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DOI: <https://doi.org/10.5281/zenodo.20826014>**THE LEGAL OBJECT OF THE OFFENCE UNDER ARTICLE 290 OF THE CRIMINAL CODE OF THE REPUBLIC OF MOLDOVA****Alexandru STOLEARENCO,**

PhD Candidate,

“Ștefan cel Mare” Academy of the Ministry of Internal Affairs,

Republic of Moldova

ORCID: 0000-0001-9484-0796

Valentin CHIRIȚA,

PhD, University Professor,

Department of Criminal Law and Criminology,

“Ștefan cel Mare” Academy of the Ministry of Internal Affairs,

Republic of Moldova

ORCID: 0000-0002-7711-022X

Abstract

The analysis of the legal object of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova highlights the complexity of the social values protected through the criminalization of acts concerning the illicit circulation of firearms and ammunition. Although, traditionally, this offence is associated with the protection of public security and public order, an in-depth analysis reveals the multifaceted and complex nature of the legal object, determined by the diversity of the modalities of commission provided by the criminal norm.

Thus, in addition to the social relations concerning the legal regime of firearms, certain incriminated conducts, such as theft or illegal commercialization, may also affect the right to property as well as the health of the person, while the illicit use or handling of firearms and ammunition may generate direct risks to human life.

Therefore, in this context, the idea of a complex legal object emerges, within which the protected social values are not limited to public security, but also include other fundamental social relations, affected differently depending on the specific nature of the incriminated conduct.

Keywords: legal object, social value, security and public order.

**OBIECTUL JURIDIC AL INFRAȚIUNII PREVĂZUTE LA ARTICOLUL 290
COD PENAL AL REPUBLICII MOLDOVA****Abstract**

Analiza obiectului juridic al infracțiunii prevăzute la art. 290 Cod penal al Republicii Moldova evidențiază complexitatea valorilor sociale protejate prin incriminarea faptelor ce vizează circuitul ilegal al armelor și munițiilor. Deși în mod tradițional, această infracțiune este asociată protecției securității și ordinii publice, însă o examinare aprofundată relevă caracterul plurivalent și complex al obiectului juridic, determinat de diversitatea modalităților de comitere prevăzute de norma penală.

Astfel, pe lângă relațiile sociale privind regimul juridic al armelor, anumite conduite incriminate, precum sustragerea sau comercializarea ilegală, pot aduce atingere și dreptului de proprietate, precum și sănătății persoanei în timp ce utilizarea sau manipularea ilicită a armelor și munițiilor poate genera riscuri directe pentru viața acesteia.

Prin urmare, în acest context, se conturează ideea unui obiect juridic complex, în cadrul căruia valorile sociale protejate nu se limitează la securitatea publică, ci includ și alte relații sociale fundamentale, afectate în mod diferit în funcție de specificul conduitei incriminate.

Cuvintele-cheie: obiect juridic, valoare socială, securitate și ordine publică.

Introduction. In the context of the growing criminal phenomenon associated with the illicit circulation of firearms and ammunition, the criminal law analysis of the social values protected through the criminalization of such acts acquires particular relevance, especially in terms of determining the content of the legal object of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova (Hereinafter – CC RM). The importance of this analysis is determined not only by the central role that the legal object occupies in the structure of the offence, but also by the need to ensure a correct and uniform interpretation of the criminal norm in judicial practice.

Although, traditionally, the analysed offence is associated with the protection of public security and public order, such an approach proves to be insufficient in relation to the complexity of the criminal phenomenon regulated by the norm. The diversity of the modalities of commission provided by Article 290 CC of the Republic of Moldova, as well as the nature of the material object involved, determine the incidence of distinct social values that go beyond the strict framework of public security.

In this context, the need emerges for a re-examination of the concept of the legal object of this offence, by reference to the totality of protected social values, as well as to the concrete manner in which they are affected depending on the specific nature of the incriminated conduct, and such an approach allows for highlighting the complex nature of the offence and contributes to the development of a more coherent interpretative framework better adapted to current criminogenic realities.

Methods and materials applied. Within the present study, the classical methods of criminal law research were employed, in particular the logical-legal analysis method, which allowed for the examination of the normative content of the provisions of Article 290 of the Criminal Code of the Republic of Moldova, as well as the systemic method, used to highlight the place and role of the legal object within the structure of the offence. Furthermore, the comparative method was applied, by reference to the opinions expressed in national and international doctrine, as well as the interpretative method, necessary for clarifying the meaning and scope of application of the legal concepts analyzed.

Discussions and results obtained. Any offence, viewed as a manifestation of non-compliance with fundamental norms of social conduct and of hostility towards the rules of social coexistence, essentially constitutes an attack against a fundamental social value protected by the state through its mere criminalization within criminal legislation, given that through the conduct prohibited by law, the offender affects these social relations and, at the same time, causes harm to the fundamental values upon which they are based.

In specialized doctrine [30, p.79], the totality of social values and relations guaranteed by criminal law and infringed by the commission of unlawful conduct forms what is referred to as the legal object of the offence, which represents an indispensable element of the structure of the offence, serving as the criterion that justifies criminalization and outlines the purpose of criminal law protection.

Thus, speaking about the structure of the *corpus delicti*, it is defined as the organized set of elements that compose it and the interdependent relationships between them, reflecting the manner in which criminal liability is manifested, and according to the opinion of the scholar A. Borodac, the structural basis of the *corpus delicti* consists in the system of its features, which is composed of four groups of features that explain four corresponding elements of the offence: the features characterizing the object and the subject of the offence, as well as its objective and subjective side [2, p.54].

In criminal law doctrine, two distinct conceptions have developed over time regarding the legal nature of the object of the offence, each of them being grounded in a differ-

ent interpretation of the relationship between social values and the interests protected by the criminal norm.

Thus, as noted by the author A.A. Piontkovsky, considered one of the developers of the doctrine of criminality in Soviet criminal law, the object of any offence is not composed of all social values, but only of those protected by the criminal-law coercive apparatus, given that “the social relations of a socialist society constitute a common object that is ultimately infringed by any offence provided for by Soviet legislation” [37, p.129].

This position was subsequently supported by the majority of authors and became generally recognized both in the theory and practice of criminal law [33, p.134]. Human life in society exists in the form of social relations, and if we refer to the structure of a specific social relation, it consists of three elements: subjects (participants or parties to a social relation), an object (the thing or good in connection with which the relations exist), as well as a social link between the participants (the content of the relation).

Within this theory, the object of an offence may be considered either as a system of typical, stable social relations of a certain kind taken as a whole, or as an individual social relationship disrupted by a specific offence [21, p.57].

A similar view is expressed by the author S. Brînză, according to whom the object of the offence is constituted by social values and social relations that require criminal protection, in whose consolidation and development society is interested, and which may be substantially harmed by the antisocial behavior of certain individuals or groups of persons [6, p.35].

In contrast, other authors, such as A.V. Naumov, promote the conception according to which, in addition to social relations, the object of an offence is recognized as consisting of those benefits (interests) that are infringed by a criminal act and are protected by criminal law [32, p.38].

In this context, the author A. Zosim states that the notion of “interest” has a broader character than that of “social value”, as it encompasses the latter [19, p.511] and more accurately reflects the legal reality of what is protected by criminal law and what effectively constitutes the target of criminal conduct.

Thus, in this sense, “interest” expresses not only the axiological dimension of the social value, but also its practical purpose, allowing for a more flexible and better-adapted approach to the concept of the object of the offence. Consequently, in support of the second conception, the Romanian authors R.M. Stănoiu, I. Criga, and T. Dianu have also argued that “social values are not formed in a vacuum, but around certain realities which are objectified in specific interests, given that in all incriminated forms there will always be a generally protected interest, which the incriminating norm protects indirectly, and a specifically protected interest, which the incriminating norm protects directly” [18].

This thesis closely resembles the conception of V. Dongoroz, who considers that the object of criminal law protection is the interest safeguarded by the incriminating norm, which in turn may be of two kinds: the specifically protected interest and the generally protected interest [6, p.35].

Therefore, we consider that the notion of “value” is more appropriate and more comprehensive for defining the legal object of the offence, as it captures both the axiological foundation and the practical dimension of the social relations protected by criminal law, thus providing the concept of the legal object with greater consistency and a more precise applicability in judicial practice.

At the same time, unlike the notion of “interest”, the concept of social value is not limited to an abstract or purely declarative dimension, but organically integrates the prac-

tical dimension of the social relations protected by criminal law, so that the social value manifests itself concretely within determined social relations and is capable of being infringed by criminal conduct, which allows for a clear identification of the legal object and its delimitation in the process of legal qualification of the act.

Furthermore, the use of the notion of “social value” provides the concept of the legal object with stability and coherence, avoiding the risk of excessive relativization of criminal protection, whereas the notion of “interest” is, by its nature, much more flexible and susceptible to subjective interpretations, as it may vary depending on the individual perceptions of the offender or the victim, given that what constitutes a major interest for one person may be irrelevant for another, and such variability risks affecting the objective, general, and impersonal character of the criminal norm.

Thus, criminal law, by its very nature, cannot be grounded on fluctuating criteria or on individual perceptions, but must relate to generally recognized social values, established and enshrined by law, and it is precisely this generality and objectivity of social values that justifies their use as a defining element of the legal object of the offence, ensuring the uniform application of criminal law and the predictability of criminal liability.

Therefore, criminal law doctrine [11, p.676; 35, p.163; 29, p.17] says consistently outlined a dual structure of the object of the offence, distinguishing between two categories of objects:

- *The legal object*: represents the immaterial, intangible dimension of the interests, values, and social relations protected, whose existence and functionality are threatened or effectively harmed by the criminal act or omission, which in turn is subdivided into the general legal object, the generic legal object, and the specific legal object, the latter being further divided, where appropriate, into the basic (primary) and the optional (secondary) legal object;

- *The material object*: designates the concrete support upon which the illicit conduct is exercised directly or indirectly, namely goods, things, the human body, animals, or other material or immaterial entities, through which the protected values and social relations are harmed or endangered.

Therefore, if we accept that the legal object of the offence, understood as the object of the unlawful encroachment, consists of the totality of social values protected by criminal law whose existence or functioning is endangered by the commission of the incriminated act, it becomes necessary to clarify the nature of these values and the manner in which the legislator has enshrined them normatively.

In this context, the national legislator has expressly established, in Article 2 of the Criminal Code of the Republic of Moldova, the scope of the fundamental values subject to criminal protection, providing that “criminal law protects, against offences, the person, his or her rights and freedoms, property, the environment, the constitutional order, the sovereignty, independence and territorial integrity of the Republic of Moldova, the peace and security of mankind, as well as the entire legal order” [10].

Therefore, among the criminal law provisions that establish and ensure the protection of public security, public order, and, more broadly, the entire legal order, a distinct place is occupied by the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova. This incriminating norm establishes criminal liability for a series of unlawful conducts falling within the notion of “illegal handling of weapons”, namely: carrying, possession, acquisition, manufacturing, repair, modification of construction or marking, as well as the illegal commercialization of firearms or ammunition and their essential components, to which the hypothesis of their theft is also added.

In turn, from the content of the aforementioned article, the general legal object (common to all offences) may also be deduced, namely the totality of the fundamental values of society, towards which criminal conduct is directed and which, by their very essence, require special protection by criminal law [31, p.92].

The generic (or group) legal object, as a component part of the general legal object, represents a set of homogeneous, interdependent, and complementary social values toward which the unlawful conduct provided for by a specific group of criminal law provisions is directed.

In specialized literature, the generic legal object is regarded as the intermediate level of criminal law protection, situated between the abstract and universal dimension of the general legal object and the concrete, particular form of the specific legal object.

According to the view of the Russian author V.Yu. Shevchenko, the generic object represents the common legal value that unites a group of similar offences and constitutes the basis for the codification and classification of the provisions contained in the Special Part of the Criminal Code into separate sections [41, p.17].

Based on this theoretical premise, the identification of the generic legal object of an offence is generally carried out by reference to the placement of the incriminating norm within the structure of the Special Part of the Criminal Code. In the case of national criminal legislation, Article 290 of the CC of RM is situated in Chapter XIII – “Offences against public security and public order”, which allows the conclusion that the generic legal object of this offence consists of the social values relating to the maintenance of public security and public order as fundamental social values, existing in a relationship of functional and conceptual interdependence, each having its own existence while at the same time supporting one another in the realization of the legal order.

This fact therefore expresses, on the one hand, the general state of protection of society against dangers that could threaten life, bodily integrity, or the safety of the community, and, on the other hand, the set of rules of social coexistence that ensure the harmonious functioning of the community and the respect for the authority of the law.

Following the clarification of the theoretical premises outlined above, emphasis will be placed on an in-depth examination of the notions of “public security” and “public order”, given that these concepts occupy a distinct place within the framework of the general theory of criminal law, as they are characterized by a high degree of abstraction and are also considered among the most complex and difficult categories used by the legislator in determining the object of the offence.

Precisely because of this conceptual nature, the issue of defining and delimiting the criminal-law content continues to generate doctrinal debates, the author V. Chirița rightly stating that public security is a complex social category for which no unified conception has yet been developed, one that would be necessary for a complete and unanimously accepted determination of its essential elements as social values protected through criminal incriminations.

In this context, criminal law doctrine has devoted significant efforts to conceptualizing these notions, with numerous authors attempting to capture the essential dimensions of public security and public order, among whom the Russian author A.V. Gotovtsev considers that public order essentially reflects the protection of personal safety, while public security has a broader scope, encompassing not only the safeguarding of physical integrity, but also the protection of property and the ensuring of the proper functioning of sources of increased danger [24, p.23].

According to P.V. Zamoskovtsev, public safety, as a complex object of the offence, is

based on a unified need and interest to maintain public safety, where the objects of this interest are human life, health, and property [26, p.3].

In turn, A. Borodac defines public security as a normative system intended to protect the most important values of the individual, the material and spiritual values of society, the authority of official power, as well as the sovereignty and territorial integrity of the country [4, p.399].

A similar notion is also proposed by the authors A. Barbăneagră, Gh. Alecu, V. Berliba, et al., according to whom public security is an element of public order and represents a system of social relations that ensures the safety of citizens' life and health, as well as the prevention of material damage or other serious consequences in the process of using sources of increased social danger [1, p.643].

In a related approach, S. Brînza and V. Stati define public security through the prism of a factual state, emphasizing that it is reflected in the existence of a stable social order, free from major risks and disturbances that could endanger the normal functioning of society, and that when criminal law incriminates certain acts that affect public security, it reacts against a danger capable of producing collective effects, namely affecting the interests of an indeterminate, more or less significant, number of individuals [7, p.517].

The extensive analysis found in specialized literature is explained by the absence of a precise legal definition of the term "public security" in national law, given that the legislator has established through normative acts only the notion of "national security", defined as the totality of actions and measures undertaken to ensure the existence, stability, and sustainable development of the Republic of Moldova by protecting the sovereignty, independence, and unity of the state, the territorial integrity of the country, national values and interests, as well as fundamental rights and freedoms from threats and dangers, whether internal or external, of any nature [15].

Thus, it is established that public security, viewed as a set of fundamental social values, relations, and conditions protected by criminal law, ensures the existence of a state of stability, legality, and collective protection against major social dangers, expressing not only the safeguarding of life, bodily integrity, and the health of citizens, but also the protection of property, the proper functioning of sources of increased danger, the respect for the authority of the law, the maintenance of civil peace, and the defense of state sovereignty.

Thus, although at first glance public security appears to be a relatively well-regulated and defined legal institution, the precise delineation of its content and its relation to the concept of "public order" raises major theoretical and practical difficulties. This problem arises from the fact that the two notions are closely interdependent, yet at the same time retain certain distinctive features, which necessitates a separate analysis of each.

Public order, in a legal sense, is defined as a state of legality, balance, and social peace, through which public security and the safety of the individual, communities, and property are ensured, as well as public health and morality, and which allows for the exercise of fundamental rights and freedoms and the effective functioning of institutions within a rule-of-law state [13].

A similar notion is found in Russian doctrine, where, according to L.D. Gaukhman, "public order is a set of relations that determine the atmosphere of order and public tranquility in public places, ensuring the decent behavior of citizens therein, the normal functioning of public institutions and organizations, as well as the physical and moral integrity of the individual in the public sphere" [23, p.34].

V.S. Komissarov considers public security as a set of social relations that not only

regulate safe living conditions for society, but also maintain a sufficient level of security for its normal functioning [28].

The same ideas are supported by K.S. Belsky, who considers that “public order, as a political and legal category, signifies the well-being and organization of society as a whole, encompassing all spheres of social relations, the sustainability and stability of socio-economic institutions, and their orientation toward harmonizing social ties and optimizing social development on the basis of the social regulators used in society” [22, p.85].

The Russian author A.S. Pivovarov understands public order as “an important element of the legal framework for the life of citizens, including a system of social relations that arises and develops in the process of interaction among its participants, primarily in public places, and is regulated by legal and other social norms, the observance of which ensures the personal and public safety of individuals, as well as an atmosphere of calm, coherence, and regularity in public life” [36, p.54].

Ultimately, it can be concluded that public order should be understood as an organized set of normatively regulated social relations that ensure the maintenance of a climate of peace and stability in community life, guaranteeing the normal and balanced functioning of public authorities, state and public institutions, as well as the observance of rules of social conduct by citizens in all spheres of social life.

These doctrinal interpretations, although differing in emphasis and purpose, converge towards the common idea enshrined in national normative acts, according to which public order and public security represent a state of legality, stability, and civil peace ensured by public authorities and institutions that implement preventive and coercive measures to combat unlawful acts, protecting life and personal integrity, fundamental rights and freedoms, as well as property and public health, while maintaining public safety, ensuring respect for the law, and guaranteeing the efficient functioning of public authorities and institutions [15].

Thus, the comparative analysis of all definitions established in doctrine, corroborated with the relevant legal provisions, leads to the conclusion that, due to the high degree of social danger involved in the illegal handling of weapons, the commission of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova simultaneously affects both public order and public security.

In this regard, offences of illegal handling of weapons should not be viewed merely as simple acts endangering immediate safety, but also as structural threats to social order, as they undermine the general sense of security, generate a state of collective insecurity, and affect citizens’ trust in the ability of authorities to guarantee legal and social stability, which is why we support the position of the national legislator to incriminate the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova within the chapter dedicated to the protection of public security and public order.

Thus, insofar as the generic legal object of the offence results from the very title of the chapter that brings together the homogeneous social values and relations analyzed above, our attention turns to the immediate (or specific) legal object of the offence concerning the carrying, possession, acquisition, manufacturing, repair, modification of construction or marking, or the illegal commercialization of firearms or ammunition, their essential components, as well as their theft.

According to doctrine, the immediate legal object is understood as the social value against which the offender has acted [3, p.114], being rightly considered an essential element of every offence, thus having particular practical importance for the correct legal qualification of offences, as it allows for the individualization of a harmful act within a

group of offences, in other words, it enables the systematization of the offences within a chapter into a subsystem, namely of unlawful acts grouped under a similar generic legal object.

Thus, V.V. Bashilov considers that the direct object of the analysed offence is security in the sphere of the circulation of firearms, their main components, ammunition, explosives, and explosive devices [20, p.229], while the author S.U. Dikaev considers that it consists of “a set of relations that ensure public security against possible attacks through the illegal handling of weapons” [25, p.88].

A different view is expressed by A.N. Pavliuhin, who considers that the specific legal object of offences related to the illegal acquisition, transfer, sale, storage, transport, or carrying of firearms, their primary components, or ammunition is the safety of the population against the use, functioning, and effects of these objects [34, p.31], viewed as a specific domain of public security, consisting of the totality of social relations aimed at ensuring the safety of life and health of persons, compliance with the rules establishing the procedure for the acquisition, transfer, sale, storage, transport, or carrying of firearms, their primary components, or ammunition, intended to prevent their use in the commission of offences or accidents during their handling, and to guarantee the use of these objects in accordance with their intended purpose, exclusively for socially beneficial purposes.

In support of the above-mentioned author's view, the author O.A. Safonov also states that the immediate legal object is public security in the sphere of the circulation of firearms, ammunition, explosives, and explosive devices, while, according to the Russian author V.E. Stepenko, the immediate legal object of the offence is the ensuring of a state of protection of individuals and society against threats related to the illegal handling of weapons, devices, and dangerous substances specified by law [39, p.139].

A doctrinal view open to criticism is that expressed by S.U. Dikaev, who considers that the immediate legal object of the analysed offence consists of “a set of relations that ensure public security against possible violations through the illegal handling of weapons” [25, p.88].

Although this definition partially captures the essence of the protected social values, we consider it to be inaccurate and limited, as it reduces the scope of protection of the criminal norm solely to the preventive aspect of a potential endangerment of public security, whereas, in reality, the provision of Article 290 of the Criminal Code of the Republic of Moldova does not have merely the role of preventing the potential consequences of illegal handling of weapons, but substantially aims at the effective protection of public security as a complex legal value manifested in all spheres of social life, namely from public order and collective safety to the protection of life, bodily integrity, and the property of citizens.

According to Romanian doctrine, namely in the view of the authors V. Dongoroz, S. Kahane, I. Oancea et al., the specific legal object of the offence of non-compliance with the regime of weapons and ammunition, corresponding to the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova, has a particularly complex and extensive content. It consists of the totality of social relations whose protection is ensured through the safeguarding of a complex of social values: public order, social security, life and bodily integrity of the person, public and private property, such protection being achieved through the regulation of activities relating to weapons and ammunition [12, p.291].

In national specialized literature, namely in the view of the author A. Barbăneagră

[1, p.643], in line with the doctrinal opinions expressed by S. Brînza and X. Ulianovschi, analyzing the offence in question, it is stated that the specific legal object of the offence of illegal carrying, possession, acquisition, manufacturing, repair, or commercialization of firearms and ammunition consists of the social relations concerning public security in the field of the circulation of firearms and their component parts, as well as in the field of the circulation of ammunition [5, p.563].

Based on the doctrinal analysis carried out and the corroboration of the opinions expressed in national and foreign specialized literature, we consider that the specific legal object of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova consists of the totality of social relations that ensure the protection and safeguarding of public security in the sphere of the circulation of firearms, their essential components, and ammunition, as an essential element of public order and collective safety, this legal object expressing the fundamental social interest in maintaining strict and lawful control over the regime of weapons, in order to prevent any form of illegal handling, use, or commercialization that could endanger life, bodily integrity, or the property of individuals.

The analysis of the specific legal object of the offence provided for in Article 290 CC of the Republic of Moldova highlights the fact that the criminal norm is aimed at protecting a complex of values and social relations, primarily subsumed under the idea of public security in the sphere of the circulation of firearms, their essential components, and ammunition.

At the same time, the delimitation of the specific legal object does not exhaust the analysis of the object of the offence in its entirety, since it captures only the general category of social relations that the criminal norm seeks to protect. In reality, any offence manifests itself through a concrete encroachment upon certain specific social relations, which can be identified and analyzed only by reference to the particular factual situation in which the act is committed. From this perspective, there arises the need for a more in-depth analysis, moving from the general level of criminal-law protection to the level of the social relations actually harmed.

As a rule, each offence is characterized by the existence of a single specific legal object determined by the main social value whose protection the criminal norm is oriented toward, although both doctrine and judicial practice reveal the existence of particular situations in which, through the commission of a single offence, several distinct social values are simultaneously affected. Under these conditions, specialized literature has outlined the classification of the specific legal object into several categories, conferring upon it a complex and multi-layered character.

Thus, a distinction is made between the primary specific legal object, consisting of the social value whose impairment is inevitable and consistently present in every typical act, and the optional (or secondary) specific legal object, represented by the social value that is not affected in all cases of the commission of the offence, but which may be harmed in certain concrete situations, depending on the factual circumstances of the act.

In relation to this distinction, the question arises regarding the identification of additional social values that may be harmed through the commission of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova, and in this regard, two relevant doctrinal approaches may be noted.

Thus, the Ukrainian author E.L. Strelțova, analyzing the corresponding provision in Article 263 of the Criminal Code of Ukraine, similar to Article 290 of the Criminal Code of the Republic of Moldova, which regulates criminal liability for the “illegal handling of

weapons, ammunition or explosives”, concludes that the secondary specific legal object of the mentioned offence consists of the life and health of persons” [40, p.873] given the intrinsic danger associated with the unauthorized circulation of weapons.

This view has, however, been criticized by the author A. Serbinov, who emphasized that “through the commission of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova, the encroachment is directed against social relations deriving from public security, as a *sui generis* social value, while the life and health of persons are not in an organic derivation with public security” [16, p.212].

From our perspective, both views may be considered partially incomplete, given that the criminal provision of Article 290 CC of the Republic of Moldova, although it does not directly target the impairment of human life, may nevertheless, in certain situations, affect the social value represented by the health of the person, especially in cases where the offence manifests itself in the form of theft of weapons, which may be carried out through the use of physical and/or psychological violence, as in the case of robbery, namely the open taking of property by using violence that is not dangerous to the life or health of the person.

Therefore, we find that the secondary specific legal object of the offence of theft of weapons has a complex character, as its commission simultaneously affects the right to property and, in certain situations, the health or bodily integrity of the person.

In continuation of the analysis, we will examine in detail the factual modality of the offence provided for in Article 290 of the Criminal Code of the Republic of Moldova, namely the theft of firearms, their essential components, or ammunition, taking into account its specificity as a distinct form of manifestation of the objective side of the offence. In this context, our attention will focus on the legal object of the encroachment characteristic of this factual modality, as the theft of weapons involves a heightened degree of social danger, simultaneously affecting multiple values protected by criminal law.

In Russian specialized literature, the authors O.A. Safonov, D.N. Fartukov, and D.S. Chukin, analyzing the elements of the offence provided for in Article 226 of the Criminal Code of the Russian Federation, which establishes criminal liability for the theft or extortion of weapons, ammunition, explosives, and explosive devices, indicate that the primary specific legal object is public security in the field of firearms, ammunition, explosives, and explosive devices, as well as weapons of mass destruction, materials, or equipment that may be used for their manufacture, while the secondary or additional specific legal object is property and human health [38, p.116].

A similar view is also shared by the Russian author L.V. Ivanova, according to whom the primary specific legal object of the aforementioned offence consists of the social relations ensuring public security, namely the totality of social relations that provide safe living conditions for each member of society, public order, and the security of the individual, society, or the state, while the secondary (immediate) specific legal object consists of the social relations ensuring public security and property relations in the sphere of the circulation and control of firearms, ammunition, explosives, and explosive devices, as well as the health of the individual [27, p.15].

We fully support the doctrinal orientation expressed by the cited authors and consequently reject the restrictive interpretation that would limit the secondary specific legal object of theft to social relations concerning exclusively the possession of firearms, their component parts, or ammunition. This approach appears insufficient from two converging perspectives. On the one hand, even though the text of Article 290 of the Criminal Code of the Republic of Moldova does not contain an explicit enumeration of the modal-

ities of committing theft (e.g., theft, robbery, armed robbery, extortion, or other forms of offences), the spirit and meaning of the provision cannot be interpreted mechanically as a protection limited to property, and on the other hand, the definition provided by the legislator, according to which “the theft of firearms, ammunition, or explosive substances shall be understood as such unlawful actions aimed at their appropriation through various methods: theft, robbery, armed robbery, extortion, acts of banditry, etc” [14], clearly shows that the admissible factual modalities frequently involve the use of force or coercion.

For this reason, theft, considered in concreto, results in the simultaneous infringement of multiple legal values: on the one hand, the right of possession (through the patrimonial character of the object stolen), and on the other hand, the values relating to the bodily integrity of the person (when the theft is carried out through the use of violence or accompanied by the threat of such violence).

Therefore, reducing the secondary legal object to mere patrimonial protection overlooks the hybrid nature and the increased degree of social danger of this factual modality.

Conclusions. Finally, the correct and comprehensive interpretation of the provisions of Article 290 of the Criminal Code of the Republic of Moldova requires the recognition of the complex character of the secondary specific legal object, particularly in the case of theft, as it cannot be reduced exclusively to social relations concerning the possession and circulation of firearms and ammunition.

Thus, although these relations constitute the core of criminal law protection, the analysis shows that, depending on the specific modality of commission and the circumstances of the act, the sphere of affected social values legitimately extends to the health and bodily integrity of persons, as well as to other related social interests, and such an approach reflects the plurioffensive nature of the offence and allows for a more adequate understanding of the social danger it generates, while also justifying the application of a sanctioning regime proportionate to the complex degree of harmfulness of the act and contributing to ensuring a correct and coherent legal qualification in judicial practice.

Bibliographical references

1. Barbăneagră A., Alecu Gh., Berliba V. Codul penal al Republicii Moldova: Comentariu adnotat cu jurisprudența CEDO și a instanțelor naționale. Chișinău 2009, p.643.
2. Borodac A. Drept penal. Calificarea infracțiunilor. Chișinău: Editura „Știința”, 1996, p.54.
3. Borodac A., Gherman M. Manual de drept penal. Partea generală pentru învățământul universitar. Chișinău 2005, p.114.
4. Borodac A. Manual de drept penal. Partea Specială, cu modificările și completările până la 22.04.2004. Chișinău: Tipografia Centrală, 2004, p.399.
5. Brânză S., Ulianivski X., Stati V., ș.a. Drept Penal. Partea specială. Vol. II, Ediția a II-a, Chișinău 2005, p.563.
6. Brînza S. Obiectul infracțiunilor contra patrimoniului. Monografie. Chișinău, 2005, p.35.
7. Brînza S., Stati, V. Tratat de drept penal. Partea Specială. Vol. II. Chișinău: Tipografia Centrală, 2015, p.517.
8. Cazacicov A. Răspunderea penală pentru crearea sau conducerea unei organizații criminale. Teză de doctor în drept, Chișinău, 2021, p.139.
9. Chirița V. Luarea de ostatici (Analiza juridico-penală și criminologică). Chișinău. 2011, p.55.
10. Codul Penal al Republicii Moldova. În: Monitorul Oficial nr.72-74 din 14.04.2009, art. 195.

11. Dongoroz V. Explicații teoretice ale Codului penal român. Partea specială. Vol. III. București: Editura Academiei Republicii Socialiste România, 1971, p. 676.
12. Dongoroz V., Iosif F., Kahane S., ș.a. Explicații teoretice ale Codului penal român. Partea Specială. Vol. IV, ediția a II-a, București: ALL Beck, 2003, p.291.
13. Hotărârea Guvernului RM nr. 1206 din 02.11.2016 cu privire la Centrul Național de Coordonare Integrată a Acțiunilor de Ordine Publică. În: Monitorul Oficial nr.379-386 din 04.11.2016, art. 1303.
14. Hotărârea Plenului Curții Supreme de Justiție a Republicii Moldova cu privire la practica judiciară în cauzele penale despre purtarea (portul), păstrarea (deținerea), transportarea, fabricarea, comercializarea ilegală, sustragerea armelor de foc, a munițiilor sau a substanțelor explozive, păstrarea neglijentă a armelor de foc și a munițiilor nr.31 din 09.11.1998.
15. Legea nr.249 din 10.07.2025 privind securitatea națională a Republicii Moldova În: Monitorul Oficial nr.463-466 din 04.09.2025, art. 627.
16. Serbinov A. Obiectul juridic al infracțiunilor prevăzute la art.290 și art. 291 CP RM. Studia Universitatis Moldaviae, nr.8(98), Chișinău, 2016, p.212.
17. Serbinov A. Răspunderea penală pentru infracțiunile contra securității publice exprimate în manipulări ilegale cu arme și muniții. Teză de doctor în drept, Chișinău, 2019, p.43.
18. Stănoiu R.M, Criga I, Dianu T. Drept penal. Partea generală. Note de curs. București, 1992.
19. Zosim Al., Hrytenko O. Abordarea noțiunii obiectului infracțiunii în doctrina penală actuală. În: Materialele conferinței „Pregătirea profesională a cadrelor pentru subdiviziunile Ministerului Afacerilor Interne și alte organe de drept”, Chișinău, 2020, p.511.
20. Башилов В.В. Борьба с организованными формами преступного оборота огнестрельного оружия, его основных частей, взрывчатых веществ и взрывных устройств (уголовно-правовой и криминологический аспекты) // Автореф. дисс. канд юр. наук. Москва, 2000, с. 229.
21. Бастрыкин А.И. Уголовное право России. Практический курс, Москва, 2021, с. 57.
22. Бельский К.С. Феноменология административного права. Смоленск, 1995, с. 85.
23. Гаухмана Л.Д., Максимова С.В. Уголовное право. Особенная часть. Санкт-Петербург, 1999, с. 34.
24. Готовцев А.В. Организационно-правовые вопросы взаимодействия милиции и внутренних войск в охране общественного порядка: Автореферат диссертации на соискание ученой степени кандидата юридических наук. Москва, 2000, с. 23.
25. Дикаев С.У. Незаконные приобретение, передача, сбыт, хранение, перевозка или ношение оружия, боеприпасов, взрывчатых веществ и взрывных устройств // Учебное пособие. - Уфа, 1998, с. 88.
26. Замосковцев П.В. О многообъектности преступных посягательств // Проблемы борьбы с преступностью: сб. науч. трудов. Омск. 1978. с. 3.
27. Иванова Л.В. Хищение и вымогательство огнестрельного оружия, боеприпасов, взрывчатых веществ и взрывных устройств, Автореферат диссертации на соискание ученой степени кандидата юридических наук. Санкт-Петербург, 2004, с. 15.
28. Комиссаров В.С. Полный курс уголовного права / Под редакцией А.И. Коробеева. Том ГУ. С.- Петербург, 2008.
29. Коргулев А.Г. Предмет преступления в современном уголовном праве: понятие, признаки, вопросы квалификации и законодательной регламентации, Автореферат диссертации на соискание ученой степени кандидата юридических наук.

Краснодар, 2021, с.17.

30. Кудрявцев В.Н. Общая теория квалификации преступлений. Москва: Юристъ, 1999, с. 79.
31. Кудрявцев В.Н., Наумов А.В., Бородин С.В., и.д. Российское уголовное право. Часть Общая: Учебник, Москва, 1996, с. 92.
32. Наумов А.В. Уголовное право. Общая часть: курс лекций. М. : БЕК, 1996, с. 38.
33. Никифоров Б.С. Объект преступления по советскому уголовному праву. Москва, 1960, с. 134.
34. Павлухин А.Н., Скоропупов Ю.И., Эриашвили Н.Д. Уголовная ответственность за незаконный оборот оружия, взрывчатых веществ, взрывных устройств и меры предупреждения. Закон и право, Москва, 2017, с. 31.
35. Панченко П.Н. Исследование объекта и предмета преступления // Проблемы борьбы с преступностью: сб. науч. Трудов. Омск, 1979, с. 163.
36. Пивоваров А.С. Дискуссионные подходы к определению понятия «общественный порядок» // Рос. юстиция. 2013. № 3. с. 54.
37. Пионтковский А.А. Уголовное право РСФСР. Часть Общая. М., 1925, с. 129.
38. Сафонов О.А., Фартуков Д.Н., Чукин Д.С., Уголовное право российской федерации в вопросах и ответах. Учебное пособие. Саратов, 2025, с. 116.
39. Степенко В.Е. Уголовно-правовой аспект борьбы с преступлениями против общественной безопасности. Хабаровск Издательство ТОГУ, 2017, с. 139.
40. Стрельцова Е.Л. Уголовный кодекс Украины: Научно-практический комментарий. Харьков: Одиссей, 2008, с. 872.
41. Шевченко В.Ю. Актуальность проблемы определения объекта преступления. Юридические Науки, Номер 1 ВлГУ, 2014, с.17.