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ADMINISTRATIVE AND LEGAL ASPECTS OF POLICE USE OF FIREARMS: PROCEDURES AND GROUNDS

Problem Statement. The use of firearms by police officers is one of the most complex and most responsible elements of their official duties, directly affecting public safety and the level of public trust in the National Police of Ukraine. On the one hand, law enforcement officers must possess effective mechanisms to protect the life, health, and property of individuals from unlawful encroachments; on the other hand, the use of firearms is always associated with the risk of human rights violations and may lead to severe consequences. Ukrainian legislation, primarily the Law of Ukraine “On the National Police”, establishes the grounds, procedures, and conditions for the use of firearms. However, in practice, problems arise concerning their unambiguous interpretation and application in specific situations. A considerable number of service-related incidents, which later become the subject of judicial review or public debate, indicate the presence of regulatory gaps and the imperfection of mechanisms for controlling the lawfulness of police actions. This issue gains particular relevance under martial law, in conditions of increased crime rates and social tension. Police officers are often forced to make decisions on the use of firearms under time pressure and with limited information, which raises risks both for the officer and for society as a whole. Insufficient regulation of procedures for accountability in cases of unlawful firearm use also creates potential dangers of abuse

and undermines the effectiveness of institutional guarantees of legality. Therefore, the problem of the procedure and grounds for the use of firearms in the activities of police officers in Ukraine requires a comprehensive administrative-legal study aimed at clarifying the specifics of the existing regulatory framework, identifying its shortcomings, and formulating proposals for its improvement in order to achieve an optimal balance between ensuring public safety and guaranteeing citizens’ rights.

Analysis of Recent Research and Publications. At the general theoretical level, the administrative and legal foundations of police activity, the mechanisms of state coercion, and the maintenance of public security have been the subject of scholarly attention by a wide range of Ukrainian researchers. In particular, the works of V. Averyanov, S. Banakh, V. Bevzenko, A. Denysova, S. Vitvitskyi, S. Honcharuk, I. Holosnichenko, S. Hrechaniuk, V. Harashchuk, T. Drakokhrust, O. Korniienko, V. Puzyrnyi, O. Senatorova, V. Tulinov, K. Chyshko, Kh. Yarmaki, and others deserve particular attention. The academic contributions of these scholars address a broad spectrum of issues related to the administrative activities of law enforcement agencies, the legal status of the police, the principles of legality in the sphere of public administration, and the protection of human rights and freedoms in the course of applying coercive measures. The achievements of domestic administrative law scholarship

have laid a strong theoretical and methodological foundation for the study of the police's administrative activities and their interaction with society. However, despite the extensive research into various dimensions of administrative law, the problem of the use of firearms by police officers in the exercise of their official duties has not received sufficiently comprehensive or systematic scientific elaboration. Most existing studies focus on general questions of the legitimacy of coercion, the principles of proportionality, or the police's functional role in ensuring public order, yet they do not thoroughly explore the practical and legal aspects of firearm use. In particular, insufficient scholarly attention has been paid to the clarity and consistency of national legislation regulating the grounds, procedures, and conditions for the use of firearms, as well as to the development of effective procedural safeguards aimed at preventing abuses and ensuring accountability. The problem becomes even more acute in the context of the practice of Ukrainian courts, where ambiguous or inconsistent interpretations of legal norms often complicate the evaluation of the lawfulness of police actions. Moreover, while some scholars have analyzed international standards of human rights protection in the application of coercive measures, the question of harmonizing Ukrainian legislation with the case law of the European Court of Human Rights in the area of firearm use remains largely unexplored. The lack of systematic research on institutional mechanisms for monitoring and controlling the legality of police firearm use creates an additional research gap, particularly in light of the need to strengthen public trust in the police and guarantee transparency of their activities. Without diminishing the significance of the contributions of respected scholars, it should be emphasized that in the current security context-marked by armed aggression

against Ukraine, the growth of hybrid threats, and the intensification of internal security challenges – the problem of legal regulation and institutional support for the use of firearms by National Police officers acquires special relevance. It requires in-depth theoretical elaboration, critical analysis of enforcement practice, and the formulation of scientifically grounded proposals for improving the administrative and legal framework. Only through such a comprehensive approach can an optimal balance be achieved between the necessity of ensuring public safety and the imperative of safeguarding fundamental human rights and freedoms.

Aim of the Article. The aim of the article is to conduct a comprehensive and in-depth study of the administrative and legal aspects of the use of firearms by officers of the National Police of Ukraine in the performance of their official duties. This involves not only analyzing the current legal acts regulating the procedure, grounds, and conditions for the use of firearms, but also examining their compliance with the modern needs of ensuring public safety and maintaining law and order. Special attention is given to identifying legal gaps and contradictions that complicate the effective practical application of administrative and legal mechanisms, as well as analyzing the balance between the public interests of the state in the field of security and the imperative of strict observance of human rights and freedoms. In this context, the purpose of the study also consists in the theoretical justification of the limits of lawful use of firearms by police officers, determining the extent of their legal liability, and outlining the procedural guarantees for the protection of citizens' rights. The implementation of this purpose presupposes a deeper understanding of the practice of using firearms in conditions of heightened security risks caused by both internal and external challenges. At the same time, emphasis is placed on the need

to improve administrative and legal regulatory mechanisms in this area, which should contribute to raising the level of legality, transparency, and efficiency of the activities of the National Police, as well as strengthening public trust in its law enforcement actions.

Presentation of the Main Material. The analysis of administrative and legal aspects of the use of firearms by officers of the National Police of Ukraine requires a comprehensive study that encompasses both the legal framework and the practice of its implementation in law enforcement activities. The legal regulation of this issue is based on the provisions of the Constitution of Ukraine, the Law of Ukraine “On the National Police”[1], as well as a number of subordinate acts that define the procedure, grounds, and conditions for the use of firearms. In particular, the legislator clearly outlines the cases in which a police officer is entitled to resort to the use of firearms, while at the same time establishing strict restrictions aimed at preventing abuse and ensuring the protection of the rights and freedoms of citizens. A distinctive feature of administrative and legal regulation is the establishment of a balance between the interests of the state in maintaining public order and the need to preserve human rights as the highest social value. The legislator defines both the general principles of firearms use and the specific procedures related to the documentation of its use, the conduct of internal investigations, and the reporting to competent authorities. Such an approach reflects the general trend of administrative law development, aimed at creating transparent mechanisms for monitoring the activities of law enforcement bodies.

In practice, the use of firearms by police officers appears to be a complex process requiring not only legal but also ethical assessment. Circumstances

that pose a threat to the life or health of police officers themselves or third parties demand instant decision-making. In this regard, issues of proper professional training of personnel, the development of clear action algorithms in crisis situations, and ensuring a sufficient level of legal awareness are of particular importance. A lack of these components may result in an excess of authority, unlawful use of force, or violations of fundamental human rights, which, in turn, may lead to disciplinary as well as judicial responsibility.

The administrative and legal aspect also covers issues of control and supervision over compliance by police officers with the procedures established by law. An important instrument here is the conduct of internal service investigations, the purpose of which is to verify the legality and justification of the use of firearms. Moreover, national legislation requires informing the prosecutor’s office in cases of injury or death resulting from the use of firearms, which serves as an additional guarantee of legal oversight. In this context, the issue of the effectiveness of institutional oversight mechanisms remains relevant, as they are intended not only to record violations but also to prevent their occurrence.

At the same time, several problems should be noted. These include the absence of clear procedures for documenting certain cases of firearms use, insufficient detail regarding the criteria of proportionality and necessity, and the need for further improvement of police training practices. To some extent, this results in inconsistent application of administrative and legal norms in practice, which may lead to different interpretations and law enforcement conflicts. Therefore, it is important not only to improve the legal framework but also to ensure systematic monitoring of practice, which will contribute to the formation of unified standards for police activities in the sphere of firearms use. Thus, the procedure, grounds, and

conditions for the use of firearms by police officers of Ukraine represent a complex system of administrative and legal norms and practical mechanisms for their implementation. They are designed to ensure the lawfulness of law enforcement actions, protect public safety, and, at the same time, guarantee the observance of citizens' rights and freedoms. Improving this system should become an important direction for the development of domestic administrative law, responding to modern challenges and enhancing the effectiveness and transparency of the activities of the National Police of Ukraine.

Among the key sources of national legislation governing the use of firearms by police officers, particular importance should be given to the Law of Ukraine On the National Police and the Order of the Ministry of Internal Affairs of Ukraine № 70 of February 1, 2016, On Approval of the Instruction on Safety Measures when Handling Weapons [2]. An analysis of these normative acts demonstrates that the use of force by police officers must be proportionate, correspond to the necessity of its application in specific circumstances, and remain strictly within the limits of reasonable necessity aimed at preventing the commission of a criminal offense, ensuring lawful detention, or assisting in the enforcement of law in relation to offenders or suspects. Any excessive or disproportionate use of force is considered unlawful and impermissible. According to the Instruction on Safety Measures when Handling Weapons, firearms may only be issued to a police officer who has taken the Oath of Allegiance to the Ukrainian people, completed education in an appropriate institution and/or undergone initial professional training, and has been assigned for further service. Moreover, the officer must successfully pass examinations on the material structure of the weapon, the procedure and rules governing its use, as well as safety requirements when

handling it, and must demonstrate proficiency through firearms training and shooting exercises [2].

Legislation provides that in exceptional circumstances a police officer may resort to the use of firearms in the following situations: to repel an attack on a police officer or members of their family when there is a threat to their life or health; to protect individuals from an assault that endangers their life or health; to release hostages or persons unlawfully deprived of liberty; to repel an attack on protected facilities, convoys, residential or non-residential premises, as well as to liberate such objects if they have been unlawfully seized; to detain an individual caught in the act of committing a grave or especially grave crime who attempts to flee; to detain a person who resists with weapons, attempts to escape from custody, or an armed individual who threatens to use weapons or other objects dangerous to life and health; to stop a vehicle by disabling it if the driver's actions create a threat to the life or health of individuals or police officers; and to forcibly terminate the flight of an unmanned aerial vehicle if there are reasonable grounds to believe that it is being used for unlawful purposes or poses a threat to life and health.

At the same time, the law strictly stipulates that firearm may be used only after a police officer has issued a clear warning demanding the cessation of unlawful actions and informing of the intention to employ weapons. Nonetheless, the law provides for a number of circumstances in which firearms may be used without prior warning, including when a detainee attempts to approach or touch an officer's weapon contrary to the officer's instructions; during an armed assault or a sudden attack carried out with the use of military equipment, vehicles, or other means threatening the life or health of people; in cases where a person detained or arrested

for committing a grave or especially grave crime attempts to escape using a vehicle; when an individual offers armed resistance; or in order to prevent an attempt to seize a firearm [1].

In order to ensure a proper and unambiguous understanding by police officers of the legislative grounds, procedures, and conditions for the use of firearms, it is deemed necessary to introduce amendments to the Law of Ukraine on the National Police. These amendments should, first of all, provide for the introduction of clear and consistent definitions of the terms “use of firearms” (Article 46), “employment of firearms” (Part 13 of Article 46), “bringing a weapon to readiness” (Part 11 of Article 46), “unlawful actions” (Part 2 of Article 42, Part 5 of Article 46), as well as “armed resistance” and “armed assault” (Articles 42, 43, 45, 46). It is also appropriate to exclude from Part 10 of Article 46 the term “active use of firearms”, since its legal content is not properly defined and may give rise to ambiguity in practice. Article 46 should further regulate the circumstances under which a police officer is obliged to perform a warning shot prior to employing firearms, as well as clearly determine the cases in which police officers may be authorized to use short-barreled rifled firearms, rifles, shotguns, or automatic weapons. In addition, Article 46 should contain a definitive list of types of ammunition permitted and prohibited for use, as well as establish the anatomical areas of the human body at which police officers are strictly prohibited from directing firearm use. The same Article should also distinguish the circumstances in which police officers may employ firearms with the purpose of non-lethal or lethal impact on a person. Moreover, it is expedient to impose in Article 46 an obligation on police officers to promptly inform close relatives, family members, or other persons chosen by the individual against whom firearms have been used, and to establish the duty

of the bodies and units of the National Police of Ukraine to provide legal and psychological assistance to police officers in cases where firearm use has entailed fatal or serious consequences. Finally, Part 13 of Article 46 should be supplemented with a provision that signaling an alarm or calling for reinforcements with the use of firearms may be carried out exclusively through firing a shot in a safe direction.

Thus, the analysis of the administrative and legal foundations of the use of firearms by police officers demonstrates the existence of significant gaps in legal regulation, which require clear consolidation at the level of the Law of Ukraine “On the National Police”. In particular, this concerns the absence of established definitions, contradictory wording of certain provisions, and insufficient specification of the legal grounds for the use of firearms. These shortcomings create conditions for ambiguous interpretation of the law, which, in turn, may lead to legal uncertainty in the practical activities of police officers. Therefore, the proposed amendments to the legislation should be aimed at establishing a unified approach to the definition of legal categories, procedures, and conditions for the use of firearms, while simultaneously ensuring a balance between the protection of public security and the guarantees of human rights and freedoms.

Accordingly, the foregoing makes it possible to state that the majority of law enforcement personnel neither in statutes nor in other regulations, instructions, or guidelines have a legally established form of warning regarding the intent to use firearms. As for the application of other coercive measures, the form of a warning shout during their use is completely absent in the current legislation, both for police officers and other law enforcement officials. Consequently, the range of verbal formulations employed by officers is extremely diverse. Moreover,

in 4.7 % of cases (according to survey data), law enforcement officers even before the reform resorted to the use of obscene language [3, p. 120]. Surveys of law enforcement units also revealed that in every third case of applying firearms, special means, or physical force, personnel acted without issuing a prior warning, even though such a requirement was expressly stipulated by law.

It should also be noted that the Law "On the National Police", Part 3 of Article 18 of the Law "On Pre-trial Detention", as well as the Rules on the Use of Special Means by Servicemen of the National Guard in the Course of Performing Service Tasks, contain provisions stipulating that in cases where the use of force or firearms cannot be avoided, the possibility of causing injuries and harm must be minimized both for offenders and for third parties. At the same time, statistical data indicate that only 13.7 % of the surveyed population stated that they are aware of the rights of law enforcement agencies concerning the use of coercive measures [4, p. 211]. This demonstrates the insufficient level of legal awareness among citizens and confirms the necessity for systemic explanatory work.

Therefore, a timely and properly articulated warning about the intention to apply administrative preventive measures or special means can not only stop an ongoing offense but also prevent its occurrence, thereby minimizing potential harm [5, p. 199]. In this regard, it is reasonable to support the view that a warning of the intention to use coercive measures by law enforcement agencies performs three key functions, which are confirmed by the analysis of both national and international legal acts, namely: preventive, representative, and informative [6, p. 48].

Summarizing the above, it can be concluded that a warning about the intention to use force by law

enforcement agencies is not only a form of implementing the principle of minimizing harm but also serves as a specific administrative instrument of a preventive nature, aimed at terminating unlawful behavior even before the actual application of coercive measures. It is precisely in this context that the position reflected in specialized administrative-legal literature becomes relevant, where it is emphasized that among the measures of administrative restraint employed by law enforcement bodies, there is also such a form as an indication to the offender of the unlawfulness of their actions and the demand for their immediate cessation [7, p. 192]. In such a case, a warning about the intention to use force performs the function of a preventive measure, since through a command or address, a police officer or a serviceman responsible for maintaining public order (either individually or while directing an operation), acting on behalf of the state and vested with authoritative powers, issues a binding order to cease the offense.

Thus, in this situation, the warning may be regarded as a form of oral administrative act, the essence of which lies in the demand to terminate unlawful actions, while its legal purpose is to ensure the immediate restoration of public order and to prevent the application of more severe coercive measures [8, p. 191].

Thus, a warning about the intention to use force or other coercive measures by law enforcement officers should be regarded not merely as a technical or procedural step, but as a comprehensive administrative-legal instrument that combines preventive, regulatory, and rights-protecting functions. It performs the role of an oral administrative act aimed at the immediate cessation of an offense and the preservation of public order, while at the same time ensuring a balance between the interests of the state and the necessity of safeguarding human rights and freedoms. This interpretation

emphasizes the significance of the warning as an independent element within the system of administrative enforcement measures, capable of minimizing the need for more severe forms of coercion.

Conclusions. The conducted analysis of the administrative and legal aspects of the use of firearms by police officers of the National Police of Ukraine confirms that this issue represents one of the most sensitive areas of state coercion, directly linked to the protection of life, health, liberty, and security of individuals. The study shows that Ukrainian legislation, primarily the Constitution of Ukraine, the Law of Ukraine On the National Police, and subordinate acts, provides a general framework regulating the procedure, grounds, and conditions for the lawful use of firearms. However, this framework still contains a number of conceptual gaps, ambiguous formulations, and insufficiently specified provisions that create difficulties in practice and open the way to legal uncertainty and enforcement conflicts. An important finding is that warnings about the intention to use firearms or other coercive measures should not be treated as merely technical elements of police action but rather as integral administrative-legal instruments that combine preventive, regulatory, and protective functions. Their proper application minimizes the risks of unlawful harm, ensures transparency of police actions, and strengthens public trust in law enforcement bodies. At the same time, survey data and analysis of enforcement practice reveal that in many cases such warnings are absent or inconsistent, which undermines the principles of legality and proportionality. The results of the study allow us to conclude that further improvement of the administrative and legal regulation of firearm use requires: the introduction of precise definitions of key legal categories in the Law of Ukraine On the National Police;

the establishment of uniform standards for the procedure and documentation of firearm use; the clear specification of proportionality criteria and conditions under which firearms may be used with lethal or non-lethal effect; strengthening of internal and external oversight mechanisms; and raising the level of professional and legal training of police officers. Ultimately, the proper development of this system should ensure a balance between the state's duty to maintain public security and its obligation to guarantee the rights and freedoms of citizens. By consolidating a transparent, consistent, and human rights-oriented legal framework, Ukraine can strengthen the legitimacy of police powers, reduce risks of abuse, and enhance public confidence in law enforcement institutions.

The article provides a comprehensive analysis of the administrative and legal aspects of the use of firearms by officers of the National Police of Ukraine. It emphasizes that this issue belongs to one of the most complex and socially significant areas of law enforcement activity, as it directly concerns the state's exclusive right to legitimate use of force. It is noted that the legality of firearm use is determined not only by the formal compliance with legislative requirements but also by ensuring a balance between the objectives of maintaining public security and the guarantees of protecting human rights and freedoms. The Law of Ukraine "On the National Police" and subordinate regulations establish the general framework governing the procedure, grounds, and conditions for the use of firearms; however, their practical implementation faces a number of difficulties. Among them are the ambiguity of certain provisions, the absence of uniform approaches to determining proportionality of actions, and insufficient specification of conditions for firearm use in various

legal situations. This creates risks of legal uncertainty and complicates the assessment of the lawfulness of police behavior by both law enforcement authorities and the courts. Special attention is given to the warning of the intention to use firearms, which is interpreted not only as a technical element of police actions but also as a full-fledged administrative and legal instrument with a preventive function aimed at stopping the offense without causing harm. In this context, the warning is viewed as an oral administrative act, binding on the offender, which ensures the exercise of police powers on behalf of the state. The article argues that to improve the effectiveness of law enforcement in the field of firearm use, it is necessary to enhance legislative provisions, introduce unified standards for documenting firearm incidents, develop clear criteria of proportionality, and strengthen internal and external control mechanisms over police actions. At the same time, raising the professional training level of National Police officers, both in legal knowledge and practical firearm skills, is identified as a key condition for compliance with the principles of legality, proportionality, and humanity.

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. Порядок і підстави застосування вогнепальної зброї у діяльності поліцейських: адміністративно-правовий аспект

У статті здійснено комплексний аналіз адміністративно-правових аспектів застосування вогнепальної зброї працівниками

Національної поліції України. Наголошено, що дана проблематика належить до найбільш складних і водночас суспільно значущих сфер правоохоронної діяльності, оскільки безпосередньо стосується реалізації державою монопольного права на легітимне застосування сили. Зазначено, що правомірність використання вогнепальної зброї визначається не лише формальним дотриманням законодавчих вимог, а й забезпеченням балансу між завданнями охорони публічної безпеки та гарантіями дотримання прав і свобод людини. Закон України «Про Національну поліцію» та підзаконні акти закріплюють загальні положення, що регулюють порядок, підстави й умови застосування зброї, проте їх практична реалізація стикається з низкою труднощів. Серед них виокремлено нечіткість деяких норм, відсутність єдиних підходів до визначення пропорційності дій, недостатню конкретизацію умов використання зброї у різних правових ситуаціях. Це створює ризики правової невизначеності та ускладнює оцінку правомірності поведінки поліцейських як самими правоохоронними органами, так і судами. Окрему увагу приділено попередженню про намір застосування зброї, яке трактується не лише як технічний елемент поліцейських дій, а як повноцінний адміністративно-правовий інструмент, що має превентивний характер і спрямований на припинення правопорушення без заподіяння шкоди. У цьому контексті попередження розглядається як усний адміністративний акт, обов'язковий для виконання, який забезпечує реалізацію владних повноважень поліцейського від імені держави. У статті обґрунтовано, що для підвищення ефективності правозастосування у сфері використання вогнепальної зброї необхідним є вдосконалення

законодавчих норм, запровадження єдиних стандартів документування випадків застосування, розробка чітких критеріїв пропорційності, а також посилення системи внутрішнього і зовнішнього контролю за діями поліцейських. Водночас підвищення рівня професійної підготовки особового складу Національної поліції у сфері правових знань і практичних навичок застосування зброї розглядається як ключова умова дотримання принципів законності, пропорційності та гуманізму.

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.

Bibliography:

1. Про Національну поліцію : Закон України від 2 липня 2015 року № 580-VII. URL: <https://zakon.rada.gov.ua/laws/show/580-19#Text>
2. Про затвердження Інструкції із заходів безпеки при поводженні зі зброєю : Наказ МВС від 1 лютого

2016 року № 70. Офіційний вебсайт Верховної Ради України. 2016. URL: <http://zakon3.rada.gov.ua/laws/show/z0250-16>

3. Комісаров О. Г., Бойко О. І. Теоретико-правова модель застосування заходів примусу Національною поліцією. Актуальні проблеми вітчизняної юриспруденції. Спецвипуск. 2017. Ч. 2. С. 120–124.

4. Ковалів М. В. Переконавання та примус як загальні методи впливу в органах виконавчої влади. Науковий вісник ЛьвДУВС. № 1. 2015. С. 211–219.

5. Коба О. В. Заходи примусу під час військового стану, які може використовувати Національна гвардія України. Актуальні проблеми теорії та практики службово-бойової діяльності складових сектору безпеки та оборони в сучасних умовах : матеріали II Всеукр. наук. практ. конф. (м. Київ, 24 трав. 2024 р.). Київ : Київ. ін-т Нац. гвардії України, 2024. С. 53–55.

6. Логачев М. Г. Правові та психологічні аспекти застосування вогнепальної зброї персоналом поліції. Право і Безпека. 2017. № 4. С. 199–204.

7. Білик В. М., Братель С. Г., Братков С. І. та ін. Методичні рекомендації про дії працівників органів і підрозділів внутрішніх справ в типових та екстремальних ситуаціях. НАВС. 2013. 203 с.

8. Бандурка О. М. Принципи діяльності поліції (міліції) в поліцейському праві сучасних зарубіжних держав. Проблеми правознавства та правоохоронної діяльності. 2009. № 2. С. 191–205.

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