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FIREARMS IN THE HANDS OF CIVILIANS: A POTENTIAL THREAT TO NATIONAL SECURITY OR A KEY TO THE RESILIENT SOCIETY

Abstract. The article analyzes the issue of firearms possession by civilians through the prism of the key national interests defined by law as objects of protection by the State. These interests are: the protection of state sovereignty, territorial integrity, democratic constitutional order and safe living conditions for citizens.

The authors argue that the state weapons policy and national security policy should be formed with due regard to the possibility of involving civilians who own firearms in the protection of Ukraine's main national interests. On the one hand, as the article emphasizes, a large number of legal firearms owners, civilians, can be viewed as an additional factor of the society and the state's resilience to threats to its aforementioned national interests. On the other hand, the risks of widespread proliferation of firearms among civilians should be considered.

The article examines the issues related to how the participation of armed civilians in the defense of state sovereignty, territorial integrity, ensuring safe living conditions and democratic constitutional order correlates with the state's monopoly on the use of force. Based on the analysis of the legislation, the article substantiates that not only security and defense forces, but also civilians can participate in the protection of national interests, in particular, the state sovereignty and territorial integrity of Ukraine, from threats. The authors of the article outline possible forms of involvement of armed civilians in the national resistance.
The article analyzes the right of the people to rebellion as the last resort for the protection of human rights and the democratic constitutional order by civilians, as well as the possible impact of the presence or absence of arms among civilians on the course and outcome of the rebellion. The right of the people to rebel and their defense of the democratic constitutional order is examined on the example of the events of the Revolution of Dignity.

In addition, the article raises the question of whether the state can cope with ensuring safe living conditions for citizens, one of the national interests, and whether it can provide more opportunities for self-defense to civilians through an appropriate weapons policy.

The authors also review current political and public debates, including in the legislature of Ukraine, as well as expert opinions on the possibilities of civilian firearms ownership and the impact of liberalization of weapons policy on the protection of Ukraine's national interests.

As a result of the analysis, the authors of the article conclude that the formation of an effective and comprehensive state policy on arms trafficking in Ukraine requires in-depth discussions, sociological research, and study of the experience of other countries, taking into account current and potential threats to national security. The results of these efforts will help to properly define the content of the policy, which will be in line with the principles of democratic governance and will help to protect Ukraine's national interests.

**Keywords:** weapons, national security, national interests, resilient society, public administration, national resistance, UN.

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**ВОГНЕПАЛЬНА ЗБРОЯ У ЦИВІЛЬНОГО НАСЕЛЕННЯ: ПОТЕНЦІЙНА ЗАГРОЗА НАЦІОНАЛЬНИЙ БЕЗПЕЦІ ЧИ ЗАПОРУКА СТІЙКОГО СУСПІЛЬСТВА**

**Анотація.** В статті проаналізовано питання щодо володіння вогнепальною зброєю цивільним населенням крізь призму визначених законодавством
головних національних інтересів як об’єктів захисту з боку держави. Такими інтересами є: захист державної суверенітету, територіальної цілісності, демократичного конституційного ладу та безпечні умови життєдіяльності громадян.

Автори наводять доводи про те, що державна політика щодо зброї та політика національної безпеки мають формуватися із огляду на можливість залучення цивільного населення, яке володіє вогнепальною зброєю, до захисту головних національних інтересів України. З одного боку, як наголошується в статті, велику кількість законних власників вогнепальної зброї, цивільних осіб, можна розглядати як додатковий чинник стійкості суспільства та держави до загроз її вищезгаданим національним інтересам. З іншого боку, мають бути враховані ризики широкого розповсюдження вогнепальної зброї серед цивільних осіб.

В статті досліджується питання пов’язані із тим, як співвідноситься участь озброєного цивільного населення у захисті державного суверенітету, територіальної цілісності, забезпеченні безпечних умов життєдіяльності та демократичного конституційного ладу із монополією держави на застосування сили.

На підставі аналізу нормативних актів в роботі обґрунтовується, що не лише сили безпеки і оборони, але і цивільні особи можуть брати участь у захисті національних інтересів, зокрема державного суверенітету та територіальної цілісності України, від загроз. Авторами статті наводяться можливі форми залучення озброєного цивільного населення до національного спротиву.

В статті проаналізовано право народу на повстання як останній засіб захисту прав людини та демократичного конституційного ладу цивільними особами, а також можливий вплив наявності або відсутності зброї у цивільного населення на хід та результати повстання. Право народу на повстання та захист ним демократичного конституційного ладу розглянуто на прикладі подій Революції Гідності.

Крім того, в статті порушено питання про те, чи впорається держава із забезпеченням безпечних умов життєдіяльності громадян, одного із національних інтересів, а також чи може вона надати більше можливостей для самозахисту цивільним особам через відповідну політику щодо зброї.

Авторами також проведено огляд поточних політичних та соціальних дискусій, в тому числі в законодавчому органі України, а також експертних позицій щодо можливостей володіння вогнепальною зброєю цивільними особами та впливу лібералізації політики щодо зброї на захист національних інтересів України.

В результаті проведеного аналізу автори статті приходять до висновку, що формування ефективної та комплексної державної політики щодо обігу зброї в Україні вимагає глибоких дискусій, соціологічних досліджень та
Formulation of the problem. First of all, it is worth paying attention to what is national security. According to Part 1 of Article 1 of the Law of Ukraine "On National Security", the national security of Ukraine is the protection of state sovereignty, territorial integrity, democratic constitutional system and other national interests of Ukraine from real and potential threats [1]. The aforementioned definition directly names three main national interests that are the objects of protection: state sovereignty (I); territorial integrity (II); democratic constitutional system (III). Among other national interests, the legislation also calls "safe living conditions... of citizens" (IV) [1]. It is these four national interests that our attention is directed to in this article.

There are different approaches to who is responsible for ensuring the security of important national interests. Some believe that this is a matter exclusively for state bodies specially created for this purpose. Others believe that citizens have the right to directly participate in the protection of national interests, including the four that we mentioned above.

So, for example, persons holding public positions made statements that "only the state has a monopoly on the use of force," or about a "monopoly on force" belonging to certain state bodies [2, 3]. The semantic analysis of the above statements gives sufficient grounds to assume that the use of weapons to protect national interests is included in the content of the concepts "monopoly on force" and "monopoly on the use of force". So, if our reasonable assumption is correct, then, in the statement of the officials, the right to use weapons to protect the national interests of the state is denied, since it belongs only to persons who are part of the relevant state bodies.

Analysis of recent research and publications. The question of possession of firearms by the civilian population in the context of ensuring national security has been little studied by scientists. Usually, in their works, the sphere of weapons circulation is analyzed in terms of the activities of law enforcement agencies or the development of special legislation. Therefore, the analysis carried out within the scope of this article is based mainly on information from open sources, public messages of managers and representatives of executive authorities, research of national legislation. In addition, the paper analyzes the concept of "monopoly on the legitimate use of force" introduced by Max Weber [4], as well as the results of research by Marco Laritza and Todd Landman [9] on issues of democracy, public administration and human rights in the EU.
The purpose of the article is to study the issues of firearm ownership by the civilian population through the prism of national interests, which are defined by legislation as objects of protection by the state, namely: protection of state sovereignty, territorial integrity, democratic constitutional order and provision of safe living conditions for citizens.

Presentation of the main research material. It is obvious that the phrases "monopoly on force" or "monopoly on the use of force" are derived from the concept "monopoly on the legitimate use of force", which was one of the first to be used by Max Weber. In his famous lecture, he noted that "the state is a human community that (successfully) has a monopoly on the legitimate use of physical force within a certain territory. Note that "territory" is one of the characteristics of the state. In particular, currently the right to use physical force is granted to other institutions or individuals only to the extent that the state allows it" [4].

As we can see, Max Weber does not deny the possibility of using physical force by other, non-state institutions and even individual citizens, if it is sanctioned by the state. A similar approach to Weber's was applied by the legislator in Part 1 of Article 12 of the Law of Ukraine "On National Security" [1]. In this law, the security and defense sector of Ukraine includes four interrelated components: security forces; defense forces; defense industrial complex; citizens and public associations that voluntarily participate in ensuring national security. That is, in general, the state assumes that civilians can participate in the protection of national interests from threats.

In connection with the above, a well-founded question arises: is the state interested in involving the civilian population in armed resistance in the event of a threat to its state sovereignty and territorial integrity. If the state's interest lies in the involvement of the civilian population in protection against armed actors threatening national interests (I) and (II), then the need for such a population to have firearms becomes obvious. It should be noted that the presence of firearms is not crucial in high-intensity combat operations involving the use of heavy weapons and equipment, including tanks, combat aviation artillery, missile systems, etc. In addition, combat operations of this nature can only be conducted by trained and trained military personnel, not by any means civilians. The military, who have direct experience in conducting high-intensity combat operations with the use of heavy weapons and equipment, emphasize that during such operations "losses in shooting contacts are single", and the majority "die due to the work of enemy artillery and FPV drones" [5]. Opponents of the thesis that the civilian population can be effective in protecting national interests (I) and (II) often use the following two arguments, namely: the unpreparedness (dilettantism) of civilians to participate in a large-scale conventional war and the low effectiveness of small arms in it. One can agree with both arguments, but not with conclusions of this kind.

The civilian population, if they have firearms, can be involved in actions in their own or the enemy's rear. In its rear, there is opposition to armed supporters of
the aggressor country, sabotage groups of the enemy, and even lightly armed landing forces. In the occupied territories, the civilian population may be involved in the armed resistance to the occupier. In both cases, an armed civilian population can be very effective in protecting the national interests of Ukraine (I) and (II).

The Ukrainian state provides for the possibility of the participation of civilians in the protection of its state sovereignty and territorial integrity. This possibility is provided not only by the already mentioned Law of Ukraine "On National Security". Another normative act - the Law of Ukraine "On the Basics of National Resistance" - stipulates that national resistance is organized and carried out through the widest possible involvement of Ukrainian citizens in actions aimed at ensuring military security, sovereignty and territorial integrity of the state (Part 1 of Article 1 of the Law) [6]. The Law of Ukraine "On the Basics of National Resistance" provides for the possibility and desirability of involving civilians in the protection of national interests (I) and (II), and provides the right to use personal hunting and small arms for this purpose. But the law grants such a right only to members of voluntary formations of territorial communities, not to other citizens. The legislator's logic is clear: civilians in peacetime prepare for resistance, including the use of weapons, and during wartime, under the leadership of the military, resist. At the same time, the number of civilians in the DFTG is small compared to the total number of civilians. Not all of them have their own firearms. Taking into account these circumstances, opinions are expressed that if the civilian population had a significant number of properly registered firearms, the possibilities for repelling aggression would be much greater.

Proponents of the idea of wide distribution of firearms among the civilian population rightly believe that resistance to external armed threats to national interests (I) and (II) would be higher if the number of gun owners was much larger. Obviously, at the beginning of the large-scale aggression, the state understood the importance and necessity of giving civilians the opportunity to participate in the protection of national interests (I) and (II). This is evidenced by the rapid adoption of the Law of Ukraine "On Ensuring the Participation of Civilians in the Defense of Ukraine", which, in accordance with Article 4, gives the right to use one's own award weapons, sports weapons (pistols, revolvers, rifles, smoothbore rifles), hunting rifled, smoothbore or combined arms [7]. The specified law entered into force on March 7, 2022, that is, eleven days after the beginning of the large-scale aggression of the Russian Federation against Ukraine.

Another evidence of the state's awareness of the need for widespread involvement of the civilian population in armed resistance, even more telling than the adoption of a special law, is the distribution of combat firearms to civilians before the adoption of the above-mentioned law. Already on the first day of the large-scale invasion, the state authorities organized the distribution of such weapons to civilians according to the maximally simplified procedure [8]. In Kyiv alone, "nearly 10,000 automatic weapons" were issued within a few hours [8]. At the same time, the
The law "On ensuring the participation of civilians in the defense of Ukraine", still proceeded from the principle of granting broad circles of the civilian population the right to own and use weapons to protect national interests (I) and (II) only during the period of legal martial law regime.

The protection of the democratic constitutional system is another national interest (III) that is the object of protection. According to Article 1 of the Constitution of Ukraine, Ukraine is a democratic state, which provides for democratic governance, respect for human rights and freedoms, the rule of law, etc. For example, the European Union views democratic governance as "affirming citizens' rights towards sustainable development" and includes "respect for human rights and fundamental freedoms... support for democratization processes... respect for the rule of law... access for all to an independent justice system... and a government that governs transparently and is accountable to relevant institutions and voters" [9, 10].

The armed defense of the democratic constitutional system by civilians, which consists in opposing its usurpation, the establishment of autocratic or dictatorial regimes, should be considered through a retrospective view of the Revolution of Dignity of 2013-2014.

The ruling circles at that time tried, contrary to the principles of democratic governance, to change the vector of development of the state and society, massively violated the rights and freedoms of citizens, including against protest, enriched themselves due to the appropriation of state revenues, etc. It was then, during the Revolution of Dignity, that the question of the people's right to revolt gained wide public discourse. On February 20, 2014, law enforcement officers shot peaceful protesters fighting for democracy with small arms. On this day alone, 48 people died, another 68 received gunshot wounds [11, 12]. Consequently, the ruling circles of that period decided to use weapons against peaceful protesters who demanded their removal from power. In connection with this, the question arises, would the leaders of the state and law enforcement officers dare to use weapons, if they knew that a significant number of protesters have their own firearms, which they have the right to use to protect the constitutional democratic order?

The Universal Declaration of Human Rights, adopted and proclaimed by resolution 217 A (III) of the UN General Assembly of December 10, 1948, contains the provision that "it is necessary that human rights be protected by the force of law in order to ensure that a person is not forced to resort to the last resort to rebellion against tyranny and oppression." Based on the content of this provision, it can be concluded that rebellion is a last resort, that is, one that can be used after the exhaustion of other means against tyranny and oppression, and which, although permissible, is undesirable. In this case, the question of whether the uprising of unarmed citizens against armed tyranny can be successful is not unreasonable. Therefore, for a certain part of society, the prevalence of firearms among a significant part of society can be an additional element of resistance to threats to the national interest (III) - the democratic constitutional system of the state.
As we have already noted, among the objects of protection against various threats in the Law of Ukraine "On National Security of Ukraine" is also included "safe living conditions of citizens" - national interest (IV). The same law contains the definition of "public safety and order", and its content is defined as the protection of interests, rights and freedoms of a person and a citizen that are vital for society and the individual [1]. The analysis of the norms of the law gives reason to assert that the concept of "safe living conditions" is broader than the concept of "public safety and order" and encompasses it in terms of content. Of course, the national interest (IV) is closely related to the level and nature of crime, manifestations of terrorism, etc.

The legislation does not contain a normative definition of the threshold formed by quantitative, qualitative or mixed characteristics, beyond which the state of public safety and order in the state can be considered a threat to the national security of the state. The same can be said about the level of crime, in particular about the number of violent crimes. In this case, the question arises whether the state is able to ensure the national interest (IV) exclusively with the resources of its security forces? To a large extent, the answer to this question depends on the state and society. The war and post-war periods can be characterized as such, during which the circulation of weapons that are not approved by the state and society increases significantly. The Minister of Internal Affairs notes that "Ukrainians may have from one million to five million units of trophy weapons in their hands" [13]. In this context, the discussion about providing broad opportunities for civilians to acquire firearms to protect life, health and property from illegal encroachments, including violent ones, is quite reasonable. Wide distribution of properly registered weapons, according to a number of public figures, will be able to contribute to maintaining the state of protection of the national interest (IV), complementing the efforts of state bodies to ensure it at the appropriate level [14, 15].

Discussions about the possibility of civilian ownership of firearms are ongoing not only in society, but also in the authorities. In 2021, in the legislative body of Ukraine, the Verkhovna Rada, the parliamentary inter-factional association "For self-defense weapons for law-abiding citizens" was created. Its purpose is to "defend with an active public the rights of citizens to arms", and the arguments for its creation are that "[in] circulation we have more than 1 million 200 thousand units of weapons, which we know about, but the number of which since the hostilities in the east and Russian aggression is probably much more, and we still don't have any law on weapons" [16].

Opponents of the liberalization of civilian gun ownership emphasize that the widespread distribution of guns will lead to an increase in crime and the number of violent crimes. So, for example, one of the public experts notes the following: "Studies by international experts have proven a direct relationship between the number of weapons in the hands of the population and the number of crimes involving their use: In Great Britain, Australia, Hungary, Poland, Romania, the
People’s Republic of China, Japan, Chile, a small number guns in the population, but the murder index per 100,000 population is much lower than in places where citizens have a lot of guns, in particular in the USA, Mexico, Brazil, Colombia, Yemen, and the Philippines. The presence of weapons among citizens does not stop criminals, moreover, it encourages them to attack more aggressively due to the danger of receiving resistance. Also, the interest of representatives of the criminal world in seizing legal weapons from decent citizens in order to commit crimes and confuse their further disclosure is growing" [17].

**Conclusions.** The question of the formation of state policy regarding arms circulation in Ukraine should be considered taking into account the threats to national security that Ukraine has faced at the current stage, as well as potential threats in the post-war period.

The formation of state policy regarding arms circulation requires preliminary deep professional discussions, political debates, sociological research and study of the experience of other countries.

Taking into account the results of previous efforts will determine the content of the state policy regarding arms circulation, will make the activities of the authorities understandable, will correspond to the principles of democratic governance, and will contribute to the protection of Ukraine’s national interests.

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