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**ADMINISTRATIVE AND LEGAL FOUNDATIONS AND INSTITUTIONAL
SAFEGUARDS FOR THE USE OF FIREARMS BY OFFICERS OF THE NATIONAL
POLICE OF UKRAINE IN THE CONTEXT OF ENSURING PUBLIC SECURITY
AND PROTECTING HUMAN RIGHTS**

Problem Statement. The use of firearms by police officers is one of the most responsible and high-risk forms of state coercion, directly affecting the highest social values – human life, health, liberty, and personal inviolability. In the context of increasing security challenges, armed aggression against Ukraine, rising crime rates, and growing public expectations for transparency and accountability in law enforcement activities, the issues of legal regulation, institutional support, and oversight of the use of firearms have acquired particular urgency.

The existing regulatory framework, represented by the Constitution of Ukraine, the Law of Ukraine «On the National Police», and subordinate legislation, generally outlines the legal grounds and procedures for the use of firearms. However, it contains a number of debatable provisions related to the ambiguity of certain formulations, the absence of unified algorithms for police actions in crisis situations, insufficient procedural control detail, and incomplete harmonization with international standards – in particular, the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the case law of the European Court of Human Rights.

In practice, these gaps lead to enforcement conflicts, ambiguous interpretation of legal norms, reduced public trust in the police, and, in some cases, the excessive use of authority or unlawful restriction of individual rights. An

additional complicating factor is the uneven level of professional training among police officers, limited availability of technical means for recording actions, insufficient development of external oversight mechanisms, and the low level of analytical processing of data on incidents involving firearm use.

Under these conditions, there is a clear need for a comprehensive scholarly study of the administrative and legal foundations and institutional safeguards for the use of firearms by police officers, with the aim of developing theoretically substantiated and practically oriented proposals to improve legal regulation, enhance oversight efficiency, and ensure that the national framework aligns with international standards in the field of human rights protection and public security.

Analysis of Recent Research and Publications. At the general theoretical level, certain aspects of the administrative and legal foundations of police activities, mechanisms of state coercion, and the maintenance of public security have been examined by a number of Ukrainian scholars, among whom it is worth noting the works of V. Averyanov, O. Banchuk-Petrosova, A. Bagryak, Yu. Bytiak, S. Banakh, V. Bevzenko, A. Denysova, S. Vitvitskyi, S. Honcharuk, I. Holosnichenko, S. Hrechaniuk, V. Harashchuk, T. Drakokhrust, A. Yelystratov, O. Korniienko, V. Puzyrnyi, O. Senatorova, V. Tulinov, K. Chyshko, Kh. Yarmaki, and others. The academic

contributions of these authors address, in particular, the issues of administrative activities of law enforcement bodies, the legal status of the police, ensuring legality in the sphere of public administration, and the protection of human rights and freedoms in the process of applying coercive measures.

At the same time, despite the considerable achievements of domestic administrative law scholarship, the issue of the use of firearms by police officers in the context of balancing public security with compliance with international human rights standards has not been studied comprehensively. Insufficient attention has been paid to the consistency of national legislation with the case law of the European Court of Human Rights, the elaboration of procedural safeguards for the lawful use of firearms, and the institutional mechanisms for overseeing such actions.

Without diminishing the achievements of respected fellow scholars, it should be noted that, in the current context of security challenges in particular, the armed aggression against Ukraine and the need to adapt law enforcement practices to European standards the legal regulation and institutional support for the use of firearms by officers of the National Police remain highly relevant. This issue requires in-depth theoretical elaboration, a comprehensive analysis of enforcement practice, and the development of scientifically grounded proposals for improving the existing administrative and legal framework.

Aim of the Article. The aim of the article is to conduct a comprehensive study of the administrative and legal foundations and institutional safeguards for the use of firearms by officers of the National Police of Ukraine, taking into account contemporary security challenges, international standards, and law enforcement practice. It also aims to develop scientifically grounded proposals for improving the regulatory framework, oversight mechanisms, and procedural safeguards aimed at ensuring legality, proportionality, and the effective use of firearms in the context of protecting human rights and maintaining public security.

Presentation of the Main Material. The use of firearms by officers of the National Police of Ukraine constitutes an element of the exercise of state coercion, which requires strict compliance with the norms of administrative and international law, as well as the effective operation of institutional oversight mechanisms. This sphere combines public law interests in ensuring an adequate level of safety for citizens and society with the state's duty to guarantee human rights and freedoms, thereby necessitating a particularly balanced approach to legal regulation. The administrative and legal foundations and institutional safeguards governing the use of firearms by police officers are formed through a system of normative legal acts of varying legal force, encompassing the constitutional level, special legislation, subordinate regulatory instruments, and international legal standards. Their interaction must ensure both legal certainty and the adaptability of enforcement mechanisms to the operational conditions in which the police act.

In the context of public security, the administrative and legal mechanism for the use of firearms performs two interrelated functions: a regulatory function by establishing clear rules, grounds, and procedures for the use of firearms; and a safeguard function by creating institutional means of control and preventing abuse. In this regard, the integration of international standards, particularly the case law of the European Court of Human Rights, is of significant importance, as it refines the criteria for the permissibility and proportionality of firearm use in law enforcement activities. The following analysis focuses on examining the regulatory framework, the principles and procedures of firearm use, the system of institutional safeguards, and the issues of law enforcement practice. This approach makes it possible to identify directions for improving administrative and legal regulation and oversight mechanisms in this field.

Administrative and legal regulation of the use of firearms by officers of the National Police of Ukraine is a complex legal construct encompass-

ing the provisions of the Constitution of Ukraine, special laws, subordinate normative legal acts, as well as international legal instruments that define the permissible limits of state coercion.

Of particular importance are the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials [1], the Code of Conduct for Law Enforcement Officials [2], as well as the case law of the European Court of Human Rights, which establishes standards for assessing the lawfulness of the use of force and firearms. The integration of these standards into national practice is an important condition for aligning the Ukrainian system with European models of law enforcement.

The Constitution of Ukraine establishes the fundamental principles directly relevant to the regulation of firearm use, including: the right of every person to life (Article 27), respect for dignity (Article 28), personal inviolability and security (Article 29), as well as the obligation of the state to affirm and ensure human rights and freedoms (Article 3) [3]. Accordingly, any use of firearms must comply with constitutional guarantees and remain within the limits of the principles of legality and proportionality.

The main provisions regarding the use of firearms are enshrined in Chapter V of The Law of Ukraine «On the National Police» [4], which defines the grounds, conditions, procedures, and restrictions for the use of firearms. The Law stipulates that a police officer may use firearms only as a last resort, when other means of influence are ineffective or impossible, and also provides for the obligation to give a warning before its use, except in cases where delay would pose a threat to life or health.

Orders of the Ministry of Internal Affairs of Ukraine, instructions, and methodological guidelines play an important role, as they detail the procedures, reporting requirements, documentation, and control of firearm use. These instruments ensure procedural certainty and standardize police actions in operational situations.

In our view, a key challenge remains the incomplete harmonization of national legislation

with Ukraine's international obligations, which may create enforcement conflicts in cases where domestic norms do not meet the stricter requirements of international law. In addition, the mechanisms of internal and external oversight require improvement, in particular through the introduction of independent supervisory bodies and the expansion of opportunities for public monitoring.

According to Professor S. Stetsenko, the mechanism of administrative and legal regulation of social relations should be understood as a category that reflects the process of transforming the normative potential of law into the orderly structure of social relations governed by this branch of law. In his interpretation, the legal norms of administrative law are inherently static; they acquire practical effect and become dynamic only through the operation of the administrative and legal regulatory mechanism [5, p. 212]. This mechanism has specific characteristics which distinguish it as an independent form of legal influence, operating through legal relations to shape the behavior of participants in social interactions who are endowed with mutual rights, obligations, and responsibilities – in other words, a system of prohibitions and permissions [6, p. 11].

From this perspective, the mechanism of administrative and legal support is not merely a set of abstract provisions but a process – a movement directed towards the attainment of concrete objectives. Its distinct features are determined by the scope of participants affected by its influence and by the modes of conduct it prescribes or restricts.

As emphasized by S. Khomiachenko, such a specific mechanism may be conceptualized as an integrated system of legal instruments that ensures effective legal influence on social relations. This definition allows us not only to aggregate diverse elements of legal reality – norms, legal relations, and legal acts – into a unified whole, but also to conceptualize them as a functioning system characterized by systemic and purposeful impact [7, p. 11]. Similarly, D. Kosse proposes to interpret the mechanism of legal regulation as

a systemic set of legal measures through which the state exerts its normative influence on social relations in a manner aligned with the interests of both the state itself and society as a whole [8].

Accordingly, the mechanism of legal regulation and support for the circulation and use of firearms may be defined as a process of structuring and systematizing the social relations that emerge in this sensitive area of public life. It represents a comprehensive system of legal means by which the state prescribes the conduct of the subjects of these relations, thereby simultaneously performing regulatory and protective functions. Its regulatory function ensures the establishment of clear legal grounds and procedures, while its protective function guarantees that individual rights, freedoms, and legitimate interests are safeguarded against unlawful interference.

Therefore, the fundamental aim of the mechanism of legal support in this domain is the establishment of stable legal foundations that not only secure the lawful rights and interests of the subjects involved but also serve as a guarantor of broader public interests, including public security and social order. Such a mechanism thus embodies the state's responsibility to balance the needs of security with the imperatives of legality and the protection of human rights.

Building on these theoretical perspectives, the administrative and legal regulation of the use of firearms by police officers in Ukraine should be regarded as a distinct manifestation of the broader mechanism of legal regulation. It embodies the transformation of legal norms, which are static by nature, into concrete rules of conduct governing the actions of police officers in operational settings where the stakes often involve human life, personal liberty, and public security. In this context, the mechanism of administrative and legal regulation performs a dual role. On the one hand, it establishes a regulatory framework that defines the legal grounds, conditions, and limits under which firearms may be used, thereby ensuring legal certainty for both police officers and citizens. On the other hand, it provides a guarantee

mechanism by incorporating institutional safeguards – such as internal police oversight, prosecutorial supervision, judicial review, and public monitoring – which prevent abuse and maintain compliance with constitutional and international human rights obligations.

Applying Stetsenko's view, one may argue that the firearm-use norms contained in the Constitution of Ukraine, the Law «On the National Police», and subordinate acts remain purely declarative until activated through the mechanism of administrative and legal regulation. It is this mechanism that translates legislative prescriptions into structured police practice, thus transforming abstract rules into operationally meaningful standards of conduct.

Furthermore, Khomiachenko's conceptualization of the mechanism as a unified system of legal instruments is particularly relevant here. The regulation of police firearm use cannot be reduced to isolated provisions of law; it must be viewed as an integrated system encompassing substantive norms, procedural requirements, institutional controls, and ethical standards of policing. This systemic approach underscores the indivisibility of legality, proportionality, and accountability in the lawful use of force.

Finally, following Kosse's interpretation of legal regulation as a system of measures by which the state influences social relations, the firearm-use mechanism can be understood as a means of shaping the interaction between the state, represented by the police, and society, represented by citizens whose rights must be protected. In this sense, the mechanism reflects not only the coercive capacity of the state but also its protective role – safeguarding human rights, promoting public trust, and upholding the rule of law.

Conclusions. The use of firearms by police officers is one of the most sensitive aspects of state coercion, as it directly touches upon the fundamental rights to life, liberty, and personal security. This area of public administration therefore requires a carefully designed administrative and legal framework that simultaneously guaran-

tees the effectiveness of law enforcement activity and the protection of human rights. The current Ukrainian regulatory system, which includes the Constitution, the Law «On the National Police», subordinate legislation, and relevant international instruments, provides a formal foundation for the regulation of firearm use. However, it still demonstrates a number of weaknesses, such as ambiguous legislative provisions, insufficient procedural safeguards, and incomplete harmonization with international standards, particularly the Basic Principles on the Use of Force and Firearms by Law Enforcement Officials and the case law of the European Court of Human Rights. These shortcomings contribute to legal uncertainty, enforcement conflicts, reduced public trust in the police, and, in some cases, unlawful restrictions of individual rights. Viewed through the theoretical approaches of Stetsenko, Khomiachenko, and Kosse, the mechanism of administrative and legal regulation should be understood as a dynamic and systemic process that translates static legal norms into concrete rules of conduct for police officers. This process ensures both regulatory and protective functions, establishing clear legal grounds and procedures for the use of firearms while safeguarding citizens' rights and freedoms against unlawful inter-

ference. An indispensable element of this system is the set of institutional safeguards – internal police oversight, prosecutorial supervision, judicial review, and public monitoring – which are intended to maintain legality and prevent abuse. Nevertheless, the effectiveness of these safeguards depends on adequate resources, transparency of procedures, and the creation of independent supervisory bodies.

In the context of contemporary security challenges, especially the armed aggression against Ukraine, the modernization of the administrative and legal mechanism for regulating firearm use has become an urgent priority. This modernization requires the harmonization of national law with European and international standards, the introduction of advanced technologies for documentation and accountability (such as body cameras and automated reporting systems), the strengthening of professional training for police officers, and the expansion of mechanisms for external and public oversight. Ultimately, the regulation of firearm use by the police must be regarded not only as a tool of state coercion but also as a protective mechanism designed to safeguard human rights, reinforce the rule of law, maintain public security, and strengthen citizens' trust in the police.

Summary

The use of firearms by police officers represents one of the most responsible and high-risk forms of state coercion, directly impacting fundamental social values such as human life, health, liberty, and personal inviolability. In the context of modern security challenges, including the ongoing armed aggression against Ukraine, rising crime rates, and increasing public demands for transparency and accountability in law enforcement, the issue of administrative and legal regulation of firearm use by the police has become a matter of particular relevance. Despite the existence of a regulatory framework established by the Constitution of Ukraine, the Law of Ukraine “On the National Police”, subordinate acts, and international legal standards, this system continues to demonstrate significant shortcomings. These include vague legislative provisions, the absence of unified operational algorithms, insufficiently detailed procedural safeguards, and incomplete alignment with international standards, particularly the UN Basic Principles on the Use of Force and Firearms and the case law of the European Court of Human Rights. Such deficiencies in regulation and practice often lead to enforcement conflicts, inconsistent interpretation of legal norms, excessive or unlawful use of authority, and erosion of public trust in the police. Additional problems include the uneven level of professional training among officers, the limited availability of technical means to record firearm-related incidents, weak mechanisms of external oversight, and insufficient analytical monitoring of

firearm use. Against this background, there is a clear need for a comprehensive scholarly reassessment of both the administrative and legal foundations and the institutional safeguards governing this sphere, with a view to developing scientifically grounded and practically oriented recommendations for reform. The study concludes that in order to harmonize national law enforcement practices with European standards and international obligations, Ukraine must modernize its administrative and legal framework for firearm use. This entails refining legal provisions to remove ambiguities, strengthening institutional oversight mechanisms, improving the quality of police training, and ensuring that coercive measures are applied strictly within the principles of legality, necessity, and proportionality. Ultimately, the regulation of firearm use by the National Police should not be seen solely as a coercive tool of the state but as a protective mechanism designed to safeguard human rights, reinforce the rule of law, maintain public security, and build citizens' trust in the police.

Key words: administrative and legal support, citizens' security, use of weapons, human rights guarantee, institutional mechanisms, legality, National Police of Ukraine, public safety, law enforcement, human rights, use of firearms, police powers, law enforcement management.

Бакулін Д.О. Адміністративно-правові засади та інституційні гарантії застосування вогнепальної зброї поліцейськими Національної поліції України в контексті забезпечення публічної безпеки та захисту прав людини

Анотація

Застосування вогнепальної зброї поліцейськими є одним із найбільш відповідальних та ризикованих проявів державного примусу, що безпосередньо впливає на фундаментальні соціальні цінності – життя, здоров'я, свободу та недоторканність людини. В умовах сучасних викликів безпеці, зокрема збройної агресії проти України, зростання рівня злочинності та підвищення суспільних вимог до прозорості й підзвітності діяльності правоохоронних органів, питання адміністративно-правового регулювання використання зброї поліцією набуває особливої актуальності. Попри наявність нормативної бази, закріпленої Конституцією України, Законом України «Про Національну поліцію», підзаконними актами та міжнародними стандартами, ця система зберігає істотні недоліки. Серед них – нечіткість окремих законодавчих положень, відсутність єдиних алгоритмів дій, недостатня деталізація процесуальних гарантій, а також неповне узгодження з міжнародними підходами, зокрема Основними принципами застосування сили і вогнепальної зброї посадовими особами з підтримання правопорядку ООН та практикою Європейського суду з прав людини. Подібні прогалини у регулюванні й практиці нерідко зумовлюють конфлікти правозастосування, різночитання норм, надмірне чи неправомірне використання повноважень, що негативно позначається на довірі громадян до поліції. Додатковими проблемами є нерівномірний рівень професійної підготовки працівників, обмежена наявність технічних засобів фіксації інцидентів із застосуванням зброї, слабкість механізмів зовнішнього контролю та відсутність системного аналітичного моніторингу. На цьому тлі очевидно постає необхідність ґрунтовного наукового переосмислення адміністративно-правових засад і інституційних гарантій у цій сфері з метою вироблення науково обґрунтованих та практично орієнтованих рекомендацій для реформування. У результаті дослідження зроблено висновок, що для узгодження національної правоохоронної практики з європейськими підходами та міжнародними зобов'язаннями Україна має модернізувати адміністративно-правові основи застосування вогнепальної зброї. Це передбачає усунення правових колізій, посилення інституційних механізмів контролю, підвищення якості підготовки поліцейських та забезпечення неухильного дотримання принципів законності, необхідності й пропорційності. Зрештою, регулювання застосування зброї Національною поліцією слід розглядати не лише як засіб

державного примусу, а насамперед як інструмент захисту прав людини, утвердження верховенства права, підтримання громадської безпеки та відновлення довіри суспільства до поліції.

Ключові слова: адміністративно-правове забезпечення, безпека громадян, використання зброї, гарантії прав людини, інституційні механізми, законність, Національна поліція України, публічна безпека, правозастосування, права людини, застосування вогнепальної зброї, поліцейські повноваження, управління в правоохоронній сфері.

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