

FEATURES of THE LEGAL REGULATION of FIREARMS TRAFFICKING IN FOREIGN COUNTRIES

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In this paper, a comparative analysis of some aspects of the legal regulation of firearms trafficking in foreign countries is carried out in terms of the existing ban or permission for certain actions with weapons that are in civil trafficking.

In foreign countries, the procedure for the circulation of firearms must be considered from the point of view of its legalization or prohibition. Most foreign countries allow the possession of hand-held firearms in civilian circulation for hunting, collecting, target shooting, personal and property protection, but at the same time they impose significant restrictions. For instance, in some countries of the American continent and Western Europe, the law allows citizens to acquire firearms (revolvers and pistols), and in Switzerland also military weapons for self-defense. Countries such as Burkina Faso, Germany, Denmark, Zambia, Romania, Uganda, Switzerland and Finland don't prohibit the possession of any type of civilian firearm, while Luxembourg and Malaysia have an absolute prohibition on them.

The task of the paper is to analyze the norms of the legislation of foreign countries in the field of civil firearms trafficking, to determine the features of its action in the mechanism of international legal regulation.

The scientific and theoretical basis of the research is represented by the normative legal acts of foreign states in the field of firearms trafficking, in particular civil trafficking, as well as legal documents providing for criminal liability for illegal actions with firearms. The methodological basis is formed by methods of analysis, comparison and generalization of data on the study topic.

To begin with, most countries set requirements for the purchase of firearms, expressed in obtaining a special license. At the same time, a number of experts note that the number of illegally purchased weapons is directly related to the tightening of the legislation on firearms. Due to the multiple restrictions on the possibility of legal acquisition of firearms, their acquisition by criminal means is provoked.

Currently, it is necessary to talk about the existence of a classification of the legislation of foreign countries in relation to the circulation of civilian firearms, from the point of view of the criminal legal regulation of illegal actions with arms and taking into account the strategy of a particular state, regarding specific measures and activities to prevent illegal arms trafficking.

Considering the legislation of foreign countries, which regulates the circulation of civilian firearms, it is necessary to give the following classification:

- according to the degree of development of legal regulation: developed legislation on firearms; evolving arms legislation; the initial stage of development of arms legislation;
- according to the established mode of possession: free mode; limited mode; a complete ban on the possession of firearms by citizens.

Japan is one of the states that are pursuing a policy aimed at the complete prohibition of arms in civilian circulation, including the establishment of strict criminal measures for illegal acts with weapons. The Swords and Firearms Possession Control Law (1958) is the primary regulation governing the circulation of firearms in Japan. Under this law, no one is allowed to have a firearm "for minor, collectible or self-defense purposes due to its lethal properties and the danger of injury and death." The possession and sale of model revolvers and pistols is prohibited due to the fact that they can be converted into real firearms. The law also regulates the import of arms. The regulation of the civilian circulation of hunting weapons in Japan is so strict that this type is practically inaccessible to the majority of the population. So, its acquisition is possible only with the permission of the special commission of public safety of the prefectures for the purpose of hunting or target shooting. For the sale of hunting firearms, as well as for their production, a license from the governor of the prefecture is required. The use of pistols is allowed only to police officers in connection with the performance of their official public duties. It follows from this that due to the rather strict control over the circulation of firearms by the state, large-scale measures to identify and suppress such actions, the level of crimes related to the use of firearms is very low and is at the lowest possible level. The presence of a strict prohibition on the possession of firearms makes it possible to quickly qualify these crimes. The law provides provisions for the voluntary surrender of firearms to the police, which leads to a mitigation of punishment, but not to exemption from criminal liability [1].

The legislation on firearms of the People's Republic of China is also characterized by a certain severity, which allows the republic to be attributed to the group of countries pursuing a restrictive policy on this issue. Section 7 of the 1996 Firearms Control Law, which has become one of the key links in the comprehensive state program for the prevention of crime in unfavorable criminological conditions, allows the Government of the PRC to control the production of weapons. Increased sanctions have been established for the following actions with firearms: illegal production, sale, acquisition, storage, and smuggling. Regarding civil circulation, the use of hunting and sporting types of firearms is allowed, the acquisition of which requires a special license issued by local public security authorities. In general, the overall control over the circulation of weapons is entrusted to the Ministry of Public Security [2].

Today in the PRC there is a decrease in the number of crimes related to the use of firearms or the threat of their use, and amounts to no more than 2% of the total number of registered crimes. Based on the experience of the Japanese system of regulation and control of such crimes, it should be noted that the tightening of the firearms trafficking mode in China, also associated with the implementation of a set of measures to prevent the trafficking of firearms, helps to reduce the level of violent and armed crime.

In contrast to the named countries in East Asia, there is a second group of countries where there are fairly mild restrictions on the civil trafficking of firearms, which provide for criminal liability for actions primarily related to the use of weapons in the commission of other crimes. One example of such a state is the Republic of Austria, which doesn't even provide for special rules establishing criminal liability for arms trafficking. However, the Criminal Code defines a penalty of up to three years' imprisonment for the acquisition, storage and transfer of firearms and ammunition for the purpose of arming and conducting military operations by a large number of people [3, art. 280].

In Norway, the 1961 Weapons Act stipulates that citizens of the country from the age of 18 are allowed to own long-barreled firearms, and upon reaching the age of 21 – short-barreled. From the age of 16, the owner of a gun or rifle can be turned over by a person who has received the approval of a parent or guardian and permission from the local police. The main basis for the issuance of a gun possession permit under Norwegian law is sports shooting or hunting. Very rarely, citizens are granted licenses for short-barreled weapons intended for self-defense. To become the owner of a weapon, you must obtain the appropriate permission from the police authorities and pass an exam in the legal, theoretical and practical bases of the use of weapons. The legal liability of a person for illegal actions with firearms is established by the Penal Code, which provides for imprisonment for up to 2 years for illegal acquisition, manufacture and transfer of firearms. At the same time, the term of punishment is increased to 6 years when these actions are committed on a large scale or in order to prepare for the commission of another crime [4, sec. 190-191].

The most well-known representative of this group of States is the United States of America. The condition of American legislation on firearms is very specific. In the United States, gun ownership is an expression of the freedom and constitutional rights of citizens. In 32 states the law allows the free carrying of firearms for self-defense. This right is established by the Second Amendment to the Constitution, which explicitly prohibits the infringement of the right of citizens to keep and carry weapons. However, there are also some prohibitions that are characterized by corresponding trends of gradual, but not complete restrictions on the right of citizens to own firearms and armed self-defense.

In 2017, the United States had a record number of deaths from firearms. The figure of 40 thousand deaths due to the use of firearms was the highest in the last half century. In general, the high rate of deaths from firearms in the United States has been recorded for the last three years [5].

Especially in 2020, during the election period in the United States, there was a significant increase in crime and homicide. In New York City the number of homicides has increased by almost 39% this year, and the number of incidents involving weapons has increased by more than 100%. In recent months, there has also been an increased demand for firearms and shooting courses for beginners. At the same time, sales of firearms to women increased by 40% [6].

From what has been said earlier, it follows that in countries where there are fairly mild restrictions on the civil trafficking of firearms, which provide for criminal liability for actions primarily related to the use of firearms in the commission of other crimes, on the contrary, it is necessary to tighten legislative measures and establish prohibitions in order to avoid those indicators of statistical data that are currently characterized by some states of this group.

Finally, the third group of states, which is distinguished depending on the policy on firearms and the criminal law regulation of illegal actions, consists of some European States and countries of the post-Soviet space, namely: France, Spain, Estonia, Georgia, Ukraine, Kazakhstan, Azerbaijan, Armenia, Uzbekistan, Tajikistan and others. They establish significant restrictions on the civilian trafficking of firearms and criminal liability for illegal

actions. In other words, in these countries, firearms in civilian trafficking are allowed, but significant restrictions are imposed.

In France, the main regulatory legal act in this area after the final decision of the French in 2010 on the need to modernize the national legislation on firearms is the Law "On Weapons", authorized by the President of France in 2013. Since 1995, the General Inspectorate of the French Ministry of Defense has been monitoring the circulation of weapons in France, while at the local level registration and licensing are carried out directly in local prefectures, police commissariats and gendarmerie brigades. The law defines four categories of weapons: prohibited weapons and equipment; weapons and equipment that require a permit; weapons and equipment that require declaration; weapons and equipment for free sale. It should be noted that various types of ammunition, rockets, grenades and other devices, including automatic firearms, sniper firearms and firearms, are completely banned. One citizen has the right to keep 12 weapons and 1000 central ignition ammunition. In general, the French Republic is among the top ten countries in terms of armed population. At the same time, along with national measures to combat illegal arms trafficking, the internal security strategy at the EU level is being effectively implemented by the Council of Europe, designed for 2015-2020.

The model of the Republic of Moldova in the regulation of arms trafficking has much in common with the existing global features of the legal regulation of arms trafficking. In Moldova, the Law "On the regime of arms and ammunition for civil purposes" (2012) defines civilian firearms by the factor of their purpose: weapons for protection and weapons of self-defense. The first category is represented by short-barreled firearms, the main purpose of which is to protect the life, integrity and freedom of individuals, property of both individuals and legal entities. The second category includes all types of lethal and non-lethal short-barreled weapons, except pneumatic, the main purpose of which is to disperse harmful and irritating gases or release rubber shells and bullets for self-defense. Individuals are allowed to carry no more than one unit of lethal or non-lethal self-defense weapons. Moreover, the carrying of such weapons is prohibited in places of mass gathering of people and places prohibited for the use of weapons. In the absence of a document confirming the right of a person to carry and use weapons, when the person is in a state of alcoholic or narcotic intoxication, under the influence of substances of similar action, if the person suffers from temporary ailments that can cause danger in the event of the use of weapons, it is strictly prohibited to carry lethal or non-lethal weapons [7, art. 4].

In the Republic of Tajikistan, as in many countries, the Criminal Code establishes criminal liability for the illegal acquisition, transfer, sale, carrying, transportation and storage of firearms, ammunition and explosives, but the main parts of firearms are not included in the subject of the crime. A peculiar provision is the establishment of a penalty in the form of imprisonment for a period of two to five years for the illegal issuance of permits for the storage and carrying of firearms. Liability for this issue comes regardless of the consequences. Assessing the effectiveness of this norm, it should be noted its positive effect due to the fact that the increase in crimes of persons who have received a permit to store and carry it in violation of the procedure established by the legislation of the Republic of Tajikistan takes place, since such illegal actions contribute to this phenomenon [8, art. 195].

Thus, in the legislation of most foreign countries, when regulating liability for actions related to the illegal circulation of firearms, the scope of the firearms trafficking, their quantity, and the main purpose of the crime are taken into account. An objective assessment of the danger of each crime constituting illegal trafficking is necessary to establish the punishment relative to their degree of public danger. The analysis of the legal regulation of arms trafficking in various countries suggests that in the modern world community there is a tendency to establish stricter control over the circulation of firearms and ammunition in order to effectively ensure the safety of citizens from criminal attacks, including acts of terrorism. The classification of countries on the basis of their policies on the issue of regulating the firearms trafficking allows us to conclude that the legislation of most states is based on specific principles and standards of action, which justifies a fairly low level of crimes committed with the use of arms and actions aimed at illegal trafficking of firearms within this state and beyond its borders. It should be noted that the tightening of the norms of legislation on firearms in some countries occurred at times of crisis, when the crime rate and the number of weapons in circulation went beyond the limits of the possible. It was during such periods that the legislators managed to carry out a number of comprehensive measures aimed at reducing the level of arms trafficking on their territory, which allows them to effectively control and regulate the turnover of weapons in these states.

The criminal legislation of foreign countries establishes liability for a number of acts related to the trafficking of firearms. As a rule, in most cases, the list includes carrying, transporting, acquiring, transferring, storing, and a number of other actions with weapons. At the same time, in a number of countries, the limits of criminal liability are being expanded by establishing criminal liability for a large number of acts committed in this area, and in other legislative acts, liability is established for a limited range of criminal acts. In general,

analyzing the criminal legislation of foreign countries, we can talk about the current trend of perception of violations of the established rules of arms trafficking by general subjects as crimes with an increased degree of public danger.

In this regard, we are of the opinion that in all states, without exception, strict regulation of the circulation of firearms is necessary. A quantitative increase in the number of weapons in society won't lead to a drastic reduction in crime, as it won't be able in the vast majority of cases to protect against criminal attacks by other persons. The proper implementation of the right of citizens to security, to own and carry weapons is possible only with the effective work of law enforcement agencies, the presence of a system of crime prevention in the country, the action of which will be supported by the legislative norms of the state, taking into account the norms of international law and the peculiarities of international legal regulation of firearms trafficking.

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