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Comparative analysis of the legislative support for law enforcement agencies in the post-soviet space and Europe

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Abstract

The aim of the study was to determine the most effective model for regulating law enforcement in Europe and the post-Soviet space, as well as to formulate recommendations for the unification and standardization of legislation in this area. The empirical background was statistics on crime rates, premeditated murders by country; provisions of legislation governing the law enforcement activities of 13 countries and international regulations. Methods of system approach, descriptive statistics, descriptive analysis, generalization and prognosis, system selection, comparative method was used. The activities of law enforcement agencies are aimed at ensuring public order, national security and the protection of human rights, freedoms, and interests. Each state has its own law enforcement system, which is clearly regulated. The main indicator of the effectiveness of law enforcement is the crime rate and the level of security in the country. It is concluded that the most effective is the law enforcement model with its fundamental principles of decentralization of law enforcement agencies.

Keywords: law enforcement; law enforcement agencies; law and order; national security; crime.

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Análisis comparativo del apoyo legislativo a los organismos encargados de hacer cumplir la ley en el espacio postsoviético y Europa

Resumen

El objetivo del estudio fue determinar el modelo más eficaz para regular la aplicación de la ley en Europa y el espacio postsoviético, así como formular recomendaciones para la unificación y estandarización de la legislación en esta área. El trasfondo empírico fueron estadísticas sobre tasas de criminalidad, asesinatos premeditados por país; disposiciones de la legislación que rigen las actividades de aplicación de la ley de 13 países y reglamentos internacionales. Se utilizaron métodos de enfoque de sistema, estadística descriptiva, análisis descriptivo, generalización y pronóstico, selección de sistema, método comparativo. Las actividades de los organismos encargados de hacer cumplir la ley tienen por objeto garantizar el orden público, la seguridad nacional y la protección de los derechos humanos, las libertades y los intereses. Cada estado tiene su propio sistema de aplicación de la ley, que está claramente regulado. El principal indicador de la eficacia de la aplicación de la ley es la tasa de delincuencia y el nivel de seguridad en el país. Se concluye que, el más eficaz es el modelo de aplicación de la ley con sus principios fundamentales de descentralización de los organismos encargados de hacer cumplir la ley.

Palabras clave: aplicación de la ley; organismos encargados de hacer cumplir la ley; orden público; seguridad nacional; delincuencia.

Introduction

The main objective of every democratic state governed by the rule of law is to ensure the protection of human rights and the rule of law in all spheres of public life. The main actors in fulfilling this objective at the state level are national law enforcement agencies (Svechnikov, 2016). The law enforcement is not an exclusively domestic, national activities, but is also provided at the international level. In particular, the EU has adopted a number of regulations that contain the main international standards of law enforcement in European countries - the European Security Strategy (Jahnz *et al.*, 2020), which is basis for other regulations (EU Internal Security Strategy 2015-2020, European Security Program 2015, Global Strategy for the European Union's Foreign and Security Policy 2016). There are also a number of EU law enforcement agencies, whose activities are also governed by the said regulations. The international law enforcement agencies and the legal framework governing their activities underscore the importance of effective legislative regulation of law enforcement activities.

In the context of current globalisation and universalisation of national legal systems, radical changes are taking place in the legislative regulation of law enforcement agencies at all levels. In particular, it concerns the strengthening of international cooperation in the activities of law enforcement agencies (Sallavaci, 2018), including intercontinental (between the EU and Australia) (Hufnagel, 2016); ensuring cross-border access of law enforcement agencies to information on evidence in certain categories of crimes (Warken *et al.*, 2020), as well as ensuring security and observance of rights during such access (Daskal, 2016).

These reforms in different countries do not follow the same path, choosing the most optimal way of reform for their national legislation. But this path is not always the most effective and not in all cases such theoretical legislative activities bring the expected results during the practical application of relevant regulations (Scholten and Luchtman, 2017). With regard to individual countries, it is noted that the current system of legal regulation does not fully meet the needs of practical activities in the field of protection of human rights and freedoms (Udaltsova, 2009).

The importance of legislative support for this type of activity of state internal affairs bodies is also confirmed by the fact that such support is provided at the international level as well. Scholars scrutinise the issue of EU law enforcement bodies (Scholten *et al.*, 2017), as the means of such support must be universal and meet modern requirements. Therefore, the national legislation of the EU is quite similar, including in the regulation of law enforcement.

Issues of legislative support of law enforcement are studied at different angles. In particular, the role of training modules for law enforcement officers and their importance are determined (Renzetti *et al.*, 2015); the problems of training and education of law enforcement officers are studied (Wainwright, 2017); proposals are made for the application of ethical codes of law enforcement agencies (Kozlovska and Kirilieva, 2020); the importance of automated systems and their development in local law enforcement is studied (Shormee, 2020). The problems of legal restrictions and current challenges for the police and law enforcement agencies in general are not left aside either (Vacca, 2019). Specialised activities of law enforcement agencies are also studied, for example, the development of law enforcement intelligence services (Gill, 2017); legal regulation of law enforcement agencies to combat economic crime (Nipialidi, 2020); activities to coordinate crime prevention by law enforcement agencies (Tologon, 2017), etc. In the context of the development of the information society, research on the impact of modern digital technologies and artificial intelligence on the regulation of law enforcement at the national and international levels is becoming especially topical (Nissan, 2017).

Quite a large number of studies deal with the analysis of certain issues of regulation of law enforcement in some European countries: the effectiveness of the training system of the National Police of Spain (Ramos Perez, 2017); the possibility of involving additional law enforcement agencies in the law enforcement system (on the example of Hungary) (László, 2017), etc. is investigated.

Instead, these issues related to the legislative support of law enforcement agencies in the post-Soviet space are much less studied. Legislation in various areas of regulation, including law enforcement, in these countries still remains far from EU standards and world practices. In particular, a number of works deal with the problems of law enforcement agencies in Ukraine from the standpoint of legal support of information and analytical activities of the National Police of Ukraine under the current conditions of European integration and globalization (Senyk, 2020). The research also analyses the system of law enforcement agencies of individual states, which is also important for determining the effectiveness of a legal model of legislative regulation of law enforcement (Beketov *et al.*, 2018).

Therefore, the issue of reforming the activities of law enforcement agencies, its legislative support and the development of the most effective ways to implement state policy in the field of law enforcement becomes particularly topical (Griffith, 2017). Given the above, the main problem is to establish the most effective legislative model for regulating law enforcement, as well as to identify the main current trends that need to be taken into account when reforming the legal regulation of law enforcement (Discover Policing, n.d.).

In view of the above, the aim of this study is to determine the most effective legislative model for regulating the activities of law enforcement agencies in individual European countries and the post-Soviet space through comparison, and to make recommendations for unification and standardisation of legislation in this area. The comparison of efficiency of law enforcement agencies and definition of the basic characteristics of models of legislative regulation of law enforcement will be carried out within the stated aim.

1. Methodology and methods

This study was carried out taking into account the practical objectives in stages relying on the logic of the study and presentation of the material. These stages included: search and selection of literature and electronic resources, as well as relevant regulations; analysis of the material presented in the selected sources and evaluation of the results of these studies; identification of urgent problems of legislative support of law enforcement

agencies in some countries; determining the aim of the article; drawing conclusions and practical recommendations for improving the efficiency of law enforcement agencies; outlining prospects for further research in this area.

This study involved global and regional statistics on the crime rates in general, as well as its quantitative indicators for certain categories of crimes (for example, the number of premeditated murders) by individual European countries and post-Soviet countries. Statistics on the ratio of the number of police officers to the population of the region, data on the most and least dangerous countries in the studied regions were also used. These data allow establishing the most effective model of legislative regulation of law enforcement.

The empirical background of the study consisted of national and international regulations governing the activities of law enforcement agencies. To analyse the provisions of national legislation governing the activities of law enforcement agencies in individual countries and at the international level, we reviewed the legislation governing law enforcement activities in 13 countries (Croatia, Ukraine, Norway, the Federal Republic of Germany, France, Poland, Great Britain, Spain, The Russian Federation, the Netherlands, the Republic of Kazakhstan, the Republic of Estonia, Belgium), as well as the regulatory framework of EU law enforcement and international regulations.

To achieve this aim, the following methods were used in this study: *systems approach* was used to study the legislative support of law enforcement at the national and international levels as a holistic system of interrelated regulations and identification of current models of law enforcement; *descriptive statistics*, which was used to select, process, analyse and summarise statistics on the effectiveness of law enforcement agencies in individual European countries and the post-Soviet space; *the comparative method* was used to compare the ways of legislative support of law enforcement in individual countries and the effectiveness of such bodies depending on the model of the law enforcement system; *descriptive analysis* was used to arrange, classify and summarise the most peculiar features of different models of law enforcement in individual countries and their legislative regulation; *system selection* was used to select the most typical legislative models of law enforcement in some European countries and the post-Soviet space; *generalisation and forecasting methods* were used to identify the most effective legislative model for regulating law enforcement activities and to develop proposals and recommendations for improving and unifying the regulation of law enforcement activities in Europe and the post-Soviet space.

2. Results

Law enforcement is the general name for the activities of bodies responsible for maintaining public order and ensuring the rule of law, in particular activities for the prevention, detection, investigation of crimes and detention of criminals (Office of Justice Programs, n.d.). The activities of these bodies within their functions are aimed primarily at ensuring law and order, national security at all levels, as well as protection of human rights, freedoms, and interests in society.

Each state has its own system of law enforcement agencies, which is clearly regulated by current national legislation. As a rule, these are special regulatory acts that define the system of law enforcement agencies, its principles, rights and responsibilities of law enforcement agencies, the scope of their activities, etc. (see Table 1).

Table 1. Legislation governing the activities of law enforcement agencies (by countries)

Country	Regulations
Great Britain	Police Act 1964, Greater London Authority Act 1999, Police and Magistrates' Courts Act 1994, Police Act 1996
Republic of Poland	Police Act 1990, Office of the Minister of the Interior Act 1996, County Self-Government Act 1998, Local Self-Government Act 1990, and Administration Division Act 2007
Republic of Estonia	Police and Border Guard Act 2009
Croatia	Police Act, Government Resolution on the Internal Organisation of the Ministry of Internal Affairs, and the Police Code 2000
France	Decree on the Personnel of the Operational Services of the French National Police 1968, Law on the Rights and Duties of Civil Servants 1983, Decree on Police 1986, Decree on the National Police of France, Law on Strengthening Security and Protection of Individual Freedom 1981, Law on the Modernisation of the French National Police 1985, Law on the Special Status of the Technical and Training Corps of the National Police 2004
Germany	Law on the Federal Criminal Police Office and Cooperation of the Federation and the Lands in Criminal Cases 1997, Federal Police Act 1994, Law on the Use of Direct Coercion in the Exercise of Public Power by Federal Officials 1961

Spain	<p>The Constitution of Spain of December 29, 1978; Organic Laws of the Kingdom of Spain No. 2 of 13 March 1986 on Forces and Security Corps, No. 6 of 1 July 1985 on the Judiciary, No. 11 of 17 July 1991 on Disciplinary Regime in Civil Guard Units; Law of November 25, 1999 on the Staff Regulation of the Civil Guard Corps; Law on Criminal Conviction as amended by Organic Laws No. 14 of June 9, 1999 and No. 5 of January 13, 1999; Royal Decree No. 239 approved by the Council of Ministers on 18 April 2000, enacting the Law on the Rights and Freedoms of Foreigners and their Integration of 1 February 2000; Real Decree No. 769/87 on Regulation of Judicial Police; Real Decrees No. 84/87, 93/88, 84/89, 327/1999 (general legal norms for the functioning of the national police corps), No. 116/2000, 1257/1999, 1523/1999, 1115/1999, 483/1999, 367/1997, 1951/1995, 1562/1995, regulating various areas of activity of the Civil Guard; statutes of the autonomous regions, which contain the rules of law on police activities in the regions (for example, Law No. 10/94 on the Police of Catalonia); local police laws existing in each of the Autonomous Communities (for example, in Catalonia, Local Police Act No. 16/91; in Valencia –Local Police Act and the Local Police Coordination Act of the Autonomous Community of Valencia)</p>
Ukraine	<p>Law “On the National Police” 2015, “Instruction on the Procedure for Attestation of Police Officers” 2015, “On Organisation of Selection (Competition) and Promotion of Police Officers” 2015, “Instruction on Organization of Activities of Duty Units and Divisions of Internal Affairs of Ukraine Aimed at Protecting the Interests of Society and the State from Unlawful Encroachments” 2009, “Rules of Internal Procedure in Temporary Detention Facilities of Internal Affairs of Ukraine” 2008, “Regulations on the Procedure for Dealing with Citizens’ Appeals and the Organisation of their Personal Reception in the System of the Ministry of Internal Affairs of Ukraine” 2004, “Instruction on the Procedure for Maintaining a Single Record in the Police of Statements and Notifications of Criminal Offenses and Other Events” 2015, “On the Organisation of Response to Reports of Criminal Offenses, Other Offenses, Emergencies and Other Events and Providing Prompt Information in the Bodies and Departments of Internal Affairs of Ukraine” 2012; “On Measures to Comply with the Law in the Detention without the Decision of the Investigating Judge, the Court of Persons Suspected of Committing a Crime, and in the Selection of a Precautionary Measure against Suspects – Detention in the Course of Criminal Proceedings” 2013.</p>
Russian Federation	<p>Federal Law “On Police” 2011, Federal Law “On Service in Internal Affairs Bodies” 2011, Order “On Approval of the Rules for the Wearing of Uniforms, Insignia and Departmental Insignia by Employees of Internal Affairs Bodies of the Russian Federation” 2013</p>
Norway	<p>Police Act 1995</p>
Netherlands	<p>Police Act of the Kingdom of the Netherlands 1993</p>
Republic of Kazakhstan	<p>Law “On Internal Affairs of the Republic of Kazakhstan” 2014, Order “On Approval of the Police Officer Standard” 2020.</p>
Belgium	<p>Law “On Police Activity” 1992, Law “On Organisation of Integrated Police Service Structured on Two Levels” 1998</p>

International regulations	Code of Conduct for Law Enforcement Officials 1979; Basic Principles on the Use of Force and Firearms by Law Enforcement Officials 1990; 1979 Police Declaration; Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power 1985; Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment 1988; Declaration on the Protection of All Persons from Enforced Disappearance 1992)
EU regulations	Europol Convention 1999, Recommendation to Member States in respect of Europol's Assistance to Joint Investigative Teams set up by Member States 2000, Recommendation to Member States in respect of Requests made by Europol to Initiate Criminal Investigations in Specific Cases 2000, Decision of the Council of the EU Setting up Eurojust with a view to Reinforcing the Fight against Serious Crime 2002, European Security Strategy, EU Internal Security Strategy 2015-2020, European Security Program 2015, Global Strategy for the EU's Foreign and Security Policy 2016

A clear indicator of the effectiveness of law enforcement agencies, as well as the system of its legislative regulation is the effectiveness of the practical application of the rules governing this activity. One of the indicators of the effectiveness is the crime rate in the country, including the number of premeditated murders (as a crime that is one of the most socially dangerous because it encroaches on the highest value of any rule of law – human life and health) (see Table 2).

Table 2. Crime rate by countries

Country	Crime rate	Premeditated murders	
		Rate (per 100,000 people)	Number (per 100,000 people)
Austria	25.23	0.97	86
Belgium	44.17	1.70	193
Great Britain	45.26	1.20	809
Greece	44.14	0.94	99
Georgia	22.62	2.22	89
Denmark	26.72	1.01	52
Spain	33.13	0.62	290
Italy	44.32	0.57	345
Latvia	37.21	4.36	84
Lithuania	33.84	4.57	128

Netherlands	27.22	0.59	100
Germany	35.42	0.95	788
Norway	33.35	0.47	25
Poland	29.32	0.73	272
Portugal	29.89	0.79	81
Republic of Azerbaijan	31.66	2.2	219
Republic of Belarus	60.27	2.39	226
Republic of Bulgaria	38.12	1.30	92
Republic of Armenia	23.35	1.69	50
Republic of Kazakhstan	54.02	5.00	915
Republic of Moldova	46.56	4.10	166
Republic of Uzbekistan	34.70	1.1	363
Russian Federation	40.13	8.21	11,964
Slovenia	21.79	0.48	10
Turkey	39.53	2.59	2133
Hungary	34.81	2.50	242
Ukraine	48.28	6.20	2,751
Finland	27.01	1.03	90
France	49.2	1.20	799
Czech Republic	25.31	0.60	66
Switzerland	21.35	0.59	50
Sweden	47.2	1.08	108

Source: United Nations Office on Drugs and Crime (n.d.)

Based on the crime rate, the safest and least safe countries to live in are identified. The level of safety of living in the country directly depends on the crime rate, which is a determining factor (see Table 3).

Table 3. Safety of living in countries

The safest countries	Safety index	The least safe countries	Safety index
Switzerland	78.65	Republic of Belarus	39.73
Slovenia	78.21	Republic of Kazakhstan	45.59
Georgia	77.38	France	50.8
Republic of Armenia	76.65	Ukraine	51.72
Austria	74.77	Sweden	52.8
Czech Republic	74.69	Republic of Moldova	53.44
Denmark	73.28	Great Britain	54.74
Finland	72.99	Italy	55.63
Netherlands	72.78	Belgium	55.83
Poland	70.68	Greece	55.86

Source: Numbeo (2021)

There are also differences in the number of police officers in relation to the population in different countries. But does this quantitative indicator affect the effectiveness of the right to protected activities in the field of security and protection of human rights? The answer to this question can be given by comparing the number of crimes committed (for example, the number of premeditated murders) and the number of law enforcement officers, reading the data presented in Table 4.

Table 4. Ratio of the number of police officers to premeditated murders (per 100,000 inhabitants)

Country	Number of police officers	Number of murders
Belgium	370.4	1.8
Spain	385.3	0.8
Italy	467.2	0.9
Portugal	454.2	1.1
Republic of Bulgaria	398.1	1.7
Republic of Kazakhstan	444.8	8.8
Russian Federation	547.3	9.7

Slovakia	394.0	1.8
Turkey	474.8	3.3
Ukraine	384.4	4.3
Czech Republic	393.8	0.8

Source: Volkov (2021).

As mentioned above, law enforcement agencies ensure security in society in all spheres of life, as well as take certain measures to combat crime. Therefore, indicators on the level of crime, including the number of premeditated murders, as well as the safety of living in a particular country determine the effectiveness of law enforcement, as well as the quality of legislation in this area and its practical application. But the number of law enforcement officers in relation to the population does not radically affect the crime rate, and, consequently, the quantitative indicator is not decisive for determining the effectiveness of law enforcement.

Such countries as Switzerland, Slovenia, Georgia, the Republic of Armenia, Austria, Denmark, Finland, the Czech Republic, the Netherlands, Poland have the most effective legislative regulation of law enforcement. A vast majority of EU countries have a legislative model for regulating law enforcement, which provides for the cooperation of law enforcement agencies with the population within stable territorial communities. The main task of the police is to resolve conflict situations and other problems that arise among members of a particular community, using restorative justice. Restorative justice is an approach in which all parties to a particular offense come together to collectively decide what to do with the consequences of the offense and what their impact may be on the future (Centre for Justice and Reconciliation, 2021).

That is, this approach to responding to illegal behaviour and committing crimes takes into account the balance of interests of the victim, the offender and the community (Institute of Peace and Understanding, n.d.). Accordingly, this practice can be considered the most effective way to resolve conflicts related to the commission of offenses, and one of the activities to combat crime, as there are positive social changes, and the crime rate is significantly reduced.

Switzerland has the most experience in implementing decentralised socially oriented law enforcement (of the countries under study, it has the lowest crime rate and the highest safety rate), where there is no single centralised law enforcement agency at all. However, despite decentralisation, co-operation between law enforcement and local government is clearly regulated by law, which is monitored by police commanders and city police sheriffs (Bilas, 2016).

In particular, Poland has begun the course for radical reform of law enforcement agencies in the early 90's of the 20th century. The new Law on the Police has significantly limited the scope of police activities, leaving it to fight crime and perform preventive functions in this area. One of the novelties was also the legislative regulation in the same law of cooperation of law enforcement officers with local governments. In addition, competitive recruitment was introduced, where preference was given to persons who had not previously served in law enforcement agencies; governing bodies have been completely restored. The main tasks of law enforcement reform also included the organisation of the education system for police officers of various specialisations (law enforcement, anti-terrorist units, units for combating economic, drug and transport crime). During the law enforcement reform in Poland, two forms of law enforcement agencies were identified: state paramilitary armed formations that perform tasks of law enforcement (police, border, hunting, national, transport protection); other police actors that do not belong to the militarised bodies of public administration (pharmaceutical, sanitary, veterinary inspection) (Karpiuk, 2015a, 2015b, 2015c).

As for Georgia, the reform of law enforcement in this country began with one of the first among the post-Soviet countries (as well as in the Baltic countries). This reform was launched in 2004, and about 90% of law enforcement officers (including all management) were fired, recruitment was based on competitive selection based on standards and evaluation forms developed in Europe. In general, the law enforcement system was reorganised from a punitive structure into a security-oriented service organisation. These changes were enshrined in the Law of Georgia "On Police" of 2013 (Law of Georgia «On Police», 2013).

As for the post-Soviet countries, the activity of law enforcement agencies in the vast majority of them is exclusively centralised state sphere, which is built on the principle of clear structuring, hierarchy, and its activities are guiding and manifested in the use of coercion (repression) in response to offenses. Within this model of legislative regulation of law enforcement, little attention is paid to the preventive side of law enforcement, and the issue of cooperation between the police and society is almost not considered. The system of law enforcement bodies in the Republic of Belarus, the Republic of Kazakhstan, the Russian Federation, etc. is built on this principle. Given the above statistics, the crime rate in these countries is the highest among the studied countries, which indicates the ineffectiveness of this form of legal regulation of law enforcement in modern conditions.

Accordingly, the activities of these bodies in different countries have their own specifics, although there are some common features that allow us to identify the so-called models of law enforcement. Two models are distinguished in the theory on the basis of these features; both law

enforcement activities and their legislative regulation are carried out through those two models.

The most common are two models, which are built depending on legal family a country belongs to: continental (continental European) and Anglo-American (Anglo-Saxon). Both models assume that law enforcement agencies are a legally regulated institution of social security and response, authorised by the state to ensure respect for human rights and freedoms, but these functions are implemented in different ways. In the countries of the continental European legal family (Federal Republic of Germany, France, Italy and others) law enforcement is exclusively a state sphere, which ensures the protection of social interests of individuals, society and the state as a whole, as well as the use of coercion in response for an offense, it is characterised by clear subordination; the leading role belongs to legislative regulation. Instead, the Anglo-American model (Great Britain) provides for the possibility of implementing the law enforcement function not only by government agencies, but also by non-governmental law enforcement agencies, which indicates a certain decentralisation of law enforcement agencies; judicial practice plays an important role here.

In the current conditions of universalisation and strengthening of international relations, clear differences between the forms of legal support of public life of the countries of these legal families tend to disappear. Therefore, there is a combination of features of both legal families in the field of legislative regulation of law enforcement agencies both the countries with a continental European model of law enforcement, and with the Anglo-American one. Within the framework of state policy on security, law, and order, this is reflected in the fact that there is a gradual reform of the law enforcement system in accordance with modern requirements: departure from exclusively law enforcement activities related to coercion, and the organisation of law enforcement activities that will expand preventive (non-criminal, non-coercive) functions.

Particular attention is paid to the legislative support and organisation of municipal police activities based on the principle of decentralisation. The principle of decentralisation of the creation of municipal law enforcement agencies provides for the absence of departmental police formations, which are formed by local executive bodies (territorial communities), which act on behalf of this authority and are subordinated to it. The so-called local (communal) police are formed instead, its activities are regulated by law and consist of preventive and protective measures. The implementation of such functions is possible with the close cooperation of law enforcement agencies with the population, social services, governmental and non-governmental organisations, ensuring law enforcement, security, protection of human rights and freedoms, the use of means to prevent and combat crime. This task can be realised through the provision of advice

to the public, the development of proposals for the use of certain tools, the development of popular education programs and courses, which will provide an understanding of the essence and increase the effectiveness of local law enforcement. And communities here should become the main subject of realisation (along with law enforcement agencies).

Despite the fact that the functioning of the communal form of law enforcement is insufficiently studied, the basic principle of this activity (cooperation between police and citizens) has already proved its effectiveness, as it is aimed primarily at identifying the causes and conditions of crime and their elimination. Reforming law enforcement agencies taking into account this principle is becoming more widespread among European countries (Britain, France, Germany, etc.). There are six main models of the functions of the communal police (see Figure 1).

The new model of activity of the bodies of internal affairs provides for legislative consolidation of its principle: from retrospective-reactive, which consists in reaction to the already committed offence, to perspective, which will involve prevention of commission of such offenses. This, in turn, necessitates overcoming legal nihilism both among law enforcement agencies and among community residents, as well as the creation of a clear system of local self-government of territorial communities.

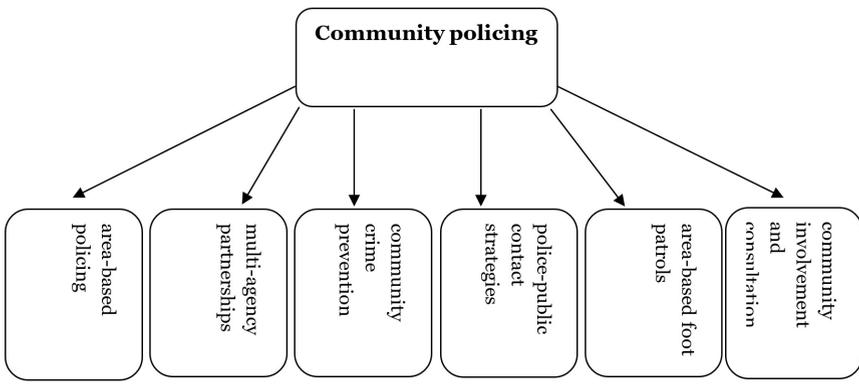


Figure 1. Models of communal police functions

Source: Bilas (2016).

Thus, the most effective is the model of law enforcement, where the main principles are the decentralisation of law enforcement; social orientation of policing, which consists in cooperation of law enforcement agencies with

citizens; promising nature of activities aimed at preventing offences. These principles should be enshrined in law to ensure implementing this model of law enforcement (see Figure 2).

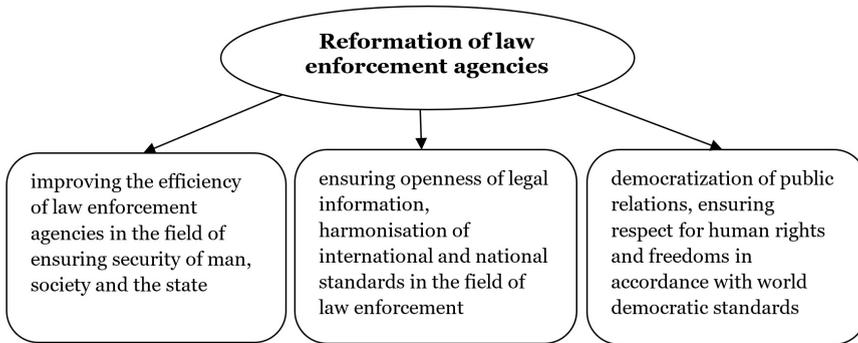


Figure 2. The purpose of law enforcement reform

Source: Bilas (2016)

But determining the most effective model of legal regulation of law enforcement is not enough, because the changes taking place in the world as a whole and in individual countries in particular require a new look at existing, even fairly effective models of law enforcement. It is necessary to take into account the current trends that have emerged in recent years in the further reform of the legislation on the regulation of law enforcement activities. These trends are manifested in the changes that occur in almost all spheres of public life — economics, politics, government, education, culture, etc. And it is the law enforcement agencies that must respond to these changes, because ensuring security at the appropriate level will be impossible without taking into account the latter.

In particular, the development of society in the context of informatisation, globalisation and human-centeredness requires government agencies, institutions and organisations to ensure law and order to adapt to new levels of transparency and universal access to information in all areas; the adoption and legislative support of national policies to promote better relations between the police and society; introduction and use of new technologies that will help increase the efficiency of policing, as well as establish close cooperation with the community; developing a deeper understanding of the relationship between the quality of education and the effectiveness of law enforcement (Fritsvold, n.d.a). Today, there are five main trends in the world that need to be taken into account when reforming (forming) the law enforcement system (see Figure 3).

Given the need for each state to respond immediately to the needs of society in the field of law and order, protection of human rights and freedoms, it is necessary to oblige legislators to include the necessary rules in existing legislation at the national level. A separate legal act can provide that, which will be of a recommendatory nature and will be valid for EU member states, as well as member states of other regions. This document may be entitled “Recommendations for the Legislative Regulation of Law Enforcement” and will include: principles of law enforcement at the national level (rule of law, legality, justice, human centrisms, decentralisation); recommendations for the transition from an authoritarian to an inclusive leadership style in order to expand law enforcement opportunities; the procedure for creating socially oriented law enforcement agencies (expanding ties with citizens, creating specialised communities, developing partnerships between the police and society); gender quotas for law enforcement officers in order to attract more women and the importance of increasing the number of female police officers for certain categories of offenses; recommendations for advanced training of young law enforcement officers (providing opportunities for higher education, development of analytical, communication skills); a list of educational programmes that need to be developed under the current conditions of emergence and development of new types of crime (on knowledge of current legislation, on the use of new equipment to ensure effective combating of cybercrime); recommendations for providing law enforcement agencies with the necessary means, as well as the description of the latest tools and the latest technologies to increase the effectiveness of law enforcement activities.

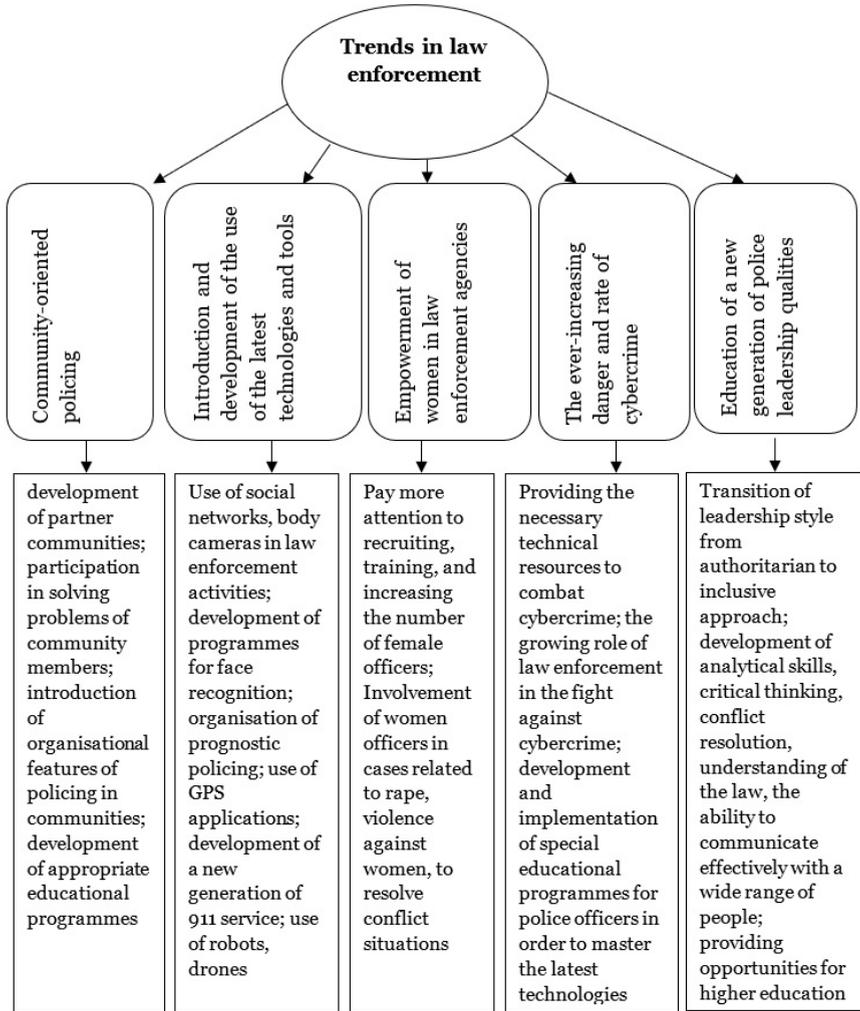


Figure 3. Current trends in law enforcement

Source: Fritsvold (n.d.a, n.d.b, n.d.c), University of San Diego (n.d.)

3. Discussion

Legislative regulation of law enforcement in modern conditions is not effective in all studied countries in Europe and the post-Soviet space. This

view is confirmed in the study of the essence of law enforcement, as well as the types and forms of performance of police functions (Svechnikov, 2016), as well as attention is paid in research on law enforcement reform in other regions of the world (Tomberlin, 2018). This is confirmed by the number of cases of human rights violations by law enforcement officers (for example, in Ukraine (Hladchuk, 2020), the Republic of Belarus (Zlobina, 2020) and in the world as a whole (Hall, 2020)), in particular under the current conditions of the ongoing pandemic (Amnesty International, Human Rights General, 2020) in many countries.

The most effective is the model of legislative regulation of law enforcement, which enshrines not only the establishment of decentralised and socially oriented law enforcement agencies, but also the use of modern technical means, especially in the context of globalisation and cooperation of law enforcement agencies in combating crime (Sallavaci, 2018). Modern digital technologies should be implemented in law enforcement, as this will increase its efficiency (Nissan, 2017). Therefore, it is difficult to agree with the view that modern technologies can limit the activities of law enforcement agencies or reduce its efficiency (Lum *et al.*, 2017). After all, modern software is able to provide effective prognostic (preventive) activities of the police in cooperation with the public (Shapiro, 2017).

The position that the organisation of law enforcement agencies requires the management of their activities based on the principle of justice, which is fundamental, is ambiguous (Wolfe *et al.*, 2018). It is impossible to single out among the principles of legislative regulation and practical implementation of law enforcement agencies, because all the principles of a democratic state governed by the rule of law, together with special principles must be observed in the complex: legality, rule of law, justice, decentralisation, human centrism.

Some studies also focus on the need to reform law enforcement in order to work closely with the police and society, which will also help reduce the number of offences committed by law enforcement agencies (Mummolo, 2018). Besides, given the results of this study, we agree that one of the main directions in law enforcement reform is to provide training for police officers, which will help overcome legal nihilism.

Conclusions

The study allows drawing a number of conclusions about the effectiveness of legislative models of law enforcement regulation. It is established that the main indicator of law enforcement efficiency is two interrelated indicators: the crime rate and the level of safety in the country. The most effective is the model of law enforcement with the main principles being

the decentralisation of law enforcement; social orientation of policing, which consists in cooperation of law enforcement agencies with citizens; promising nature of activities aimed at preventing offences. Enshrinement of these principles at the level of national and international legislation will provide an opportunity to understand the objectives of law enforcement to ensure law and order.

In order to unify and standardise the legislative regulation of law enforcement agencies at the international level, it is advisable to adopt a legal act “Recommendations on the Legislative Regulation of Law Enforcement Activities”, which will include the following provisions: principles of law enforcement; recommendations for the transition from an authoritarian to an inclusive leadership style; the procedure for creating socially oriented law enforcement agencies; gender quotas for law enforcement officers; recommendations for advanced training of young law enforcement officers; a list of educational programmes to be developed under the conditions of emergence and development of new types of crimes; recommendations for providing law enforcement agencies with the necessary means and a description of the latest tools and the latest technologies.

This study opens up the prospects for further development to improve national legislation and international regulations in the field of law enforcement in Europe and the post-Soviet space from the standpoint of harmonisation and unification of legislation in the studied area.

Bibliographic References

- AMNESTY INTERNATIONAL, HUMAN RIGHTS GENERAL. 2020. Policing the pandemic – human rights violations in the enforcement of COVID-19 measures in Europe. Amnesty International. Available online. In: <https://policehumanrightsresources.org/policing-the-pandemic-human-rights-violations-in-the-enforcement-of-covid-19-measures-in-europe>. Consultation date: 10/01/21.
- BEKETOV, Oleg; OPARIN, Vitaliy; SURGUTSKOV, Vadim. 2018. “The sphere of internal affairs and a modern system of law-enforcement authorities of Russia” In: Russian Juridical Journal. Vol. 118, No. 1, pp. 137-142. Available online. In: <https://web.a.ebscohost.com/abstract?direct=true&profile=ehost&scope=site&authtype=crawler&jrnl=20713797&AN=131302403&h=dv1Wl6AO416Jpr1hVzBjCvDG5J9HNlneALSeYDTBpjm8MPXsuzHaUbFUaP7kGqrlpt5HXbI78zW6EboF8fBKxg%3d%3d&url=f&resultNs=AdminWebAuth&resultLocal=ErrCrlNotAuth&crlhashurl=login.aspx%3fdirect%3dtrue%26profile%3dehost%26scope%3dsite%26authtype%3dcrawler%26jrnl%3d20713797%26AN%3d131302403>. Consultation date: 10/01/21.

- BILAS, Andrii. 2016. Law-enforcement activity of EU Member States: comparative-theoretic research [Ph.D. dissertation]. National Academy of Internal Affairs. Available online. In: <http://ena.lp.edu.ua:8080/handle/ntb/33955>. Consultation date: 10/01/21.
- CENTRE FOR JUSTICE & RECONCILIATION. 2021. About Restorative Justice. Available online. In: <http://restorativejustice.org/restorative-justice/about-restorative-justice/#sthash.8oEgHCKw.dpbs>. Consultation date: 10/03/21.
- DASKAL, Jennifer. 2016. "Law enforcement access to data across borders: The evolving security and rights issues" In: *Journal of National Security Law and Policy*. Vol. 8, No. 3. Available online. In: https://digitalcommons.wcl.american.edu/facsch_lawrev/1100. Consultation date: 10/01/21.
- DISCOVER POLICING. n.d. What is community policing? Available online. In: <https://www.discoverpolicing.org/explore-the-field/what-is-community-policing/>. Consultation date: 10/01/21.
- FRITSVOLD, Erik. n.d.a. The top 5 trends in law enforcement. University of San Diego. Available online. In: <https://onlinedegrees.sandiego.edu/top-5-trends-in-law-enforcement/>. Consultation date: 10/01/21.
- FRITSVOLD, Erik. n.d.b. What master's degree in criminal justice is right for you? [Comparison guide]. University of San Diego. Available online. In: <https://onlinedegrees.sandiego.edu/criminal-justice-masters-degree-comparison/>. Consultation date: 10/01/21.
- FRITSVOLD, Erik. n.d.c. Why we need more women working in law enforcement. University of San Diego. Available online. In: <https://onlinedegrees.sandiego.edu/women-in-law-enforcement/>. Consultation date: 10/01/21.
- GILL, Peter. 2017. Rounding up the usual suspects? Developments in contemporary law enforcement intelligence. Routledge. Available online. In: <https://www.routledge.com/Rounding-Up-the-Usual-Suspects-Developments-in-Contemporary-Law-Enforcement/Gill/p/book/9781138736276>. Consultation date: 10/01/21.
- GRIFFITH, David. 2017. Fighting cybercrime at the local level. *POLICE Magazine*. Available online. In: <https://www.policemag.com/342353/fighting-cybercrime-at-the-local-level>. Consultation date: 10/01/21.
- HALL, Amy. 2020. Police brutality is not just a us problem. *New Internationalist*. Available online. In: <https://newint.org/features/2020/06/05/police-brutality-not-just-us-problem>. Consultation date: 10/01/21.

- HLADCHUK, Dmytro. 2020. "Factors of human rights violations by employees of the Ministry of Internal Affairs of Ukraine" In: *Entrepreneurship, Economy and Law*. Vol. 12, pp. 175-179. Available online. In: <https://doi.org/10.32849/2663-5313/2020.12.30>. Consultation date: 10/01/21.
- HUFNAGEL, Saskia. 2016. *Policing cooperation across borders: comparative perspectives on law enforcement within the EU and Australia*. Routledge. Available online. In: <https://www.routledge.com/Policing-Cooperation-Across-Borders-Comparative-Perspectives-on-Law-Enforcement/Hufnagel/p/book/9781138267121>. Consultation date: 10/01/21.
- INSTITUTE OF PEACE AND UNDERSTANDING. n.d. *Is punishment the only way to achieve justice??* Available online. In: <https://rj.org.ua/>. Consultation date: 10/01/21.
- JAHNZ, Adalbert; BOTTOMLEY, Ciara; BERARD, Laura. 2020. *EU Security Union Strategy: Connecting the dots in a new security ecosystem*. European Commission website. Available online. In: https://ec.europa.eu/commission/presscorner/detail/en/ip_20_1379. Consultation date: 10/03/21.
- KARPIUK, Hennadii. 2015a. "The practice of reforms: from form to content" In: *Tyzhneyk MVS Ukrainy "Imenem Zakonu"*. Available online. In: <http://www.imzak.org.ua/articles/article/id/4577>. Consultation date: 10/01/21.
- KARPIUK, Hennadii. 2015b. "Post-European reforms" In: *Tyzhneyk MVS Ukrainy "Imenem Zakonu"*. Available online. In: <http://www.imzak.org.ua/articles/article/id/4645>. Consultation date: 10/01/21.
- KARPIUK, Hennadii. 2015c. "The practice of reforms: the countries of the socialist camp" In: *Tyzhneyk MVS Ukrainy "Imenem Zakonu"*. Available online. In: www.imzak.org.ua/articles/article/id/4597. Consultation date: 10/01/21.
- KOZLOVSKA, Ganna. 2020. *Application of the code of ethics in the law enforcement authorities of Ukraine*. *Modern Vector of Science Development*. [XXXIX International scientific-practical Internet conference]. Vinnytsia, Ukraine. Available online. In: <https://essuir.sumdu.edu.ua/handle/123456789/77344>. Consultation date: 10/01/21.
- LÁSZLÓ, Christián. 2017. *The role of complementary law enforcement institutions in Hungary. Efficient synergy in the field of complementary law enforcement? A new approach*. Repository. Available online. In: <https://repository.mruni.eu/handle/007/15079>. Consultation date: 10/01/21.

- LAW OF GEORGIA «ON POLICE». 2013. Kutaisi, 4 October 2013 N1444-IS. Available online. In: <https://matsne.gov.ge/en/document/download/2047533/7/en/pdf>. Consultation date: 10/01/21.
- LUM, Cynthia; KOPER, Christopher; WILLIS, James. 2017. "Understanding the limits of technology's impact on police effectiveness" In: *Police Quarterly*. Vol. 20, No. 2, pp. 135-163. Available online. In: <https://doi.org/10.1177/109861116667279>. Consultation date: 10/01/21.
- MUMMOLO, Jonathan. 2018. "Modern police tactics, police-citizen interactions, and the prospects for reform" In: *The Journal of Politics*. Vol. 80, No. 1. Available online. In: <https://doi.org/10.1086/694393>. Consultation date: 10/01/21.
- NIPIALIDI, Olha. 2020. "Prevention of economic crime as an important area of law enforcement authorities: State, trends, problems" In: *Actual Problems of Law*. Vol. 4. Available online. In: <https://doi.org/10.35774/app2020.04.061>. Consultation date: 10/01/21.
- NISSAN, Ephraim. 2017. "Digital technologies and artificial intelligence's present and foreseeable impact on lawyering, judging, policing and law enforcement" In: *AI & Society*. Vol. 32, pp. 441-464. Available online. In: <https://doi.org/10.1007/s00146-015-0596-5>. Consultation date: 10/01/21.
- NUMBEO. 2021. Crime index by country 2021. Available online. In: https://www.numbeo.com/crime/rankings_by_country.jsp. Consultation date: 10/01/21.
- OFFICE OF JUSTICE PROGRAMS. n.d. Terms & Definitions: Law Enforcement. Available online. In: <https://www.bjs.gov/index.cfm?ty=tdtp&tid=7>. Consultation date: 10/01/21.
- RAMOS PEREZ, Silvia Iluminada. 2017. "The Spanish national police training system" In: *European Law Enforcement Research Bulletin*. Vol. 3, pp. 85-92. Available online. In: <http://91.82.159.234/index.php/bulletin/article/view/264>. Consultation date: 10/01/21.
- RENZETTI, Claire; BUSH, Amy; CASTELLANOS, Marissa; HUNT, Gretchen. 2015. "Does training make a difference? An evaluation of a specialized human trafficking training module for law enforcement officers" In: *Journal of Crime and Justice*. Vol. 38, No. 3, pp. 334-350. Available online. In: <https://doi.org/10.1080/0735648X.2014.997913>. Consultation date: 10/01/21.
- SALLAVACI, Oriola. 2018. "Strengthening cross-border law enforcement cooperation in the EU: The Prüm network of data exchange" In: *The*

European Journal on Criminal Policy and Research. Vol. 24, pp. 219-235. Available online. In: <https://doi.org/10.1007/s10610-017-9355-0>. Consultation date: 10/01/21.

SCHOLTEN, Miroslava; LUCHTMAN, Michiel. 2017. (Eds.). Law enforcement by EU authorities: Implications for political and judicial accountability. Edward Elgar Publishing. UK.

SCHOLTEN, Miroslava; LUCHTMAN, Michiel; SCHMIDT, Elmar. 2017. The proliferation of EU enforcement authorities: A new development in law enforcement in the EU. In Miroslava Scholten & Michiel Luchtman (Eds.), Law Enforcement by EU Authorities (chapter 1, pp. 1-27). Edward Elgar Publishing. Available online. In: <https://doi.org/10.4337/9781786434630.00007>. Consultation date: 10/01/21.

SENYK, Sviatoslav. 2020. “Analysis of legislative supply of informational and informational– Analytical activities of national police of Ukraine” In: Internal Security. Vol. 12, No. 1, pp. 69-76. Available online. In: <https://doi.org/10.5604/01.3001.0014.3188>. Consultation date: 10/01/21.

SHAPIRO, Aaron. 2017. “Reform predictive policing” In: Nature. Vol. 541, pp. 458-460. Available online. In: <https://doi.org/10.1038/541458a>. Consultation date: 10/01/21.

SHORMEE, Saha. 2020. “Automated traffic law enforcement system: A feasibility study for the congested cities of developing countries” In: International Journal of Innovative Technology and Interdisciplinary Sciences. Vol. 3, No. 1, pp. 346-363. Available online. In: <https://doi.org/10.15157/IJITIS.2020.3.1.346-363>. Consultation date: 10/01/21.

SVECHNIKOV, Nikolay. 2016. “The essence of law-enforcement activity” In: Lex Russica. Vol. 7, pp. 28-37. Available online. In: <https://doi.org/10.17803/1729-5920.2016.116.7.028-037>. Consultation date: 10/03/21.

TOLOGON, Sarbagysh Uulu. 2017. “The issues of coordination activities among law-enforcement authorities in the field of crime prevention” In: Modern Science. Vol. 8, pp. 62-66. Available online. In: <https://www.elibrary.ru/item.asp?id=29935194>. Consultation date: 10/01/21.

TOMBERLIN, James. 2018. Don't elect me: Sheriffs and the need for reform in county law enforcement (104 Va. L. Rev. 113). Hein Online. Available online. In: <https://heinonline.org/HOL/LandingPage?handle=hein.journals/valr104&div=7&id=&page=>. Consultation date: 10/01/21.

UDALTSOVA, Natalya. 2009. Legal regulation of the activities of subjects of the law enforcement system in emergency situations of natural and man-made

- nature [Ph.D. dissertation]. *DisserCat*. Available online. In: <https://www.dissercat.com/content/pravovoe-regulirovanie-deyatelnosti-subektov-pravookhranitelnoi-sistemy-pri-chrezvychainykh->. Consultation date: 10/01/21.
- UNITED NATIONS OFFICE ON DRUGS AND CRIME. n.d. Available online. In: <https://dataunodc.un.org/>. Consultation date: 10/01/21.
- UNIVERSITY OF SAN DIEGO. n.d. Moving up the ranks: How a Master's Degree can help you take your career to the next level. Available online. In: <https://onlinedegrees.sandiego.edu/resources/law-enforcement-careers-ebook/>. Consultation date: 10/01/21.
- VACCA, John. 2019. (Ed.). Legal restrictions and challenges for police and law enforcement authorities. *Online Terrorist Propaganda, Recruitment, and Radicalization* (chapter 11). CRC Press. Available online. In: <https://www.routledge.com/Online-Terrorist-Propaganda-Recruitment-and-Radicalization/Vacca/p/book/9781138048263>. Consultation date: 10/01/21.
- VOLKOV, Anton. 2021. World crime rate. *Visasam.ru*. Available online. In: <https://visasam.ru/emigration/vybor/prestupnost-v-mire.html>. Consultation date: 10/01/21.
- WAINWRIGHT, Rob. 2017. "Trends and challenges for law enforcement training and education" In: *European Law Enforcement Research Bulletin*. Vol. 3, pp. 11-19. Available online. In: <https://bulletin.cepol.europa.eu/index.php/bulletin/article/view/254>. Consultation date: 10/01/21.
- WARKEN, Claudia; VAN ZWIETEN, Lodewijk; SVANTESSON, Dan. 2020. "Re-thinking the categorisation of data in the context of law enforcement cross-border access to evidence" In: *International Review of Law, Computers & Technology*. Vol. 34, No. 1, pp. 44-64. Available online. In: <https://doi.org/10.1080/13600869.2019.1600871>. Consultation date: 10/01/21.
- WOLFE, Scott; ROJEK, Jeff; MANJARREZ, Victor; ROJEK, Allison. 2018. "Why does organizational justice matter? Uncertainty management among law enforcement officers" In: *Journal of Criminal Justice*. Vol. 54 (January–February), pp. 20-29. Available online. In: <https://doi.org/10.1016/j.jcrimjus.2017.11.003>. Consultation date: 10/01/21.
- ZLOBINA, Anastasiia. 2020. Police abuse continues in Belarus. Detainees report beatings, inhuman treatment, and threats of sexual abuse. *Human Rights Watch*. Available online. In: <https://www.hrw.org/news/2020/09/21/police-abuse-continues-belarus>. Consultation date: 10/01/21.



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