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Disarmament of civilians after war: International standards and national legislation

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■ **Abstract.** In the 21st century, the human need for self-defence, protection of relatives and property has raised the issue of regulatory legalisation of conventional weapons, and their disproportionate concentration in the hands of Ukrainian citizens as a result of military and political events to the real threats to post-war peace will require effective mechanisms of prohibitions and restrictions without violating the right to life. The purpose of this study was to design a model of national security in the field of use, development, accumulation, and proliferation of concrete types of conventional weapons in a special period. To fulfil this purpose, the study employed the methods of content analysis combined with heuristic search, empirical analysis, mathematical percentage ratio, and concrete analogy. It was found that the mechanisms of civilian disarmament in the modern world are directly related to the introduction of legalisation or prohibition of conventional weapons and ammunition for the civilian population. The geopolitical challenges of the 21st century have revealed the unpreparedness of national systems to ensure the right to life in times of armed aggression and civil wars. The weakening of the influence of international organisations and their regulations has increased the significance of national legislation in shaping global security. The study analysed the definition of the term “weapon” in the current legislation of Ukraine and the relevant EU Directive. It was concluded on the necessity of adopting a special law on weapons at the national level. The terminological consistency with international standards of the Draft Law of Ukraine No. 5708 of 25 June 2021, adopted by the Verkhovna Rada of Ukraine on 23 February 2022 as a basis for the law, was stated. The study outlined the areas of implementation of the mechanism of prohibitions or restrictions on the use, development, accumulation, and proliferation of concrete types of conventional weapons during a special period, namely: formation of national legislation, creation of powerful police units, and implementation of international mini-disarmament programmes. The practical significance of this study is that its findings can be used in international and national lawmaking, development of mechanisms for preparing the country for the transition from martial law during the period of rebuilding peace

■ **Keywords:** firearms; armed conflict; arms trafficking; security; martial law; human rights; ratification; demilitarisation

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■ Introduction

In the context of Russia's armed aggression, Ukraine has been forced to become a centre of arms accumulation, and therefore the ratification of international standards for limiting and controlling arms trafficking, which has not been remarkably successful in peacetime, is a necessary step in the post-war reconstruction of the state. Building a moderate disarmament strategy will help prevent a new wave of internal armed conflicts and further the success of European integration processes.

The Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons which may be deemed to be Excessively Injurious or to have Indiscriminate Effects (CCW)¹ defines civilian disarmament as the introduction of prohibitions or restrictions on the use, production, stockpiling, and distribution of certain conventional weapons. Strict and effective international control is an essential element of this system. Even though the issue of the type of legal acts with legal force that will establish the disarmament mechanism in the post-war period and the introduction of relevant prohibitions or restrictions on arms trafficking that meet European and international standards is not the only one in an endless list of terminological clarifications and ethical considerations, the implementation of control functions by the state and the international community in this process lacks a single conceptual approach.

Pointing to the moderation of numerous countries in acceding to and ratifying international treaties regulating or prohibiting weapons, J. Karlas (2023) identifies the danger of the environment and security costs as the reasons for such a policy as a consequence of the implementation of international standards in national legislation. D. Borsani (2023) believes that the focus of the disarmament process should be on state control of civilian industries that can potentially be transformed to meet military needs. Z. Elzarov (2022) sees the implementation of the civilian disarmament programme in the coordinated work of the country's political forces and security sector reform. V. Litoshko (2022) associates the possibility of legislative regulation of issues in the post-war period with the legalisation of firearms for civilians and bringing draft national legislation in line with the provisions of Directive (EU) 2021/555².

According to A.O. Kravchenko & O.G. Strelchenko (2023), strict control of weapons and their owners by the MIA and NPU bodies (units), as well as improvement of the permitting process, will help strengthen Ukraine's security system to further counter military threats.

In developing new conceptual provisions for the disarmament of civilians and its national legal regulation, A. Shevchuk & O. Bodnaruk (2023) propose to follow the international practice of countries that, for certain reasons, have introduced full legalisation of weapons in their territories. Cultural and social factors (Bogus, 2023) led the United States to prescribe the right of civilians to keep and bear arms in the Second Amendment to the Constitution of the United States³. The commercial production and export of small arms around the world is the reason for an amendment to the Czech Constitution⁴ in 2021. The legal norm on the possession and use of weapons is justified primarily by the right of a person to self-defence and protection of others in a situation where weapons are easily accessible in the state and the number of law enforcement agencies does not ensure proportionality of their provision of police services to the civilian population. The concentration of numerous illegal weapons left in the territory of the Republic of Estonia during the Second World War led to the adoption of laws on weapons possession by the country's authorities in 1991 and 2001. The contrast in crime statistics in countries with legalised and unlawful civilian arms rights, as pointed out by N. Shcherbyna (2023), is an indicator of the effectiveness of the liberal approach related to the codification of the right of civilians to protect their lives, the lives of family members, and personal property in preventing offences.

It is impossible to ensure strict control over the storage, movement, and destruction of weapons without registering them and their owners. Ukrainian society is now ready to implement European provisions on the legalisation of conventional weapons and the positive practices of foreign countries as a further step in disarming the civilian population after the war.

The purpose of this study was to highlight the provisions of international standards that will be effective for implementation in national legislation with

¹ Convention on Prohibitions or Restrictions on the Use of Certain Conventional Weapons Which May be Deemed to be Excessively Injurious or to Have Indiscriminate Effects (with Protocols I, II and III). (1980, October). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_266?lang=uk#Text.

² Directive of the European Parliament and of the Council No. (EU) 2021/555 "On Control of the Acquisition and Possession of Weapons (Codification)". (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

³ Constitution of the United States. (1791, May). Retrieved from <https://www.senate.gov/about/origins-foundations/senate-and-constitution/constitution.htm>.

⁴ Constitution of the Czech Republic. (1992, December). Retrieved from [https://www.psp.cz/en/docs/laws/1993/1.html#:~:text=CHAPTER%20ONE%20%2D%20Fundamental%20Provisions&text=\(1\)%20The%20Czech%20Republic%20is,its%20obligations%20under%20international%20law](https://www.psp.cz/en/docs/laws/1993/1.html#:~:text=CHAPTER%20ONE%20%2D%20Fundamental%20Provisions&text=(1)%20The%20Czech%20Republic%20is,its%20obligations%20under%20international%20law).

an aim to disarming civilians after the war, to formulate the conceptual foundations of the mechanism of state regulation of prohibitions or restrictions on the use, production, stockpiling, and proliferation of concrete types of conventional weapons, considering the practices of foreign countries, and to outline the prospects for further research and discussion in this area.

The originality of the presented study lies in the empirical substantiation of the shift in priorities in shaping global security policy in the 21st century from international standards to national legislation; identification of the determinants of implementation of the practices of foreign countries in terms of legalisation of the right of a person to own firearms; development of a system of measures aimed at optimising the mechanism of state regulation of the use, production, accumulation, and distribution of concrete types of weapons.

■ Materials and Methods

The disarmament of civilians as a field of research is characterised by the lack of methodological approaches. This is primarily explained by the continuing effectiveness of international standards adopted in the mid-20th century and the irrelevance of scientific developments due to the lack of active geopolitical events. National lawmaking movements related to attempts to legalise weapons in the early 21st century led to the emergence of special laws in some foreign countries. The reasons for this effect had cultural, social, political, or economic grounds. Considering that none of the above factors was a lever in the codification of the right to life in Ukrainian public life before the full-scale invasion of Russia, the resource of national legislation in this area was limited to the Constitution, the model document, and subordinate acts in the field of the permitting system. The factor of armed aggression requires balanced steps in strategic planning for future peacebuilding. This and the existence of foreign practices in disarmament led to the investigation of the norms of the current national legislation, draft regulations adopted as a basis for the law, international standards for the regulation of security, and the practice of disarmament in the world community.

This study put forward the following hypothesis: if the terminology of national legislation that can be used to conduct civilian disarmament processes is consistent with the terminology of international standards, the practices of foreign countries can be applied to national practice without adopting special laws related to the implementation of prohibitions or restrictions on arms trafficking. Otherwise, an ef-

fective process of civilian disarmament requires the adoption of a special law and the development of effective mechanisms.

To confirm or refute the propositions put forward, the methods of content analysis in combination with heuristic search, empirical analysis, mathematical percentage ratio, and concrete analogy were employed. The method of content analysis combined with heuristic search was used to build categorical structures of terminological units related to the term “weapon” used by current legislation and international standards. The method of empirical analysis was applied to the identified structural elements of categorical terminology systems classifying weapons, devices, and ammunition in European norms and provisions of national lawmaking. The method of mathematical percentage ratio made it possible to trace the distribution and compare the units of terminology of national draft laws (on the example of the Draft Law of Ukraine No. 5708 dated 25 June 2021¹) and international standards (on the example of Directive (EU) 2021/555²). The method of concrete analogy was used to formulate the conceptual foundations of the mechanism of state regulation of prohibitions or restrictions on the use, production, accumulation, and proliferation of concrete types of conventional weapons.

The findings of this study should reveal a shift in the priorities of world politics in shaping security in the 21st century from international standards to national legislation; identify the determinants of implementing the practices of foreign countries in terms of legalising the right of a person to own firearms; and highlight measures that optimise the mechanism of state regulation of the use, production, accumulation, and proliferation of concrete types of weapons after the war.

■ Results and Discussion

To understand the challenges Ukraine will face on this path, the practices of countries that experienced post-war socio-political development and, for some reason, ignored the legal regulation of prohibitions or restrictions on the use, production, stockpiling, and proliferation of certain types of conventional weapons for the civilian population or were forced to take effective disarmament measures under pressure from international obligations will help. Weapons left behind by the US military during their withdrawal from the Islamic Emirate of Afghanistan have fallen into the hands of militants in Kashmir who have been trying to use them to resolve the conflict in the disputed South Asian region. The government of the Republic of South Sudan's radical solution to the problem of

¹ Draft Law on the Right to Civilian Firearms. (2021, June). Retrieved from: <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

² Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

civilian disarmament has led to new paramilitary uprisings, civilian deaths, and an increase in the number of victims of violence and ill-treatment by regular troops. The mass shooting of civilians in the Republic of Serbia forced the government to review the legal framework and increase liability for violations of the firearms licensing system. The Potsdam Declaration¹ obliged the Japanese state to disarm and demilitarise after losing World War II, and therefore it took effective measures to collect, destroy weapons, ammunition, and dismantle military facilities. Clearly, the problem of disarming the civilian population will face Ukrainian society and the Russian Federation in the near future, and therefore the subject under study is relevant and requires scientific discussion given the unstoppable steps that Ukraine is taking to overcome obstacles on the way towards global recognition as a peaceful state capable of repelling the aggressor if necessary.

The issues raised in the present study are related to the search of the Ukrainian and international scientific community for legal regulation of military disarmament, legalisation of conventional weapons that can cause excessive damage or have indiscriminate effects, and bans on the proliferation of weapons of mass destruction of various types, including bacteriological (biological), toxic, psychotropic, and nuclear weapons. Scientific studies by Ukrainian researchers, which present a comparative analysis of international standards and provisions of European legislation in the field of arms trafficking, are mostly focused on the issue of legalisation or complete prohibition of firearms for civilians. Citing numerous examples of countries that have made additional amendments to their constitutions or have special regulations, the

researchers leave the decision to introduce such mechanisms to the discretion of officials (Bakhchev, 2022; Shevchuk & Bodnaruk, 2023). The legislative branch continues to work on draft legislation, creating new options. As of 2021, the official website of the Parliament of Ukraine has published the texts of three draft laws on the circulation of civilian weapons and ammunition, namely: No. 4335 dated 06 November 2020², No. 5708-1³ dated 13 July 2021, and No. 5708⁴ dated 25 June 2021. Verkhovna Rada of Ukraine rejected the first two.

N. Shcherbyna (2022) identifies discussions around the terminological definition of the term “weapon”, inaccuracies in the classification of weapons, requirements for entities that can be or are owners of weapons, as the main reason for the adoption of a special national law regulating the manufacture, acquisition, storage, registration, transportation, use, and possession of firearms.

The monitoring of legislative terminology on the official web portal of the Verkhovna Rada of Ukraine revealed 65 interpretations related to the term “weapon”. As prescribed in the model document and sub-legislative acts, the principal categories they cover relate to the general definition of the term “weapon” – 9% (6 legal provisions), its purpose/origin – 20% (13 legal provisions), classification by type – 68% (44 terminological clarifications)- others, unrelated to the categories listed above – 3% (2 legal provisions). In the texts of international legal acts, such terminology is not specific to the interpretation or has a small share in the terminological system of normatively accepted definitions. The distribution of the elements of the terminology system in national and international (European) legislation is presented in Figure 1.

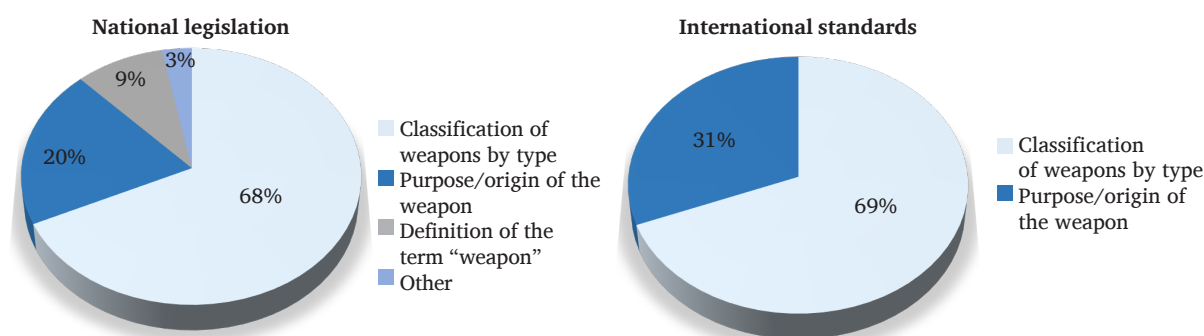


Figure 1. Terminological breakdown of the term “weapon” in the current national legislation and international standards

Source: compiled by the authors of this study

¹ Potsdam Declaration. (1945, July). Retrieved from <https://www.ndl.go.jp/constitution/e/etc/c06.html>.

² Draft Law of Ukraine No. 4335 “On the Circulation of Civilian Firearms and Ammunition”. (2020, November). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/4535>.

³ Draft Law of Ukraine No. 5708-1 “On the Right to Self-Defence and Ownership of Civilian Firearms”. (2021, July). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27343>.

⁴ Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

The graphic material in Figure 1 shows that the definition of “weapon” in national legislation has a prominent place in the terminological content in this area. International standards focus mainly on explaining the classification of weapons (13 explanations). The content of the latter, compared to the analogous content of Ukrainian legislation, has a specific, but not significant weight of 31% (4 terminological units) in Directive (EU) 2021/555¹ against 20% (13 terminological units) in the legal framework of Ukraine. The disproportionality of the categorical fields of terminological units means that the current national legal regulation lacks transformational elements that allow Ukraine to influence the development of international experience and/or implement the EU regulatory mechanisms in an integrated manner without substantial revision.

The Draft Law of Ukraine No. 5708 dated 25 June 2021², which as of 2024 is adopted by the Parliament as a basis for the law and should regulate “public relations in the field of exercising the right of citizens and legal entities in Ukraine to civilian firearms, ammunition, as well as products structurally similar to weapons and ammunition, defines the legal regime of ownership of civilian firearms, establishes the basic rights and obligations of individuals and legal entities regarding the production, acquisition, possession, alienation, carrying, transportation, repair, and use of civilian firearms and ammunition, as well as other social relations directly related to this, including according to Ukraine’s international obligations”³, bases the categorical distribution of the structural elements of the terminology system on international standards. At the same time, it reflects well-established national practice. In the system, which includes 66 terminological units, the term “weapon” is defined through a single permissible interpretation and the construction of a chain of terms that exhaustively clarify its understanding. Factually, in the Draft Law of Ukraine No. 5708 dated 25 June 2021⁴, the basis is successfully outlined, thanks to which the rest of the constructed categorical structural components proportionally follow the categorical apparatus of Directive (EU) 2021/555⁵. A comparison of the distribution of categories of the “weapon” terminology in national legislation and the European standard is presented in Figure 2.

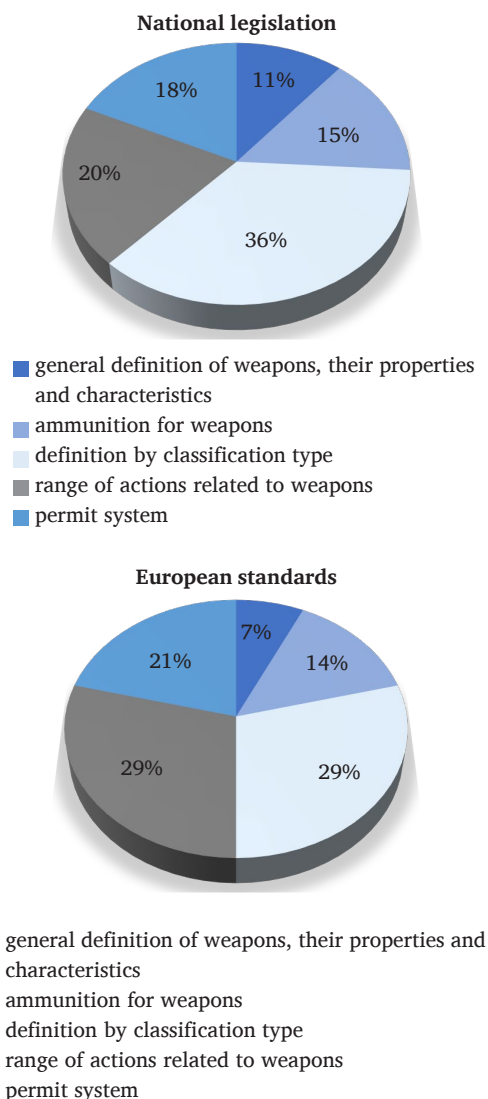


Figure 2. Distribution of categories of the “weapon” terminology in national legislation and the European standard

Sources: Draft Law of Ukraine No. 5708 dated 25 June 2021⁶ and Directive (EU) 2021/555⁷

The graphic material presented in Figure 2 suggests that for European standards and national legislation, unlike international norms, the interpretation of the general category of “weapon” is a mandatory element. The list of definitions of Directive (EU)

¹ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

² Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

³ Ibidem, 2021.

⁴ Ibidem, 2021.

⁵ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

⁶ Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

⁷ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

2021/555¹ has 1 terminological unit “weapon” (7% of the terminology base). The Draft Law of Ukraine No. 5708 dated 25 June 2021² presents a terminological system containing 7 terminological units (11% of the definitions and concepts used). The terminology of national lawmaking mostly follows the categorical groups of European standards. Specifically, this applies to legal provisions that clarify the concepts of different types of ammunition, species classifications, and the permit system itself. Cultural and social Ukrainian factors have affected the implementation of the categorical group “circle of persons involved in arms-related activities” presented in Directive (EU) 2021/555³ by 4 terms (29% of definitions). In the Draft Law of Ukraine No. 5708 dated 25 June 2021⁴, 13 terms (20% of the definitions and concepts used) are interpreted as a list of actions that can be taken with regard to weapons. Directive (EU) 2021/555⁵ and the act adopted by the Verkhovna

Rada of Ukraine as a basis for the law have a proportional ratio of elements. At the same time, the quantitative predominance of terminological units for each group indicated in Figure 2 is recorded in favour of national legislation. For comparison, here are examples of the category “ammunition for weapons”, in which 2 terms (14%) and 10 terms (15%) are represented in European standards in the Draft Law of Ukraine No. 5708 dated 25 June 2021⁶, “definition by classification type” – the respective figures are 4 terms (29%) and 24 terms (36%) – and “permit system” with 3 normatively prescribed terms (21%) for Directive (EU) 2021/555⁷ and 12 terms (18%) for national legislation.

The content of the terminological units included in the terminology systems for the classification of weapons, devices, and ammunition (Table 1) suggests that the national draft law has incorporated the terminological basis of European norms.

Table 1. Structural elements of categorical terminology systems that classify weapons as devices and ammunition

European standards	National lawmaking	European standards	National lawmaking
firearms*	automatic firearms	Ammunition*	ammunition*
–	firearms*	–	additional equipment for weapons
–	smooth-bore firearms	–	components of ammunition
–	smooth-bore short-barrelled firearms (traumatic)	–	cartridge
–	long-barrelled (long) firearms	–	Flobert cartridge
–	short-barrelled (short) firearms	–	–
–	combined firearms	–	–
–	semi-automatic firearms	–	–
–	rifled firearms	–	–
–	revolver	–	civilian firearms and ammunition
–	antique firearms	–	gas cartridge
alarm and signalling weapons*	prop weapons	–	light and sound cartridge (signal cartridge)
–	neutralised weapons (mock-ups, mass-dimensional mock-ups, cutaway weapons)	–	traumatic action cartridge
–	gas pistols and revolvers	–	night vision sight
–	pneumatic weapons	–	blank cartridge
–	signal firing devices*	–	–
–	civilian firearms and ammunition	–	–

¹ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>

² Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

³ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>

⁴ Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

⁵ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

⁶ Draft Law of Ukraine No. 5708 “On the Right to Civilian Firearms”. (2021, June). Retrieved from <https://itd.rada.gov.ua/billInfo/Bills/Card/27190>.

⁷ Directive of the European Parliament and of the Council No. (EU) 2021/555 “On Control of the Acquisition and Possession of Weapons (Codification)”. (2021, March). Retrieved from <https://eur-lex.europa.eu/legal-content/en/ALL/?uri=CELEX%3A32021L0555>.

Table 1. Continued

European standards	National lawmaking	European standards	National lawmaking
salute and acoustic weapons*	devices for sound or light signalling*	–	–
disabled firearms	cutaway weapons	–	–
–	objects that imitate firearms or pneumatic weapons	–	–
–	honorary weapons	–	–
–	unloaded weapons	–	–
–	products that are structurally similar to weapons	–	–

Note: the symbol (*) indicates terms that have common regulatory frameworks at the international and national levels

Source: compiled by the authors of this study

Apart from the fact that the terminological system of national lawmaking related to the term “weapons” has many structural elements, its components are intricately linked to the terminology of European legislation focused on the mechanisms of legal regulation of the global security system and harmonisation of national legislation. The legal principles and further support of the state policy in the field of arms trafficking is determined by national security. At the individual level, its constituent elements are personal integrity and personal security of citizens (Dikhtievskiy, 2022). Within the framework of this study, it is necessary to discuss the category of citizens who, according to international standards and national legislation, acquire the status of civilians in the context of armed aggression and in the post-war period.

A person's belonging to the “civilian population” is statutorily prescribed through the explanation of prisoners of war¹ and combatants². While the international standard defines the status of a civilian or a person's affiliation with the civilian population as a permanent, unchanging category, the addition of transitional features to the national legislation factually indicates that direct involvement in hostilities in certain cases and during a certain period is not considered to be the acquisition of combatant status. Clearly, by “individual cases” and “individual period” the legislators mean the conditions of violation of human rights and freedoms constitutionally guaranteed by the state and international humanitarian law.

Violation of rights and freedoms gives rise to the right of a civilian to protect their life as a reaction to the inability of the state to fully perform law enforce-

ment functions in the context of war or armed aggression (Poshyvaniuk, 2023). The legal regime of martial law introduced in Ukraine has given state bodies special powers to ensure national security and repel armed aggression by the Russian Federation and has exacerbated the problem of ensuring the rights of citizens to personal integrity (Dikhtievskiy, 2022). The right to life as a social value is a necessary condition for the existence of other human rights. Directly related to the development of society, the state, legal awareness of citizens, and their mutual respect, it is guaranteed and protected not only by national legislation, but also by international legal acts, specifically, the Universal Declaration of Human Rights of 1948³, the Convention for the Protection of Human Rights and Fundamental Freedoms of 1950⁴, the International Covenant on Civil and Political Rights of 1966⁵, the Convention on the Rights of the Child of 1989⁶. Ye.A. Horduna (2023) attributes the absence of a single definition of the “right to life” to its complexity and multifunctionality for scientific research.

O. Pokhyl (2021) considers the right to protection of life in the context of armed aggression to be a guarantee of the exercise of human and civil rights and freedoms. The effectiveness of its provision by the state is determined at the instrumental and substantive levels. The instrumental level is based on the understanding of this category as a guarantee of the existing list of human rights and freedoms. Substantive – based on the perception of it as an independent human right that should be ensured by institutional and regulatory means. The achievement of certain benefits is the state's exercise of the right to protect the

¹ Geneva Convention Relative to the Treatment of Prisoners of War. (1949, August). Retrieved from https://zakon.rada.gov.ua/laws/show/995_153#Text.

² Ibidem, 1949.

³ The Universal Declaration of Human Rights. (1948, December). Retrieved from https://zakon.rada.gov.ua/laws/show/en/995_015?lang=uk#Text.

⁴ The Convention for the Protection of Human Rights and Fundamental Freedom. (1950, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_004#Text.

⁵ The International Covenant on Civil and Political Rights. (1966, December). Retrieved from https://zakon.rada.gov.ua/laws/show/995_043#Text.

⁶ The Convention on the Rights of the Child. (1989, November). Retrieved from https://zakon.rada.gov.ua/laws/show/995_021#Text.

life of a citizen, but its own violation for the achievement of such benefits is unacceptable (Pokhyl, 2021).

The development of new approaches to the formation and provision of the foundations of the legal protection mechanism requires considering the specifics of political, economic, and social life as the major priority areas in public policy. The situation in Ukraine has affected the functioning of the global arms market and revealed the complete unpreparedness of its actors for such a surge in demand (Tkach & Gerlakh, 2023). The geopolitical challenge of the 21st century has exposed the shortcomings of the global security system, forcing the international community to consolidate its efforts and respond immediately, radically changing the chain between suppliers and recipients. In the current geopolitical situation, cooperation between producers of crude oil, after its reserves have been depleted, is a top priority. For Ukraine, the ability to manufacture better quality products at a reasonable price, exchange or obtain new technologies, and develop products that have no global analogues is not just about corporate development of foreign countries and foreign companies, or the results of establishing partnerships in the arms trade. This is the principal condition for its survival thanks to the external saturation of the defence industry. The active phase of Ukraine's armed conflict is clearly playing a catalytic role in positive changes in innovation and technological advance. Geopolitical tensions are shifting the "centres of power" (Tkach & Gerlakh, 2023), determining the degree of influence of the state in the security sector on the global arms market and demanding the right to provide national security. A substantial increase in administrative legal obligations, restrictions, and prohibitions, combined with additional legal grounds for subjective determination for concrete legal relations with minimal context (Onishchenko *et al.*, 2023), artificially creates a situation where public administration must simultaneously follow the constitutional order and the national order based on it in peacetime, as well as be proportionate to real threats to national security and defence.

The implementation of regulatory support in the post-war peaceful period should follow the principles of building a legal and social state. According to N. Onishchenko *et al.* (2023), the principal areas in which law should be implemented at this time are a concrete functional focus to ensure the sustainability of regulation of social relations, general recognition of international principles of a universal nature, and adaptation of national legislation to the legal space of the European Union. Effective implementation of legal regulation in these areas will ensure security, restore law and order during the emergency period,

and optimise the state's return to normal peaceful life with full respect for the rights and freedoms of citizens.

In this context, the functions and tasks of public authorities, the Armed Forces of Ukraine, law enforcement agencies, executive authorities, and local self-government bodies to ensure control over the manufacture, acquisition, storage, registration, transportation, use, and possession of firearms are of particular importance. The legal framework for the activities of human rights actors here is the Constitution of Ukraine¹, special legislation of Ukraine and systemic decisions of the President of Ukraine, the Cabinet of Ministers of Ukraine, the military command, executive authorities, military administration, and local self-government bodies (Dikhtiievskyi, 2022). The latter, aiming to create appropriate conditions for the exercise of rights and freedoms, protection of citizens' interests under martial law, form general social guarantees for the post-war period, which is a potential asset for the international community in disarming the country's civilian population after the war.

K. Bakhchev (2022) sees the main range of powers of state executive bodies in the implementation of law enforcement functions in the post-war period in the performance of tasks to prevent offences in the field of firearms trafficking. To this end, it is suitable to take measures for the voluntary surrender of weapons, introduce rewards for information useful to national law enforcement agencies, carry out preventive work with demobilised persons and persons prone to committing offences on an individual level, and develop interactive firearms registration databases. According to K. Bakhchev, the most effective for modern conditions and the post-war period is the practice of military management aimed at identifying persons belonging to sabotage groups, stimulating the surrender of prohibited or restricted weapons, production, accumulation, and distribution of weapons or ammunition for a reward.

Analysing the state's policy on civilian disarmament in the Kingdom of Spain after the war in 1917-1923, A.C. Cañiz (2023) points out that insufficient state funding, the absence of a parallel private or political force capable of competing with the royal power, difficulties in reforming the national police units while expanding the administrative and repressive apparatus of the monarchy contributed to the fact that the accumulation of illegal weapons by the civilian population in large quantities was not perceived as a threat to the stability of the Bourbon restoration regime. Having been empowered by the state to protect public order and security, the armed working class transformed into a potentially subversive force that helped the Kingdom of Spain to endure elevated levels of gun violence in the interwar period and

¹ Constitution of Ukraine. (1996, June). Retrieved from <https://zakon.rada.gov.ua/laws/show/en/254к/96-bp?lang=uk#Text>.

forced it to develop structured forms of gun control. According to A.C. Cañiz (2023), the developed legislative framework was far ahead of its time. However, it was an effective tool that allowed disarming and rearming the population by legal and illegal means.

In the Republic of Italy, the legal regulation of the disarmament process in the post-war period in 1944-1946 was based on borrowed provisions of the national legislation of the post-war period and contradicted the tasks of ensuring strict state control over the possession and circulation of weapons, which were assigned to the police. The re-establishment of state structures in the form of a centralised, authoritarian administration with strict control over the territory and even stricter firearms legislation, and the intensification of systematic purges, helped to uncover hundreds of thousands of firearms (Aterrano, 2021). In the southern part of the country, weapons left behind or buried by the retreating German army, Allied divisions moving north, and Italian soldiers who deserted after the armistice, or stolen from army caches and found their way into the homes of bandits, former guerrillas, politicians, activists, and civilians were mostly seized. In the northern territories, where the prolonged Nazi occupation spawned a brutal civil war and a powerful resistance movement, there were hidden firearms that the Allies supplied to partisans through the plundering of German and Italian occupation forces or kept by former soldiers and Social Republicans. As a national problem, the seizure of illegal weapons from civilians in the Italian Republic has helped unite all its regions, regardless of the specifics of the liberation.

N. Hultin (2022) considers the formation of internal national arms control under the influence of international efforts and with the support of international organisations to be a specific feature of the disarmament of the civilian population in Africa. For modern societies around the world, the issues of subjects and conditions of ownership of conventional weapons are significant, but its legal regulation is rarely initiated by the national leadership of South African countries. The establishment of control over the possession and trafficking of small arms and light weapons is mainly the result of the efforts of international actors (e.g., the United Nations) and individual states (e.g., the United States of America) concerned about the internal politics of post-conflict countries. Using the example of the Republic of Uganda, P. Kachope (2021) proves the success of international micro-disarmament programmes for the civilian population. The human security approach used in the Karamoja Integrated Disarmament and Development Programme (KIDDP) is a well-coordinated, multi-stakeholder structure that considers the context in which the global problem of the illicit proliferation of small arms and light weapons (SALW) is being addressed.

The disarmament of the civilian population as a direction of state policy implementation is a national-level problem that should be addressed considering the country's role in international relations, historical experience, and traditions of arms production and export, specific features of the development of the national defence industry, etc. Globalisation, which is determined by the integration of states in the political, economic, and cultural spheres of social relations, is a driving force in the modern world that determines the use of measures by the military and political leadership of the state to stabilise and ensure the safe development of civilisation. The complexity of solving this problem, according to I. Semenets-Orlova (2021), requires the world's leading countries to focus more on the development of regional security systems to prevent direct military threats. The stability of the global system, which determines regional security, contributes to the unification of interdependent relations between countries on the world stage.

The effectiveness of measures to prevent illicit arms trafficking is an indicator that allows assessing the state of national security (Dzafarova & Dunaieva, 2023). The complex nature of such measures at the general social, specialised criminological and individual levels, together with social control in society, involvement of the government, bodies with police powers and public activists, facilitates the exercise of law enforcement functions by the state. According to O.I. Yevmieshkin (2023), the vulnerability of the state and the ineffectiveness of measures to prevent and counteract national security threats are indicated by "insufficient efficiency of state bodies, inconsistency, and incompleteness of reforms of the security forces, imperfection of mechanisms of legal, organisational, personnel, financial, logistical support for the development of the national security system". Apart from these, socio-political factors related to cyberattacks by the aggressor country, "destructive foreign and domestic propaganda, attempts by subjects of intelligence and subversive activities to gain access to information constituting state secrets and proprietary information, as well as restricted information, etc." (Yevmieshkin, 2023) should be considered. In modern conditions, the security of society and the state depends on ensuring the right to life (Garcia, 2022; Dikhtievskyi, 2022). With the help of law, society subjugates the state and makes it function in its favour (Hontar, 2023).

The exercise of the right to protection of life during martial law and in the post-war period depends on the quality of regulatory support, the place of a person in society, which recognises the possibility of safe exercise of rights and freedoms, and the person's confidence in the protection of their vital interests from possible harm. The introduction of adequate organisational means and effective law

enforcement practice is the key to resolving the issue of disarmament of the civilian population, meeting the socially just and progressive needs of citizens and society as a whole.

■ Conclusions

Globalisation dimensions and integration intentions dictate current trends in the development of society, influencing the development of the legal idea and the interests of the individual, as well as the idea of their personal inviolability. Successful integration of international experience into national practice influenced the development of legal standards in the 20th century in the use, production, stockpiling, and proliferation of concrete types of weapons. The disproportionate distribution of terminological interpretation between them and national legislation developed in the late 20th and early 21st centuries is causing the international community to shift its focus to state lawmaking. The content of the legal frameworks of the world's leading countries, including the Republic of Croatia, the Republic of Estonia, the Republic of Finland, the United Kingdom of Great Britain and Northern Ireland, the French Republic, the Australian Union, and the Swiss Confederation, has become crucial in shaping the provisions of international (including European) acts on arms trafficking.

The post-war period for Ukraine will require a considerable amount of political, social, and economic resources, as well as the assistance of the international community. The main efforts in civilian disarmament should be focused on the development of national legislation aimed at introducing a mechanism of prohibitions or restrictions on the use, production, stockpiling, and distribution of concrete types of conventional weapons at the state level, creation of powerful units of the National Police ca-

pable of providing police services to the population to protect public order and security in a special period, conducting international mini-disarmament programmes considering historical conditions, cultural traditions, and the country's legal system.

The conceptual implementation of prohibitions or restrictions on the use, production, stockpiling, and proliferation of concrete types of conventional weapons at the national level should consider the real possibilities for the exercise of the right to personal integrity of citizens in society and the state, as well as the specific features of the global arms market. The implementation of international standards into Ukrainian legislation does not preclude the creation of interim rules. Specifically, this applies to the CCW in terms of establishing strict and effective control over arms trafficking, Directive (EU) 2021/555 in terms of qualifying weapons and ammunition allowed for purchase and possession by civilians, and the Geneva Convention relative to the Treatment of Prisoners of War in terms of defining the status of a "civilian".

Further research and discussion in this area is needed on the issues of legal regulation of the right to life, ways to overcome armed violence and improve global security.

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■ Conflict of Interest

The authors of this study declare no conflict of interest.

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Роззброєння цивільного населення після війни: міжнародні стандарти й національне законодавство

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■ **Анотація.** Потреба людини в самозахисті, захисті рідних, власного майна у XXI ст. актуалізувала питання нормативно-правової легалізації звичайної зброї, а її непропорційне зосередження в руках українських громадян унаслідок воєнно-політичних подій до реальних загроз післявоєнного миру вимагатиме дієвих механізмів заборон та обмежень поза порушенням права особи на захист життя. Метою статті є проектування моделі національної безпеки у сфері застосування, розроблення, накопичення та розповсюдження конкретних видів звичайної зброї в особливий період. Для досягнення мети дослідження застосовано методи контент-аналізу, поєднані з евристичним пошуком, емпіричного аналізу, математичного відсоткового співвідношення та конкретної аналогії. Встановлено, що механізми роззброєння цивільного населення в сучасному світі безпосередньо пов'язані з упровадженням легалізації або заборон звичайної зброї та боєприпасів для цивільного населення. Геополітичні виклики XXI ст. виявили неготовність національних систем до забезпечення права на життя під час виникнення збройної агресії та громадянських війн. Послаблення впливу міжнародних організацій та їх нормативно-правових актів посилює значення національних законодавств у формуванні положень світової безпеки. Проаналізовано визначення поняття «зброя» в чинному законодавстві України та відповідній директиві ЄС. Сформульовано висновок про необхідність прийняття на національному рівні спеціального закону про зброю. Констатовано термінологічну узгодженість з міжнародними стандартами проекту № 5708 від 25 червня 2021 року, прийнятого Верховною Радою України 23 лютого 2022 року за основу закону. Окреслено напрями впровадження механізму заборон або обмежень у застосуванні, розробленні, накопиченні та розповсюдженні конкретних видів звичайної зброї в особливий період, а саме: формування національного законодавства, створення потужних підрозділів поліції, упровадження міжнародних програм мініроzzброєння. Практична значущість роботи полягає в тому, що результати дослідження може бути використано в міжнародній та національній законотворчості, розробленні механізмів підготовки країни до переходу з воєнного стану в період миробудівництва

■ **Ключові слова:** вогнепальна зброя; збройний конфлікт; обіг зброї; безпека; воєнний стан; права людини; ратифікація; демілітаризація