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Method Commission of Illegal Manufacture, Processing or Repair of Firearms or Fraud Unlawful Removal or Changes its Labelling or Illicit Manufacture of Ammunition, Explosives or Explosive Devices

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■ **Abstract.** The purpose of the study is to identify the methods of illegal manufacture, modification or repair of firearms or falsification, illegal removal or alteration of their markings or illegal manufacture of ammunition, explosives or explosive devices. The methodological basis of scientific research is a set of methods and techniques of scientific cognition necessary for the realisation of a certain goal, the specifics of the object and the subject of research. The use of these methods ensured the credibility and reliability of the research results. The main method of research is dialectical, which uses laws and categories to define the means of illegal manufacture, modification or repair of firearms or falsification, illegal removal or alteration of their markings or illegal manufacture of ammunition, explosives or explosive devices. Special research methods were also applied, namely: system analysis method, system-structural, formal-logical, sociological and statistical. The scientific novelty of the study is: establishing the main methods of committing the crime in question as active measures in relation to firearms, ammunition, explosives or explosive devices: manufacturing (for all items of weapons defined in Art. 263-1 of the Criminal Code of Ukraine); processing, removal of markings, change of markings (only in relation to firearms); most methods of committing crimes are full-structured (have stages of preparation, commission and concealment); actions covered by the features of this crime are often a separate link in the chain of detailed planned criminal activity related to trafficking in weapons, ammunition, explosives or explosive devices; the expediency of defining in Art. 263-1 of the Criminal Code of Ukraine criminal liability for the illegal modification of ammunition. Conclusions. Most of the methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine are complex, that is, they include the following stages: a) preparation: selection of premises; preparation of necessary materials, devices, and tools; using publicly available information in open sources on the manufacture, structural changes to weapons; purchase of tools, metalworking devices; visits to facilities related to their production, storage and use; targeted inspection of military conflict zones; b) committing and c) concealing: failure to appear when summoned; giving false testimony; refusal to testify; putting forward a false alibi; destroying traces and instruments of a criminal offence; influencing witnesses. In addition to the established, typical methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine, tendencies to improve, and modernise methods of illegal manufacture, modification or repair of weapons have been identified: high-tech processing, manufacturing using modern technical means; use of reference information, purchase of individual structural mechanisms, parts for weapons through Internet sites; use of camouflage means. The activities falling under Art. 263-1 of the Criminal Code of Ukraine often constitutes a separate link in the chain of well-planned criminal activities related to illicit trafficking in weapons, ammunition, explosives or explosive devices

■ **Keywords:** firearms; military supplies; explosive device; manufacturing; recycling

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■ Introduction

According to statistics, of all the crimes related to violation of the established rules for handling dangerous goods, the illegal manufacture, modification or repair of firearms or falsification, illegal removal or alteration of their markings or illegal manufacture of ammunition, explosives or explosive devices defined in Art. 263-1 of the Criminal Code of Ukraine is one of the least common. However, in recent years, such

illegal activities have become organised, these crimes have become highly professional and specialised. Improvised explosive devices, grenades, grenade launchers, mines and shells are actively used [1].

The method of committing a crime, is a fundamental element of any forensic characteristic, it is regarded as a source of information necessary for the detection and prevention of crimes. Crimes under Art. 263-1 of the Criminal Code of Ukraine are no exception, as the importance of the method of this socially dangerous act is evidenced by the disposition of the article of the Criminal Code of Ukraine. According to the method of committing these crimes, it is possible to establish certain characteristics of the criminal's identity, such as the presence of professional skills and criminal experience, physical data, the degree of awareness about the ways of using firearms, military supplies, explosives or explosive devices for criminal purposes, and so on.

The issue of illicit trafficking of weapons, special features of their examination and analysis of the relevant cases were studied by the following Ukrainian and foreign scientists: P.D. Bilenchuk, V.I. Borysov, V.V. Bychkov [2], V.F. Vasyukov, A.V. Kokin, O.S. Sokolov [3-5], V.Ya. Tatsii, A.E. Shalagin, V.O. Yaremchuk et al. [6]. At the same time, many issues in this area remain unresolved. Given the above, it is important to investigate the methods of manufacturing, modification or repair of firearms or falsification, illegal removal or alteration of their markings or illegal manufacture of ammunition, explosives or explosive devices.

The purpose of the study is a systematic analysis and presentation of the material related to the definition of typical ways of committing criminal offences under Art. 263-1 of the Criminal Code of Ukraine to form adequate counteraction and investigation methods.

To achieve this goal, the following tasks are set: 1) to outline the stages of committing crimes under Art. 263-1 of the Criminal Code of Ukraine; 2) to determine the features of the methods of committing these crimes; 3) to identify trends in improving the methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine, on the basis of which to propose effective solutions to detect and prevent them.

The scientific novelty of the study is: establishing the main methods of committing the crime in question as active measures in relation to firearms, ammunition, explosives or explosive devices: manufacturing (for all items of weapons defined in Art. 263-1 of the Criminal Code of Ukraine); modification, removal of markings, change of markings (only in relation to firearms); most methods of committing crimes are full-structured (have stages of preparation, commission and concealment); actions

covered by the features of this crime are often a separate link in the chain of detailed planned criminal activity related to trafficking in weapons, ammunition, explosives or explosive devices; the expediency of defining in Art. 263-1 of the Criminal Code of Ukraine criminal liability for the illegal modification of ammunition.

■ Results and Discussion

Among a number of possible interpretations of the category under study, the authors chose the approach to the interpretation of the method of committing a crime proposed by V.K. Veselsky, S.M. Zavyalov & V.V. Piaskovsky, who formulate it as a pattern of actions for the preparation, commission and concealment of traces of a crime, which characterises forensically significant information about the perpetrator and the means used by him and the possibility of their use in the detection and investigation of crimes [7].

The generalised forensic investigative practice and analysis of the assessment of this element of forensic characteristics by leading scientists gives grounds for concluding that it is necessary to identify new modern methods of preparing, committing and concealing crimes under Article 263-1 of the Criminal Code of Ukraine as one of the most important sources of formation of criminalistically significant information.

Differentiation of the perpetrator's actions by the stage of their execution allows a more detailed study of the specifics of the preparation, commission and concealment of the crimes under investigation, and on the basis of knowledge of these features to establish and expose the identity of the offender. Actions of the perpetrator in preparing for the manufacture or modification of firearms, ammunition, explosives, explosive devices, concealment of such actions are closely interrelated, forming the method of this crime or group of crimes, as they are driven by a single plan and intent.

The objective side of the crime under Art. 263-1 of the Criminal Code of Ukraine consists in committing the following active actions in relation to firearms, ammunition, explosives or explosive devices: 1) manufacture; 2) modification (only for firearms); 3) repair (only for firearms); 4) removal of markings (only for firearms); 5) change of markings (only for firearms). Such methods of illegal actions in relation to these items defined in the disposition of Article 263-1 of the Criminal Code of Ukraine play the role of a criminal-forming feature in case of their illegality. At the same time, the establishment of the method of committing a criminal offence should not be based on the criminal legal qualification of the crime, it is primarily an element of the manifestation of the act in the external environment.

The procedure for handling certain types of weapons, approved by the resolution of the Cabinet of Ministers of Ukraine "Regulations on the licensing system" of October 12, 1992 No. 576, concerns objects, materials and substances that are subject to the requirements of the licensing system, which include firearms, cold weapons, air weapons of calibre over 4.5 mm and a bullet speed of more than 100 meters per second, devices of Ukrainian manufacture for firing cartridges equipped with rubber or similar non-lethal projectiles, and the said cartridges, explosive materials and substances. Also, the Resolution of the Verkhovna Rada of Ukraine "On the Right of Ownership of Certain Types of Property" of June 17, 1992, No. 2471-XII establishes a list of types of property that cannot be owned by citizens, public associations, international organisations and legal entities of other states on the territory of Ukraine, which include weapons, ammunition (except for hunting and pneumatic weapons and ammunition, as well as sports weapons and ammunition). The main departmental normative legal act that regulates the circulation of weapons is the Instruction on the procedure for the manufacture, acquisition, storage, accounting, transportation and use of firearms, pneumatic, cold and chilled weapons, devices of domestic production for firing cartridges equipped with rubber or similar non-lethal projectiles and ammunition, ammunition for weapons, main parts of weapons and explosives" of August 21, 1998, No. 622.

O.D. Shelkovernikova considers the circulation of specific types and types of weapons, ammunition and ammunition within the country (a particular region) to be the legal circulation of weapons, which covers all operations from the moment of its creation or receipt for sale, dispatch, transfer through sales channels, receipt by the user or exporter, on the basis of the relevant rules and restrictions contained in the current legislation. The researcher defines illegal arms trafficking as the movement of weapons with violations in the sphere of legal circulation [8].

The dictionary interprets the term "illegal" as contrary to the law, inconsistent with it, prohibited by law, violating the law [9]. The UN Model Law on the Illicit Manufacturing of and Trafficking in Firearms, Their Parts and Components and Ammunition of 8 July 2011 defines "illicit trafficking" as the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts and components and ammunition from or through the territory of one State to another State..." [10].

According to the draft law "On the circulation of civilian firearms and ammunition" (reg. No. 4335 of November 6, 2020), the production (manufacture) of weapons is the creation of a new unit of weapons from materials and substances that were not weapons;

assembly of weapons from parts and components in the conditions of production (institution) or modification of any items, due to which they acquire the properties of weapons; creation of the main parts of weapons or means of reducing the volume of the shot. Consequently, the subject of criminal activity can be these actions not only in relation to weapons, but also in relation to their individual components.

The production (manufacture) of combat supplies is defined as the creation of a new unit of combat supplies from materials and substances that were not combat supplies (except for the re-equipment of combat supplies). Such actions are carried out to endow these items with the properties of firearms, their main parts or devices for changing the modes of fire.

Illegal manufacture should also be considered an act in the form of non-application by the manufacturer of weapons of the legal marking (product name, country or place of manufacture, serial number) on the main parts of firearms or devices for changing the firing modes or actions to remove such marking by a person [11].

According to para. 14 of the Code of Judicial Practice of Ukraine "On judicial practice in cases of theft and other illegal handling of weapons, ammunition, explosives, explosive devices or radioactive materials" of April 26, 2002 № 3, the repair of firearms is the restoration of the characteristic properties of the specified object by replacing or restoring worn or otherwise unsuitable parts, mechanisms, eliminating defects, breakdowns or damage, establishing the normal functioning of various parts and mechanisms, as a result of which these items become suitable for use for their intended purpose.

Illegal repair of firearms A.A. Chistyakov considers, firstly, the elimination of inconsistencies in it (except for the repair and replacement of its non-main parts), its main individual and adapted, in particular, to change the modes of fire; secondly, actions that restore the destructive properties of both firearms or the suitability of its main parts and the considered devices intended to be used in certain types of weapons; thirdly, customization by owners of such items for their own needs [11].

Article 37 of the draft law No. 4335 of November 6, 2020, stipulates that the right to manufacture civilian firearms and ammunition is granted to legal entities that have obtained a license for the production of civilian weapons and ammunition, a permit for the operation of an establishment for the production of weapons and ammunition. Legal entities that have the right to manufacture civilian firearms must ensure the safety of production, exercise control over the production modification, and comply with the licensing conditions for such activities. Each unit of manufactured civilian firearms assigned to the appropriate category must be marked,

and meet the safety requirements and technical requirements for weapons of this category. Also, the right to repair civilian firearms has legal entities, individual entrepreneurs who have received a license to repair civilian weapons and ammunition and permission to operate a weapons repair shop. The procedure for obtaining licenses for the production and repair of civilian weapons and ammunition, a permit for the operation of an institution for the production of weapons and ammunition, and a permit for the operation of a weapons repair shop is established by the Cabinet of Ministers of Ukraine (Part 8 of Article 37 of the draft law).

Repair of firearms and their main parts are not considered to be a type of their manufacture, which cannot be said about the alteration of firearms and their main parts. Repair is essentially the restoration of consumer properties of an item. Accordingly, the concept of repair cannot be considered as manufacturing [11]. The Great Ukrainian Legal Encyclopedia defines the conversion of weapons as the transformation, and alteration of certain objects by giving them the properties of firearms [4].

Some experts interpret the illegal modification of firearms (Part 1 of Art. 263-1 of the Criminal Code of Ukraine) as the impact on the existing firearms without the permission provided by law to change their individual properties [12]. According to paragraph 13 of the Resolution of the Plenum of the Supreme Court No. 3, the modification of firearms is the alteration of certain items by giving them the properties of firearms. Such actions, in particular, include the conversion of rocket launchers, starter, construction, gas pistols, and other devices adapted for firing cartridges equipped with rubber or similar non-lethal projectiles into weapons suitable for firing, etc. or hunting weapons (including smoothbore) into cuttings).

For example, if a firearm was manufactured by modification a gas pistol, then such a pistol after mechanical changes received new tactical and technical characteristics, and the illegal trafficking of such weapons becomes more dangerous for society than the illegal trafficking of gas weapons. Often, such illegal modification is determined by the calibre of ammunition available to the offenders, as it is a source material and time-consuming to produce for a number of reasons. The fact of illegal modification of firearms with the introduction of irreversible technical changes may include shortening of the barrel (barrel block), dismantling of the stock, etc. There are facts of illegal alteration of firearms without making irreversible technical changes to them [11].

The illegal installation of a fire mode selector on Glock pistols manufactured by the Republic of Austria (Glock-18 pistol) does not require the introduction of irreversible technical changes to this

weapon. This device is installed to replace the rear bolt cap of Glock pistols and makes them more dangerous, as the rate of fire of this type of weapon in the automatic mode of fire (fire is carried out in a series of shots) increases to 1200 shots per minute.

Besides, the illegal modification of firearms without making irreversible technical changes to them is the use of rifled barrels in smoothbore firearms, which, depending on the calibre of the ammunition used for the barrel, can significantly increase the target range. Such cases of modification of firearms are dangerous because after using them, a suspect can restore the previous technical condition of the weapon, after which it will be impossible to establish the fact of illegal modification.

The phenomenon of converting non-lethal ammunition is common in the practice of forensic ballistics examinations. In particular, the standard non-lethal ammunition is modified in the following way: the standard projectile is removed, the powder load is significantly increased or replaced with powder of a different brand. Then, instead of a rubber ball, a projectile is placed, which by its dimensional characteristics will not exceed the size of the gap formed between the protrusions in the barrel channel. The contents of the cartridge are filled with candle wax, plugged with a piece of foam or rubber. The projectile in the shell is positioned in parallel so that it does not collide with the protrusions during the shot, but can pass by them through the formed gap in the barrel channel of the converted traumatic pistol. As a result of this modification, the ammunition becomes significantly more "powerful". Not only non-lethal ammunition, but also ammunition for rifled firearms [3], which pose a high public danger, is being modified.

At the same time, the analysis of the title of Art. 263-1 of the Criminal Code of Ukraine shows that criminal liability for committing such an act occurs only for the illegal manufacture of ammunition. Instead, with regard to firearms, the legislation includes such methods as illegal manufacture, modification, repair, falsification, illegal removal or alteration of its marking. Such legislative inconsistency can become a significant tool for the defence party in case of ammunition modification. This legislative inconsistency in the title of Art. 263-1 of the Criminal Code of Ukraine was also noted by 68% of the surveyed prosecutors, investigators and operatives.

The above prompts to make appropriate changes to the title of Art. 263-1 of the Criminal Code of Ukraine, which in our proposed version will be called "Illegal manufacture, modification or repair of firearms or falsification, illegal removal or alteration of its markings, or illegal manufacture and modification of ammunition, explosives or explosive devices".

Markings along with information about the manufacturer, type, make, model, marking, calibre and year of manufacture of the weapon are identification features of the weapon. Marking is a unique designation of weapons in the process of manufacturing by applying to the weapon the name of the manufacturer, country or place of manufacture, serial number or any other easy-to-use designation consisting of simple geometric symbols combined with a digital and (or) alphanumeric code designation, which allows quickly identifying the weapon.

Falsification of marking is a complete or partial change of the marking applied by the manufacturer. Removal of the marking from the main parts of the firearm or its unlawful non-application by the manufacturer to the main parts of the firearm undoubtedly complicates the functions of firearms control by the state. Removal of the marking consists in destroying it in any way, which makes it impossible to quickly identify the weapon. In an attempt to conceal the origin of the weapon, the markings, signs and numbers of the markings, its constituent numbers are erased, etched or removed by mechanical methods, such as sawing, grinding, sometimes with the application of new numbers and markings. The meaning of the concept of "changing the marking" is identical to the concept of falsification of marking [13].

The methods of repair, according to the explanations of the Plenum of the Armed Forces of Ukraine, include the restoration of the characteristic properties of weapons "by replacing or restoring worn or unusable parts, mechanisms, eliminating defects, breakdowns or damage, establishing the normal functioning of various parts and mechanisms, as a result of which these items are suitable for use for their intended purpose."

In general, the illegal manufacture, modification or repair of firearms, the illegal removal or alteration of its markings or the illegal manufacture of ammunition, explosives or explosive devices is a form of exchange (transfer) of certain objects, the circulation of which is prohibited by law, except for those that are in free circulation or restricted in circulation. Such actions should not be performed without the appropriate permission provided by law. Such actions are not only illegal but also criminal, as they concern actions that violate criminal law prohibitions and for which criminal liability is provided in Article 263-1 of the Criminal Code of Ukraine.

According to the criminal proceedings studied on the grounds of crimes under Art. 263-1 of the Criminal Code of Ukraine, their most frequent forms include: illegal manufacture of firearms (6%); illegal modification of weapons from a certain type to firearms (falsification, illegal removal, change of marking) (71%); illegal modification or repair of firearms

to enhance their properties (18%); illegal manufacture of ammunition (9%); illegal modification of ammunition (3%); illegal manufacture of explosives (5%); illegal manufacture of explosive devices (15%).

According to the analysis of criminal proceedings initiated on the grounds of crimes under Art. 263-1 of the Criminal Code of Ukraine, manufacturing, modification, repair, and restoration can be carried out: at home using locksmith tools, or improvised equipment (76%). In particular, during the pre-trial investigation in criminal proceedings No. 120200600000000006, it was established that V., at the request of M. and I., orders Ekol Botan Cal. 9mm P.A.K." starter pistols on the website of one of the online arms stores, after which he illegally altered them at the place of his registration and residence, and then illegally sold them to M. and I.

Considering the structure of the methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine, it should be mentioned that not all methods are full-structured, that is, they have stages of preparation, execution and concealment. At the same time, 91% of the studied criminal proceedings, including preparation, and 65% of crimes involved the stage of concealment of their consequences.

According to I.Yu. Rahulin, the preparatory level includes the following: searching for sources of technical information on the manufacture, repair and shipment of weapons, their main parts and components or assemblies and other objects of crime (books, machines, websites, etc.), studying the traces contained in them; searching for specialists with skills in working with metal, precision mechanisms, electronic, equipment related to the manufacture of weapons, ammunition, in the case of manufacturing devices with optical sights – optics with knowledge of chemical processes, etc.; supplying specialists with the necessary metal processing equipment, machine tools (for example, a small-sized HAAS Office series lathe for thread cutting (right, left), corner and internal turning, turning, etc.; table lathes, milling and drilling machines, vertical drilling machines, radial drilling machines, etc; acquiring small-sized bench lathes and other tools; improving individual skills previously acquired at weapons manufacturing and other plants; making diagrams, sketches of samples, models, products to be manufactured; deciding on the time, place and methods of manufacturing, repairing or processing weapons, their main and component parts or assemblies; selection of premises (workplace), equipment, tools, mechanisms, materials (raw materials) for the manufacture of weapons, ammunition, explosives and devices in selected form; exploring the possibility of using premises, equipment, tools, mechanisms and materials for the manufacture of objects of criminal encroachment during working and non-working hours; establishing contacts with officials

of bodies or enterprises directly involved in the production of legal trafficking of weapons, ammunition, explosives and devices in a particular territory [14].

Preparation actions may include: the use of publicly available information in open sources on the introduction of design changes to gas and pneumatic weapons, and their manufacture (including stolen parts and components); visits to facilities related to the production, storage and use of weapons; official acquisition of weapons for security agencies, security services on legal grounds for the purpose of their further processing; targeted inspection of military conflict zones to identify weapons (in particular, items that need restoration, structural changes).

According to the study of criminal proceedings initiated under Art. 263-1 of the Criminal Code of Ukraine, preparation for the illegal manufacture of weapons consisted of developing a plan (14%); selecting premises (18%); preparing the necessary materials, devices, tools (31%); searching for components for the relevant type of weapon (14%); purchasing tools, metalworking machines, machine tools and other equipment, etc; searching for missing parts from faulty weapons (11%); accessing information, in particular on the Internet, on the production, processing of weapons (33%); preliminary consultations with relevant specialists (9%); involvement of other persons in criminal activities (3%); preparation of means of disguising appearance (2%).

A case study: In March 2019, in Kyiv, for the purpose of illegal processing of firearms and their further sale, O. received a Glock 45 pistol and Scorpion submachine gun for modification, further storage and sale. In June 2019, O. gave Z. recommendations on the procedure and method of modification into firearms and the contacts of the person who would directly carry out the modification, after which he provided him with the specified weapons. Z. handed over the pistol and the machine gun to an unidentified person, who converted them into firearms suitable for firing 9 mm ammunition.

The unlawful manufacture, modification or repair of firearms or the unlawful manufacture of ammunition, explosives or explosive devices as an independent offence may serve as a preparatory stage for the commission of another offence. Such acts committed with the purpose of committing another crime are an ideal set of crimes and should entail liability under Art. 263-1 of the Criminal Code and for preparation for another relevant crime. Regardless of the completion of certain parts or actions to make changes to these objects, the crime under Art. 263-1 of the Criminal Code of Ukraine is complete if the modified object can be used as a weapon, ammunition, explosives or explosive device.

An optional component of the method of committing a crime is its concealment. In particular,

R.S. Belkin emphasises that the pattern of preparation, execution and concealment of a crime is determined by environmental conditions and psychophysiological characteristics of an individual. Actions aimed at preparing, committing and concealing crimes are united by a common criminal intent, but in some cases, it may be an independent act [15].

Actions to conceal the traces of a crime can be carried out at all stages of criminal activity. When preparing for a crime, they visit websites that specialise in selling weapons, objects related to their production, storage and use, etc. At the stage of committing a crime, measures are taken aimed at concealing traces at the site of illegal manufacture, processing and repair of weapons. After the crime is committed, they may first of all destroy or hide the objects used as a device for committing the crime, pressure witnesses, etc. In some cases, the inner walls of the barrel channel are subject to machining to prevent the identification of the weapon.

The method of concealment of a criminal offence under Art. 263-1 of the Criminal Code of Ukraine may contain a significant amount of forensic information that contributes not only to an understanding of the mechanism of the crime but also establishing the circle of persons suspected of committing it with less effort and resources. Actions to conceal a crime are connected by a single criminal intent with the preparation or commission of an illegal act and can be carried out at all stages: both during the preparation, commission and after the commission of the crime. In particular, during the manufacture, processing, repair, and design of weapons, tools, various devices, equipment, etc. are selected (prepared) in advance. The same actions are typical in the case of falsification, removal or change of markings on weapon samples.

The analysis of forensic practice made it possible to conclude that among the methods of concealing the crime under Art 263-1 of the Criminal Code of Ukraine, the suspect usually uses the following measures escaping from the scene (97%); failure to appear when summoned to the pre-trial investigation authorities (16%); giving false testimony, changing their content (67%); refusal to testify (23%); putting forward a false alibi (19%); destruction of traces and instruments of a criminal act (destruction of unsuccessful samples of weapons and their main parts) (86%); influencing (physically, mentally, attempts to bribe) witnesses (9%); establishing caches for storing manufactured weapons or other items related to it, the remains of unusable raw materials and materials (6%). Less common are the following counteraction actions: simulation of mental or other illness; changing the appearance or certain parts of the body; influence by causing material damage to the property of witnesses; influence by threatening

or bribing officials conducting the investigation. Their total share in the investigation of crimes under Article 263-1 of the Criminal Code of Ukraine was 4%.

The studied judicial and investigative practice makes it possible to assert that the actions covered by the signs of a crime under Art. 263-1 of the Criminal Code of Ukraine are often a separate link in the chain of criminal activity (mostly planned in detail) related to illegal trafficking in weapons, ammunition, explosives or explosive devices (that is, the beginning of illegal manufacture, processing, etc., and then – storage, carrying, sending, transportation, further sale or use).

In addition to the established, typical methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine, there are certain tendencies to improve and modernise the methods of illegal manufacture, modification or repair of firearms or falsification, illegal removal or alteration of its marking or illegal manufacture of ammunition, explosives or explosive devices. These include: the implementation of high-tech modification, manufacturing of weapons using modern technical means; the purchase of individual structural mechanisms, and parts for weapons through Internet sites; the use of reference information posted on the Internet on the independent introduction of structural changes to weapons; the legitimacy of the customer and the perpetrator of the crime under Art. 263-1 of the Criminal Code of Ukraine; the expansion of the practice of using persons who have committed illegal manufacture, processing of weapons, means of disguise to exclude their identification (the use of modern means of communication, the destruction of unsuccessful samples of weapons and their main parts, the creation of caches, etc.).

It must be noted that the investigator's understanding of the methods of preparation, execution and concealment of crimes under Art. 263-1 of the Criminal Code of Ukraine will contribute to the

most effective implementation of targeted cognitive activities directly related to the use of the modeling method in the investigation of a single fact of illegal manufacture, processing or repair of firearms or falsification, illegal removal or alteration of its marking or illegal manufacture of ammunition, explosives or explosive devices.

■ Conclusions

Most of the methods of committing crimes under Art. 263-1 of the Criminal Code of Ukraine are complex, that is, they include the following stages: a) preparation: selection of premises; preparation of necessary materials, devices, and tools; use of publicly available information in open sources on the manufacture, structural changes to weapons; purchase of tools, metalworking devices; visits to facilities related to their production, storage and use; targeted inspection of military conflict zones; b) committing and c) concealing: failure to appear when summoned; giving false testimony; refusal to testify; putting forward a false alibi; destroying traces and instruments of a criminal offence; influencing witnesses.

In addition to the established, common methods of committing crimes under Article 263-1 of the Criminal Code of Ukraine, trends towards improvement, and modernisation of methods of illegal manufacture, processing or repair of weapons items were revealed: high-tech processing, manufacturing using modern technical means; use of reference information, purchase of individual structural mechanisms, parts for weapons items through internet sites; use of means of disguise (use of modern means of communication, destruction of unsuccessful samples of weapons and their main parts, creation of caches, etc.).

The activities falling under Art. 263-1 of the Criminal Code of Ukraine often constitute a separate link in the chain of well-planned criminal activities related to illicit trafficking in weapons, ammunition, explosives or explosive devices.

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Спосіб учинення незаконного виготовлення, переробки чи ремонту вогнепальної зброї або фальсифікації, незаконного видалення чи зміни її маркування або незаконного виготовлення бойових припасів, вибухових речовин чи вибухових пристроїв

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■ **Анотація.** Метою наукової статті є з'ясування способів учинення незаконного виготовлення, переробки чи ремонту вогнепальної зброї або фальсифікації, незаконного видалення чи зміни її маркування або незаконного виготовлення бойових припасів, вибухових речовин чи вибухових пристроїв. Методологічну основу наукового пошуку становить комплекс методів і прийомів наукового пізнання, необхідних для реалізації визначеної мети, специфіки об'єкта та предмета дослідження. Використання цих методів забезпечило обґрунтованість і достовірність результатів дослідження. Основним методом дослідження є діалектичний, за допомогою законів і категорій якого визначено способи незаконного виготовлення, переробки чи ремонту вогнепальної зброї або фальсифікації, незаконного видалення чи зміни її маркування або незаконного виготовлення бойових припасів, вибухових речовин чи вибухових пристроїв. Також застосовано спеціальні методи дослідження, а саме: метод системного аналізу, системно-структурний, формально-логічний, соціологічний та статистичний. Наукова новизна публікації полягає в такому: встановлено, що основними способами вчинення досліджуваного злочину є активні дії щодо вогнепальної зброї, бойових припасів, вибухових речовин чи вибухових пристроїв: виготовлення (щодо всіх визначених у ст. 263-1 Кримінального кодексу України предметів озброєння); переробка, видалення маркування, зміна маркування (лише щодо вогнепальної зброї); більшість способів вчинення злочинів є повноструктурними (мають етапи підготовки, вчинення та приховування); дії, які охоплені ознаками цього злочину, часто є окремою ланкою в ланцюгу детально спланованої злочинної діяльності, пов'язаної з незаконним обігом зброї, бойових припасів, вибухових речовин чи вибухових пристроїв; аргументовано доцільність визначення в ст. 263-1 Кримінального кодексу України кримінальної відповідальності за здійснення незаконної переробки бойових припасів. Більшість способів вчинення злочинів, передбачених ст. 263-1 Кримінального кодексу України, є повноструктурними, тобто мають етапи: а) підготовки: вибір приміщень; підготовка необхідних матеріалів, пристосувань, інструментів; використання загальнодоступної інформації у відкритих джерелах щодо виготовлення, внесення конструктивних змін у предмети озброєння; придбання інструментів, металообробних пристосувань; відвідування об'єктів, пов'язаних з їх виробництвом, зберіганням і використанням; цілеспрямоване обстеження зон військових конфліктів; б) вчинення та в) приховування: неявка за викликом; давання неправдивих показань; відмова від давання показань; висунення неправдивого алібі; знищення слідів і знарядь злочинного посягання; здійснення впливу на свідків. Окрім усталених, типових способів учинення злочинів, передбачених ст. 263-1 Кримінального кодексу України, виявлено тенденції до вдосконалення, осучаснення способів незаконного виготовлення, переробки чи ремонту предметів озброєння: високотехнологічна переробка, виготовлення з використанням сучасних технічних засобів; використання довідкової інформації, купівля окремих конструктивних механізмів, деталей до предметів озброєння через інтернет-сайти; застосування засобів маскуваності. Дії, які охоплюються ознаками злочину, передбаченого ст. 263-1 Кримінального кодексу України, часто є окремою ланкою в ланцюгу детально спланованої злочинної діяльності, пов'язаної з незаконним обігом зброї, бойових припасів, вибухових речовин чи вибухових пристроїв

■ **Ключові слова:** вогнепальна зброя; бойові припаси; вибуховий пристрій; виготовлення; переробка