

TYPICAL METHODS OF ILLEGAL MANUFACTURING, PROCESSING OR REPAIR OF FIREARMS AND OTHER WEAPONS

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Annotation. *The scientific publication is dedicated to finding out the typical methods of committing the crime provided for in Art. 263 1 of the Criminal Code of Ukraine, as a fundamental element of its criminalistic characteristics. It was established that the main methods of committing the investigated crime are active actions regarding firearms, ammunition, explosives or explosive devices: manufacturing, processing, removing markings, changing markings. Attention is focused on the fact that most of the methods of committing the specified crimes are fully structured, that is, they have the stages of preparation, commission and concealment. It is noted that the actions covered by the features of the specified crime are often a separate link in a chain of elaborately planned criminal activities related to the illegal trafficking of weapons, ammunition, explosives or explosive devices. Tendencies to improve and modernize methods of illegal manufacture, processing, or repair of weapons items were identified: 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 masking agents.*

Keywords: *Crime, method of committing a crime, concealment, illegal manufacture of weapons, firearms.*

1. Formulation of the problem.

From the entire group of crimes related to the violation of the established rules of handling of generally dangerous objects, defined in Art. 263-1 of the Criminal Code of Ukraine illegal manufacture, processing or repair of firearms or falsification, illegal removal or alteration of their markings, or illegal manufacture of ammunition, explosives or explosive devices is one of the least common. Recently, such illegal activity has acquired an organized character, the professionalization and specialization of the specified crimes has been observed. In connection with the hostilities on the territory of Ukraine the use of illegally manufactured or processed firearms and other weapons for criminal purposes has become a widespread practice.

The method of committing a crime is, of course, a fundamental element of any criminological characterization, and in criminology it is considered as a source of information necessary for the detection and prevention of crimes. The crimes provided for in Art. 263 1 of the Criminal Code, because the very disposition of the article of the Criminal Code indicates the importance of the method of this socially dangerous act. According to the method of committing the specified crimes, it is possible to establish certain characteristics of the criminal, such as the presence of professional skills and criminal experience, physical data, the degree of awareness of the methods of using firearms, ammunition, explosives or explosive devices for criminal purposes, etc.

2. Analysis of recent research and publications.

Individual problems of the illegal circulation of firearms, peculiarities of the study of the methods of committing crimes related to weapons were investigated in their works by such scientists as: A. Kokin, N. Ortynska, I. Gorbanev, V. Veselskyi, V. Pyaskovskyi, V. Yaremchuk and others [17, pp. 311–329; 15, pp.

402–416; 1; 3, pp. 50–63; 14, pp. 430–433] and others. At the same time, many problems in this area require in-depth research. Finding out the methods of manufacturing, processing or repairing firearms is of particular relevance in today's conditions.

3. Forming the purpose of the article (setting tasks).

The purpose of the scientific article is the definition and systematic analysis of typical methods of committing criminal offenses provided for by Art. 263 1 of the Criminal Code, with the aim of outlining directions for combating such illegal acts and their investigation.

Achieving the formulated goal consists in solving the following tasks: to determine the stages of the commission of crimes provided for in Art. 263 1 of the Criminal Code; outline the specifics of the methods of committing the specified crimes; to suggest ways of their detection and prevention.

4. Presentation of the main research material.

The way the crime was committed is one of the central elements of the forensic characterization of crimes, which contains the largest amount of forensic information that allows the investigator to orientate himself in the events of the crime and determine the optimal methods and directions of the investigation. Because, first of all, the actions of the criminal in relation to the environment are reflected through the method. In addition, the method of committing the crime generates only similar changes in the surrounding environment [2, p. 23]. Identification of the most common methods of committing crimes provided for in Art. 263 1 of the Criminal Code, their research and classification will make it possible to find out the informative relationships and properties inherent in them, manifested in the environment in the form of typical signs of the corresponding method of encroachment.

The analysis of the assessment of the specified element of forensic characteristics by leading scientists and generalized forensic practice indicates the need to identify typical methods of preparation, commission and concealment of crimes provided for in Art. 263 1 of the Criminal Code, as one of the most important sources of the formation of forensically significant information.

The differentiation of the perpetrator's actions based on the stage of their commission makes it possible to investigate in more detail the peculiarities of the preparation, commission and concealment of the investigated crimes, and on the basis of knowledge about these peculiarities to establish and expose the identity of the criminal. The actions of the criminal in preparation for the actions of manufacturing or making any changes to firearms, ammunition, explosives, explosive devices, concealing such actions, are in a deep relationship, forming as a whole the method of the specified crime or group of crimes, so as they are determined by a single plan and design.

The objective side of the composition of the crime provided for in Art. 263-1 of the Criminal Code, consists in taking the following active actions regarding firearms, ammunition, explosives or explosive devices: 1) manufacturing; 2) processing (only in relation to firearms); 3) repair (only regarding firearms); 4) removal of markings (only for firearms); 5) change of marking (only for firearms) [4; 5, p. 651]. These are defined in the disposition of Art. 263 1 of the Criminal Code methods of illegal actions in relation to the specified objects play the role of a crime-forming feature in case of their illegality. At the same time, establishing the method of committing a criminal offense 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 main departmental 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, their ammunition and explosive materials" No. 164 dated 03.25.1993 [7]. The procedure for handling certain types of weapons, approved by the Resolution of the Cabinet of Ministers of Ukraine "Regulations on the Permit System" No. 576 dated 12.10.1992, concerns objects, materials and substances subject to the requirements of the permit system, which include firearms, melee weapons, air weapons with a caliber of more than 4.5 mm and a bullet flight speed of more than 100 meters per second, devices of domestic

production for firing cartridges equipped with non-lethal rubber or metal projectiles similar in their properties, and the specified cartridges, explosive materials and substances [8].

O.D. Shelkovnikov understands the legal circulation of weapons as the movement of specific types and types of weapons, ammunition and cartridges for it within the country (a specific region), which includes actions based on the relevant rules and restrictions contained in the current legislation, all transactions with at the time of its creation or entry into sale, shipment, transfer through sales channels, receipt by the user or exporter. It defines the illegal circulation of weapons as its movement with deviations in the sphere of legal circulation [13, p. 48].

The model law on the illegal manufacture and circulation of firearms, their parts, components and ammunition, developed by the UN on 08.07.2011, interprets "illegal circulation" as the import, export, acquisition, sale, delivery, movement or transfer of firearms, their parts, components and ammunition from or through the territory of one state to another state..." [16, p. 9].

Production (manufacturing) of munitions is defined as the creation of a new unit of munitions from materials and substances that were not munitions (except for redeployment of munitions). Such actions are carried out with the aim of giving these objects the properties of firearms, their main parts or devices for changing fire modes. Illegal manufacturing should also include actions in the form of non-marking by the weapons manufacturer as required by law (name of the product, country or place of manufacture, serial number) on the main parts of firearms or devices for changing firing modes or actions to remove such marking by a person [11, p. 44].

According to clause 14 of the Resolution of the Plenum of the Supreme Court of Ukraine "On judicial practice in cases of kidnapping and other illegal handling of weapons, ammunition, explosives, explosive devices or radioactive materials" No. 3 dated 26.04.2002, repair of firearms is such restoration of the characteristic properties of the specified object by replacing or restoring worn or unusable for other reasons parts, mechanisms, eliminating defects, breakdowns or damages, establishing the normal functioning of various parts and mechanisms, as a result of which these objects become suitable for use for their intended purpose [9]. The repair of firearms and their main parts is not a type of their manufacture, which cannot be said about the processing of firearms and their main parts. Repair, in its essence, is the restoration of the consumer properties of the thing that is being repaired. Based on this wording, it can be stated that the concept of repair cannot be covered by the concept of manufacturing.

Under the illegal repair of firearms A.A. Chistyakov understands, firstly, the elimination of inconsistencies in it (with the exception of the repair and replacement of its non-essential parts), its main individual and adapted ones, including for changes in firing modes; secondly, actions that restore impressive properties of both firearms or the suitability of their main parts, as well as the devices considered by us for use in certain types of weapons; thirdly, adaptation for the own needs of the owners of the specified items [11, p. 44].

According to Clause 13 of the Resolution of the Plenum of the Supreme Court of Ukraine No. 3, processing of firearms is the processing of certain objects by giving them the properties of firearms. Such actions include, in particular, the conversion of a rocket launcher, launcher, construction gun, gas gun, other devices adapted for firing cartridges, equipped with rubber or metal projectiles of similar properties of non-lethal action, into weapons suitable for shooting, etc., or hunting weapons (in particular, smooth barrel) – cut) [9].

For example, if a firearm was manufactured by processing a gas gun, then after the mechanical changes, such a gun legally received new tactical and technical characteristics, and the illegal circulation of such weapons becomes more dangerous for society than the illegal circulation of gas weapons. Often, such illegal processing is determined by the caliber of ammunition available to criminals, as they are the starting material and labor-intensive to produce for a number of reasons. The fact of illegal processing of firearms with the introduction of irreversible technical changes can include shortening the barrel (block of barrels), dismantling the butt, etc. There are facts of illegal processing of firearms without making irreversible technical changes [11, p. 45].

Illegal processing of firearms without making irreversible technical changes is also the use of a rifled liner barrel in a smoothbore firearm, which, based on the caliber of ammunition used for the liner barrel, can

significantly increase the aiming range of fire. Such cases of processing of firearms are dangerous because after use, a person can return the previous technical condition of the weapon to its illegal processing, after which it will be simply impossible to establish the fact of illegal processing.

Recycling cartridges of traumatic effect is a phenomenon familiar to the practice of conducting forensic ballistics examinations. In particular, factory traumatic cartridges are rearranged as follows: the standard projectile is removed, the weight of the gunpowder is significantly increased or replaced with gunpowder of a different brand. Then, instead of a rubber ball, a projectile is placed, which, according to its dimensional characteristics, will not exceed the size of the clearance formed between the protrusions in the barrel. The contents of the cartridge are filled with candle wax and plugged with a piece of foam or rubber. The projectile in the sleeve is located parallel so that it does not collide with the protrusions when fired, but can pass by them along the created clearance in the bore of the converted traumatic pistol. As a result of the specified processing, the cartridges become noticeably "more powerful". It should also be noted that today not only cartridges of traumatic action, but also cartridges for rifled firearms [3, p. 74–80], which are characterized by great public danger.

It is worth noting that the marking along with information about the manufacturer, type, brand, model, marking, caliber and year of manufacture of the weapon are identification features of the weapon. Marking is a unique designation of a weapon during the manufacturing process by applying to the weapon the name of the manufacturer, country or place of manufacture, serial number, or any other convenient-to-use designation, which consists of simple geometric symbols in combination with digital and (or) alphanumeric digital code designation and which allows you to quickly determine and identify weapons.

Falsification of labeling is a complete or partial change of the labeling applied by the manufacturer. The removal of identification markings from the main parts of firearms, or the manufacturer's unlawful failure to affix them to the main parts of firearms, undoubtedly complicates the state's firearms control functions. Removal of the marking consists in its destruction in any way, as a result of which quick identification of the weapon is impossible. In an attempt to hide the origin of the weapon, the marks and numbers of the markings that make up its number are erased, etched or removed using mechanical methods such as sawing, grinding, sometimes with the application of new numbers and markings. The content of the concept of change of marking is identical to the concept of falsification of marking [6, p. 23].

In general, by illegal manufacture, processing or repair of firearms, illegal removal or alteration of their markings, or illegal manufacture of ammunition, explosives or explosive devices, we understand the form of exchange (transition) 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 carried out without the appropriate permission provided by law. At the same time, it is worth noting that the specified actions are not just illegal, but also criminal, since they include actions that violate criminal law prohibitions and for the commission of which criminal liability is provided, defined in Art. 263 1 of the Criminal Code.

According to the studied criminal proceedings on the grounds of crimes provided for in Art. 263 1 of the Criminal Code, the most typical ways of committing them are as follows: illegal manufacture of firearms (6%); illegal conversion of a certain type of weapon into a firearm (falsification, illegal removal, change of marking) (71%); illegal processing or repair of firearms in order to improve their properties (18%); illegal production of military supplies (9%); illegal processing of military supplies (3%); illegal manufacture of explosives (5%); illegal manufacture of explosive devices (15%).

It should be noted that not all methods are fully structured, that is, they have stages of preparation, execution and concealment. At the same time, 91% of studied criminal proceedings included preparation, and 65% of crimes had a stage of concealing their consequences.

Scientists note that the preparatory level usually consists of the following: searching for sources of special information on the manufacture, repair and shipment of weapons, their main parts and components or components and other objects of crime (books, machines, websites, etc.) and studying traces that they contain; searching for specialists with skills in working with metal, precise mechanisms, electronic equipment related to the manufacture of weapons and ammunition; providing specialists with the necessary metalworking mechanism, machine tools and other equipment and tools necessary for the manufacture of weapons; search for small lathes and other tools; improvement of skills acquired at

weapons manufacturing plants at other plants; production of schemes, sketches of samples, layouts, products, the production of which is planned; choice of time and place and methods of manufacture, repair or processing of weapons; selection of premises (workplace), equipment, tools, mechanisms, materials (raw materials) for the manufacture of weapons by the chosen method; studying the possibility of using premises, equipment, tools, mechanisms and materials for the manufacture of objects of criminal trespass; establishing contacts with officials of enterprises that directly carry out the manufacture of legal circulation of weapons, ammunition, explosives and devices [10, p. 43].

According to the study of criminal proceedings initiated under Art. 263 1 of the Criminal Code, preparation for the illegal manufacture of weapons consisted of: developing a plan (14%); choice of premises (18%); preparation of necessary materials, devices, tools (31%); searching for components for the corresponding type of weapon (14%); purchase of tools, metalworking machines, machine tools and other equipment, etc. (15%); searching for missing parts from defective weapons (11%); getting acquainted with information, including in Internet sources, about the production and processing of weapons (33%); conducting preliminary consultations with relevant specialists (9%); involvement of other persons in criminal actions (3%); preparation of means of masking the appearance (2%).

It is worth noting that the illegal manufacture, processing or repair of firearms or the illegal manufacture of ammunition, explosives or explosive devices, being an independent crime, can serve as a preparatory stage for the commission of another crime. Committing such actions for the purpose of committing another crime is an ideal set of crimes and should entail responsibility under Art. 263 1 of the Criminal Code and for preparation for another corresponding crime. Attention should also be paid to the fact that regardless of the completion of certain parts or actions to make changes to the specified items, the crime provided for in Art. 263 1 of the Criminal Code, is complete if the modified object can be used as a weapon, ammunition, explosives or an explosive device.

An optional component of the method of committing a crime is its concealment. The system of actions for the preparation, commission and concealment of a crime is determined by the conditions of the external environment and the psychophysiological properties of the person. Actions for the preparation, commission and concealment of crimes are united by a general criminal plan, but in some cases there may be an independent way of concealing the crime [12, p. 11].

The method of concealing a criminal offense provided for by Art. 263 1 of the Criminal Code, may contain a significant amount of forensic information, which contributes not only to the knowledge of the mechanism of the commission of the crime, but also to establish 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 its stages: during the preparation, commission, and after the commission of the crime. In particular, during the manufacture, processing, repair, development, production of weapons, tools, various devices, equipment, etc. are selected (prepared) in advance. The same actions are inherent in case of falsification, removal or change of markings on weapon samples.

The analysis of judicial and investigative practice made it possible to come to the conclusion that among the methods of concealing the crime provided for in Art. 263 1 of the Criminal Code, suspects usually use the following measures: disappearance from the scene (97%); failure to appear when summoned to pre-trial investigation bodies (16%); giving false statements, changing their content (67%); refusal to testify (23%); putting forward a false alibi (19%); destruction of traces and tools of criminal activity (destruction of failed samples of weapons and their main parts) (86%); exerting influence (physical, mental, attempted bribery) on witnesses (9%); creation of caches for storing manufactured weapons or other items related to them, remnants of unusable raw materials and materials (6%). Less common include the following actions to counter the investigation: simulation of mental or other illness; change in appearance or individual parts of the body; influence by causing material damage to the property of witnesses; influence by threat or bribery of officials conducting investigations. Their total share in the investigation of crimes provided for in Art. 263 1 of the Criminal Code, was 4%.

Therefore, the studied judicial and investigative practice allows us to say that the actions that are covered by the signs of the crime provided for in Art. 263 1 of the Criminal Code, is often a separate link in the chain of criminal activities (usually planned in detail) related to the illegal circulation of weapons, ammunition,

explosives or explosive devices (that is, the beginning of illegal manufacturing, processing, etc., and later – storage, carrying, forwarding, transportation, further sale, or use).

It is also worth emphasizing that, in addition to established, typical methods of committing crimes, provided for in Art. 263 1 of the Criminal Code, there are certain tendencies to improve and modernize the methods of illegal manufacture, processing or repair of firearms or falsification, illegal removal or alteration of their markings, or illegal manufacture of ammunition, explosives or explosive devices. These should include: implementation of high-tech processing, manufacture of weapons using modern technical means; purchase of separate structural mechanisms, parts for weapons through Internet sites; the use of reference information posted on the Internet regarding the independent introduction of structural changes to weapons; conspiracy of the obligations of the customer and the perpetrator of the crime provided for in Art. 263 1 of the Criminal Code; expansion of the practice of use by persons who have committed illegal manufacturing, processing of weapons, means of camouflage in order to make their identification impossible (use of modern means of communication, destruction of failed samples of weapons and their main parts, creation of caches, etc.).

In general, it should be noted that the investigator's knowledge of methods of preparation, commission and concealment of crimes provided for in Art. 263 1 of the Criminal Code, will contribute to the most effective implementation of purposeful cognitive activity directly related to the application 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 substances or explosive devices.

5. Conclusion.

Scientific analysis of typical methods of illegal manufacture, processing or repair of firearms and other weapons contributed to the formulation of such basic conclusions.

The vast majority of ways of committing crimes provided for in Art. 263 1 of the Criminal Code, are fully structured, that is, they have the following stages: a) preparation: selection of premises; preparation of necessary materials, devices, tools; use of publicly available information in open sources regarding manufacturing, making structural changes to weapons; purchase of tools, metalworking devices; visiting facilities related to their production, storage and use; targeted survey of military conflict zones; b) commission and c) concealment: failure to appear on summons; giving false testimony; refusal to testify; putting forward a false alibi; destruction of criminal traces and tools; exerting influence on witnesses;

Tendencies to improve and modernize methods of illegal manufacture, processing, or repair of weapons items were identified: 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 failed samples of weapons and their main parts, creation of caches, etc.);

Actions that are covered by the features of the crime provided for in Art. 263 1 of the Criminal Code, is often a separate link in the chain of elaborately planned criminal activities related to the illegal circulation of firearms and other weapons.

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