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## **Illicit Trafficking and Unlawful Use of Firearms, Explosive Devices and Substances: Arising Threats**

*The article reveals the current threats that are associated with the growth of illicit trafficking and the use of weapons in Ukraine. The beginning of hostilities in eastern Ukraine, inspired by the leadership of the Russian Federation, has become a certain trigger for the growth of leakage, illicit trafficking and the use of weapons in the country. As a result, there is an increase in the incidences of armed attacks and the lethal consequences of them, suicides among the former participants in the anti-terrorist operations and deaths of the members of their families from weapons brought from the ATO zone, increased cases of armed resistance to law enforcement agencies, the use of weapons at raider seizures of property, accidents due to the unconscious handling of weapons and explosives by ordinary citizens, and especially children, acts of hooliganism with the use of firearms, explosive devices and means for the defeat of armored vehicles or fortifications. The society has lowered the critical barrier on weapons possession and use. Criminal groups, both local and international, are trying to get profit from the situation with the illegal market, take it under their control, involving ordinary citizens into the illicit trafficking of weapons. The growth of criminal tensions reduces investment attractiveness of the country and worsens the economic situation. The deterioration of the situation with regard to the increase of circulation and illegal use of weapons as a whole creates an additional burden on law enforcement authorities. This requires more rational use of the available forces, the acquisition of additional skills by law enforcement officers, which would help to make the correct assessment of the situation, correct balance of forces, interaction between the governmental bodies and involvement of the civil society potential. The proper information strategy must be realized among the population. Despite the rather high professionalism of law enforcement officers, they need to master modern methods of work, use special means in the sphere of countering the illegal arms trade. It requires additional training aimed at the correct response in emergencies, planning of special activities and operations. Establishment of working contacts with foreign colleagues and mutual exchange of information and planning special activities remain is an important element in counteraction to the international organized crime. Overall, the awareness of population about legislation on legal arms circulation, criminal liability for illicit weapons, rules for the safe handling of weapons and explosive devices and substances, or any unknown subjects that may be explosive devices remains very low. People have no skills and are not trained in behavior in the accidents of shooting in crowded places, or in the cases of the detection of armed persons, or information on such persons who intend to commit a terrorist attack in a crowded place. Insufficient knowledge of the actions in the case of using weapons or explosive devices in places of congestion of people lead to the health danger and unwanted casualties. All this requires additional measures by law enforcement agencies and society to stabilize the situation, to improve coordination, interaction and capacity building of Ukrainian law enforcement agencies involved in counteracting to the leakage and illicit arms trafficking.*

**Keywords:** antiterrorist operation; leakage of weapon; illegal weapons (arms) trafficking; organized crime; explosive devices; explosive substances; mass shooting.

**Problem statement.** The conflict, which has continued in the east of Ukraine since 2014, has created a lot of problems for the eastern regions and the state as a whole. First of all, this is the increasing number of deaths of people and especially children. According to estimates by UN specialists, as of April 14, 2018, 2,725 civilians, including 140 children, have been killed during the hostilities [1]. Problems of the humanitarian plan, such as internally displaced people (IDP) [2], declining living standards [3], inability of the state to fulfill their social programs and ensure the safety of the citizens in non-controlled by the government areas, deterioration of the environmental situation. Among other issues can be identified an increase in the circulation of illegal weapons and explosive devices, which results from leakage of weapons from the conflict zone and illegal smuggling from other countries. That increase triggers a whole series of negative phenomena, such as rise in cases of armed attacks against citizens and fatal accidents resulted from these attacks; suicides of the demobilized ATO participants, and the deaths of their family members from weapons that were brought from anti-terrorist operations region; increase in cases of use of weapons in opposition to law enforcement officers; use of weapons at raider seizures of property; casualties due to accidental falling weapons into the hands of ordinary citizens and especially children and unsafe handling with weapons or explosives; hooligan actions with the use of firearms, grenade launchers, explosive devices and substances. According to the General Prosecutor's Office of Ukraine, in 2017, there were registered 8002 crimes under the Article 263 of the Criminal Code of Ukraine «Unlawful handling of weapons, ammunition or explosives», which is 15,4 % more in comparison with (pre-war) 2013 (6929).

During the last year (2017), 761 crimes were committed using weapons, 66 assassinations and 53 armed robberies. Despite the fact that in comparison with 2014–2015, the rage of armed violence has declined, yet its level remains high enough. For the period from 2013 to 2017, the law enforcement agencies of Ukraine seized 4,739 units of rifled weapons, 232 units of grenade launchers and jet systems, 8463 hand grenades, 205 mines, 1323 improvised explosive devices, 16919 kg of explosives. Due to the high level of latency, statistics on crimes of the other types with the use of arms is not complete, and law enforcement agencies, unfortunately, do not have comprehensive information about them.

According to the Chief Military Prosecutor, during 2014–2018 more than 15,000 firearms were lost by Armed Forces of Ukraine. There are almost 7645 automatic rifles, 3000 pistols, 2200 machine guns, 2258 grenade launcher. In spite of the fact that the losses of

weapons by mercenaries supported by Russia are approximately equal, Ukrainian Armed Forces has registered for the whole war period only 258 units of the trophy weapons [4].

According to the «Arms Surveys Survey in Ukraine» conducted by the «Small Arms Survey» Project (SAS), at least 300,000 small arms and light weapons have been plundered or lost since 2013 to 2015, according to officials estimates. 200,000 of them were lost mainly in the ATO zone, and another 100,000 – in the Crimea. It is reported that of this number of weapons only 4,000 were found [5].

**Analysis of recent research and publications.** The issues of investigation of offenses related to the legal circulation of weapons and prevention of illicit arms trafficking in Ukraine are described in many scientific works and researches of domestic and foreign scientists. These issues were highlighted in the work on criminal law, criminology, criminal procedure and criminalistics. We may find interesting approaches in works by D. Andreyev, Yu. Antonian, I. Barannik, Yu. Baulin, P. Bilenchuk, Yu. Blovshtein, S. Bobrovnik, I. Danshin, A. Dzhuzha, P. Fris, A. Glinkin, V. Gorbachevsky, V. Glushkov, B. Kalachev, L. Kanevsky, E. Kisilyuk, Yu. Kondratiev, A. Kofanov, A. Kvasha, A. Kostenko, I. Lanovenko, S. Maximov, M. Melnyk, V. Myslyvyi, V. Nekrasov, D. Nikiforchuk, V. Osadchy, N. Osipov, M. Pogoretsky, Yu. Ponomarenko, A. Savchenko, V. Stashis, V. Tasii, V. Tychy, V. Vasilevich, P. Vorobey, A. Zakalyuk, A. Zelinsky, G. Zorin et al. At the same time, most of the work is aimed at research of the criminal assessment of crimes related to weapons and the development of procedural techniques for their investigation, as well as assessing the feasibility of a possible extension of the permission to possess small arms by citizens; an integrated approach to research the illicit arms market in general, factors affecting its functioning, flows of coming-in and coming-out of arms, the impact of illegal arms trafficking on society and methods of interaction with the population to counteract illegal consequences from the arms trafficking was not carried out in Ukraine.

The **purpose** of the article is to research the risks for the society arising from the expansion of illegal arms trafficking in modern conditions of Ukraine, to identify factors that contribute to the growth of these risks and to develop possible measures to minimize the negative consequences.

**Presenting main material.** As noted at the Conference of the Parties to the United Nations Convention against Transnational Organized Crime in May 2018:

«Illicit trafficking in firearms, their parts and components and ammunition is a global and transnational threat often linked to other

forms and manifestations of organized crime, other serious crimes and terrorism. Illicit firearms are frequently a common denominator and a cross-cutting element in many crimes, from urban gang violence to transnational organized crime and terrorism. They serve as facilitators of violent crimes and as lucrative trafficking commodities that fuel armed conflicts, crime and insecurity, which in turn negatively impact development, safety and security» [6].

The UN Convention was adopted by the United Nations in November 2000 [7] to counteract the growing threat of transnational international crime, one of the main threats to human security that hinders the social, economic, political and cultural development of countries around the world. The Convention was aimed at combating numerous aspects of transnational organized crime, including illicit drug trafficking, trafficking in human beings, smuggling of migrants and money laundering. It applies only to countries that have ratified it and obliges them to take a number of measures to combat these crimes. These measures include the development of relevant national criminal law to fight against this problem, the adoption of a framework for mutual legal assistance, extradition agreements, cooperation in law enforcement, as well as technical assistance and training.

In addition to the UN Conventions in May 2001, a Firearms Protocol [8] was adopted, the main objective of which is to develop and strengthen cooperation between Member States to prevent and eliminate the illicit manufacturing of and trafficking in firearms, their main parts and components and ammunition, and fighting it. The Verkhovna Rada (Parliament) of Ukraine ratified the UN Convention against Transnational Organized Crime in May 2004, and subsequently the Protocol to it [9; 10]. Relying on the provisions of this Convention and the Protocol and other international instruments, national legislation, the Government of Ukraine is taking a range of measures to counter organized crime and illicit arms trafficking as one of its dangerous manifestations.

Reducing the illicit flow of small arms is recognized as an important component of the United Nations Goals for the Sustainable Development [11]. Target 16.4 of the United Nations Sustainable Development Goals, adopted in September 2015, obliges the states to reduce illegal flows of weapons by 2030.

As noted above, after the Revolution of Dignity, which led to the change of power in the state and the outbreak of an international armed conflict in the east of the country, Ukraine has suffered a significant increase in the illegal circulation of weapons and related other criminal manifestations.

Table 1

**Number of weapon related crimes committed in period  
 2013–2017 (Data of General Prosecutor Office [12])**

	2013	2014	2015	2016	2017
<b>Total number of crimes committed with the use of arms</b>	<b>761</b>	<b>2523</b>	<b>1576</b>	<b>579</b>	<b>583</b>
<b>rifled</b>	633	2362	1446	491	506
<b>smoothbore</b>	128	161	130	88	77
<b>assassinations</b>	62	320	194	95	66
<b>armed robberies</b>	100	411	194	85	53
<b>use of explosives</b>	65	112	60	48	43
<b>assassinations with the use of explosives</b>	1	6	0	2	1
<b>Illicit handling (possession) of weapons, ammunitions or explosives, Art. 263</b>	6929	728	7409	6307	8002

Violence from illegal weapons becomes more deadly and prolonged and filling of insecurity is augmenting, pushing in its turn to the increase of the demand for weapons. In addition to this, where armed violence is widely used as a solution to differences and conflicts, there is no legal and peaceful dispute resolution and rule of law. In addition, separate attention should be paid to the cases of suicides among the demobilized troops and the deaths of their families' members or casual citizens in the cases of the careless use of the weapons and explosive devices brought from the combat zone. As Chief Military Prosecutor states [13], «according to the data of the URPI\* at the beginning of 2018, among almost 313 thousand participants of the ATO, 518 persons committed suicide. No one counts how much of them committed crimes in the civil life as a result of post-traumatic syndrome».

During the first months of the counteraction to the military aggression of the Russian Federation, a large number of volunteers who used their own firearms were involved in the defense of the country – legally acquired civilian versions of «Saiga» rifles (based on AK rifle) or smoothbore hunting guns to stop the enemy. Volunteers joined the campaign of bringing military weapon and munition into the country, including individual samples of small arms, especially sniper ones, which were used for sniper duels with the enemy. Due to these

\* Unified Register of Pretrial Investigations.

actions, the country managed to stop the enemy, but at the same time the threshold for society's perception of the requirements for the circulation of weapons and the range of subjects for whom is allowed to carry arms, the safe conduct of citizens with weapons and explosive devices and substances has been lowered, moral barriers to use of weapons and explosives have been removed [14]. On the one hand, it leads to the increase in the number of fatal accidents and serious injuries, on the other hand, citizens are unwittingly had been engaged in illicit trafficking in weapons and explosives, and this creates a consumer base for interregional and international crime.

*Table 2*

**Weapons seizures in period 2013–2017  
(data of General Prosecutor Office)**

	2013	2014	2015	2016	2017
<b>Smoothbore</b>	91	118	98	61	85
<b>Rifled</b>	620	1159	1066	764	1130
<b>Other firearms</b>	982	1051	805	467	995
<b>Grenade and rocket launchers</b>	0	38	112	20	62
<b>Cartridges</b>	67854	128580	202142	174954	278238
<b>Grenades</b>	116	1615	2099	2698	1935
<b>Mines</b>	17	44	26	61	57
<b>IEDs</b>	216	958	59	44	46
<b>Steel arms</b>	2036	1711	982	578	1020
<b>Gas and pneumatic arms</b>	573	64	24	35	36
<b>Explosives (kg)</b>	3544,00	1677,09	1292,12	5803,61	4603,13

The high level of armed violence threat seriously hinders the investment climate and threatens the economic growth of the country as a whole.

Increasing leakage and circulation of illegal firearms and explosive devices create the following threats to society:

1. Threat to life and health of citizens;
2. Threat to the basics of the rule of law;
3. Threat to public order;
4. Threat to the investment climate and stable economic development.

5. Creation of a consumer base for organized crime, including international arms trafficking groups.

Law enforcement bodies have fragmentary information about leakage, illegal circulation of weapons, explosive devices and substances, their illegal use, organized crime groups which involved in the circulation and the negative effects caused by illegal weapons and explosives. The General Prosecutor's Office publishes statistics on crimes related to the unlawful handling of weapons, ammunition or explosives or crimes committed with the use of firearms. This information does not allow making comprehensive qualitative assessment, since it does not reflect the sources of weapons, the direction of their transportation, the most affected regions, and the characteristics of the persons involved in illicit trafficking, information on accidents and fatalities because of the use of firearms and explosive devices, cases of suicides and others. Listed on the websites of law enforcement agencies press releases about the seizures of weapons or termination of offenses of unlawful handling weapons and explosive devices are additional sources of information that contains qualitative information on the circumstances of the seizures of weapons, their types, detainees, and others.

According to the Small Arm Survey, «Government efforts to combat illegal weapons are scattered. Ukraine has an incomplete and contradictory regulatory framework for the regulation of the production, acquisition, storage, accounting, transportation, use and possession of firearms» [5]. Joint proper processing of this information at the state level and its use for analysis is an urgent need in this sense. This requires the development of the necessary tools, interdepartmental agreements for their joint use and arrangement special trainings of the personnel.

There is no regular national monitoring of the situation on identified problematic issues and subsequent planning of containment measures. It also requires separate trainings of special personnel capable for such monitoring and analysis.

The deterioration of the situation with regard to the increase of circulation and illegal use of weapons as a whole creates an additional burden on law enforcement authorities. This requires more rational use of the available forces, the acquisition of additional skills by law enforcement officers, which would help to make the correct assessment of the situation, correct balance of forces, interaction between the governmental bodies and involvement of the civil society potential. The proper information strategy must be realized among the population. Despite the rather high professionalism of law enforcement officers, they need to master modern methods of work, use special means in the sphere of countering the illegal arms trade. It requires additional training aimed at the correct response in emergencies,

planning of special activities and operations. Establishment of working contacts with foreign colleagues and mutual exchange of information and planning special activities remain is an important element in counteraction to the international organized crime.

In spite of the huge support of the armed forces by volunteers and civil society organizations and their interaction with them, the attitude to the law enforcement agencies, especially to the newly created police, has recently become much colder. The leaders of different levels of the police forces do not sufficiently use the potential of civil society, especially its most active members, united in the organization. A broader involvement of the population in cooperation, defining the problems, which may be solved by joint efforts, could move the deadlock and create new forms of interaction. In this sense, cooperation within the framework of jointly developed by representatives of the civil society and police scope of tasks on development public security may improve the situation. Police poorly applies new mechanisms of interaction with the public society, especially use of modern means of communication (social networks, specially trained communications officers, communication platforms).

Overall, the awareness of pupalation about legislation on legal arms circulation, criminal liability for illicit weapons, rules for the safe handling of weapons and explosive devices and substances, or any unknown subjects that may be explosive devices remains very low. People have no skills and are not trained in behavior in the accidents of shooting in crowded places, or in the cases of the detection of armed persons, or information on such persons who intend to commit a terrorist attack in a crowded place. Insufficient knowledges of the actions in the case of using weapons or explosive devices in places of congestion of people lead to the health danger and unwanted casualties.

Measures to decrease negative consequences of illegal arm trafficking:

1. Improve coordination, interaction and capacity building of Ukrainian law enforcement agencies involved in counteracting to the leakage and illicit arms trafficking. Acquire new analytical and practical skills. Enhance practical skills in planning, organizing and conducting special activities aimed at detecting, preventing and stopping illicit arms trafficking.

2. Organize familiarization and training of operational personnel to work with advanced technologies and modern techniques that should allow the quick and reliable identification of the type of cartridge and weapons from which the detected bullets and shells

had been shot immediately during the inspection of the scene of crime or other urgent investigation activity.

3. Develop cooperation between law enforcement agencies and civil society in the implementation of measures aligned at protection of citizens from the consequences of illicit arms trafficking and their illegal use.

4. Increase people's awareness on issues related to the counteraction to illicit arms trafficking, security measures in case of detection of weapons or explosive devices, in cases of illegal use of weapons in public places and first aid for people affected by a crime with the use of weapons, careless handling of explosive objects, weapons, or as a result of shooting in crowded places.

5. Develop and implement programs aimed at training of public activists, volunteer organizations and civil society organizations working with veterans of the antiterrorist operation in the east of the country to prevent suicide and casual death of their family members. Creation of sites and conditions for provision of social and psychological assistance to this category of people.

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## **Сучасні загрози від незаконного обігу та використання зброї, вибухових пристроїв і речовин**

*Розкрито сучасні загрози, які пов'язані зі зростанням незаконного обігу та використанням зброї в Україні. Початок бойових дій на Сході України спричинив активізацію витоку, незаконного обігу та застосування зброї в країні. Унаслідок цього спостерігається зростання випадів збройних нападів і летальних наслідків від них, суїциди колишніх учасників антитерористичної операції та загибель*

членів їх сімей від зброї, яку було привезено з місць проведення АТО, збільшення випадків збройного опору правоохоронним органам, використання зброї під час рейдерських захоплень власності, нещасні випадки внаслідок випадкового потрапляння зброї та вибухівки до рук пересічних громадян, особливо дітей, хуліганські дії з використанням вогнепальної зброї. Констатовано зниження в суспільстві критичної межі щодо володіння зброєю та її застосування. Злочинні угруповання (як місцеві, так і міжнародні) намагаються використати ситуацію з нелегальним ринком на свою користь, узяти його під свій контроль, втягуючи до незаконного обігу зброї пересічних громадян. Доведено, що зростання кримінальної напруженості знижує інвестиційну привабливість країни та погіршує економічний стан. Важливим елементом визнано встановлення ділових контактів із закордонними колегами, а також проведення інших заходів відповідного характеру. Встановлено низький рівень обізнаності широких верств населення щодо законодавства про обіг зброї та кримінальної відповідальності за незаконні дії зі зброєю, правила безпечного поводження зі зброєю, вибухонебезпечними пристроями та речовинами, а також будь-якими невідомими предметами, які можуть виявитися вибуховими пристроями.

**Ключові слова:** антитерористична операція; виток зброї; незаконний обіг зброї; організована злочинність; вибухові пристрої; вибухові речовини; стрілянина в публічних місцях.