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## Legal Regulation in the Field of Arms Control: A Forecast of Future Challenges

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**Abstract:** The purpose of the article is to analyse the legal regulation in the field of arms control through the prism of forecasting possible challenges in the further functioning of this industry. A literature review and analysis of regulatory documents governing arms circulation in various countries were conducted to achieve the set goals. Relevant publications were searched in the JSTOR, Google

Scholar, SSRN, Scopus, and Web of Science databases from 2010 to 2022. The scientific novelty of the article lies in the attempt to formulate specific borrowings that can be adapted from European and American practices in order to improve the situation in those countries that have embarked on the path of forming a legislative framework for the legal circulation of weapons. First of all, this novelty is relevant to the Ukrainian reality, where, as a result of Russian aggression, civilians have gained access to weapons. The results show that legal regulation of arms control and analysis of future challenges in this area are relevant subjects of research. It is found that a combination of the legislative experience of the European Union and the United States of America may be promising. In particular, it is important to develop a system that will allow legalising the weapons already owned by citizens, using the appropriate classification proposed by European regulations. This means dividing firearms into separate categories (A, B, C), which can be owned by citizens only under certain exceptional circumstances, after obtaining appropriate permits or as a result of mandatory declaration. At the same time, attention should be paid not only to the technical condition of weapons but also to the relevant medical examinations of weapons owners. The article concludes by noting that there will be challenges for law enforcement and civil society. This includes the willingness to use weapons only when really necessary, to avoid their misuse, voluntary cooperation with law enforcement agencies, and other aspects.

**Keywords:** arms trafficking, regulatory legislation, EU, USA, Ukraine, challenges.

## **Introduction**

Legal regulation in the field of arms control has always attracted increased interest among both scholars and citizens, due to quite practical needs (Zeoli et al., 2019). In today's world, where technological and socio-cultural development is ongoing, arms control has become a key issue for ensuring harmonious and safe coexistence in society. Weapons do not always serve only as a tool of defence and security. Illicit arms trafficking can lead to serious threats to public safety, law and order, and individual rights and freedoms. For this reason, the issue of legal regulation has become a necessity for the formation of a legislative framework and the work of law enforcement agencies that seek to ensure that arms trafficking is in line with generally accepted norms and the goals of civil society (Gius, 2016). This makes it important to analyse and research the key aspects of legal regulation in the field of arms control, focus on national and international legislation, control and oversight mechanisms, and consider possible ways to improve legal instruments to ensure greater security and prevent possible conflicts.

## **Research Problem**

An international legal analysis of firearms legislation in countries with established democratic regimes indicates constant changes in the legal regulation of relations in this area (Siegel & Blocher, 2020). By comparison, Ukrainian legislation aimed at properly regulating firearms trafficking is also evolving, especially after the adoption of the basic law. Obviously, this was facilitated by the unfolding of Russian aggression against Ukraine. At the same time, Ukraine's experience demonstrates the need to work on a balanced draft law that takes into account the international experience of developed countries, the challenges of the present, and national law enforcement experience. This combination needs to be studied as a certain model designed to meet the challenges of the future at the legislative level.

## **Research Focus**

The study will focus on analysing the main aspects of the legal framework relating to the acquisition, possession, transport, storage, and use of weapons. It is also important to draw attention to various aspects of this issue, including international conventions, national laws and regulations on the issuance of weapons permits, restrictions on access to weapons, and control and oversight mechanisms.

The importance of this work lies in understanding how modern societies balance the right of citizens to self-defence with the need to ensure the security of the whole society. The article also helps to open a discussion on possible ways to improve existing legislation and practices of arms control in order to improve security and prevent crime.

### ***Research Aim and Research Questions***

The purpose of the article is to study the basic principles of legal regulation in the area of arms control through the prism of forecasting future challenges in this area of legal regulation. The realisation of this goal involves consideration of the following tasks: analysis of existing international instruments designed to regulate arms trafficking, the study of the experience of European countries and the United States in regulating arms trafficking, and the development of recommendations for overcoming future risks, including in countries which are only seeking to legalise the arms market (e.g., Ukraine).

### **Literature Review**

Modern researchers were interested in many aspects related to the legal regulation of the military sphere. Barney and Schaffner (2019) published in the *British Journal of Political Science* examines the impact of mass shootings on public support for gun regulation. In particular, the authors examine whether support for gun control changes after major gun battles and how these events affect political sentiment. Becker (2021) described the relationship between unemployment and defense spending in the context of domestic politics. Valuable for this study is the article by Blau et al. (2016), which examines the impact of gun laws on public shootings in the United States of America. Meanwhile, Mathur (2017) described human rights issues in the context of gun regulation and considers whether human rights can become the new standard of civilization in gun control. McPhedran (2016) conducted a systematic review of the quantitative evidence on the impact of legislative reforms in Australia on firearm homicide.

Scholars Blocher and Siegel (2021) offer a new perspective on gun regulation from a public safety perspective. At the same time, a study (Blocher (2021) examines the problem of gun regulation, focusing on legislative restrictions from state to state. Boine et al. (2020) described certain cultural aspects regarding guns and characterized cultural differences in the United States on this issue. The work Madhavan et al. (2019) examines the impact of strict firearms laws on firearm-related deaths among children in the United States. Minkó-Miskovics and Szabó (2022) interpret the difference between civilian and military equipment in European judicial decision-making, particularly in the context of the European Union and Hungary. Müller (2015) provides a European perspective on the problem of gun regulation and examines some aspects of gun control in Europe. Pierre (2019) described the psychological aspects of firearms, including risks, fear and motivated thinking.

Analyses of the right to civilian firearms ownership in countries such as the United States, Switzerland, Hungary, and Finland have revealed some interesting differences (Minkó-Miskovics & Szabó, 2022; Müller, 2015). For example, the number of civilian firearms per 100 people varies from 88 to 45 in these countries. For comparison, in Ukraine, this figure is only 5.5 units (Sereda et al., 2018). The experience of post-Soviet countries, such as the Baltic Republics, Georgia, and Moldova, shows that granting citizens the right to self-defence with civilian firearms, introduced after the adoption of relevant laws, can reduce the number of these crimes by 40-60%, and have a positive impact on the structure and dynamics of crime in the country (Light & Slonimerov, 2019). At the same time, it is important to note the example of the United Kingdom, where the introduction of strict rules and restrictions on the possession of civilian weapons has led to a sharp increase in crimes against persons and acquisitive violent crimes (Fenwick et al., 2019). Taking these aspects into account, it is important to take into account the lessons learned in order to reduce crime and protect public life and health.

Therefore, various aspects of legal regulation are described in modern studies. Some of these works provide unique contributions to the understanding of this problem from various scientific and practical points of view.

## **Research Methodology**

### ***General Background***

The primary aim of this literature review is to systematise and analyse the experience of legal regulation of arms circulation in various countries worldwide for its potential application in Ukraine. The review will identify critical approaches, models, and trends in legislation governing arms circulation and determine which could be applied to improve Ukrainian legislation. The bibliometric analysis focuses on the following objectives:

1. Examination of legislative acts and regulatory documents governing arms circulation in various countries.
2. Identification of key factors influencing the formation of arms control legislation.
3. Analysis of the effectiveness of existing legislative models.
4. Identifying the positive and negative aspects of various regulatory systems with the goal of adapting the international experience to Ukraine.

### ***Data Collection***

The review used various scholarly sources, including academic articles, monographs, government reports, legislative acts from multiple countries, including national laws, regulations, international treaties, and reports from non-governmental organisations and think tanks.

The primary sources were selected using scientific databases such as JSTOR, Google Scholar, SSRN, Scopus, and Web of Science. Publications in English and Ukrainian from the period 2010 to 2022 were considered.

### ***Data Analysis***

The review included countries with various arms control models. Consideration was given to the economic and social development level, the existing legal system, crime rates, the history and culture of gun ownership, and law enforcement practices.

1. The following methods were used for data analysis and systematisation:
2. Content analysis of regulatory acts and academic publications.
3. A comparative method is used to juxtapose different legal regulation models across countries.
4. Case analysis of specific legislative decisions to identify their strengths and weaknesses.

## **Research Results**

### ***International experience in regulating arms trafficking***

The fundamental basis for regulating arms trafficking in the EU member states is the Directive of the European Parliament and of the Council of 18 May 1991 (No. 91/477/EEC), which has now been re-approved in the wording of No. 2017/853 of 17 May 2017, and other secondary legislation of the EU countries, which are designed to detail certain provisions of this Directive (Kirst, 2019). For example, we are talking about the European Commission (EC) Directives adopted on 16 January 2019 (No. 2019/68 and No. 2019/69), the Regulation of the European Parliament and of the Council of 14 May 2012, and the EC Regulation of 15 December 2015. In the main document, it is important to note that Article 2 of Directive 91/477/EEC clearly states that its provisions: 1) do not limit the application of national legislation on the carrying of arms, hunting or target shooting using arms legally acquired and owned in accordance with this Directive; 2) do not apply to the acquisition and possession of arms and

ammunition under national law in respect of the armed forces, police or public authorities. It follows that this European secondary legislation is aimed only at regulating the civilian circulation of weapons in the European Union (Kirst, 2019). This is important, especially given the current situation in those countries where there is a need to create a special legislative act to regulate the general circulation of weapons. Therefore, the provisions of the Directive under consideration can be used mainly in the framework of issues related to improving arms trafficking in third countries in this particular context.

It should be borne in mind that Article 3 of Directive 91/477/EEC indicates the possibility for EU Member States to adopt stricter firearms control measures than those provided for in this Directive (Hurka & Knill, 2018). However, these measures must take into account the rights granted to residents of Member States under Article 12(2) of the Directive. It follows that states, despite the European integration processes and unification, can rely on the provisions of Directive 91/477/EEC, but are also able to establish stricter control over arms trafficking at the national level.

Directive 2017/853 is of great importance for the European Union, as it aims to ensure the safety of citizens and reduce the possibility of illicit arms trafficking. It also creates common standards for the circulation of civilian weapons throughout the European Community In Figure 1 it is presented the key regulatory points of *Directive 2017/853*.

**Figure 1**

*Key Regulatory Points of Directive 2017/853*



Source: Compiled by the authors.

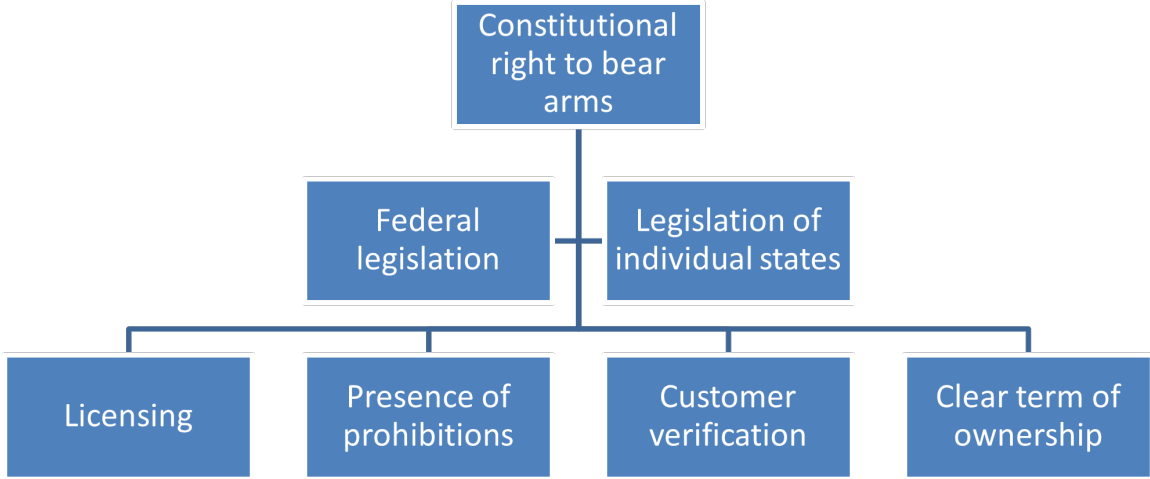
Therefore, the analysed Directive provides more detailed definitions and classifications of different types of civilian weapons and ammunition. This helps to clarify which types of weapons fall under the regulation of this Directive. At the same time, it establishes standards and procedures for granting permits for the acquisition and possession of weapons - the document regulates the requirements for persons who can obtain a permit, as well as mechanisms for verifying their compliance. Directive 2017/853 establishes requirements for the marking of weapons and ammunition to facilitate their traceability and identification. This is important for controlling illicit arms trafficking (Carlson, 2020). It also defines the categories of weapons that are prohibited for civilian circulation in the EU, including the most dangerous weapons. The document imposes obligations on EU member states to implement and enforce these rules in their national legislation. It also stipulates that one of the main

tasks is to strengthen control over arms circulation in order to prevent misuse and ensure public safety. Along with the introduction of legislative mechanisms to regulate the circulation of civilian firearms, there is a need to develop and implement a procedure for the creation and maintenance of unified state registers of civilian firearms at the national legislative level. The existence of such a clear registry, as an example, based on the experience of other countries, can help reduce the number of violent crimes against persons and selfishly violent crimes against property. This effective practice has been observed in countries such as Georgia, Finland, and Switzerland (Krüsselmann et al., 2021). Obviously, this experience will be extremely important for those countries that are just beginning to harmonise their legislation with European requirements, including Ukraine.

The overseas practice of arms control can be studied by using the experience of the United States, where legal regulation in this specific area is determined by federal legislation and laws in force in individual states (Kruis et al., 2021; McPhedran, 2016). This dual regulation leads to different rules and restrictions in different states, which can be depicted in the following model (Figure 2).

**Figure 2**

*A Conditional Model of Arms Control in the United States*



Source: Compiled by the authors based on Hummer (2016), James and Menzies (2022).

The historical peculiarities of the creation and functioning of the US state system have led to the fact that the right to arms is guaranteed at the constitutional level - the Second Amendment to the Constitution of the United States of America guarantees the right to keep and bear arms. This amendment was adopted to ensure the right of citizens to self-defence and protection from governmental pressure (Blau et al., 2016). At the same time, federal laws in the United States regulate the circulation of certain types of weapons, such as automatic and semi-automatic rifles, as well as restrictions on access to weapons for people with criminal records or mental disorders (e.g., the Gun Control Act of 1934 and the Civilian Firearms Control Act of 1968). At the same time, each state has its own gun laws (Blocher, 2021). States set their own requirements for obtaining licences to purchase and carry weapons and may also impose restrictions on the types of weapons and the size of ammunition magazines. Moreover, a licence is a prerequisite. Many states require individuals who wish to own or carry a firearm to obtain a licence. The conditions and procedures for issuing licences vary from state to state. However, the law sets certain limits on where guns can and cannot be carried. Generally, schools, airports, and other government buildings are considered prohibited places to carry a gun. Federal law

requires a background check on buyers before a gun sale, which is conducted through the National Instant Criminal Background Check System (NICS). To ensure quality control, the United States has set a time limit for the possession of certain types of weapons, after which they must be re-registered.

These conditions are widely discussed in the legal and human rights communities. Cases of the use of legal weapons to kill innocent people have led public opinion to gradually restrict the right to own weapons (Hurka, 2017; Pomeranz et al., 2021). Similarly, against the backdrop of recent speeches, the possibilities and rights of law enforcement officers to counter disorderly persons, including potentially armed ones, have been widely discussed (Madhavan et al., 2019; Mathur, 2017). As for the latter limitations, researchers' opinions are not so unambiguous (Kwon et al., 2010). In particular, states are divided into several groups: those that do not have any restrictions on the use of firearms and those with certain restrictions (in particular, the establishment of certain periods for waiting for a weapon, obtaining a licence, etc.) Some studies indicate that firearms control laws have a rather moderate impact on the number of deaths related to the direct use of firearms (Kwon et al., 2010). The socio-economic conditions of the population have a much greater impact. This includes the poverty level of a state, current unemployment, domestic violence, and alcohol consumption, which have a much greater impact on the number of deaths caused by gunshot wounds from registered firearms (this also includes suicide statistics) (Blocher & Siegel, 2021; Stroebe, 2015). For this reason, some researchers believe that the main cause of deaths from registered guns is not so much the availability of guns as the need to support social programmes (Kwon et al., 2010). Therefore, any reduction in resources earmarked for this purpose in favour of strengthening gun control legislation could have counterproductive consequences. For Ukraine and other countries with unitary state structures, such challenges are less obvious (Lymar & Tykhonenko, 2020), but the need to take into account the American experience is extremely important, as the longstanding regulation of the sensitive area of arms circulation can create certain paradigms for responding to future challenges.

## **Discussion**

Introducing and enforcing strict and effective legal regulations and controlling arms trafficking are important measures to reduce threats and ensure public safety (Barney & Schaffner, 2019). At the same time, no single legal framework will provide a perfect model to address threats that vary by country, legal environment, and socio-cultural factors (Hultin, 2022; Spitzer, 2023). The experience of law-abiding European countries and the United States shows that firearms can be illegally transferred to the black market through smuggling or theft (Becker, 2021). Such phenomena pose additional risks to public safety and can lead to a spike in crime (Braga & Cook, 2023; König, et al., 2018). Obviously, military operations, as in Ukraine, can contribute to the proliferation of combat weapons and their illicit trafficking (Hamilton, 2022; Leggett, 2019). For this reason, the implementation of the relevant draft laws on controlling its circulation is extremely relevant, although it requires certain peculiarities. The introduction of a certain period during which citizens will be able to register the weapons they already possess and will be obliged to comply with the law may be considered promising. The undisputed condition is that the weapon in question should not have been used in the commission of an offence.

At the same time, even if arms are legalised and their numbers are controlled, there will be risks of abuse of rights in the future. Boine et al. (2020) rightly pointed this out. That is, persons who have legal access to weapons may use them for criminal purposes or for excessive self-defence, which creates a risk of unreasonable use of force. There are also possible outbreaks of violence in families when even legal access to weapons can increase the incidence of violence and even physical homicide in the family circle (for the example of Sweden, see Khoshnood (2019) and Sturup et al. (2018)). Simplifying procedures for purchasing weapons and lifting certain restrictions on the acquisition and possession of weapons can increase the number of weapons in circulation and the threat of their misuse (Falode, 2021; Florquin, 2021). At the same time, inadequate security measures can lead to the excessive presence of weapons in schools and public places, which poses a potential threat to public safety.

According to some researchers, mental trauma and disorders are also an important challenge for modern society (Pierre, 2019). People with mental disorders can pose a threat to themselves and others if they have access to even legal weapons. In the Ukrainian context, for example, this aspect may be exacerbated by the Russian-Ukrainian war (Khavroniuk et al., 2020). If inadequate attention is paid to the psychological state of the military and former military, cases of abuse of the right to legal arms (in peacetime) are likely. In addition, there is a need to reform the law enforcement system. As in countries with insufficient legal protection and inadequate control, human rights violations, including abuse of legal weapons, may occur.

Overcoming these challenges through the prism of the development of future threats to arms trafficking is proposed to be justified in effective legislative norms. Researchers also agree that it is possible to synthesise the experience of the EU and the US, where the relevant procedures are in place (Hellenbach et al., 2017). In particular, Directive 2017/853 establishes certain lists of weapon categories, which, as Kirst (2019) rightly notes, looks promising when developing national legislation. For example, category A weapons are not intended for free circulation and may be used by civilians in exceptional cases (primarily automatic weapons). In particular, such an exception may exist for researchers, collectors (who do not plan to use it), as well as for national defence purposes, which in the Ukrainian case correlates with the needs of developing territorial defence, which has proven to be the best in repelling Russian aggression. In order to obtain category B weapons (non-automatic firearms), it is important to establish an effective system at the legislative level. In particular, Directive 2017/853 stipulates that permits granted to persons to possess category B firearms must be reviewed and updated at least every 5 years. This can only be done if confirmed by the competent authorities that carry out the permit procedure. The relevant permits (and the medical certificate) will confirm that the person continues to comply with the conditions under which the permit was granted. The list of Category C weapons is a matter for national legislation. However, weapons in this category will require mandatory declaration.

Among the challenges to such a model, which may be relevant for Ukraine, is the possibility of converting category C weapons into full-fledged firearms (Hynek & Solovyeva, 2020). To counteract this, it is necessary to develop mechanisms for mandatory re-registration, which should take place after a certain period of time. At the same time, another problem remains much less studied. The emergence of robots with computer programs that can learn or are controlled by artificial intelligence is sparking an intense debate on the legal and ethical issues related to such technologies. The continued development of artificial intelligence means that once a robot or drone is created and programmed, it can decide to attack without the need for human intervention (Gallese Nobile, 2022). This attack can occur even years after the robot has been programmed. This problem has only begun to be discussed internationally. The Russian-Ukrainian war has demonstrated the power of attack drones, but also of entirely civilian models that can be converted to weapons. Obviously, this problem will require additional discussion and response from legislative bodies.

## **Conclusions and Implications**

Therefore, legal regulation in the field of arms control and analysis of future challenges in this area are relevant subjects for research. It is established that a combination of legislative experiences of the EU and the USA is promising. In particular, it is important to develop a system that can be used to legalise weapons already owned by the population using the appropriate classification proposed by European documents. This means dividing firearms into separate categories (A, B, C), which can be possessed by the public either only under certain exceptional conditions, or as a result of obtaining permits, or as a result of mandatory declaration. At the same time, it is important to supervise not only the technical condition of weapons but also to conduct appropriate medical checks of weapon owners. At the same time, there are challenges for the law enforcement system and civil society. These include the readiness

to use weapons only when necessary, to avoid abuse, to cooperate voluntarily with law enforcement agencies, etc.

### **Suggestions for Future Research**

Promising for further research are the problems associated with the regulation of unmanned automated weapons, which can also be obtained through the transformation of completely civilian and safe drones. This problem has become much more relevant as a result of the Russian-Ukrainian war and the successful use of drones. At the same time, we believe that it is very important to argue how new technologies such as autonomous weapons systems, artificial intelligence and cyber weapons are challenging existing arms control agreements and legal frameworks. For future research is important to analyze the need for updated regulations to effectively address these technologies. Issues related to the proliferation of small arms and light weapons, particularly in conflict-prone regions, should also be explored. The legal mechanisms of control and reduction of illegal trade in SALW is very complex issue for future research. There is an important need to overcome negative social manifestations that can lead to the misuse of even legal weapons. The use of weapons must be responsible, and the task of legislators is to develop reliable control mechanisms to ensure that at least legal weapons do not fall into the wrong hands. International arms trade is a debatable aspect. The changing landscape of international arms trade and arms exports is worth exploring. It is important to analyze the role of arms sales in global conflicts and evaluate the effectiveness of international treaties, such as the Arms Trade Agreement (ATT), in regulating this trade. Future research in these areas can contribute to informed policy decisions, enhance global security, and promote peaceful conflict resolution. It is essential to anticipate and address emerging challenges in arms control through robust legal regulation and international cooperation.

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### **Conflict of Interest**

None.

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