

## IAP Information Note No. 13

### USE OF SPECIAL MEANS AND FIREARMS FOR PURPOSES OF PUBLIC ORDER PROTECTION

The Law on Police 1990 empowers the police to use, under certain circumstances, physical force, special means and firearms.<sup>1</sup>

#### *Use of special means*

Among the special means that may be used by the police are handcuffs, rubber batons, tear-exciting agents, means causing a stun effect, means for opening premises and forcibly stopping vehicles, water cannons, armoured vehicles and others.

The use of special means by police forces for the purposes of protecting public order is governed by the Resolution of the Cabinet of Ministers of Ukrainian Socialist Soviet Republic No. 49 of 27 February 1991 'On Regulations on Use of Special Means for Public Protection' (The Regulations).<sup>2</sup>

The Regulations define the purposes and limits of the use of special means. They envisage that a decision on their use is taken by the official who is responsible for ensuring public order or by the leader of a specific operation. Police officers acting individually may take such decision independently. They have to report in writing to the immediate supervisor about the use of such means specifying when, where, against whom and under what circumstances the special means were used and what consequences this entailed. A police officer is obliged to report immediately to the immediate supervisor any injury or death that ensues as a result of the use of special means, for the purposes of notifying the prosecutor.

The Regulations also contain a list of special means and spell out conditions for use of certain special means. Thus, it is forbidden to inflict blows on the head, neck, collarbone, abdomen, or genital organs with a rubber baton; in addition to these body parts, it is forbidden to use plastic sticks to inflict blows on the solar plexus, kidneys and tailbone (Section 12). Stun grenades should be used at a distance of more than two metres from a person (Section 13). Water cannons may not be used at a temperature below zero degrees (Section 16). Special means containing tear agents may not be used for aimed firing and may not be launched directly into a crowd (Section 17).

On 22 January 2014 the Cabinet of Ministers adopted two resolutions introducing changes into the Regulations. Resolution No. 13 complemented the list of types of gas and stun grenades contained in the Regulations.<sup>3</sup> Resolution No. 14 removed the prohibition on the use of water cannons at a temperature below zero contained in Section 16 of the Regulations.<sup>4</sup>

On 22 January 2014 the Cabinet of Ministers also adopted Resolution No. 12 'On Instruction of Conduct of Additional Measures for Protection of the Safety of Citizens'.<sup>5</sup> The resolution allowed law enforcement bodies in certain circumstances, such as existence of information about possible breaches of public order, the threat of acts of extremism and breaches of the law during demonstrations, to take such additional measures as imposing temporary limitations on transport communications and on the access of citizens to certain areas or objects.

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<sup>1</sup> <http://zakon3.rada.gov.ua/laws/show/565-12/page2> (in Ukrainian).

<sup>2</sup> <http://zakon2.rada.gov.ua/laws/show/49-91-%D0%BF> (in Ukrainian).

<sup>3</sup> <http://zakon2.rada.gov.ua/laws/show/13-2014-%D0%BF> (in Ukrainian).

<sup>4</sup> <http://zakon2.rada.gov.ua/laws/show/14-2014-%D0%BF> (in Ukrainian).

<sup>5</sup> <http://zakon2.rada.gov.ua/laws/show/12-2014-%D0%BF> (in Ukrainian).

On 18 June 2014 by its Resolution No. 191 the Cabinet of Ministers repealed all three resolutions adopted on 22 January 2014.<sup>6</sup>

### *Use of firearms*

The Law on Police of 1990 allows the use of firearms as a measure of last resort in specific circumstances, which are exhaustively listed in the law itself. These circumstances include the use of firearms to protect citizens from attack that threatens their life and health, to release hostages, to counter an attack against a police officer or his family if their health or life are threatened, to counter an attack against secured facilities, convoys, residential buildings or premises of state or public institutions, to detain a person who has committed a crime and is seeking to abscond, to detain a person who is putting up an armed resistance or an armed person who is posing a threat to the life or health of a police officer and in anti-terrorist operations.

The Law on Police of 1990 forbids the use of firearms in places of large gatherings of people if this might lead to the causing of injury to third persons.

Decree No. 141 of the Ministry of Interior of 27 March 2008 governs the procedure for controlling the registration, maintenance, distribution and receipt of arms, ammunition and special means. According to the Decree, the arms and special means should as a rule be stored in specially equipped premises/rooms. The decree also defines the procedure for allocating arms to a specific police officer. Arms and special means are distributed against the signature of the person who receives them and in exchange for the replacement card of the individual police agent. Distributing the arms and special means without obtaining the signature is forbidden. After an operation is completed the arms or special means are returned to a duty officer, who carries out the necessary checks, completes the necessary records and returns the replacement card. According to the Decree, it is also forbidden to distribute firearms, armaments and special means to individuals who are not officials of the Ministry of Interior or officials who are not in service for various reasons.

According to the Statute of the Police Patrol and Guard Service of Ukraine, after using a firearm, a police officer is obliged to report immediately in writing to the duty officer of respective law enforcement agency and to his supervisor so that a prosecutor may be informed. If the use of firearms has resulted in injury, the police officer should provide the injured person with emergency medical aid. If the use of firearms results in death, the police officer should ensure the protection of the body of the victim until a law enforcement officer or prosecution official arrives. The police officer should report to his supervisor about the use of firearms, specifying the time, place, circumstances, and results of such use, about the amount of ammunition used and about the medical assistance provided to the injured.<sup>7</sup>

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<sup>6</sup> <http://zakon2.rada.gov.ua/laws/show/191-2014-%D0%BF/paran5#n5> (in Ukrainian).

<sup>7</sup> Section 221 of the Statute of the Police Patrol and Guard Service of Ukraine available at: <http://zakon4.rada.gov.ua/laws/show/z0213-94/page4>.