illegal circulation of firearms is the strengthening of cooperation between police authorities, border agencies and state security agencies of neighboring countries.

Additional response is needed: standardization of legislation for joint crime control and improvement of information support for this activity; carrying out joint coordinated measures to prevent and stop the most dangerous crimes committed with the use of firearms; conducting joint special operations to prevent the illegal manufacture and circulation of

firearms; proper accounting and control of firearms in organizations and citizens; strengthening measures of criminal responsibility for crimes related to the illegal circulation of firearms.

### **5. Measures against the illegal circulation of firearms, which are carried out during the investigation of the relevant crimes**

The effectiveness of combating crimes related to the illegal circulation of weapons is also extremely important at the local level, within the framework of the investigation of individual criminal offenses committed with the use of firearms. After all, a large number of them remain outside the control of law enforcement agencies due to the failure to take all measures to remove certain types of weapons from circulation, and failure to prosecute all those involved. Therefore, the key is to find out all the circumstances of the crime, to prevent new crimes involving the use of firearms by investigators and operative units of law enforcement agencies even at the stage of their preparation.

Among the reasons for the low quality of the investigation into the illegal acquisition of weapons, ammunition and explosives and the rather small share of indictments, the following are indicated: untimely and imperfect implementation of initial procedural actions - inspection of the scene, interrogation of witnesses (69%); insufficiently balanced and established interaction of various law enforcement and other bodies (78%); low professional level of investigators and employees of operative units (45%) (Bereza, Chaplynskyy, 2018).

The analysis of the study of criminal proceedings related to the illegal circulation of firearms revealed other reasons for the low efficiency of the investigation, which generally reduces the potential for combating the specified illegal acts. Such reasons include: insufficient knowledge of the investigators of the specifics of the forensic mechanism for establishing the circumstances of the committed crime; insufficient ability of the investigator to determine the tactical direction of the investigation, guided by the volume of orientation information, evidence in criminal proceedings; lack of proper material and technical support and necessary forces for operational use; insufficient awareness of the investigator about the participants of the investigation, the forms of their cooperation, the degree of opposition from the suspect and other interested parties.

Not the last role in the effective investigation and counteraction of crimes related to the illegal circulation of firearms, as the interviewed investigators rightly emphasize, belongs to: analysis of the investigative situation (76%); choosing the tactical direction of the

investigation (39%); determination of forces and means (52%); drawing up and following a written plan, its correction (25%).

As is well known, the success of the disclosure and investigation of the illegal trafficking of firearms and the exposure of persons guilty of such crimes are largely ensured by a well-founded, timely decision to open criminal proceedings and the establishment of circumstances to be proven. At the same time, one should not deny the importance of the mentioned activity of the investigator in preventing the commission of other crimes with the help of firearms.

When investigating crimes committed by organized groups in the field of illegal firearms trafficking, the investigator faces a significant amount of problems, especially if such activity turns into a transnational one. In this regard, it is advisable to consider some features of the investigation of this category of crimes.

Illegal traffic usually involves the most modern firearms. Their implementation, for the most part, is the prerogative of the leaders of such groups, which ensures its conspiracy. In addition, the specificity of the subject of committed crimes determines the high level of organization of this type of criminal activity. In this regard, investigative bodies rarely manage to identify all members of an organized group, to find out what role and at what stage of the commission of a criminal offense was performed by one or another group member, to reproduce a complete picture of the committed act.

If illegal actions in the sphere of firearms circulation are committed as part of a group of persons with a division of roles, the following must be established: time, place, initiators and prior conspiracy (agreement) to create a group to commit such crimes; the structure of the group (composition, hierarchy, nature of the ties that connected the suspects to each other); the time and place of joining the group of each of its members; the distribution of the roles of group members when they commit various crimes (who planned the actions of the group and individual crimes related to the illegal handling of firearms; who directed the actions of the group members; who and exactly what actions were committed; who and in what way distributed the proceeds of criminal activity); characteristics of the suspects as members of the group and the psychological microclimate in it (presence of rivalry, conflicts; family, friendly or other relationships); duration of the group's existence (stability of its composition, close relationship between members, consistency of their actions, constancy of forms and methods of criminal activity; number of crimes committed by members of the group); what exactly were the actions to hide the traces of the criminal activity of the group.

Clarification of the specified circumstances is important not only in view of the implementation of the main tasks of the investigation of a specific crime, but also from the point of view of preventing the commission of new criminal acts committed with the use of firearms, missed by the investigative bodies as a result of poor investigation of all the circumstances of the criminal proceedings.

Crimes of this category are characterized by the fact that the actions of preparation, execution and concealment are covered by a single meaning of all members of an organized group, but aimed at achieving a different goal (Ragulin, 2015). The investigator's knowledge of the stages of illegal arms trafficking will help him judge: 1) the possible source of origin of firearms, methods of acquisition; 2) about previously committed crimes, using stolen weapons; 3) the role of each member of the group in a specific stage of illegal trafficking, which will allow the investigator to put forward separate versions.

It is known that criminal groups operating in this area are characterized by a hierarchical structure, high stability, division of roles, careful development of plans for the preparation of criminal actions, internal disciplinary and absolute obedience to leaders, etc. Therefore, when one or more members of the group are identified and detained, the investigators have to face active opposition from them.

Thus, specific evidence is usually excluded from the totality of evidentiary information, due to the fact that members of organized criminal groups in the absolute majority of cases actively resist: they give false statements about the circumstances of the crime, do not expose the leader (organizer) of the criminal group, or other co-conspirators, do not disclose the external relations of the group on the “black market” of weapons, etc.

Another problem that arises in the activity of the investigator is the problem of legalization and use of information obtained as a result of operational investigative activities about the activities of all members of an organized group, which indicates its stability, cohesion, hierarchy, etc. when committing criminal offenses in the sphere of illegal circulation of firearms.

During the pretrial investigation of serious or especially serious crimes, a large amount of information related to this tactical operation is obtained by conducting covert investigative (research) actions, which should be preferred as sources of evidence in criminal proceedings. As evidenced by the analysis of criminal proceedings, the following secret investigative (research) actions have a significant effect in the investigation of crimes related to the illegal circulation of firearms: audio and video surveillance of a person (Article 260 of

the Criminal Procedure Code of Ukraine); arrest, inspection and seizure of correspondence (articles 261, 262 of the Criminal Procedure Code of Ukraine); removal of information from transport telecommunication networks (Article 263 of the Criminal Procedure Code of Ukraine); removal of information from electronic information systems (Article 264 of the Criminal Procedure Code of Ukraine); inspection of publicly inaccessible places, housing or other possessions of a person (Article 267 of the Criminal Procedure Code of Ukraine); surveillance of a person, thing or place (Article 269 of the Criminal Procedure Code of Ukraine); audio and video control of the place (Article 270 of the Criminal Procedure Code of Ukraine); use of confidential cooperation (Article 275 of the Criminal Procedure Code of Ukraine). The above actions make it possible to collect information secretly, conspiratorially, imperceptibly for criminals.

As D. Andreev rightly points out, it is difficult and dangerous to carry out operational introduction into a criminal group immediately before the arrest (Article 272 of the Criminal Procedure Code of Ukraine). However, if this criminal group already has a person who cooperates with law enforcement agencies (Article 275 of the Criminal Code of Ukraine), then there is a favorable opportunity to receive timely and accurate information about all the actions and plans of criminals. Additional information characterizing criminals can be obtained using forensic records. In order to check a person's forensic records or his involvement in other crimes, it is advisable to secretly obtain samples necessary for a comparative study (Article 274 of the Criminal Procedure Code of Ukraine) (Andreev, 2019).

## **6. Measures to combat the illegal circulation of firearms by units that carry out operational and investigative activities**

One of the effective ways of combating criminal offenses related to the use of firearms is the active fight against them by units that carry out operative and investigative activities. It is obvious that without the use of optimal technologies for obtaining information about crimes, first of all, the information capabilities of operative and investigative activities, today it is practically impossible to resist crime. Operative investigative activity is, for the most part, the most effective tool for combating serious and especially serious crimes. The use of specific forces, means and methods by its subjects is one of the most important integral components of successful work on detection, prevention and disclosure of crimes related to the illegal circulation of firearms.

The analysis of the materials of criminal proceedings, as well as the operational information contained in the cases of operational development, shows that the majority of crimes related to the illegal circulation of firearms are committed by organized and well-conspired criminal groups that use modern technology, false documents (which often confirm their belonging to law enforcement, military bodies) and uniforms. Their armament consists of all types of firearms; most have combat training, mostly in illegal armed formations. The social danger of such groups is obvious and is based on the high and persistent anti-social orientation of their actions and constant readiness to commit new crimes. Therefore, it is not surprising that crimes related to the illegal circulation of firearms, as the most severe and cynical types of criminal activity, belong to the most dangerous transnational forms of organized crime.

The most widespread, typical subjects of countermeasures, depending on their competence, are operational units of the police and security agencies. P. Mitrukhov (2010) defines their countermeasures against the illegal circulation of firearms as a complex of interdependent measures aimed at preventing, detecting and stopping crimes in the sphere of illegal circulation of firearms. In our opinion, combating the illegal circulation of firearms by operational units of the police is a system of various search, operational and investigative actions of operational units and operatives during the solving of the tasks of operational and investigative activities, aimed at finding, detecting and stopping illegal actions related to illegal circulation of firearms.

The system of organizational-management and operational-search measures has an important place and significant preventive value in combating crimes. Combating the illegal circulation of firearms can be carried out at any stage of operational and investigative activities, but an important place is given to the prevention of these crimes. In particular, at this stage, a key role is played by obtaining information about the crime being prepared in accordance with the procedure established by law; such information must be verified with the help of appropriate investigative measures and means.

One of the problems faced by operational units is the use of covert methods of detecting illegal firearms circulation, in particular with regard to their limited use during crime prevention, because any operational-investigative measure specified in the law is carried out within the limits of one operational-investigative unit affairs. This leads to the fact that the possibility of finding and recording actual data on illegal acts is narrowed.

In the framework of operational and search measures, persons who cooperate with

law enforcement agencies on a confidential basis are often involved. This institute is of exceptional importance in operational and search activities, because such persons help operational units in solving the tasks of operational and search activities. However, it should be remembered that any cooperation requires a careful selection of candidates for cooperation with operational units, which, in turn, will contribute to the timely implementation of appropriate measures to prevent illegal actions.

The key point in combating the illegal circulation of firearms is obtaining initial operative and investigative information about the preparation for the commission of a crime. Such information can be obtained both directly by the employee in the course of his operational and investigative activities, and through persons who cooperate with operational units on a confidential basis. Depending on the source of obtaining such information, the planning of appropriate operational and search measures and methods of operational and search activities will be carried out. So, for example, depending on the person who provided such information, operational units are obliged to check the received information in compliance with the requirements of the law.

In accordance with departmental legal documents, in the case of receiving a report on the illegal handling of weapons, ammunition, explosives and going to the scene of the incident as part of the investigative team, an employee of the police operational unit: identifies and interviews citizens in order to obtain information about the circumstances of the offense; ensures the immediate establishment of the phone number of the subscriber to whom a notification was made about a threat to the safety of citizens, destruction or damage to property, and / or the phone number of the subscriber from which such a notification was made; establishes the presence of video surveillance cameras in the area adjacent to the scene of the incident; carries out surveillance outside the environment with the aim of possible identification of persons involved in a known false report; informs the investigator in writing about the results of the measures taken; on behalf of the investigator, ensures the execution of the decision of the investigating judge on temporary access to things and documents in the shortest possible time (provided that the decision to grant him the right to temporary access to things and documents is indicated in the decision) (On the approval of the Instructions on the organization of the interaction of pretrial investigation bodies with other bodies and units of the National Police of Ukraine in the prevention of criminal offenses, their detection and investigation, 2017).

The indicated recommended list is not exhaustive, therefore, depending on the

specifics of the situation or service area, it may be expanded. At the same time, knowledge of the main areas of activity of operational units will allow to adequately, quickly and more competently carry out activities to detect violations in the field of illegal circulation of firearms, to take measures to prevent the spread of firearms and their use for illegal purposes.

## 7. Conclusions

Under modern conditions, the illegal circulation of firearms poses a serious threat to national and international security, as it is a means of influence of the criminal world on society and a source of high criminal income. The implementation of the state policy of Ukraine in the field of countering the illegal circulation of arms indicates the need to adopt a separate normative legal act, which should define the concepts of “firearms”, “arms circulation” and other terms, provide for a system of control subjects and indicate the main directions of the state's activities in the specified field. An important element of state policy in the field of illegal arms trafficking is: establishment of criminal liability for illegal production and trafficking of firearms, their parts and components, ammunition for them, etc.

The latency of crimes related to the illegal circulation of firearms has a high level, which is due to specific factors of an artificial, natural and related nature: the deterioration of the general criminogenic situation in connection with military operations in the country (insufficient fortification of borders, weakening of strict state control over weapon circulation, etc.); the circumstances of the crime; fear of revenge from criminals; low level of preventive activities and others. The priority direction for effective countermeasures against the illegal circulation of firearms is to strengthen cooperation between police authorities, border agencies, state security agencies and special services at the state and interstate level.

The low level of detection and investigation of crimes related to the illegal circulation of firearms, caused by reasons of an objective and subjective nature, prompted the formulation of relevant proposals aimed at improving the effectiveness of activities in the specified area. A conditional division of the illegal circulation of firearms was carried out at the stage of theft, distribution and use, the knowledge of which by the investigative body will contribute to the clarification of information about: the possible source of origin of firearms, the method of their acquisition; previously committed crimes with the use of weapons; the role of each member of the group in a specific stage of illegal trafficking in order to put



forward and verify individual versions. A significant effect in the investigation of the investigated crimes belongs to secret investigative (detective) actions defined in the Criminal Procedure Code, information about the facts and methods of which are not subject to disclosure during the investigation of serious and especially serious crimes.

The key point in countering the illegal circulation of firearms is to receive initial operational and investigative information about the preparation for the commission of a crime both directly from an operational worker and through persons who cooperate with operational units on a confidential basis. Special attention should be focused on agency and intelligence activities, based on information-analytical and information-prognostic support of the investigation.

The listed and a number of other important problems imply the need for further improvement of the legal and applied aspects of investigative and investigative activity, the organization and tactics of operative investigative support for the prevention and detection of violations related to the illegal circulation of firearms. This is possible thanks to the scientific understanding of theoretical problems, the analysis of the practice of combating the specified category of crimes and the development on this basis of a scientifically based concept of combating criminal manifestations related to the illegal circulation of firearms.

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