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**LEGAL REGULATORY ENHANCEMENT OF SOCIETY'S  
SECURITY UNDER GLOBALISATION:  
THE EXAMPLE OF LITHUANIA**

**SUMMARY**

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## INFORMATION ABOUT PUBLICATIONS AND SCIENTIFIC RESEARCH WORK

### Scientific publications of the author of the dissertation work.

Research findings have been approbated during the period of 2011 to 2016 at local and international research conferences through presentations on issues included in the Doctoral Thesis:

1) 6<sup>th</sup> International Scientific Conference “Social and Economic Dimension of European Integration: Problems, Solutions, Perspectives” of Daugavpils University. 03/05-11-2011, Daugavpils (Latvia). Presentation “*Management of Legal Knowledge Theory and Practice: Lithuanian Experience.*”

2) 7<sup>th</sup> PhD International Conference “New Trends in National Security” of Brno University of Defense. 07-03-2012, Brno (Czech Republic). Presentation “*The Development State and Society in the EU: Problems, Solutions, Perspectives of National Security.*”

3) III International Scientific Conference “Today’s security. Dimensions – the society and personality” of Siedlce University of Natural Sciences and Humanities. 21-06-2012, Warsaw (Poland). Presentation “*Development of the National Security Today and Future in the Baltic Sea Region.*”

4) 8<sup>th</sup> International Scientific Conference “Social Sciences for Regional Development 2013” of Daugavpils University. 12/13-10-2013, Daugavpils (Latvia). Presentation “*The Legal Aspects of Public Servants Motivation: Comparative Analysis of Lithuania and Latvia.*”

5) 9<sup>th</sup> PhD International Conference “New Trends in National Security” of Brno University of Defense. 05-02-2014, Brno (Czech Republic). Presentation “*Lithuanian Trends of National Security in the Baltic Sea Region.*”

6) XV International Scientific Conference “Network as a Space of Social, Economic and Political Cooperation in Central and Eastern Europe” of John Paul II Catholic University of Lublin. 26/28-05-2014, Naleczow (Poland). Presentation “*National Security: The New Tasks and Challenges for Lithuania.*”

7) 9<sup>th</sup> International Scientific Conference: “Social Sciences for regional Development” of Daugavpils University. 12/13-10-2014, Daugavpils (Latvia). Presentation “*International Legal Aspects of the Energy Security Policy of the European Union Countries.*”

8) XVI International Scientific Conference “The Strategies of Constructor E-economy and E-society in Central and Eastern Europe. The Present and Development Prospects” of John Paul II Catholic University of Lublin. 25/27-05-2015, Naleczow (Poland). Presentation “*Legal Aspects of the Common Defense and Security Policy of the European Union.*”

9) XVII International Scientific Conference “Entrepreneurship, Social Organization Structure of the Network. Experience and Prospects for Development in Central and Eastern Europe” of John Paul II Catholic University of Lublin. 23/25-05-2016, Naleczow (Poland). Presentation “*The Issues of Provision of Public Security: The New Trends in the Activities of Law Enforcement Institutions in Lithuania.*”

10) 11<sup>th</sup> International Scientific Conference: “Social Sciences for regional Development” of Daugavpils University. 14/15-10-2016, Daugavpils (Latvia). Presentation “*Ensuring Public Security in the Fight against Crime: The Example of Lithuania.*”

During the research specific issues discussed in the Doctoral Thesis have been published in scientific magazines and in collections of scientific articles:

1) Makštutis, A.; Baltytė, A.; Tumalavičius, V. (2012). *Security, Sustainability and Competitiveness: Benchmarking Attempts*. Journal of Security and Sustainability Issues. 2(1): 5–12. DOI: [http://dx.doi.org/10.9770/jssi/2012.2.1\(1\)](http://dx.doi.org/10.9770/jssi/2012.2.1(1)). Indexed/abstracted by SCOPUS database.

2) Tumalavičius, V.; Makštutis, A. (2012). *The Development State and Society in the EU: Problems, Solutions, Perspectives of National Security*. The Materials of the 7<sup>th</sup> PhD International Conference: New Trends in National Security. Brno: UDB, pp. 65–73. ISBN 978-80-7231-876-6.

3) Makštutis, A.; Tumalavičius, V.; Vijeikis, J. (2013). *The Problems of National Security in the 21<sup>st</sup> Century: Solutions and Perspectives*. Współczesne bezpieczeństwo społeczne/ Uniwersytet Przyrodniczo-Humanistyczny w Siedlcach, Instytut Nauk Społecznych i Bezpieczeństwa, Centralna Biblioteka Wojskowa, Siedleckie Towarzystwo Naukowe, Polskie Towarzystwo Filozoficzne Oddział w Siedlcach. Redakcja naukowa: M. Kubiak, M. Minkina. Warszawa–Siedlce: Uniwersytet Przyrodniczo-Humanistyczny w Siedlcach, pp. 11–28. ISBN 978-83-7051-715-1.

4) Tumalavičius, V.; Makštutis, A. (2014). *Lithuanian Trends of National Security in the Baltic Sea Region*. The Materials of the 9<sup>th</sup> PhD International Conference: New Trends in National Security. Brno: UDB, pp. 15–21. ISBN 978-80-7231-926-8.

5) Tumalavičius, V.; Chistov, I. (2014). *Nacionalnaja bezopasnost: novye zadachi i vyzovy dlia Litvy* [National Security: the New Tasks and Challenges for Lithuania]. Meandry Wspolpracy sieciowej w Europie Środkowej i Wschodniej. Pod redakcją Sławomira Partyckiego. Lublin: Wydawnictwo KUL, pp. 83–91. ISBN 978-83-7702-874-2. (In Russian)

6) Ivančiks, J.; Tumalavičius, V.; Teivāns-Treinovskis, J. (2015). *Security of Society: Narcotics and Drug Addiction in Latvia and Lithuania*. Journal of Security and Sustainability Issues. 4(4): 353–368. DOI: [http://dx.doi.org/10.9770/jssi.2015.4.4\(4\)](http://dx.doi.org/10.9770/jssi.2015.4.4(4)). Indexed/abstracted by SCOPUS database.

7) Tumalavičius, V. (2015). *Drošības jautājumi: mūsdienu tendences Lietuvas tiesību aizsardzības sistēmā* [Security Issues: Current Trends in Lithuanian Law Enforcement System]. Socrates: Rīgas Stradiņa universitātes Juridiskās fakultātes elektroniskais juridisko zinātnisko rakstu žurnāls. Rīga, RSU, 2015, 3(3): 15–21 pp. ISSN 2256-0548. (In Latvian)

8) Tumalavičius, V.; Ivančiks, J.; Karpishchenko, O. (2016). *Issues of Society Security: Public Safety under Globalisation Conditions in Lithuania*. Journal of Security and Sustainability Issues. 5(4): 545–570. DOI: [http://dx.doi.org/10.9770/jssi.2016.5.4\(9\)](http://dx.doi.org/10.9770/jssi.2016.5.4(9)). Indexed/abstracted by SCOPUS database.

9) Tumalavičius, V. (2016). *Security of Society in Lithuania: Concept and Scientific Fundamentals in its Ensuring*. Sociālo Zinātņu Vēstnesis. 2016, 1(22): 92–118 pp. Daugavpils Universitāte, Humanitāro un sociālo zinātņu institūts. ISSN 1691-1881.

10) Lavrinenko, O.; Ohotina, A.; Tumalavičius, V.; Pidlisna, O. V. (2016). *Assessment of Partnership Development in Cross-Border Regions' Innovation Systems (Latvia-Lithuania-Belarus)*. Journal of Security and Sustainability Issues. 6(1): 155–166. DOI: [http://dx.doi.org/10.9770/jssi.2016.6.1\(12\)](http://dx.doi.org/10.9770/jssi.2016.6.1(12)). Indexed/abstracted by SCOPUS database.

Doctoral studies facilitated PhD candidate's participation in the research project "The Establishment of the United Entrepreneurship Support and Networking System for the Sustainable Latvia, Lithuania and Belarus Cross Border Cooperation (B2B)" under the program of cross border cooperation Latvia–Lithuania–Belarus as the expert of scientific research (2014–2015). Some issues of public, social and economic security of a region were studied and research results published in the collective monograph:

Lavrinenko, O.; Ohotina, A.; Ruzha, O.; Shmarlouskaya, H.; Tumalavičius, V. (2015). *Cross Border Cooperation of Small and Medium Enterprises: Problems, Opportunities, Prospects*. Rezekne Higher Education Institution. 308 p. ISBN 978-9984-44-181-8.

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## INTRODUCTION

**Relevance of the theme.** *Firstly*, a safe environment is pivotal to the improvement of human life quality, predetermining the confidence of people in the state and the administrative and legal system thereof.

*Secondly*, public security is a multinomial system which covers more than one subsystem; effectiveness and harmony of its operating structural parts lay the foundations for creating a welfare state.

*Thirdly*, a welfare state as a security guarantee for the twenty-first century society is a legal system to implement the idea of a modern state in the global community with a political governance system which ensures constant development of human welfare under the conditions of globalization at a certain time and in the specific territory.

**The scientific problem** lies in that the legal regulation of the security of society as the object of research has neither been studied nor described by foreign and Lithuanian scientists; no exhaustive research has been performed that would be oriented towards designing and implementing a modern state in the global community, ensuring human welfare under the conditions of globalization.

In the National Public Security Development Program for 2015–2025,<sup>1</sup> public security is understood as part of national security, encompassing the protection of legitimate interests of the individual, society and state against criminal acts and other violations of law, natural and man-made disasters. The condition of public security may also be partly evaluated by the subjective perception of the sense of security of the population; even though that sense of security has been improving within the past years, it is still lower than the average in the European Union (further the EU). According to the public opinion survey, conducted on the initiative of the Ministry of the Interior of the Republic of Lithuania, in 2005, just 47 percent of the population felt being safe in their place of residence, and in 2013 – already 72 percent, although according to the Eurobarometer research data, the EU average in 2011 accounted for 89 percent.<sup>2</sup> These statistical data presumably conclude that public security in Lithuania has not been ensured effectively enough; therefore, it is necessary to develop further research in this field and to practically approve its findings. To ensure public security, transparent and effective institutional and legal mechanisms operating in the state are necessary. As reinforced by the Law on the Basics of National Security<sup>3</sup>, one of the most important priorities in ensuring national security in the country is to combat

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<sup>1</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>2</sup> *Ibid.*

<sup>3</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.



crime, to ensure public order and personal security in the country by strengthening the activities of law enforcement institutions and creating new criminal act control and prevention system models. Effective implementation of this public security policy priority necessitates ensuring proper cooperation between institutions and coordination of activity.

Another essential priority of public security is the reliable state border control and protection in compliance with the EU requirements, focusing special attention on the external state border control and protection. To this end, the legal regimes for the state border and frontier must be established; organizing the state border protection shall be properly regulated and implemented. The prominence of this public security policy priority is also witnessed by the special geopolitical position of Lithuania: a proper protection of the state border is a requisite for ensuring the interests not only of national but also of regional security. One more priority direction in the public security policy is road traffic safety. In this field, it is imperative to ensure modernization of particular legal acts and legal system, proper and effective organization and coordination of complex measures, aimed at reducing the accident rate, as well as of the state institutions and private persons. Low-quality public security has a negative impact on a wide circle of individuals: public security seems to be an important category for each member of society.

If public security is not ensured and the confidence in the state legal and administrative system becomes reduced, this has a comprehensively negative impact on various spheres of the state and social life: entrepreneurship of the population and its activity in different domains of social life fall into decline; legal nihilism gets enhanced; and even development of society is suspended. Moreover, there exist various external factors – that is, primarily, permanent improvement and development of information and communications technologies, globalization processes; and for that reason an increasing scale of global trade, residential mobility, changing perceptions of national identity, demographic changes, as well as climate change have a big impact on the condition and development of public security<sup>4</sup>. Therefore, the state must take into account the above-indicated factors, ensure the compliance of legal regulation and institutional mechanisms with social reality, and identify the need for both legal regulation and modernization of an institutional system. Therefore, the afore-mentioned changes of social reality enable one to necessitate modernization of public security, which in turn predetermines the relevance of this dissertation research.

In each state, ensuring public security properly is determined by consistently adhering to the state policy in this field, by establishing a sustainable legal basis, and by appropriately organizing and coordinating institutional activity. Nevertheless, public security in Lithuania is ensured in a

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<sup>4</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

fragmentary manner, with the orientation primarily to the violation of law or some other negative phenomenon or process as an outcome rather than a cause, also with too little attention focused on the coordination of institutional activity. All this makes one to draw the conclusion that an optimum legal and administrative system has not been created in Lithuania; therefore, the need for further research in this field does exist. One should also point out that for the development of public security in any direction it is indispensable to have the synergy of various state governance sectors; the close cooperation of state and municipal institutions and establishments; the institutions of science and studies; the partnership of public and private sectors, and active society.

The measures for ensuring public security shall be integrated, comprehensive and supplementing each other. Unfortunately, no sufficient attention is given to either of these areas, and no effective cooperation and partnership methods have been developed. One of the most problematic aspects: the need for rational and effective public governance necessitates proper distribution of the responsibilities of public governance entities and entails proper modernization of institutional mechanisms for safeguarding public security. To efficiently modernize the said mechanisms, the perception of the changing social reality and the proper choice of modernization methods are requisite. However, the methods of coordination and modernization of the public security sector are not sufficiently defined and studied in the doctrine, this determining the insufficient coordination of public security in practice.

Thus, the main scientific problem arises – *how to ensure the adequate coordination and modernization of public security?*

This scientific problem is elaborated by the problematic issues that are narrower in scope:

- *what* the main priority trends of public security and their coordination specificities are;
- *how* to rationally distribute the responsibilities of public security governance entities in different areas of the public security sector;
- *how* to ensure the close and effective cooperation between state (municipal) institutions, scientific institutions, public and private sectors as well as society in the area of ensuring public security;
- *how* to develop the role of active society in ensuring public security;
- *what* the methods of modernization of an institutional system for ensuring public security are.

These and other problematic questions are sought to be answered in the course of this dissertation research.

**The object of the research.** With a scientific problem of this dissertation research taken into account, the object of the research is considered to be: national legal and institutional mechanisms for ensuring public security; their interaction is analyzed in the course of the dissertation research; the legal

environment of the unity and modernization of all participants of the activity is studied.

**The objective of the research.** This dissertation work aims to disclose and investigate both legal and administrative aspects of ensuring public security in Lithuania. This goal will be implemented through addressing the following *dissertation work tasks*:

1. To describe the concept of public security as an interdisciplinary and legal totality, the role of administrative law in creating the main legal and institutional mechanisms for ensuring public security in Lithuania.

2. To analyze the environment of public security in the field of ensuring public order, the concept of public order, the system of legal protection thereof, the factors of optimization of problematic areas in the activity of state governance and municipal institutions.

3. To analyze the functional factors of public security and of fight against crime, the problems of criminal process control and prevention, new possible models for the implementation of criminal act control and prevention.

4. To analyze the essence and place of public security at the level of border protection of the state territory, the state border and frontier administrative legal regimes, and the EU external border protection priorities.

5. To analyze the legal regulation system in the field of traffic safety, the problems and decisions in the organization of the activities of state institutions.

6. To describe the interim research results.

7. To present the main dissertation work results.

8. To formulate and give conclusions and recommendations.

**Scientific novelty of the work.** Public security and coordination of ensuring thereof has been studied hitherto in the works of Lithuanian scientists only in a fragmentary manner, not covering the detailed and comprehensive analysis of problems, and a gap of analysis in this field is not filled with a scientific contribution by foreign authors since the problems relevant to ensuring public security are determined by different geopolitical, social, economic and other factors, and with a different institutional set-up existing in place.

Thus, the dissertation work aims at filling this gap by providing a comprehensive analysis of coordination opportunities for ensuring public security. Moreover, the legal regulation, various external and internal factors determining both social and legal reality are on a constant change; therefore, the earlier scientific research is becoming documents fixing the historical development in this field and losing its relevance. With the factors of new quality predetermining public security coming forth, the geopolitical tendencies changing, and the impact of information technologies expanding, new research is necessary in an effort to use the research results in practice.

An exhaustive analysis in this dissertation work is also given of the Public Security Development Program for 2015–2025 of the Republic of Lithuania,

approved in 2015,<sup>5</sup> as well as the National Anti-Corruption Program for 2015–2025.<sup>6</sup> It is also notable that special attention in this research is devoted to the modernization of institutional mechanisms ensuring public security, this also predetermining the scientific novelty of the work.

### **Reliability, approval and practical importance of the work results.**

The dissertation work results could be adapted in both the national law system and foreign states – the more so that the internal public security of the state is also under the impact of international social, economic and other factors.

The results of this research, presumably, most relevant could be for the states within the same geopolitical area since their public security systems are affected by similar external and internal factors. The dissertation research results obtained could be useful for both a legislator and public governance institutions, implementing the legal acts in the field of public security; they can also be of importance in further development of the science of law while continuing to advance research in the area of public security coordination and modernization. It would be expedient to use the results of this work in the modernization of the field of public security, thus improving the condition of public security; hence, the work results would be of significance for civic society, as well.

The research was carried out by making an analysis of an enormous number of scientific publications directly and indirectly related to the issues under study and accessible to the public; therefore, the abundance of the sources used, a scientific level and comprehensiveness presuppose drawing a conclusion on the reliability of the results of this dissertation research.

### **The propositions of the dissertation to be defended:**

➤ public security as a legal and interdisciplinary category reflects the quality of lawmaking and law enforcement, *per se* being one of the most important objectives of the legal system;

➤ the existing national legal and institutional mechanisms do not ensure comprehensive public security protection since the responsibility of public governance entities responsible for that area is not properly coordinated with a characteristic tendency of overlapping of functions;

➤ the methods for modernization of ensuring public security shall be based on the promotion of the synergy and close cooperation of the state and private sector and the active society.

**Dissertation structure.** The dissertation structure has been chosen with allowance for the object of the dissertation work, its objective, and tasks. The main parts of the work include introduction, a survey of the research and

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<sup>5</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>6</sup> Lietuvos Respublikos Seimo 2015 m. kovo 10 d. nutarimas Nr. XII-1537 „Dėl Lietuvos Respublikos nacionalinės kovos su korupcija 2015–2025 metų programos patvirtinimo“.

methodology, presentational part consisting of five chapters, key findings, conclusions, recommendations, and a list of references. At the end of the dissertation the formulated conclusions and practical findings of how to improve legal and administrative mechanisms ensuring public security are provided.

The logical structure of the presentational part of the dissertation is composed of the general part, with an analysis herein made of theoretical aspects of the public security concept, and parts which may be called special. These parts also distinguish the key priorities for ensuring public security that have also been stipulated in the Law on the Basics of National Security.

It is notable that the dissertation research aiming at its concentration and expedience does not cover all public security areas without exception – the areas of ensuring public order, crime control and prevention, state border protection and traffic safety have been chosen and analyzed; a deeper analysis was made of the normative regulation of these areas, coordination and modernization of institutional activities.

Chapter 1 of the thesis provides for a general description of public security in the development of the country and legislation; theoretical substantiation of the concept of public security, its forms and types has been investigated; it has also been considered within legal and natural sciences.

Chapter 2 addresses the first priority of public security policy – one has analyzed how public security is ensured in the field of public order. The focus is on the problems of human rights protection while ensuring public order. Special attention in this chapter is devoted to the state-of-the-art problematic aspects of organizing police activity, to the compatibility of the functions and competences of the Public Security Service, to the analysis of strategic goals, to the research of the opportunities of municipality and local communities for their participation in maintaining public order.

Chapter 3 deals with a deeper analysis of a rather wide and comprehensive field: ensuring public security in combating crime. This chapter covers the main quantitative and qualitative indicators of the present-day crime in Lithuania and worldwide; the key problems of crime prevention optimization and legal regulation, as well as the institutional problems of criminal process control are elucidated.

Chapter 4 presents a discussion of emerging threats to public security, as well as both legal and administrative aspects of ensuring public security in the field of the State border protection. Further discussion pertains to the functions and strategic goals of the State Border Guard Service; the activity-related problems are elaborated. One of the significant priorities is highlighted, aiming at ensuring public security in this field – the EU external border control and protection.

Chapter 5 provides an analysis of how traffic safety is ensured. The legal regulation in this area and the problems of organizing the activity of institutions

responsible for traffic safety are discussed; the situation of traffic safety in Lithuania and other countries in the Baltic region is studied. Utmost attention is attached to the organization and coordination of comprehensive measures, dedicated to the reduction of the rate of accidents.

**Methodology of the work.** In consideration of the specificity of the area under study, a scientific literature study and the following scientific research methods have been selected while producing this dissertation: systematic document analysis, meta-analysis, structural-functional analysis, teleological, comparative, critical approach, generalization, presentation and prediction.

Moreover, in the course of the research the author made use of his long-term practical experience gained during his work in operational and investigation units of the institutions at the Department of Criminal Police of Lithuania, as well as of his scientific-pedagogical experience of work at the General Jonas Žemaitis Military Academy of Lithuania under the Ministry of National Defence of the Republic of Lithuania.

## 1. CONCEPT AND SCIENTIFIC FUNDAMENTALS OF PUBLIC SECURITY

A safe environment is the only suitable medium where the implementation and development of human rights and freedoms is possible. The sense of security determines the behavior of individuals and their quality of life, the social and political stability of the country, and the confidence of residents in the legal and institutional mechanisms functioning here.

Security is not only a multiple but also a conditional category. *Firstly*, being safe or unsafe may be applicable to the individual, the state and the region. *Secondly*, the concept of security as such is vague; it may be differentiated not only according to the object, but also by separate fields – from political security to road safety.

The state governance becoming still more complicated and the social structure of the state undergoing changes, the concept of security is also subject to change. In the ancient states the concept of security has already been differentiated into two main trends – internal and external (or public and military security). Security inside the state is one of the most fundamental needs of the population, and ensuring of such security is a primary function of the state, this being perceived and distinguished already in the ancient times.

Higher attention for ensuring internal security also demonstrates that legal and institutional mechanisms, functioning in the state, are becoming more complicated and improved – the state while creating and expanding these mechanisms enforces its own statehood and stabilizes the processes taking place in the society. According to A. Runcis, security safeguarding in small

states has been a complex problem from the oldest times.<sup>7</sup> External and internal security safeguarding of the state within the present-day territory of the state of Lithuania is to be linked with the beginning of statehood.

In the contemporary state of Lithuania, security of the individual and society is deemed to be “the necessary condition for implementing the principal goal of the state policy – to guarantee human rights and freedoms.”<sup>8</sup> Meanwhile, the institute of human rights and freedoms in line with the ideas of an open society and of the state under the rule of law are concurrent with the good governance which, according to some authors, is the main aspiration of modern Lithuanian society and the state in the 21<sup>st</sup> century.<sup>9</sup>

The greater the importance of the institute of human rights and freedoms in the society and the state and of the related ideas thereof, the higher the requirements set for security in the society, and, in parallel, the enhanced requirements for legal and institutional mechanisms for ensuring security, functioning in the state. Since these mechanisms are subject to improvement, the question arises of how to identify the priority trends of such modernization and to find the proper methods thereof. An answer to this question is hardly possible without exhaustively analyzing and discussing urgent comprehensive theoretical issues and examining the conceptual framework elements of security as a general scientific and legal category.

### **1.1. Public security as the general scientific and legal totality**

Ensuring public security and its effectiveness presuppose quite a few issues, attributed to the area of law and public governance sciences, and the proper answer thereof determines the functionality of the state as a structure. This is also approved by other authors stating that “ensuring of society’s security under the conditions of market economy and competition is becoming one of the most important tasks of the state,”<sup>10</sup>

In the legal terms, ensuring public safety is composed of the stages of *lawmaking* and *application (implementation) of law*. At the *lawmaking* stage, the fundamentals of ensuring public safety are enacted.<sup>11</sup> A. Vaišvila in general defines lawmaking as “the production of legal regulation tools” when “striving of social interest to become social order starts from the reformulation of that

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<sup>7</sup> Runcis, A. *Latvia Towards Europe: Internal Security Issues*. Riga, 1999, p. 3.

<sup>8</sup> Lietuvos Respublikos Seimo 2003 m. kovo 20 d. nutarimas Nr. IX-1383 „Dėl nacionalinės nusikaltimų prevencijos ir kontrolės programos patvirtinimo“.

<sup>9</sup> Kalašnykas, R.; Deviatnikovaitė, I. Kai kurių bendrųjų Europos Bendrijos teisės principų taikymo ypatumai administruojant viešąjį saugumą. *Jurisprudencija*. 2007, 4(94), p. 44.

<sup>10</sup> Kalesnykas, R.; Mečkauskas, V. Vaizdo stebėjimo kamerų (CCTV) panaudojimas užtikrinant visuomenės saugumą: teisiniai ir organizaciniai aspektai. *Jurisprudencija*. 2002, 36(28), p. 58.

<sup>11</sup> Baublys, L., et al. *Teisės teorijos įvadas*. Vilnius: MES, 2010, p. 276.

interest into legal ideas – a certain project of the preferred behavior,”<sup>12</sup> which makes a real impact when it is transformed into legal norms.

Effectiveness of ensuring public safety is determined by the proper *application of law* – how public administration entities implement their duties and powers delegated to them by the contemporary state.

*It is notable* that this is a task of administrative law which “regulates not only public administration organization but also the implementation of administrative powers and control of their use.”<sup>13</sup> Thus, *public security* as a category of law is ensured more or less effectively through *the lawmaking* and *law application* processes. Ensuring public safety in the law application process is determined not only by legal but also by complementary factors which are the subject of other social sciences, especially of public administration science.

*From this standpoint, attention should be drawn* to the dichotomy of law as a static and dynamic phenomenon<sup>14</sup> – both these aspects of law are important for ensuring public safety – enforcement of the proper elements of a public security policy at the lawmaking stage and successful transformation of *static law* into *dynamic law*. As elaborated by R. Kalašnykas and I. Deviatnikovaitė, “public security is social, legal, organizational, economic, and technological factors in seeking to protect citizens and the state and to ensure private and property security.”<sup>15</sup>

In order to properly control this phenomenon or process, it is necessary to know that one should reveal its conceptual framework in a proper way. One of the main hindrances in creating an effective and purposeful ensuring of public security in Lithuania is indefiniteness of the concept of public security itself. In the scholarly literature no uniform opinion exists as regards the concept of public safety and the definition of its main trends. Therefore, it is necessary to correctly comprehend and decouple the categories of *international–national* security and security of *the individual–the state*.

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<sup>12</sup> Vaišvila, A. *Teisės teorija*. Vilnius: Justitia, 2004, p. 223.

<sup>13</sup> *Viešasis administravimas ir privatūs asmenys: viešojo administravimo subjektų ir privačių asmenų santykius reglamentuojantys administracinės teisės principai*. Europos Tarybos leidinys. Vilnius: Justitia, 2004, p. 11.

<sup>14</sup> Barak, A. *A Judge on Judging: The Role of a Supreme Court in a Democracy*. Yale Law School, 2002, p. 64.

<sup>15</sup> Kalašnykas, R.; Deviatnikovaitė, I. Kai kurių bendrųjų Europos Bendrijos teisės principų taikymo ypatumai administruojant viešąjį saugumą. *Jurisprudencija*. 2007, 4(94), p. 45.



### 1.1.1. The concept of security

**Problem of security definition.** In the broadest sense, security is understood as one of the fundamental human needs.<sup>16</sup> Such concept covers both *objective security* and *subjective security*, as well as confidence in security.<sup>17</sup> *Objective security* means the real situation of security. *Subjective security* means the residents' sense security. However, when evaluating the real condition of security, it is impossible to rely solely on the subjective sense of security of residents. It is necessary to refer to the objective data, demonstrating the real situation of security.

Social security may be specified as *internal security*, the key function thereof is to ensure the political and economic power of those in power, the survival of social systems and the required level of public security.<sup>18</sup> P. Hartland-Thunberg outlines national security as the ability of the state to properly defend its own interests at a global level.<sup>19</sup>

The Canadian National Defence Council documents describe national security as protection of the quality of life, complying with the needs of residents and legal expectations.<sup>20</sup>

The above definitions do not respond to the question of what security *in general* is since it covers only its separate aspects. Thus, the main problem of security definition – security definitions found in the scholarly literature are either too broad or too narrow, covering only the concept of one of any types of security.

**(In)security factors.** The problem of security existing in each society is due to the fact that our contemporary society is living in the “environment of constantly changing risk.”<sup>21</sup> This fact shows that society may only be conditionally secure or insecure since it is impossible to completely eliminate threats against security. However, the situation of security in the state describes how effectively the state controls and eliminates insecurity factors. According to R.Ullman, insecurity factors are those which pose a threat to the quality of life of the residents of the state.<sup>22</sup>

*In the scholarly literature* some other differentiations of insecurity factors (not always substantiated though) exist. For instance, E. Matulionytė differentiates threats into *external* and *internal*. V. Šlapkauskas presents the typology of *social threats* to security – according to the author, the main types of social threats are *physical threats* (pain, injury, death), *economic threats*

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<sup>16</sup> Pitrenaitė, B.; Astrauskas, A.; Mikulskienė, B. Saugios savivaldybės organizacinės valdymo struktūros kūrimas. *Viešoji politika ir administravimas*. 2011, 10(4), p. 643.

<sup>17</sup> *Ibid.*

<sup>18</sup> Runcis, A. *Latvia towards Europe: Internal Security Issues*. Riga, 1999, p. 5.

<sup>19</sup> *Ibid.*

<sup>20</sup> *Ibid.*

<sup>21</sup> *Saugios savivaldybės koncepcija*. Vilnius, MRU, 2011, p. 8.

<sup>22</sup> *Ibid.*, p. 6.

(appropriation of property, destruction, etc.), *threats to rights* (imprisonment, violation of human rights), and *threats to the status* (public humiliation).<sup>23</sup>

**Security differentiation by level.** Security may be differentiated by *level* of its functioning. On this basis, *international*, *regional*, and *state security*, as well as the security of *separate territories* (e.g., county, city, residential district) and that of *other spaces* (e.g., safety at workplace, safety at home) may be distinguished. The epicenter of this differentiation, undoubtedly, is national security. The concept of state security is also to be identified with the concept of national security. In the Law on the Basics of National Security of the Republic of Lithuania it is stated illustratively that “the strengthening of national security shall be the ultimate objective of the domestic and foreign policy of Lithuania.”<sup>24</sup>

**Security differentiation by object.** According to this criterion, the security of *society*, *community*, *separate social groups* and of the *individual* may be distinguished. In this sense, security is perceived as the freedom of people (as individuals and groups) from physical and social threats.<sup>25</sup>

**Security differentiation by type.** Scholars in their works do not reach a consensus on security differentiation by type. Some authors distinguish *military*, *political*, *economic*, *social*, and *ecological* security; *communication* (*information*) security is also conditionally distinguished.<sup>26</sup> Other authors additionally distinguish such security dimensions like *health* and even *food* security.<sup>27</sup>

In the Law on the Basics of National Security of the Republic of Lithuania it is stated that the Lithuanian national security policy shall consist of the provisions of the state *foreign*, *defence*, *economic*, *public security*, *social*, *culture*, *health*, *environmental*, *educational*, *scientific*, as well as other state policy provisions aimed at ensuring national security.<sup>28</sup>

### 1.1.2. Interaction of international and national security

The first aspect of this interaction is that national security, including all its sectors, is strongly impacted by regional security. Today, however, national security is still more strongly impacted by international security tendencies: even though security dimensions in question have always interacted with each

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<sup>23</sup> Šlapkauskas, V. Visuomenės saugumo ir žmogaus teisių ryšys kaip antiterorizmo ideologijos legitimacijos pagrindas. *Jurisprudencija*. 2005, 68(60), p. 26.

<sup>24</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.

<sup>25</sup> Daniel, J., et al. *The Challenges of Central European Security: Critical Insights*. Brno, 2015, p. 7.

<sup>26</sup> Matulionytė, E. Grėsmių nacionaliniam saugumui nustatymas ir jų prevencijos galimybės. *Jurisprudencija*. 2008, 4(106), p. 94.

<sup>27</sup> Fukuda-Parr, S.; Messineo, C. *Human Security*. New York, 2011, p. 5.

<sup>28</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.

other, due to globalization today we can speak if not about the total convergence of international and national security but already at least about the rapid intensification of interaction between these dimensions. Notable, that external threats always induced the Baltic countries to search for the solution of pressing security problems.<sup>29</sup> However, an external character of threats does not mean that these threats do not force one to search for new and effective *internal* security measures of the state.

On the contrary, presumably, external threats are predetermined by international (in) security and affect from the outside the security inside the state. Thus, the more secure international space, the lesser amount of threats also affecting the internal security emerges.

**International and national security convergence under the effect of globalization.** The second aspect of international and national security interaction implies that such interaction becomes still more intensive under the conditions of globalization, this meaning that should those dimensions not merge fully they become dependent on each other. *It is notable*, that globalization is neither an exclusively positive nor negative phenomenon – the negative outcomes of globalization most often become revealed in particular in those states where effective governance experience is lacking, and where administrative reforms are progressing slowly.<sup>30</sup>

**The need for cooperation and synergy.** As stated in the National Public Security Development Program for 2015–2025 of the Republic of Lithuania, “under the conditions of globalization when the threats for national security are still more increasing and they overstep the borders of the states, none of the states may defend themselves effectively against them.” Therefore, in the future, national and regional and EU security will still depend more on the institutional capacity of the state to implement international obligations and to cooperate at a practical level.<sup>31</sup>

### 1.1.3. Unity of state and society security

The dimensions of security of the state and the individual are differentiated by object. Here, we have two main approaches towards the interaction of these dimensions are possible – when the interaction between the state and the individual is perceived either as *contraposition* or as *synergy*.

**Contraposition between the security of state and individual.** According to the traditional security concept, the object of security is the state.

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<sup>29</sup> Istrate, L. The Baltic States between the Old and New Europe. The Benefits of Lisbon Treaty for Lithuania, Latvia and Estonia. *Revista Romana de Geografie Politica*. 2012, XIV, 1, p. 47.

<sup>30</sup> Domarkas, V.; Masionytė, R. Viešojo administravimo modernizavimo galimybės globalizacijos sąlygomis. *Viešojo politika ir administravimas*. 2005, 11, p. 16.

<sup>31</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

Basing on this concept, of special importance is to protect the state territory, institutions, values, and the inhabitants of the state as a unit. According to this concept, the creation of security strategies is commonly concentrated in the state governance institutions, whereas society is seldom involved in this process. However, “a safe state not necessarily means its citizens being safe.”<sup>32</sup> An approach what the object of security would be is related to the concept of law existing in the state. If the legal system acknowledges the primacy of the individual, the individual is perceived as the object of security.

This concept has been strongly expanded after World War II when in the United Nations Charter 1945 the pursue was enforced for nations to act collectively to protect rights, freedoms, and dignity of individuals, recognizing the tension between the individual and the interests of the state.<sup>33</sup> According to B. Buzan, “the individual represents a final indivisible unit in respect of which the concept of security may be applied.”<sup>34</sup> Therefore, the individual is the primary level of vertical security concept dynamics (international–national–individual).

**Security synergy of state and individual.** From another viewpoint, security dimensions of the state and the individual complement one another. *For example*, one of the interests of the state is to create a secure society with the use of the most variegated means. Thus, in ensuring societal security the security interests of separate individuals are also satisfied<sup>35</sup>. According to this standpoint, state (national) security, however, is the basis for the security of the individual. The state must be concerned with the security not only of the society in general but also of its separate groups and individuals.

#### 1.1.4. Public safety is the foundation of national security

In Ancient Rome already the principle *justitia est fundamentum regnorum* (*Lat.* Justice is the foundation of states) was enacted in law, meaning the duty of the state to “create such laws that would allow ensuring the rights of man and citizen in any situation.”<sup>36</sup>

The legal foundation of the national security policy of the Republic of Lithuania is the Constitution of the Republic of Lithuania. In addition, a national security policy shall be also obligatorily based on the United Nations Charter, instruments of the Organization for Security and Cooperation in Europe, North Atlantic Treaty, other multipartite and bipartite international

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<sup>32</sup> *Saugios savivaldybės koncepcija*. Vilnius, MRU, 2011, p. 12.

<sup>33</sup> Fukuda-Parr, S.; Messineo, C. *Human Security: A Critical Review of the Literature*. 2012, p. 4.

<sup>34</sup> Gečienė, I. Lietuvos gyventojų subjektyvus saugumo suvokimas išorinių grėsmių kontekste. *Kultūra ir visuomenė*. 2015, 6(1), p. 57.

<sup>35</sup> Kalesnykas, R.; Mečkauskas, V. Vaizdo stebėjimo kamerų (CCTV) panaudojimas užtikrinant visuomenės saugumą: teisiniai ir organizaciniai aspektai. *Jurisprudencija*. 2002, 36(28), p. 59.

<sup>36</sup> Pitrenaitė, B. Teisinio reglamentavimo įtaka ekstremalių situacijų valdymo veiksmingumui. *Jurisprudencija*. 2006, 5(83), p. 90.

agreements, as well as universally recognized principles and norms of international law.

As was noted by J. Teivans-Treinovskis and N. Jefimovs, national security may be a dangerously ambiguous category if used without specifying it.<sup>37</sup>

The concept of national security in the legal system of Latvia is defined in the Law on National Security, where national security is understood as the purposeful actions of the state and society, targeted to the pursuit of protecting independence of the state, its constitutional order and territorial integrity, opening an opportunity to develop freely welfare and stability in the country.<sup>38</sup>

Similar sectors are distinguished in the Law on the Basics of National Security of the Republic of Lithuania (further the Law on the Basics of National Security).<sup>39</sup> Under Article 1 of this Law, ensuring the national security of Lithuania means the provision of conditions for a free and democratic development of the nation and the state, protection and defence of the independence of the state, territorial integrity and constitutional order. This concept is similar to the concept, enforced in the Law on National Security of the Republic of Latvia.

Public security policy as part of domestic security of national security is perceived also in the National Security Strategy.<sup>40</sup> Here it is stated that to ensure the security of society it is necessary to maintain public security, economic and social stability, to ensure environmental protection, to strengthen capabilities in responding to external and internal risk factors, dangers, and threats.

Meanwhile, in the Law on the Basics of National Security it is indicated that the fight against crime and ensuring of public order and personal security within the state shall be one of the main priorities, aimed at ensuring national security.

Another priority shall be a reliable control and guarding of the state border meeting the requirements set by the EU – the regulations of the state border and the frontier shall be laid down, and the effective organization of the state border guarding shall be regulated by law. The last priority of public security policy foreseen in the law is road safety, guaranteeing that state institutions take complex measures at reducing the number of accidents, and ensure their proper organization and coordination.

*It is notable* that neither in the Law on the Basics of National Security nor in the National Security Strategy, the main goals, trends, and priorities were

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<sup>37</sup> Teivans-Treinovskis, J.; Jefimovs, N. State National Security: Aspect of Recorded Crime. *Journal of Security and Sustainability Issues*. 2012, 2(2), p. 42.

<sup>38</sup> *Ibid.*

<sup>39</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.

<sup>40</sup> Lietuvos Respublikos Seimo 2012 m. birželio 26 d. nutarimas Nr. XI-2131 „Dėl Lietuvos Respublikos Seimo nutarimo „Dėl Nacionalinio saugumo strategijos patvirtinimo“ pakeitimo“.

laid out finally and consistently. In the Law on the Basics of National Security the following priority trends in the public security policy were distinguished: fight against crime and its prevention, proper state border control and protection and road safety. Meanwhile, the National Security Strategy envisages the following: an effective corruption control and prevention fight against organized crime, and management of extreme situations. Neither law nor strategy, however, envisages a specific and final system, what elements constitute the public security sector, what the priority goals of public security policy are, and how they should be implemented.

This problem has been partially solved after the approval in 2015 of the Public Security Development Program for 2015–2025 where public security is defined as “part of national security, encompassing the protection of legitimate interests of people, society and state against criminal acts and other violations of law, natural and man-made disasters.”<sup>41</sup>

## **1.2. Scientific evaluation of the administrative-legal regulation mechanism in ensuring public safety in Lithuania**

As universally known, administrative law is the branch of public law, regulating the legal status of public administration entities and their relations with other entities of public and private law. Administrative law and ensuring public security are closely interrelated notions. Administrative law became dissociated from police law in the 19<sup>th</sup> century when public order protection remained the main task of police law and the key task of administrative law became vested in the “regulation of relations between the person and the state in the field of public governance and protection of human rights against the self-will of the state.”<sup>42</sup> According to A. Urmonas, administrative law performs the regulatory, communication, and socialization functions.<sup>43</sup>

As already discussed in the above chapters, after a survey of the main general legal acts regulating public security has been made, it is seen that their provisions are not coordinated, final, and qualitative. That is why it is the *first* reason why ensuring public security in Lithuania is not sufficiently effective.

The administrative-legal regulation mechanism is understood as the totality of administrative-legal measures, intended for regulating public administration relations.

The purpose of the administrative-legal regulation mechanism for ensuring public security is to create proper conditions for a smooth functioning

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<sup>41</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>42</sup> Paužaitė-Kulvinskienė, J. Administracinė justicija: teorija ir praktika. Vilnius: Justitia, 2005, p. 30.

<sup>43</sup> Urmonas, A. Socialinių technologijų metodologinė funkcija administracinėje teisėje. Socialinių technologijų konceptualių modelių pritaikymo administracinėje teisėje paieška. *Jurisprudencija*. 2007, 6(96), p. 10.

of all structural elements for ensuring public security by establishing a permanent legal order. The administrative-legal regulation mechanism ensures the implementation of public security by coordinated and consistent actions.

Differentiation of the spheres of public governance existing in Lithuania “presupposes the overlapping of the activities carried out, this leading to the creation of the ineffective and high-priced public governance apparatus which not so much complies with the aspirations of the society but rather “shares” the areas of activity.”<sup>44</sup> This may be treated as the *second* reason for an insufficiently effective ensuring of public safety.

**The need for modernization.** Administrative law will perform its functions efficiently only when at the lawmaking and at the law application stage a reaction to the changing social reality is adequate. The provision is embedded in the National Public Security Development Program for 2015–2025 that the development of public security shall be based on the principle of respect for constitutional human rights and freedoms.<sup>45</sup> Hence, the administrative-legal regulation mechanism is to be modernized having in mind this end.

The modern administrative-legal regulation mechanism should be able to coordinate comprehensively the legal measures and to ensure the compliance of legal norms and of the changing social environment, that the “main end of public administration institutions is to find how to serve professionally the society on the basis of ethics and management, efficiency and effectiveness, with regard to the principles of equal opportunities, adjusting all that to the constantly changing political environment.”<sup>46</sup>

## 2. PUBLIC SAFETY OF SOCIETY UNDER THE CONDITIONS OF GLOBALIZATION

The Law on the Basics of National Security of the Republic of Lithuania regulates that the Government is obligated to safeguard the inviolability of the territory of the Republic of Lithuania and ensure state security and public order as prescribed by Article 94 of the Constitution of the Republic of Lithuania. The law also indicates that domestic policy measures of the state *inter alia* should guarantee a secure environment and public order to the citizens of the state.<sup>47</sup> It is notable that “global modernization processes stimulate not only the

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<sup>44</sup> Andrijauskaitė, L. *Socialinių paslaugų sistema Lietuvoje viešojo valdymo modernizavimo kontekste*. Daktaro disertacija. Vilnius: Mykolo Romerio universitetas. 2015, p. 10.

<sup>45</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtos 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

<sup>46</sup> Domarkas, V.; Masionytė, R. Viešojo administravimo modernizavimo galimybės globalizacijos sąlygomis. *Viešojo politika ir administravimas*. 2005, 11, p. 17.

<sup>47</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.

enhancement of welfare but also of threats,”<sup>48</sup> and that “contemporary society is living in the environment of a constantly changing risk; therefore, the problem of security exists in each state.”<sup>49</sup> The problem of ensuring security remains relevant and it is notable that a subjective sense of the residents’ security is just one of the indicators by which the situation of a safe environment may be evaluated.

In Lithuania ensuring public security is most often related exclusively to crime reduction. Such approach, however, is erroneous and too narrow since securing the residents’ environment is determined by other factors as well. Too narrow perception of the security of environment has an effect on other problems pertaining to the residents’ security which is accorded insufficient attention. This predetermines negative effects on the condition of the environment in the *objective* and *subjective* sense. The residents’ approach to the police as a dominant entity, responsible for ensuring public order, is closely linked with the conditionally weak civil society and community institutions, this being characteristic of both Lithuania and other states across the region. In Lithuania like in other Baltic states – Latvia and Estonia – the problem of coordinated institutional interaction and compatibility of functions in ensuring public order has recently become highly topical.

*Another problematic area* is the strengthening of the role of communities by promoting the functioning of residents’ self-security systems. This problem is also emphasized in the National Public Security Development Program for 2015–2025. In a democratic state, the involvement of communities and separate individuals in ensuring public order is the right rather than the duty.

Public order offences or other criminal acts, committed in a public place, are most apparent and assessed by the residents. Even though the analysis of statistical data of the past decade has shown that the number and share of criminal acts committed in public places got reduced by 45.9 percent, as compared to the total recorded criminal acts;<sup>50</sup> nonetheless, these acts are most conspicuous, thus mostly affecting the residents’ feeling of safety. In difference from some other specific public security dimensions, maintenance and assurance of public order is relevant for each member of the society without exclusion.

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<sup>48</sup> *Saugios savivaldybės koncepcija*. Vilnius, MRU, 2011, p. 8.

<sup>49</sup> *Ibid.*

<sup>50</sup> Vileikienė, E. *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2015, p. 9.



## 2.1. The legal basis of ensuring public order at the state level

As already emphasized, ensuring public order is a complex task, encompassing both prevention and control of human-caused threats and dangerous phenomena independent of the will of man. It would be neither possible nor expedient to provide the final analysis of all legal acts on the regulation of ensuring public order. However, prior to exploring the institutional aspect of ensuring public order and the problems of control of extreme situations, it is expedient to discuss the concept of public order and the public order offence categories (as an *administrative offence*, a *criminal offence*, and a *crime*).

### 2.1.1. The state-of-the-art concept of public order

The Constitutional Court of the **German** Federal Republic in its decision in the *Brokdorf* case formulated a concept that *public order* is the totality of unwritten rules, obedience to which (Germ. *Befolgung*) is regarded, according to social and ethical opinions (Germ. *Anschaungen*) prevailing at the time, as an indispensable (Germ. *Unerlässlich*) prerequisite for an orderly (Germ. *Geordnet*) communal human existence within a defined area.<sup>51</sup> **In Germany**, the concept of public order – *öffentliche Ordnung* – occupies an important place in German law, but is almost always used in conjunction with the category of public security (Germ. *öffentliche Sicherheit*). Public order (*öffentliche Ordnung*) is perceived as a set of unwritten rules concerning the behavior of the individual in the society to be followed by the individual as part of the community.

In the Constitutional Court (Fr. *Conseil Constitutionnel*) jurisprudence of **France** the concept *ordre public* means the totality of universally recognized conduct rules that every person understands without their precise definition in legal acts, *ordre public* is relevant to the principle of security. On the basis of the concept *ordre public*, restrictions on liberty of movement, right to privacy, inviolability of property or liberty of self-expression may be justified.<sup>52</sup>

**In Italy**, the concept of public order is also not precisely defined. The concept of public order in Italy resembles the situation in French law. The Italian term of public order is related to that in French law and derived from the Napoleonic Civil Code. The Constitutional Court of Italy has defined public order as a constitutional value which is aimed at safeguarding societal welfare: legitimate are those legal norms which help to prevent disruptions to public order.

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<sup>51</sup> BVerfGE 69, 315 – Brokdorf Decision of the First Senate 1 BvR 233, 341/81 f. Available in Internet: <https://law.utexas.edu/transnational/foreign-law-translations/german/case.php?id=656>.

<sup>52</sup> *Security Related Terms in International Investment Law and in National Security Strategies*. OECD, 2009, p. 8–9.

*In Switzerland*, the Swiss Constitution recognizes the concepts of constitutional order and public order. Most often, public order, like in Lithuanian law, is mentioned in conjunction with public security as a composite legal term (public order and security). However, the specific content of the concept of public order has not been defined in any legal act.

*In the USA*, the term – *public order* – is ambiguous and is frequently mentioned within the context criminal of law. Most often the following public order conceptions exist: *public order* as fundamental conduct rules existing in the community, infringed by committing criminal acts or other offences of law; public order as a category, safeguarding of which is within the sphere of police activities; public order as a category, the safeguarding of which is the objective of other law enforcement institutions and other public administration institutions.

*In Peru* the protection of public order is also enforced at a constitutional level. The concept of public order in the Constitution of Peru is related to the needs of society, morals, health, and safety. The concept of public order is mentioned in the context of national security.<sup>53</sup>

The concepts of public order in these states it is seen that they do not differ too much from conceiving public order in Lithuania.

### **2.1.2. Legal protection of public order of the community**

The regulation of public order offences gives rise to numerous discussions as regards their inconsistency, while the discussions on the substantiation of criminal liability have been ongoing since of old.

Lithuanian national legal acts for violations of public order foresee both *criminal* and *administrative* liability. According to the wording of Article 284 of the Republic of Lithuania Criminal Code<sup>54</sup>, from 1 April 2016 the key criterion of criminal and administrative liability for such violations has become revealed – criminal liability is imposed when the real effects are caused by an act – public order is disturbed. However, criminalization of public order violations is to be estimated as incompatible with the principle of criminal liability as *ultima ratio*, recognized in a democratic state. This is witnessed by the Lithuanian Supreme Court clarification<sup>55</sup>, explicitly expounding that acts, described in CC Article 284, are similar to administrative law offences. For this reason, one proposes to *decriminalize* this act and, in the cases when the other act is committed in a public place and the peace of the surrounding people is

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<sup>53</sup> *Security Related Terms in International Investment Law and in National Security Strategies*. OECD, 2009, p. 10.

<sup>54</sup> Lietuvos Respublikos baudžiamasis kodeksas (aktuali redakcija). *Valstybės žinios*. 2000, Nr. 89-2741.

<sup>55</sup> Lietuvos Aukščiausiojo Teismo Baudžiamųjų bylų skyriaus teisėjų kolegijos 2013 m. kovo 19 d. nutartis baudžiamojoje byloje Nr. 2K-160/2013.

disturbed, to enforce the option to treat it as an aggravating circumstance. Even though the meticulous detailing of legal regulation was not avoided upon the enactment of a new Republic of Lithuania Code of Administrative Offences<sup>56</sup>, estimated as positive in the new CAO could be the systematically arranged offences whereby public order could be infringed, the enforced possibility to impose administrative sanctions which could positively impact the offenders' conduct and reduce the risk of repeat public order offences.

## **2.2. Improvement in the activity of state governance and self-government institutions to guarantee public order**

The main institution, responsible for maintaining public order in Lithuania as in many other states across the region, traditionally is deemed to be the police.

As underlined by Latvian authors E. Melnis, A. Garonskis and A. Matvejevs, the major part of Central and East European countries possess wide experience in the field of totalitarian regime governance, when the police was used for citizens' oppression and control. Due to this, the police until recently quite often enjoy a negative reputation. Even though trust in the police at present is augmenting, in the last decade of the 20<sup>th</sup> century the police were even perceived as a threat to human rights and freedoms rather than a protector.<sup>57</sup> In addition, "citizens are demanding from the police services more diverse crime prevention services, higher accountability and effective work."<sup>58</sup> Thus, attention should be focused on the necessity of modernization of the administrative-legal regulation mechanism. According to V. Domarkas, public administration, as a democratic institution, *inter alia* should be responsible and transparent; decentralized; based on the balanced control system of the executive and legislative authorities; performing the key role in reducing exclusion, protecting the rights of minorities and vulnerable groups of society; possessing sufficient managerial capacities to improve legitimacy; creating a favorable environment for interaction of civil society and private sector; using information and communication technologies, when stimulating the citizens' participation in the developmental processes; promoting and strengthening different types of collaboration in seeking to achieve the set goals.<sup>59</sup>

*In accordance with these principles*, it may be said that of special importance also is to guarantee their operation in the activities of the

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<sup>56</sup> Lietuvos Respublikos administracinių nusižengimų kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo tvarkos įstatymas.

<sup>57</sup> Melnis, E.; Garonskis, A.; Matvejevs, A. Development of the Policing in Latvia. *Jurisprudencija*. 2006, 79, p. 72.

<sup>58</sup> Raipa, A.; Smalskys, V. Policijos personalo rengimo vadybiniai ir istoriniai aspektai. *Viešojo politika ir administravimas*. 2006, 18, p. 78–79.

<sup>59</sup> Domarkas, V. Viešojo administravimo aktualijos. *Viešojo politika ir administravimas*. 2005, 13, p. 9.

institutions involved in ensuring public order protection, the more so that maintaining public order is the specific field where restrictions on human rights and freedoms are possible. This problem is urgent, indeed, given that contemporary European countries and in particular those where long-term democratic governance traditions are absent “attempt to concert the management and training systems of the police, as the statutory public sector organization, with modern public administration tendencies.”<sup>60</sup>

### 2.2.1. Contemporary problematic aspects of policing organization

The key problems of police activity, aggravating the police opportunities to ensure effectively public order, are the problem of distrust of the residents in the police structures, the lack of human and other resources, the problem of qualification of police officers, a gap in the cooperation between the police and communities, which preconditions the potential of communities to partake in ensuring public order.

***The problem of residents’ (dis)trust in the police.*** As most frequent the following reasons of distrust in the police should be mentioned: corruption, links with the criminal world, ineffective activity (inability to regulate criminality), impoliteness, and unwillingness to help.<sup>61</sup>

The *first reason* is that mass media where the police work quite often is evaluated unfavorably contributes greatly to a negative image of the police.<sup>62</sup> It should be noted that lately trust in the police has been on the increase.

The *second reason* is reluctance to have any deals with the police. These reasons as being principal were referred to in the public polls of 1997 and 2006–2012. Attention, however, should be drawn to the fact that in the 2013–2014 polls the reluctance of dealing with the police as a reason of not applying to the police is mentioned still more rarely.

The efficiency of the police activities with the application of comprehensive measures and inter alia of the most advanced technological achievements to allow the police to perform their duties operatively and effectively is also underlined by A. Matvejevs.<sup>63</sup>

***Qualification problem of police officers.*** As emphasized in the Public Security Program for 2015–2025, “the existing system of professional training and qualification improvement of officers only in part complies with the practice of professional training and qualification improvement of officers,

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<sup>60</sup> Bubnys, G.; Smalskys, V. Policijos struktūrų valdymas ir personalo rengimas naujosios viešosios vadybos kontekste. *Viešojoji politika ir administravimas*. 2005, 13, p. 92.

<sup>61</sup> Kalašnykas, R.; Deviatnikovaitė, I. Kai kurių bendrųjų Europos Bendrijos teisės principų taikymo ypatumai administruojant viešąjį saugumą. *Jurisprudencija*. 2007, 4(94), p. 47.

<sup>62</sup> Bandzevičienė, R.; Birbilaitė, S.; Diržytė, A. Kriminalinės policijos pareigūnų stresas, jo įveika ir vidinė darba. *Socialinių mokslų studijos*. 2010, 4(8), p. 22.

<sup>63</sup> Matvejevs, A. Legal Regimes in Police Activity at Latvian Security Policy. *Journal of Security and Sustainability Issues*. 2013, 3(1), p. 23.

applied in the majority of the EU Member States, and cannot fully satisfy the need for training of officers and their qualification.”<sup>64</sup>

One of the possible problem-solving options is the creation of attractive training conditions and actualization of officer training and qualification programs.

***Police and community synergy problem.*** A variety of research showed that “formal police control may strengthen the population capacities to fight against crime and disorder.”<sup>65</sup> A sense of community of the police has a considerable impact on the active involvement of the residents in maintaining public order. Hence, formal social control also strengthens informal social control and *vice versa*.

Part of the population still considers maintaining public order as an exclusive function of the police and does not think that community should take an active position on this issue. This shows that it is expedient for the police to devote more attention to the initiatives of the work with society, elucidating the significance of assistance and active participation of the residents in maintaining public order, support to crime control and prevention.<sup>66</sup>

One of the forms of collaboration between police and community is the activity of police support volunteers, which becomes revealed in maintaining public order. By evaluation of police officers, “police support volunteers is a beneficial support to the police in consideration of lacking police human resources.”<sup>67</sup>

***Problem of the police as a social service.*** According to some authors, police functions and administrative management functions should be decoupled, since the regulation methods of police law and administrative law vary. A distinction of the police law regulation method is predetermined by the specificities of ensuring public security, which grant the powers, if necessary, to restrict human rights and freedoms or to apply coercion in the name of the state.<sup>68</sup> Such conception of the police is hardly compatible with the opportunity to perceive the police activities as a social service.

In new democracies in Central Europe “it is quite difficult to oust from policing the coercive activity models. The Lithuanian police in this respect are not of any exception either; it so far remains a coercive organization.”<sup>69</sup>

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<sup>64</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtos 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>65</sup> Nikartas, S. *Bendruomenių dalyvavimas nusikalstamumo prevencijoje*. Daktaro disertacija. Vilnius: Mykolo Romerio universitetas, 2012, p. 33.

<sup>66</sup> *Visuomenės savisaugos sistemos Lietuvoje būklės ir visuomenės bendradarbiavimo su teisėsaugos institucijoms*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2008, p. 19.

<sup>67</sup> *Ibid.*, p. 63.

<sup>68</sup> Kalesnykas, R.; Mečkauskas, V. Lenkijos policijos teisė: funkcinis požiūris į sistemą. *Jurisprudencija*. 2003, 49(41), p. 87.

<sup>69</sup> Bubnys, G.; Smalskys, V. Policijos struktūrų valdymas ir personalo rengimas naujosios viešosios vadybos kontekste. *Viešoji politika ir administravimas*. 2005, 13, p. 92.

However, *new public management* ideas gradually come in effect even in this sphere and are targeted to provide services of better quality to the residents. New public management is based “on the improvement of horizontal decentralized management, privatization of part of the state functions, personnel contract-based management system and other modern management methods.”<sup>70</sup>

***Police modernization necessitates*** both its community-oriented approach and dissociation of public and criminal police functions. Public policing covers the performance of active preventive activity and provision of social services to citizens, involving them in the implementation of their programs. Currently, the specificities of Lithuanian police activities are regulated by the Law on Police Activities,<sup>71</sup> which is common for all types of policing. Instructions on Police Patrolling Activities are also of relevance to the public police<sup>72</sup>, even though they are an accompanying legislative act wherein the practical aspects of activities rather than strategic goals are regulated. Meanwhile, the Law on Police Activities envisages the principles and tasks of police activities that are common for all types of policing. It is notable that it would be expedient to regulate the *public police* and *criminal police* activities by different laws.

***Problem of human resources and lack of resources.*** As stated in the Vilnius city strategic plan for 2010–2020, the position by the number of police officers per 100 000 residents is worst in the city of Vilnius, as compared to other cities in the country, namely, just 335 officers per 100 000 residents in Vilnius; meanwhile, in Kaunas – 342, in Panevėžys – 348, in Klaipėda – 353, and in Šiauliai – 397.

The problem of human resources in the police is emphasized in the Public Security Development Program for 2015–2025, where it is stated that “public security development is restricted in particular by the insufficient funding of law enforcement institutions and other state institutions, delegated directly with the tasks of strengthening public security; decrease in the number of officers employed; the training and qualification improvement system not satisfying the needs; the insufficient qualification and skills of officers.”<sup>73</sup> The *qualified personnel* is highly lacking in the police and other law enforcement institutions.

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<sup>70</sup> Bubnys, G.; Smalskys, V. Policijos struktūrų valdymas ir personalo rengimas naujosios viešosios vadybos kontekste. *Viešoji politika ir administravimas*. 2005, 13, p. 93.

<sup>71</sup> Lietuvos Respublikos policijos veiklos įstatymas. *Valstybės žinios*. 2000, Nr. 90-2777.

<sup>72</sup> Lietuvos policijos generalinio komisaro 2011 m. liepos 19 d. įsakymas Nr. 5-V-673 „Dėl policijos patrulių veiklos instrukcijos patvirtinimo“.

<sup>73</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

## 2.2.2. Compatibility of the functions and competences of the Public Security Service

Another institution with the functions thereof pertaining to the maintenance of public order is the Public Security Service, its activities being regulated by a special law.<sup>74</sup> It is noteworthy that the Public Security Service, indeed, plays an important role in ensuring public order. Nevertheless, scholarly literature does not give any attention to the activities of this service and its regulation – not a single scholarly publication has been found where the problems of the activities of this institution are being tackled.

In Latvia and Estonia, unlike in Lithuania, ensuring public security is solely the police function, whereas the Public Security Service, as a second institution, responsible for maintaining public order in cases of emergencies and extraordinary situations is more characteristic of the larger states, *for example*, France and Spain.<sup>75</sup>

The Public Security Service shall restore and ensure public order in cases of extraordinary situations and emergencies and shall perform other tasks: *shall liquidate* hazards posed to human life or health and property in cases of extraordinary situations and emergencies; *shall ensure* the organization and carrying out of convoy operations of the persons detained, arrested and convicted; *the protection* of important state objects; shall search for persons.<sup>76</sup>

*In addition*, the Public Security Service is delegated with the task to defend the state in the event of war and to perform other tasks assigned to the service by law.

The Public Security Service also shall conduct conveying the persons detained, arrested and convicted in cases of their extradition and deportation, transfer to the International Criminal Court, surrender under European arrest warrant, also transfer of the convicts for the continued serving of the sentence. It is notable that the procedure of conveying is regulated in detail in the Conveying Regulations.<sup>77</sup> Even though in these Regulations the conveying procedure and following of the security requirements are described in detail, attention is to be drawn to the fact that in these Regulations very little heed is paid to the rights of persons conveyed, this not being in line with the provisions of a democratic state.

The conveying regime concerns the special restriction of human rights, even though this does not absolutely justify the gap in the regulation of the rights of the conveyed person. It is assumptive that this just presupposes the

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<sup>74</sup> Lietuvos Respublikos viešojo saugumo tarnybos įstatymas. *Valstybės žinios*. 2006, Nr. 102-3935.

<sup>75</sup> *Viešojo saugumo tarnybos veikla. Išankstinio tyrimo ataskaita*. 2015, p. 9.

<sup>76</sup> Lietuvos Respublikos viešojo saugumo tarnybos įstatymas. *Valstybės žinios*. 2006, Nr. 102-3935.

<sup>77</sup> Lietuvos Respublikos teisingumo ministro ir Lietuvos Respublikos vidaus reikalų ministro 2005 m. liepos 29 d. įsakymas Nr. 1R-240/IV-246 „Dėl Konvojavimo taisyklių patvirtinimo“.

need for more detailed regulation of the rights of the convoyed, with account of their legal restraints.

The remaining functions of the Public Security Service include search and detention of persons who have escaped from imprisonment institutions or during a convoy operation, protection of important state objects according to the Government-approved list, liquidation of emergencies and their sequels, participation in the operations and missions of the United Nations, other international organizations, European Union and foreign states in the procedure prescribed by the Republic of Lithuania Government, communication with law enforcement institutions, etc.

Practical problematic aspects of the Public Security Service activities are specified in detail also in the activity report for 2015. Attention in the report is devoted to such problems as improper organization of ensuring the state of constant special readiness of the Public Security Service, inadequate distribution of the convoying function, upon insufficient evaluation of distances from imprisonment facilities to institutions, performing convoying, and the available human and material resources. It is also noted that the Public Security Service structure is not optimum, not all options are used to call to assistance the Service officers for the statutory institutions of the interior to perform their everyday functions; a list of the important state objects to be under protection of the Service has not been approved.<sup>78</sup>

### **2.2.3. Compatibility of the functions and competences of municipal institutions**

According to A. Novikovas, the state monopoly of the public order protection function “does not reflect the innovative framework of the state and actually ignores one of the public government and governance organization forms – local self-government.”<sup>79</sup> In the opinion of many authors, ensuring public order in contemporary states is “a task of all levels.”<sup>80</sup> Therefore, it is necessary to evaluate properly the significance of municipalities in ensuring public order. The principles of cooperation when seeking to tackle urban security problems have been laid out in the 1995 Guidelines for the Prevention of Urban Crime of the United Nations Economic and Social Council.<sup>81</sup>

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<sup>78</sup> *Viešojo saugumo tarnybos veikla. Išankstinio tyrimo ataskaita*. 2015, p. 5–8.

<sup>79</sup> Novikovas, A. Savivaldybių viešosios tvarkos apsaugos tarnybų veiklos perspektyvos Lietuvoje. *Socialinių mokslų studijos*. 2009, 3(3), p. 56.

<sup>80</sup> Pitrėnaitė, B.; Astrauskas, A.; Mikulskienė, B. Saugios savivaldybės organizacinės valdymo struktūros kūrimas. *Viešoji politika ir administravimas*. 2011, 10(4), p. 643.

<sup>81</sup> United Nations, Economic and Social Council, Resolution 1995/9 Guidelines for the Prevention of Urban Crime. Available in Internet: <http://www.un.org/documents/ecosoc/res/1995/eres1995-9.htm>.



The Republic of Lithuania Government Resolution “On the Approval of the Concept of a Safe Municipality” is based on the Canadian experience in the organization of ensuring public order at the municipal level.

The Government Resolution emphasizes that the above-mentioned Canadian experience in ensuring the safety of communities may be successfully applied in Lithuania. The Resolution underlines the Collection of the Canadian Urban Security Ensuring Strategies and Practices, developed by the Crime Prevention Institute of Ottawa University and published in 2008, setting out the principles of improving municipality capacities to implement, maintain and strengthen initiatives on crime prevention and community safety ensuring in municipalities.<sup>82</sup>

*As concerns the evaluation of the safe municipality concept, it should be said* that some authors are critical regarding its abstract approach: the concept “contains the key guidelines, not offering any detailed measures of how to create and develop safe municipalities.”<sup>83</sup> The said Resolution of the Government of the Republic of Lithuania<sup>84</sup> highlights the trends in the creation of a safe municipality.

*According to these trends*, a special unit is set up in the municipal administration being responsible for organizing the activities of promoting the residents’ safety in the municipality; the responsible institution is assigned to assess the safety situation of residents in the municipality; to organize collaboration of the responsible institution with the entities concerned through the partnership mechanism of the entities concerned – the corresponding commission, council or some other formation which would include the representatives of the municipal administration and the entities concerned.

### **3. ENSURING PUBLIC SECURITY IN THE FIGHT AGAINST CRIME**

*Crime* is a regular and inevitable phenomenon, predetermined by the specificities of social conditions, while criminal behavior and some criminal acts (crimes and criminal offences) are conditioned by certain individual circumstances.<sup>85</sup> Hence, even though separate criminal acts are of occasional type, individually they may be avoided; crime in the society is an unavoidable socially regressive phenomenon. *Crime* is noted for its stability, social conventionality, unacceptability, historical changeability, latency,

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<sup>82</sup> Lietuvos Respublikos Vyriausybės 2011 m. vasario 17 d. nutarimas Nr. 184 „Dėl Saugios savivaldybės koncepcijos patvirtinimo“.

<sup>83</sup> Mikulskienė, B. et al. Saugios savivaldybės vertinimo sistemos formavimas. *Socialinės technologijos*. 2011, 1(2), p. 285.

<sup>84</sup> Lietuvos Respublikos Vyriausybės 2011 m. vasario 17 d. nutarimas Nr. 184 „Dėl Saugios savivaldybės koncepcijos patvirtinimo“.

<sup>85</sup> Babachinaitė, G. et al. *Kriminologija*. Vilnius: Mykolo Romerio universitetas, 2010, p. 119.

systematization, and self-creation.<sup>86</sup> According to A. Jatkevičius, crime is an overall and comprehensive phenomenon; therefore, it should be studied in a complex way.<sup>87</sup>

*Contemporary crime* is not a final outcome of crime development but rather a part thereof, reflecting the political, economic, social and demographic tendencies of a particular period. The effectiveness of the contemporary methods in the fight against crime is dependent on the above said.

In Lithuania, alike in other states, crime indicators are subject to variation, since penal policy, recording procedures of criminal acts, attitudes of residents to crime and committers of criminal acts undergo changes, and, in general, demographic, economic, and social situation is prone to vary. *Obviously*, with the legal framework still in the process of formation and organizational capacity and coordination building and efficient administrative experience lacking, the effective crime control was impossible.

Changes in the constituent elements of *crime* have also evidenced societal changes. According to 2014 data, by the number of crimes recorded per 100 000 inhabitants, a criminogenic situation in Lithuania was similar to that in Estonia (data, correspondingly, 2827.6 and 2872). Meanwhile, in Latvia this indicator is lower (2386.1 crimes per the same number of the population).<sup>88</sup> Comparing crime indicators of Lithuania and other Baltic States in the recent years, it should be stated that the total reported crime number in Latvia and Estonia in 2014, as compared to 2013, decreased (–2.2 percent in Lithuania and –4.7 percent in Estonia), and in Latvia increased by 1.9 percent.<sup>89</sup> Comparing the 2015 data, crime has declined in all Baltic States (–12.7 percent in Lithuania, –2.2 percent in Latvia, –14 percent in Estonia).<sup>90</sup> However, the fact that statistical data pertaining to criminal acts differ quite considerably (*for example*, in 2015, in Lithuania, 3187 public order disturbances were recorded, and in Latvia and Estonia, correspondingly, 225 and 432)<sup>91</sup> witnesses the differences in legal regulation and crime recording, as a result of which, unfortunately, it is impossible to obtain quite precise data on the real quantitative and qualitative crime-related data differences in the Baltic States,

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<sup>86</sup> Kiškis, A. *Nusikalstamumas. Paskaitų medžiaga*. Vilnius: Mykolo Romerio universitetas, 2015.

<sup>87</sup> Jatkevičius, A. *Nepilnamečių smurtinio nusikalstamumo prevencija*. Daktaro disertacija. Vilnius: Vilniaus universitetas, 2003, p. 20.

<sup>88</sup> *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2015, p. 5.

<sup>89</sup> Informacijos ir ryšių departamentas. Duomenys apie nusikalstamumą Baltijos valstybėse per 2014 m. sausio–gruodžio mėn. Available in Internet: [http://www.ird.lt/statistines-ataskaitos/wpcontent/themes/ird/reports/html\\_file.php?metai=2015&menu=12&ff=12&ff=1Z&fnr=1&rt=1&oldYear=2015](http://www.ird.lt/statistines-ataskaitos/wpcontent/themes/ird/reports/html_file.php?metai=2015&menu=12&ff=12&ff=1Z&fnr=1&rt=1&oldYear=2015).

<sup>90</sup> Informatikos ir ryšių departamentas. Duomenys apie nusikalstamumą Baltijos valstybėse per 2015 m. sausio–gruodžio mėn. Available in Internet: <http://www.ird.lt/statistines-ataskaitos/?metai=2015&menu=12&idAta=6&rt=1&oldYear=2015&id=136&idStat=10&regionas=0&id3=1#Atas-BV>.

<sup>91</sup> *Ibid.*

thus not enabling to identify weaknesses and strengths of each state and to share their best experience. Attention should be also focused on crime latency, which remains a serious problem.

*The key task* in combating crime belongs to law enforcement institutions. It is notable, *however*, that another understanding has been prevailing gradually in the society as to it being the sphere of responsibility of the civic society as a whole.<sup>92</sup> Upon such ineffective measures of impact being faced, still more attention has been accorded to crime prevention.

*The main reasons and conditions for crime* are considered to be such factors as *unemployment, lack of education, dependence on or intoxication with psychotropic substances, social exclusion and vulnerability, ineffectiveness of the social security system*. In addition, crime is also affected by some positive processes, for instance, the strengthening international relations, growing societal mobility, urbanization, economic development, etc.<sup>93</sup>

*According to the Eurostat data*, in 2009, Lithuania was fourth in Europe by the number of incarcerated persons and the first by the number of homicides.<sup>94</sup> The latter is prominent even in comparison with other Baltic States: in 2015, 204 criminal acts against the human life were recorded, whereas in Latvia 87, and in Estonia 50.<sup>95</sup> *Contemporary crime*, under the action of globalization processes, is not solely the problem related to the domestic security of states.

### 3.1. Crime prevention and control

The National Program for Crime Prevention and Control 2003 defines *crime prevention* as “a measure of effect on crime aiming to prevent offences by identifying and eliminating the general causes and conditions of offences, as well as by making an individual influence on persons who tend to commit offences or who may become offenders or victims of offences in the future.”<sup>96</sup> Meanwhile, *crime control* is specified as “a measure of effect on crime aiming to reduce crime and prevent the exceeding of its socially acceptable level by active actions of law-enforcement institutions and penal sanctions, as well as by

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<sup>92</sup> *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2015, p. 36.

<sup>93</sup> Lietuvos Respublikos Seimo 2003 m. kovo 20 d. nutarimas Nr. IX-1383 „Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos patvirtinimo“.

<sup>94</sup> Ustinavičiūtė, L. *Lietuvos teisės pažeidėjų rizikos veiksnių, susijusių su pakartotiniu nusikalstamumu, analize*. Daktaro disertacija. Vilnius: Mykolo Romerio universitetas, 2012, p. 6.

<sup>95</sup> Informatikos ir ryšių departamentas prie Vidaus reikalų ministerijos. Duomenys apie nusikalstamumą Baltijos valstybėse per 2015 m. sausio–gruodžio mėn. Available in Internet: <http://www.ird.lt/statistinesataskaitos/metai=2015&menuo=12&idAta=6&rt=1&oldYear=2015&id=136&idStat=10&regionas=0&id3=1#Atas-BV>.

<sup>96</sup> Lietuvos Respublikos Seimo 2003 m. kovo 20 d. nutarimas Nr. IX-1383 „Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos patvirtinimo“.

active *administrative, economical, social, and other* measures.”<sup>97</sup> It is also notable that these measures are complementing one another and making “an all-encompassing complex of modes, methods, and measures aiming to make a destructive effect on crime.”<sup>98</sup>

Mention should be made of the Inter-institutional Action Plan for Implementation of the National Program for Crime Prevention and Control, adopted by Resolution of the Government of the Republic of Lithuania in 2012,<sup>99</sup> its designation being to reduce and stabilize the incidence of socially unacceptable criminogenic processes. The Resolution *highlights* the possible enhancement of cases of threatened trafficking in human beings and a threat for spreading of new forms of trafficking in human beings. It is pointed out that an inter-institutional action plan is designed to ensure the efficient program implementation, to retain its continuity, to improve consistently and effectively the system of crime prevention and control, to increase the residents’ safety through inter-institutional cooperation, to use effectively financial and human resources, and to enhance the effectiveness of crime prevention and control.

The coordination in implementing the Inter-Institutional Action Plan is delegated to the Ministry of the Interior. As concerns the Inter-Institutional Action Plan, it is evident that it has been adopted after noticing certain imperfections in the Program 2003. Of prime importance for the Inter-Institutional Action Plan is to improve mutual institutional cooperation in combating crime. Another trait, however, is noticed, namely, the problem of *trafficking in human beings* is distinguished here.

*It is possible to state* that prominence given to this problem pertains to the intention to put forward the growing problem of globalization and in order to tackle it the institutional efforts for coordination of actions is necessary at a national and international level.

*It is natural* that this was the reason to adopt the new Public Security Development Program for 2015–2025.<sup>100</sup>

The adoption of the Public Security Development Program for 2015–2025 was due to the lack of the timely strategic instrument. Here it is crime control and prevention measures are not so comprehensively regulated as in the Program 2003. The Program for 2015–2025 remains rather a general instrument of strategic type, specifying thereof but not elaborating in too much detail the priority development of public security, *inter alia* trends in crime control and prevention.

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<sup>97</sup> Lietuvos Respublikos Seimo 2003 m. kovo 20 d. nutarimas Nr. IX-1383 „Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos patvirtinimo“.

<sup>98</sup> *Ibid.*

<sup>99</sup> Lietuvos Respublikos Vyriausybės 2012 m. lapkričio 14 d. nutarimas Nr. 1381 „Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos įgyvendinimo tarpinstitucinio veiklos plano patvirtinimo“.

<sup>100</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

### 3.1.1. Crime prevention optimization problems

Priority of crime prevention primarily is related to the Western values of democracy. Therefore, no wonder, that special attention is devoted to this area at the EU level. Crime prevention in the Lisbon Treaty is referred to “among the key building blocks to establish and maintain an area of freedom, security and justice.”<sup>101</sup> Also, the Stockholm Program reiterated the importance of crime prevention, and by Council Decision 2001/427/TVR, which was repealed by Council Decision 2009/902/TVR, the European Crime Prevention Network was set up aiming at facilitating cooperation, maintaining contacts and exchange of information and experience in the field of crime prevention

However, the declarative reiteration of prevention importance is not enough to achieve the targeted results. In Eastern Europe, in difference from West European countries, possessing long-term democracy traditions, crime prevention was accorded traditionally less attention. Accordingly, penal policy by the duration of imprisonment and the number of prisoners is somewhat stricter than in Western Europe since it is traditionally deemed to be a proper reaction to crimes.

*It is evident* that the existing situation is not compatible with the priorities of Lithuania as an integral part of the EU. As noted by Latvian researchers V. Zahars and M. Stivrenieks, in the contemporary doctrine and practice it is still more acknowledged that application of the penalty of imprisonment is not only ineffective but also has a negative impact on the individuality of convicts, and it is difficult to neutralize such impact both by the internal procedures established in the imprisonment facilities and by resocialization programs.<sup>102</sup>

The figure shows that in Lithuania and other Baltic States a level of imprisonment is one of the highest in Europe – it is higher just in two states – Russia and Belarus (see Figure 1).

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<sup>101</sup> *Komisijos ataskaita Tarybai. Europos Sąjungos nusikalstamumo prevencijos tinklo vertinimo ataskaita.* Briuselis, 2012, p. 2.

<sup>102</sup> Zahars, V.; Stivrenieks, M. Security Implementation Facets: Peculiarities of Execution of the Sentence of Imprisonment in Respect of Convicted Minors. *Journal of Security and Sustainability Issues.* 2015, 4(3), p. 223.



Figure 1. Level of Imprisonment in the European States.

Source: author created by Kiškis, 2015<sup>103</sup>

A high level of imprisonment witnesses not only the high recidivism of crimes but first of all the inadequate reaction to crime when focus is towards fighting consequences rather than causes. What is more, a high level of imprisonment reflects not only the improper methods for ensuring the fight against crime and safety of the society in this field, this being one of the key obstacles in the prevention effectiveness (since persons after serving the imprisonment term experience stigmatization and get resocialized with much more difficulty), but also the inefficiency of prevention *per se* since it is related to high crime recidivism.

This predetermines the need to be in search of opportunities for optimizing crime prevention, first of all, by identifying the problems in this field.

<sup>103</sup> Kiškis, A. *Nusikalstamumas. Paskaitų medžiaga*. Vilnius: Mykolo Romerio universitetas, 2015, p. 30.

Periodical assessment of the effectiveness of prevention measures would help distribute rationally not only material resources but would also ensure that state institutions, responsible for crime prevention, would operate expediently and purposefully. It would be thus ensured that funds and efforts would be “allocated only to those prevention programs and measures, the effectiveness thereof is diligently and comprehensively proved by the methods of contemporary prevention science.”<sup>104</sup>

As correctly noticed by V. Justickis, crime prevention in Lithuania has faced numerous most variegated problems, characteristic not only of Lithuania but also of many other states. Such problems include lack of funds and well-trained and qualified staff, absence of proper administration skills, etc.<sup>105</sup>

These problems quite often are emphasized to a high degree both in scholarly literature and in publicist writings, thereby substantiating crime prevention ineffectiveness, and thus preventing the search of constructive solutions since the possibility of resolving these problems is circumscribed by the objective circumstances.

The main premise of efficient crime prevention, ensuring the optimum use of the available resources of the state, is the identification and consideration of criminogenic needs of law offenders when elaborating crime prevention measures. The efficiency of the prevention program is to be assessed by examination and formulation of the problem, choice of targets and tasks, analysis of negative consequences, study of alternative problem-solving ways; analysis of factors; choice of prevention measures, choice of result assessment indicators, formulation of the expected results; efficiency control measures, appraisal and description of the results obtained.

### 3.1.2. Problems of criminal process control

Any social process is primarily controlled by the society where it is occurring. Therefore, criminal processes are also affected by social control. Social control is to be defined as a certain system of sanctions aimed at ensuring that the people would obey the established rules and norms.<sup>106</sup> Social control may be both *informal* and *formal*.<sup>107</sup> Thus, control of criminal processes may be perceived in a *broad* sense and in a *narrow* sense.

**Low quality of implementing legislation.** At a *lawmaking stage*, control of criminal processes manifests itself as the identification of appropriate legal

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<sup>104</sup> Kiškis, A. *Nusikalstamumas. Paskaitų medžiaga*. Vilnius: Mykolo Romerio universitetas, 2015, p. 30.

<sup>105</sup> Justickis, V. et al. *Situacinės nusikaltimų prevencijos taikymo praktikos ir plėtros Lietuvoje galimybių analizė ir pasiūlymų parengimas*. Vilnius, 2008, p. 16.

<sup>106</sup> Nikartas, S. *Gyventojų dalyvavimas užtikrinant saugumą bendruomenėse: kriminologinės ir teisinės prielaidos. Monografija*. Vilnius, 2014, p. 26.

<sup>107</sup> *Ibid.*, p. 27.

norms. Special laws may be enacted on criminal processes, the prevention thereof is deemed to be a priority task of the state and the precondition for ensuring national security. As examples of such laws could be the Law on the Prevention of Money Laundering and Terrorist Financing,<sup>108</sup> the Law on the Organized Crime Prevention, etc.<sup>109</sup> *It is notable* that quality of these legal acts is of special importance for effective control of criminal processes, since they most often regulate very particular and specific problematic situations. Quality of such legal acts is one of the key problems facing control of criminal processes. This problem is possible to be solved only by regular reviewing the legal acts in this field and evaluating their efficiency.

**Low quality of institutional activities.** At the stage of *application of law*, control of criminal processes is manifest as comprehensive, targeted and organized activities of law enforcement institutions, whereby it is aimed to combat crime. Therefore, the *second essential problem* is deemed to be the poor quality of work organization and coordination of the bodies involved in the control of criminal processes.

Also worth of mentioning is *human rights protection problem*, which is also to be linked with the poor work quality of law enforcement institutions. The problem of human rights protection remains very acute especially in those institutions the activities thereof are not open to society. Enhancement of publicity and accountability of institutional activities is necessary to tackle these all problems.

**Inefficiency of control over criminal processes as the outcome of ineffective crime prevention.** Eventually, a wide range of problems predetermining the ineffectiveness of control over criminal processes that emerged due to improper and inefficient crime prevention have been distinguished. No doubt, control over criminal processes is under direct effect of the crime prevention quality. The more inefficient the crime prevention, the more difficult the further control of the development of criminal processes, if their conditions and reasons have not been overcome.

The most illustrative example of such ineffective prevention, as a result of which control of criminal processes cannot be ensured, is the situation in the Vilnius Roma Settlement, which is the biggest place of the Roma concentration in the Baltic States. The Vilnius Roma Settlement has been widely known as the heroin trade center.<sup>110</sup>

This problem possibly may be tackled only by drafting specific and purposeful prevention programs, intended for a specific situation, for example, to be focused on the specific community. Main attention should be also devoted

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<sup>108</sup> Lietuvos Respublikos pinigų plovimo ir teroristų finansavimo prevencijos įstatymas. *Valstybės žinios*. 1997, Nr. 64-1502.

<sup>109</sup> Lietuvos Respublikos organizuoto nusikalstamumo užkardymo įstatymas. *Valstybės žinios*. 1997, Nr. 69-1731.

<sup>110</sup> Vilniaus romų taboras. Available in Internet: [https://lt.wikipedia.org/wiki/Vilniaus\\_taboras](https://lt.wikipedia.org/wiki/Vilniaus_taboras).



not to the coercive situational prevention measures but rather to social assistance and persuasion. Similar tendencies, related to the complicated integration of minorities and thus aggravated control over criminal processes in such communities, have been faced in other countries of Central and Eastern Europe, *for example*, in Hungary.<sup>111</sup>

### 3.1.3. Creation of new models for control and prevention of criminal acts

When developing new models for control and prevention of criminal acts it is necessary to follow science-based methods and recommendations. Primarily, the principles for drafting of crime prevention and control programs are to be mentioned. A. Kiškis and A. Kuodytė distinguish the following most characteristic principles: *program complexity*, *scientific validity* (account should be taken of the concrete territorial space, period, causality of the specific crime type), principles of *orientation towards the wide system of crime prevention subjects*. Additionally, the principles of *respect for rights and freedoms of each individual*, *legitimacy*, *systematization*, *activity planning*, *flexibility*, *effectiveness*, *continuity*, etc. are also to be distinguished.<sup>112</sup>

In developing crime prevention programs, *it is necessary* to follow certain stages ensuring the effectiveness of prevention and control activities. Problem *identification* and *formulation* are to be distinguished as the *first* stage. The proper identification of the problem is the primary premise for program expediency and purposefulness since the program must specify precisely criminal acts – where, when, and in respect of what persons a preventive impact was sought to be made.<sup>113</sup>

The *second* stage identifies the program *objectives* and *tasks*. The program objective shall be sufficiently specific and reflect the problem, raised in the program. The analogous tasks shall specify the set objective. Of special importance is that it should be possible to measure by the selected indicators whether the tasks are implementable, if yes, whether their implementation is suitable by *quantity* and *quality*.<sup>114</sup>

The *third* stage in the program creation is the selection of prevention measures.<sup>115</sup> For that purpose, all possible and most suitable prevention

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<sup>111</sup> For example, in 2006, in Hungary, an event gained renown when a male accidentally hit a Roma girl by a car, and upon getting out of the car, he was killed by a group of Roma guys. The author of this article relates this incident to the intensification of the activity of the right-wing politicians in Hungary, this predetermining the adoption of several discriminatory legal acts. (Daniel, J. et al. *The Challenges of Central European Security: Critical Insights*. Brno, 2015, p. 32–40).

<sup>112</sup> Kiškis, A.; Kuodytė, A. Nusikalstamumo prevencijos programų rengimo Lietuvoje tyrimas. *Jurisprudencija*. 2012, 19(2), p. 773–774.

<sup>113</sup> *Ibid.*, p. 774.

<sup>114</sup> *Ibid.*, p. 775.

<sup>115</sup> *Ibid.*

measures selected for tackling a specific problem shall be analyzed with account taken of their efficiency potential. Such choice shall be objective since, according to A. Kiškis and A. Kuodytė, “subjective evaluations, based on common sense, professional experience, and scientific reasoning that a certain measure will be efficient, are almost always erroneous.”<sup>116</sup> Therefore, the only strong basis for deciding whether a specific preventive measure will be efficient is its multiple and successful application.

*The further stage* is the identification of the structure of program execution and management.<sup>117</sup> This stage is highly significant in order to properly coordinate the program execution. It is important to choose the proper and competent crime control or prevention subjects, responsible for program execution. Most often several institutions of different level are envisaged in the program, for instance, the ministry and institutions under its subordination.

*Final stage in the program development* covers the identification of assessment criteria for program *execution efficiency* and *impact*.<sup>118</sup> Criteria shall be based on the objective data and should be real, clearly and simply formulated, enabling to make comparisons and to assess program execution input and results obtained.

### **3.2. Management of control over individual criminal processes**

Contemporary crime, under the effect of globalization processes, forces to search for new opportunities to overcome crime. Therefore, when completing this section, it would be expedient to discuss some specificities of control over criminal processes. Four examples were selected for this purpose as expedient to be discussed: *shadow economy*, *corruption*, *trafficking in human beings* and *domestic violence*. These examples have been selected due to their *exclusive topicality* in Lithuania.

A problem of the *shadow economy* in Lithuania, like in other Baltic countries, is urgent due to the geopolitical position; for example, due to differences in prices for goods the scope of smuggling has been increasing. Society is prone to justify the existence of the shadow economy, and such approach is to be linked with the improper tax system and dissatisfaction of the residents with their life quality.

The relevance of the *corruption problem* in Lithuania is witnessed by its *high latency* and the said 2011 research data, wherefrom it is evident that the

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<sup>116</sup> Kiškis, A.; Kuodytė, A. Nusikalstamumo prevencijos programų rengimo Lietuvoje tyrimas. *Jurisprudencija*. 2012, 19(2), p. 776.

<sup>117</sup> *Ibid.*

<sup>118</sup> *Ibid.*

residents of Lithuania indicated corruption as one of the most important public security problems.<sup>119</sup>

A corruption problem, like a problem of *trafficking in people*, is to be related to the augmented influence of transnational organized crime groups due to globalization. This is also emphasized in the Public Security Development Program for 2015–2025<sup>120</sup>, underlining that the main traits of Lithuanian organized crime groups are the leadership in the region of the Baltic Sea countries, intermediation between criminal groups of the Russian Federation and the EU Member States, international mobility, usage of most sophisticated information and communication technologies, disposition of large financial resources, and a strong influence of corruption.

Finally, the problems of *domestic violence* prevention are discussed in consideration of the altered regulation in 2011 and its results.

### 3.2.1. Reduction of the shadow economy

The shadow economy is defined as the economic activity pursued without following the requirements and restrictions of legal acts when such activities are strictly regulated and regulable. The factors of the shadow economy are subdivided into *economic*, *legal administrative* and *social psychological* which are closely interrelated.<sup>121</sup>

The key legal administrative factors of the shadow economy include the unreasonably high intensity of legal regulation, gaps in legal acts, making it possible to escape taxation, a frequent alteration of legal acts, and the improperly provided administrative services. The rise of the shadow economy is also impacted by the improperly implemented social security and tax policy measures.

The most effective shadow economy control measures would be tax reduction, ensuring the stability of tax laws, explicitness of legal acts, reducing the opportunity to interpret them diversely, and inevitability of sanctions for law offences.

Utmost attention in Lithuania is focused exactly on the latter measure, whereas prevention measures are listed only in Program for Crime Prevention and Control 2003. The Public Security Development Program for 2015–2025 does not foresee any specific measures for the shadow economy control.

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<sup>119</sup> Vileikienė, E. *Lietuvos gyventojų požiūris į teisėsaugos institucijas ir viešojo saugumo būklės vertinimas*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2012, p. 7.

<sup>120</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>121</sup> Krumplytė, J. Šešėlinės ekonomikos veiksnių ir priežasčių tyrimas ekspertinio vertinimo metodu: Lietuvos atvejis. *Verslas, vadyba ir studijos*. 2009, p. 122.

### 3.2.2. Corruption prevention

Today, “with the development of societies and technologies, corruption acquires still more new forms.”<sup>122</sup> Corruption is not just the phenomenon, characteristic of modern societies and states. The problem of corruption is one of the most acute in Lithuania as compared to other EU states.

Lithuania together with Croatia, the Czech Republic, Bulgaria, Romania, and Greece is attributed to the countries lagging behind “in the scores concerning perceptions and actual experience of corruption.”<sup>123</sup> It is also noteworthy that neighboring Latvia belongs to the group of the countries with the better results (together with Malta, Cyprus, and Ireland), the results of which do not diverge considerably from the EU average.<sup>124</sup>

*Such data evidence* that fight against corruption in Lithuania was conducted in improper and inefficient ways.

In the National Security Strategy 2012, corruption is claimed to be one of the main internal risk threats, which “undermines legitimate interests of individuals and the state, discredits the principle of the rule of law, diminishes the trust of citizens in democratic values, democratic authorities, and reduces the country’s attractiveness for foreign investors.”<sup>125</sup>

One of the tasks indicated in the National Security Strategy is the implementation of complex measures in the fight against corruption and corruption prevention focused on enhancing transparency and responsibility in the public sector, publicity of the legislative process and decisions, elimination of unnecessary regulation, improvement of the mechanisms of investigation of corruption crimes and imposition of sanctions (Strategy p. 16.4.1). It is also notable that “fight against corruption traditionally rests on “three whales”: *prosecution, corruption prevention, and anti-corruption education*”.<sup>126</sup>

The basic legal act of the Republic of Lithuania regulating corruption prevention is the Republic of Lithuania Law on Prevention of Corruption,<sup>127</sup> which is sufficiently exhaustive or even meticulous.

The Council of Europe’s Group of States against Corruption in its evaluation report on Lithuania has claimed that the main problem of poor results in the fight against corruption is not the legal framework but poor coordination of the activities of responsible institutions. The report emphasizes

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<sup>122</sup> Palidauskaitė, J. Korupcijos ir atsakomybės problema viešojo administravimo sistemoje. *Viešojo politika ir administravimas*. 2005, 13, p. 26.

<sup>123</sup> Komisijos ataskaita Tarybai ir Europos Parlamentui. *ES kovos su korupcija ataskaita*. Briuselis, 2014, p. 6–7.

<sup>124</sup> *Ibid.*

<sup>125</sup> Lietuvos Respublikos Seimo 2012 m. birželio 26 d. nutarimas Nr. XI-2131 „Dėl Lietuvos Respublikos Seimo nutarimo „Dėl Nacionalinio saugumo strategijos patvirtinimo“ pakeitimo“.

<sup>126</sup> Palidauskaitė, J. Korupcijos ir atsakomybės problema viešojo administravimo sistemoje. *Viešojo politika ir administravimas*. 2005, 13, p. 33.

<sup>127</sup> Lietuvos Respublikos korupcijos prevencijos įstatymas. *Valstybės žinios*. 2002, Nr. 57-2297.

that “the authorities should not aim at adopting new legal acts or amending the existing legal acts but aim at ensuring that the existing ones are well understood and implemented.”<sup>128</sup>

In the summer of 2015, a big step, indeed, was taken as regards the improvement of the situation – the Republic of Lithuania National Anti-corruption Program for 2015–2025 was adopted and the Inter-institutional Action Plan for 2015–2019 was approved.<sup>129</sup>

The program shall be implemented by the ministries, the Special Investigation Service, the Prosecutor’s General Office of the Republic of Lithuania, the Public Procurement Agency, the Chief Institutional Ethics Commission, the Central Electoral Commission of the Republic of Lithuania, other state and municipal institutions and agencies within their respective powers. *It should be also emphasized* that one of the most important proposals formulated in the program is to criminalize corruption in the private sector.

### 3.2.3. Prevention of trafficking in human beings

The National Program for Crime Prevention and Control 2003 defines human trafficking as “a form of organized crime of international character perceived by the world community as a form of slavery and considered one of the major violations of human rights.”<sup>130</sup> *It is noteworthy* that trafficking in human beings most often happens between fellow countries or conditionally close to home countries.<sup>131</sup>

Due to the geopolitical position of Lithuania, human trafficking is also a relevant problem (especially as a transit country of human trafficking), given the opportunity exists by the Schengen area to cross-border the countries without restriction. Therefore, 61percent of human trafficking victims in Europe originate from the Balkans and the former Soviet Union states, *inter alia* Lithuania.<sup>132</sup>

As highlighted in the Public Security Development Program for 2015–2025, this multidimensional phenomenon requires coordinated national and international multisectoral and multiagency measures, their effectiveness to be

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<sup>128</sup> Lietuvos vertinimo ataskaita, priimta 66-ajame GRECO plenariniame posėdyje. Ketvirtasis vertinimo etapas. Parlamento narių, teisėjų ir prokurorų korupcijos prevencija. Strasbūras, 2014, p. 4.

<sup>129</sup> Lietuvos Respublikos Vyriausybės 2015 m. birželio 17 d. nutarimas Nr. 648 „Dėl Lietuvos Respublikos nacionalinės kovos su korupcija 2015–2025 metų programos įgyvendinimo 2015–2019 metų tarpinstitucinio veiklos plano patvirtinimo“.

<sup>130</sup> Lietuvos Respublikos Seimo 2003 m. kovo 20 d. nutarimas Nr. IX-1383 „Dėl Nacionalinės nusikaltimų prevencijos ir kontrolės programos patvirtinimo“.

<sup>131</sup> Global Report on Trafficking in Persons. Vienna: United Nations Office on Drugs and Crime, 2014, p. 27.

<sup>132</sup> The Globalization of Crime. A Transnational Organized Crime Threat Assessment. Vienna: United Nations Office on Drugs and Crime, 2010. p. 3.

ensured by the coordination mechanism in the fight against human trafficking, especially focusing on risk groups (e.g., children's home inmates, residents in the localities with a high level of unemployment, etc.).<sup>133</sup>

Since institutions responsible for the fight against human trafficking are numerous, successful prevention of this criminal process is greatly impacted by the proper coordination of institutional activities.

To tackle this comprehensive problem of human trafficking in a proper manner, assistance to victims and their protection measures shall be integrated and complement each other, not limiting to the criminalization of an act and determination of the strict criminal liability. Of special importance is to sign cooperation agreements, to develop strategies, programs and plans, whereby national coordinators would be appointed, coordination groups and commissions formed.<sup>134</sup> Special institutions may be also established to coordinate the fight against human trafficking.

*As an example* could serve the multiagency group, organized by the Austrian Federal Government in 2004, its key functions being to develop a national plan for the fight against trafficking in human beings, to perform monitoring of its implementation and to make reporting.<sup>135</sup> Analogous commissions operate not only in Western Europe, but also in East European countries, *for example*, in Bulgaria, where in 2004 a national commission for the fight against human trafficking was set up.<sup>136</sup>

*In Latvia*, programs for the prevention of human trafficking are also drafted with an aim of situational research analysis, development of the legal acts in the fight against human trafficking, and implementation prevention measures. The Ministry of the Interior is responsible for implementing the major part of tasks. A national multiagency coordination group for implementing the human trafficking prevention program was set up by Decree No. 77 of the Prime Minister of 3 March 2010, its competence including the coordination of the activities of institutions and organizations and information exchange.<sup>137</sup> The Cabinet of Ministers of the Republic of Latvia on 14 January 2014 approved the National Strategy for Prevention of Trafficking in Human Beings 2014–2020, drafted by the Ministry of the Interior, envisaging 39 measures for ensuring the efficient fight against human trafficking, including among others information campaigns, education and qualification improvement and assistance to victims. *Meanwhile, it is worth of mentioning* that in Lithuania the system of coordinating the prevention of trafficking in human beings has not been foreseen in any legal act and the procedure of how this

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<sup>133</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>134</sup> Sirgedienė, R. *Kovos su prekyba žmonėmis koordinavimo problemos administracinėje teisėje*. Daktaro disertacija. Vilnius: Mykolo Romerio universitetas, 2014, p. 12.

<sup>135</sup> *Ibid.*, p. 76.

<sup>136</sup> *Ibid.*, p. 78.

<sup>137</sup> *Ibid.*, p. 86.

system should be organized is not identified; therefore, this process remains fragmentary and focused on the consequences rather than causality.<sup>138</sup>

### 3.2.4. Prevention of domestic violence

In 2011, upon the adoption of the Law on Protection against Domestic Violence with an aim at protecting persons against domestic violence, which, due to damage caused to society, is attributable to the acts of public importance, promptly responding to arising threats, undertaking prevention measures, applying protection measures and providing appropriate assistance, control over domestic violence has been strengthened effectively.

This Law regulates in detail the system of protection against domestic violence based on the following principles: cooperation, participation, comprehensiveness, accessibility and quality, solidarity, appropriateness, coordination, legality, protection of human rights and freedoms, proportionality, humanity, justice, efficiency, impartiality and effectiveness; the Criminal Code has been changed accordingly upon enforcement of the provision to be positively estimated that the perpetrator shall be held liable irrespective of the will of the victim. Such protection is substantiated by the fact that “violence exists in the family which should create the conditions for integrity and safety protection” (...) by the provision that family violence is an especially harmful act which makes an attempt on such legal good as life, safety, property, family honor; hence, under such conditions, under which the individual has a special right to expect protection against infringement on these goods.”<sup>139</sup>

After the adoption of the Law on Protection against Domestic Violence, a regulatory model of better protection against domestic violence was embedded in the national law. Nonetheless, latency of domestic violence has remained yet comparatively high.

## 4. ENSURING PUBLIC SECURITY AT THE LEVEL OF THE STATE TERRITORIAL BORDERS

The *geopolitical position of Lithuania* determines the state border be assigned strong guarding. As stated in the Public Security Development Program for 2015–2025, one of the main risk factors of public security at the state border remains illegal migration.

Undoubtedly, the qualitative protection of the state border will not have an effect on these processes, but can greatly reduce their negative aftermaths, for

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<sup>138</sup> Sirgedienė, R. *Kovos su prekyba žmonėmis koordinavimo problemos administracinėje teisėje*. Daktaro disertacija. Vilnius: Mykolo Romerio universitetas, 2014, p. 12.

<sup>139</sup> Michailovič, I. Kai kurie smurto šeimoje problematikos aspektai. *Teisė*. 2012, 82, p. 32.

instance, when controlling the illegal migration flows and strengthening the EU external border protection. As claimed in the Public Security Development Program, at present barely in nine Lithuania's border control points, X-ray control systems are used for checking trucks and transported cargo and containers. Their use should be expanded to raise the effectiveness of customs clearance procedures.<sup>140</sup>

Discussing the problems of ensuring public security in the field of the state border protection, it is expedient to focus on the main trends in the administrative legal regimes of the state border and frontier, the peculiarities of the activities of the key institution responsible for the state border protection – the State Border Guard Service at the Ministry of the Interior – as well as the implementation of the main state border guard priority – EU external border protection.

#### **4.1. The aspects of public security threats in the domain of national border protection**

After the Restoration of Independence, Lithuania's accession to the structure of NATO, to the European Union, and to the Schengen Area required undertaking a number of significant and concrete measures to form a new stance on the issue of security and international cooperation and to accommodate institutions and agencies, responsible for national security, to new challenges. In a new reality, the security of national borders and their protection have not lost the value of theoretical and practical significance.<sup>141</sup>

Border guard imposes upon Lithuania a very responsible task of providing security for all EU member states against possible threats from unwelcomed persons and goods within the territory of the European Union and maintaining good neighborliness between those countries which remain outside the Union. Lithuanian border is protected along the entire length with a particular emphasis on the maritime border, sea and land frontier sections of the Russian Federation and the Republic of Belarus, which are the external border of the European Union and the Schengen Area.

The border guard service plays a key role in the system of national security of Lithuania as a whole and in the process of strengthening public security in particular, supporting effective protection of the state border and performing border traffic control in accordance with the interests of national

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<sup>140</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. TAR. 2015-05-13, Nr. 7293.

<sup>141</sup> Tumulavičius, V.; Chistov, I. National Security: the New Tasks and Challenges for Lithuania. Meandry Współpracy sieciowej w Europie Środkowej i Wschodniej. Pod redakcją Sławomira Partyckiego. Lublin: Wydawnictwo KUL, 2014, p. 83.



security. A significant trend is that of monitoring and controlling foreign migrants (third-country nationals) on the territory of the country.<sup>142</sup>

Other services – those which help fulfill the right to the protection of borders and execute border control – play an overriding role in the management system of border security. Even though police officers do not carry out the activities which are directly related to the physical protection of borders and border control, they deal with cross-border crimes and other offenses which are often well-planned and organized. Their work can be facilitated by coordinated and well-organized cooperation of law enforcement agencies with border guard and customs services, with tax authorities and foreign counterparts.<sup>143</sup>

Any violation of the state border and related crimes assumes a priority place in the catalog of security threats. *In this regard*, the number of offenses has substantially decreased in comparison to other years. The achievement of the goals pursued and cooperation with neighboring countries and the State Border Guard Service under the Ministry of the Interior yield satisfactory results in the sphere of Kaliningrad transit control.<sup>144</sup>

#### **4.2. Improvement of the state border and frontier administration system**

The administrative legal regime of the state border guarding consists of constitutional and legal norms, identifying the legal grounds of the administrative legal regime thereof. The state border guarding is also based on international legal norms, general principles of international law, and internal legal norms of the state, regulating the activities of the state border guarding subjects. The administrative legal regime of the state border guarding is comprised of the totality of legal measures, ensuring the implementation of legal norms in the field of the state border protection, and of the legal mechanism of material supply which is intended for the functioning of the administrative legal regime of the state border guarding.

The state border guarding legal regime ensures that persons would adhere to the state border and frontier legal regimes and to the operation regulations of the border control points. The state border guarding administrative legal regime may be subdivided into the legal regimes of the state border, frontier, and border control points.

The Constitution of the Republic of Lithuania does not contain any article, intended for the state border guarding, except for general norms regulating territorial integrity and indivisibility of the state.<sup>145</sup> The core legal acts

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<sup>142</sup>Tumalavičius, V.; Chistov, I. National Security: the New Tasks and Challenges for Lithuania. Meandry Wspolpracy sieciowej w Europie Środkowej i Wschodniej. Pod redakcją Sławomira Partyckiego. Lublin: Wydawnictwo KUL, 2014, p. 85.

<sup>143</sup>*Ibid.*

<sup>144</sup>*Ibid.*, p. 91.

<sup>145</sup>Lietuvos Respublikos Konstitucija. *Valstybės žinios*. 1992, Nr. 33-1014.

regulating the provisions of the state border protection is the Law on the State Border and Protection thereof.<sup>146</sup>

*Making analysis* of the provisions of the Law on the State Border and the Protection Thereof, attention should be drawn to the fact that they are comparatively not exhaustive, here only the main concepts are characterized and the competences of institutions responsible for the state border protection are described. It is to be emphasized that the law under discussion has already been adopted in 2000, when the Republic of Lithuania was neither a member of the NATO nor the EU.

*Evidently*, during the law adoption the topicalities and problems related to the state border protection have been completely different. Certainly, the law was amended more than once, revised and adjusted to the international and EU legal acts, *inter alia* the Schengen Convention. However, frequent amendments and corrections of the law predetermined its fragmentary character and have not solved its non-compliance with the geopolitical tendencies of the period. In fact, quite a number of urgent provisions pertaining to the state border protection are regulated in the Law on the State Border Guard Service,<sup>147</sup> describing therein more broadly the powers of this institution. Nevertheless, the choice of such legal regulation is again subject to discussion – both legal acts are comparatively small in scope, therefore, a logical conclusion comes forth naturally that they are to be joined into one – the Law on the State Border and the Protection Thereof – which would contain all the principal provisions regulating the state border and frontier administrative legal regimes, necessarily envisaging additionally the contemporary tendencies, complying with the priority trends in the state border protection (especially the EU external border protection) and objectives.

### **4.3. Trends in the activity improvement of the State Border Guard Service**

The Law on the Basics of National Security states that the purpose of the State Border Guard Service is to implement the protection of the state border on land, in the sea, in the Curonian Lagoon and in frontier inland waters and the state cross-border control, to prevent and regulate the frontier incidents. The status, structure, functions, organizational basis, funding, the rights and duties of the officers of the State Border Guard Service (SBGS) are identified by the Law on the State Border Guard Service.<sup>148</sup>

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<sup>146</sup> Lietuvos Respublikos valstybės sienos ir jos apsaugos įstatymas. *Valstybės žinios*. 2000, Nr. 42-1192.

<sup>147</sup> Lietuvos Respublikos valstybės sienos apsaugos tarnybos įstatymas. *Valstybės žinios*. 2000, Nr. 92-2848.

<sup>148</sup> *Ibid.*

Lithuania has become the border state in the Schengen area and that is why the external border control should be strengthened. *For example*, according to J. Baltrūnienė and G. Šarauskas, “After Lithuania has become the EU member, smuggling as a social phenomenon has not disappeared and its scale from the start of the border liberalization (...) has increased considerably.”<sup>149</sup> Therefore, as V. Andrejevas claims, “Lithuania’s membership in the European Union requires that the external wall protection and cross-border checks be conducted by the staff with special training.”<sup>150</sup> Therefore, currently, higher attention is attempted to be focused on the employment of graduates in the SBGS and for quality enhancement of studies. Competence of the already working SBGS officers is also striven to be raised.<sup>151</sup>

Exists the necessity to change the legal regulation of the SBGS activities by regulating the SBGS activities in the Law on the State Border and Protection Thereof rather than in a separate Law on the State Border Guard Service, envisaging the SBGS strategic targets and tasks (*inter alia* the priority of the EU external border protection) in the Law; to adjust the norms of the Law and the SBGS Regulations, seeking to achieve that the Regulations would not mechanically reiterate the norms of the Law but would regulate those issues of the SBGS activities that are not expedient to be regulated at the legal level.

#### **4.4. Tendencies in the improvement of the European Union external border protection**

Free movement of persons and goods in the EU space, safe and swift movement of persons and goods through the EU external borders is one of the cornerstones of the EU socio-economic model to be related “with the constant need to improve the regulatory environment and institutional basis.”<sup>152</sup> According to S. Greičius and D. Seniutienė, “refusal of cross-border checks at the internal borders inevitably means both the national and public security deficit, since the Member States are losing an important national tool enabling to control the persons crossing the country through the internal borders and to identify them.”<sup>153</sup> As underlined by A. Kuksaitė, “security got changed in the core when borders from external turned into internal.”<sup>154</sup> Therefore, a certain

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<sup>149</sup> Baltrūnienė, J.; Šarauskas, G. Kontrabandinių nusikalstamų veikų kriminalistinė charakteristika ir praktiniai šių nusikaltimų atskleidimo aspektai Lietuvoje. *Visuomenės saugumas ir viešoji tvarka*. 2011 (6), p. 49.

<sup>150</sup> Andrejevas, V. Būsimų pasieniečių įdarbinimo problemos. *Visuomenės saugumas ir viešoji tvarka*. 2012, 7, p. 23.

<sup>151</sup> *Ibid.*, p. 28.

<sup>152</sup> *Veiksminga ES išorės sienų apsauga kaip Lietuvos pirmininkavimo ES Tarybai prioritetas ES iniciatyvų ir Lietuvos interesų kontekste. Tyrimo ataskaita*. Europos Sąjunga, 2012, p. 6.

<sup>153</sup> Greičius, S.; Seniutienė, D. Šengeno konvencijos įtaka Lietuvos sienų apsaugos organizavimui. *Jurisprudencija*. 2005, 73(65), p. 77.

<sup>154</sup> Kuksaitė, A. Europos Sąjungos vidinių sienų saugumą didinančios priemonės. *Jurisprudencija*. 2007, 10(100), p. 48.

compensatory system is foreseen for this security deficit: certain control requirements, aims, principles, mechanisms, forms of closer cooperation of institutions responsible for the internal security have been incorporated.<sup>155</sup>

One of the priority tasks under the Public Security Development Program for 2015–2025 is to ensure the effective EU external border control and to prevent illegal migration and illegal international trade.<sup>156</sup> All aspects of this goal are integral and closely related; therefore, it is possible to state that the foreseen target may be implemented only by complex measures. The program also sets the key tasks to implement this goal.

Since the end of 2013 the European Border Surveillance System (EUROSUR) has started operating in the EU and is intended for the EU Member States and the European Agency for the Management of Operational Cooperation at the External Borders of the Member States of the European Union (FRONTEX) to exchange information and to mutually cooperate seeking to identify the illegal migration and transnational crime cases and to prevent them.

By the Resolution of the Government<sup>157</sup> the State Border Guard Service has been appointed as the National Coordination Centre, intended to coordinate the activities, to cooperate with all the institutions, responsible for surveillance of the external borders of the EU Member States, as well as with other national coordination centers and FRONTEX, and to exchange information with these institutions within EUROSUR. Strengthening the EU external border control, it is necessary to employ the opportunities of this system.<sup>158</sup>

## **5. ENSURING PUBLIC SECURITY IN THE FIELD OF TRAFFIC SAFETY**

Basing on the residents' survey data of the last decade, a traffic safety problem has been indicated among the four most significant challenges of public security in the country. In 2014, 3325 traffic accidents were recorded in Lithuania, having resulted in 265 deaths and 3889 injured people.<sup>159</sup> By Eurostat data, comparing the indicators of Lithuania and other EU countries, it is evident that the situation in our country remains one of the worst: in 2014 by the number of traffic fatalities only Latvia was ahead of Lithuania, the similar

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<sup>155</sup> Greičius, S.; Seniutienė, D. Šengeno konvencijos įtaka Lietuvos sienų apsaugos organizavimui. *Jurisprudencija*. 2005, 73(65), p. 78.

<sup>156</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

<sup>157</sup> Lietuvos Respublikos Vyriausybės 2014 m. gegužės 22 d. nutarimas Nr. 444 „Dėl Nacionalinio koordinavimo centro paskyrimo ir įgaliojimų suteikimo“.

<sup>158</sup> Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl Viešojo saugumo plėtros 2015–2025 metų programos patvirtinimo“. *TAR*. 2015-05-13, Nr. 7293.

<sup>159</sup> Vileikienė, E. *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2015, p. 41.

situation was in Romania and Bulgaria.<sup>160</sup> All this witnesses the necessity to search for new comprehensive ways for situation improvement on the road.

In the Program of the Government of Lithuania for 2012–2016, ensuring traffic safety in the country is indicated as a priority task. Traffic safety is closely linked with a traffic accident since ensuring traffic safety is deemed to be the activity “whereby it is aimed to prevent road traffic accidents and to facilitate their consequences.”<sup>161</sup>

According to S. Dainauskas and I. Brazukienė, the four factors of traffic accidents have been traditionally distinguished: *human factor, vehicle, road,* and the *surrounding environment*. Some authors additionally single out the fifth factor – *society per se*.<sup>162</sup> Nevertheless, the human factor most often is fatal: “a human being is the worst acting link in the system “traffic participant–vehicle–road”; that is, most of road accidents are caused by human actions.”<sup>163</sup>

Some sociologists as the axis of causality of the high accident rate in Lithuania see the concept of *aggressive society*, which “predicts the aggressive behavior on the roads and is relevant to the crisis of values, poverty, economic and social inequality.”<sup>164</sup> An impact of all these constituent parts on safe traffic is equally important and depends directly on the country’s economy, state-allocated funds, residents’ culture, their understanding of safe traffic, and approach of the state and public institutions in tackling traffic safety issues.”<sup>165</sup>

### 5.1. Contemporary legal regulatory system of traffic safety

Ensuring road traffic safety in essence is regulated by the statutory implementing legal acts. As noted by S. Greičius and K. Vitkauskas, “sub-statutory executive legal acts, adopted by the Government, not being able to grant enough legitimacy to its actions, constricted the possibilities for implementing legal norms and did not cover the legal regulation of all constituent parts of the traffic system and therefore have not shaped the sufficient legal framework, on the basis thereof the issues of safe traffic in all preventive work trends could be comprehensively tackled.”<sup>166</sup>

The situation got changed after 2000 when the laws regulating separate parts of the traffic system have been adopted.

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<sup>160</sup> Vileikienė, E. *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais*. Vilnius: Lietuvos Respublikos vidaus reikalų ministerija, 2015, p. 47.

<sup>161</sup> Daukšaitė, I. Kelių transporto priemonių vairavimas esant vairuotojams neblaiviams: ar reikalinga plėsti baudžiamosios atsakomybės ribas? *Teisės problemos*. 2014, 4(86), p. 30–31.

<sup>162</sup> Dainauskas, S.; Brazukienė, I. Lietuvos automobilių kelių avaringumo teritorinė analizė. *Geografija*. 2013, 49(1), p. 84.

<sup>163</sup> *Ibid.*

<sup>164</sup> *Ibid.*, p. 85.

<sup>165</sup> Tumas, V.; Čigrin, V. Kelių eismo saugumo užtikrinimo ypatumai. *Visuomenės saugumas ir viešoji tvarka*. 2010, 4, p. 269.

<sup>166</sup> Greičius, S.; Vitkauskas, K. Kelių policijos vykdomo prevencinio darbo poveikis eismo saugumui. *Jurisprudencija*. 2002, 35(27), p. 48–49.

**Legal basis for enforcement traffic safety.** Directive 2015/413/EU is to be mentioned at EU level whereby more favorable conditions are created for a cross-border exchange of information on road-safety related traffic offences. This Directive is aimed at improving road traffic safety in the EU and ensuring the application of sanctions for road traffic offences committed in another Member State. The Directive applies to the following traffic offences: speeding, driving while under the influence of psychoactive substances, failing to follow road signs, etc.<sup>167</sup>

In the *Law on the Basics of the National Security*<sup>168</sup> road safety is referred to as one of the public security policy priorities; it is also stated that state institutions must take efficient measures for safeguarding road traffic safety and guarantee funding for the implementation of these measures, creation of the necessary legal basis, organization and coordination of the activities of state institutions and private persons and complex measures, intended for reduction of accident rate.

It is regulated in Article 4 of the Republic of Lithuania *Law on the Principles of the Activities of Transport*<sup>169</sup> that public administration of transport is conducted by the Government, the Ministry of Transport and Communications, and municipal institutions.

In the Republic of Lithuania *Law on Roads*<sup>170</sup> safeguarding of safe traffic is perceived as transport infrastructure. However, most exhaustively safeguarding of safe traffic is regulated in the special law, the *Law on Road Traffic Safety*.<sup>171</sup> However, it is noteworthy that *this Law* regulates only the basic guidelines for enforcement of traffic safety; even though specific safety measures have not been regulated – this is left to the statutory implementing legal acts.

The most important statutory implementing legal act in the field of traffic enforcement indisputably is the *Road Traffic Rules*<sup>172</sup> (further the RTR). The RTR enforces not only the specific rules that traffic participants must follow in order to safeguard road traffic safety but also the duty of traffic participants of general type to base their behavior on mutual respect and caution.

*Resolution of the Government* of 13 April 2005 “On the Approval of the Rules for Control of Technical Condition of Vehicles on the Roads of the

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<sup>167</sup> Direktyva 2015/413/ES. Available in Internet: [www.policija.lt/index.php?id=22826](http://www.policija.lt/index.php?id=22826).

<sup>168</sup> Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas (suvestinė redakcija nuo 2014-10-29). *Valstybės žinios*. 1997, Nr. 2-16.

<sup>169</sup> Lietuvos Respublikos transporto veiklos pagrindų įstatymas. *Valstybės žinios*. 1991, Nr. 30-804.

<sup>170</sup> Lietuvos Respublikos kelių įstatymas. *Valstybės žinios*. 2000, Nr. 101-4492.

<sup>171</sup> Lietuvos Respublikos saugaus eismo automobilių keliais įstatymas. *Valstybės žinios*. 2000, Nr. 92-2883.

<sup>172</sup> Lietuvos Respublikos Vyriausybės 2002 m. gruodžio 11 d. nutarimas Nr. 1950 „Dėl Kelių eismo taisyklių patvirtinimo“. *Valstybės žinios*. 2003, Nr. 7-263.

Republic of Lithuania” is of importance for safeguarding of road traffic.<sup>173</sup> These rules are designed to ensure safety of vehicles and organizing of their control on the road.

Some more narrow aspects of road traffic safety enforcement are regulated by the Lithuanian Police Commissioner General orders.<sup>174</sup>

Attention shall be focused on the fact that road traffic safety is regulated by numerous implementing acts; therefore, some doubt exists as to their systematic approach and compatibility.

## **5.2. Problems of organizing the activities of traffic safety enforcement institutions**

The Law on Road Traffic Safety regulates the institutional framework of traffic safety enforcement. Article 7 of the Law has enforced the Government to formulate the state policy on traffic safety enforcement and approve the National Traffic Safety Program and its plan for implementation measures. The standing State Traffic Safety Commission shall control the implementation of the state policy on traffic safety enforcement. Also these functions are delegated to different ministries and their authorized institutions:

The functions of the *Ministry of Transport and Communications* or its authorized institutions in essence shall cover improvement of road infrastructure and ensuring the compliance of vehicles with technical requirements, education of traffic participants, and identification of the driver training procedure.

The *Ministry of Social Security and Labor* or its authorized institutions shall identify persons entitled to use the distinctive sign “Disabled” and the procedure for issuing disabled persons a parking card and a document certifying the right to use the distinctive sign “Disabled”.

The *Ministry of Health* or its authorized institutions shall set the requirements and procedure for driver health checks, the procedure of training traffic participants to provide medical first aid, determine health problems due to which the right to drive certain categories of motor vehicles is restricted or withdrawn.

The functions of the *Ministry of Education and Science* in this area covers organizing the compulsory basic training of traffic safety at the educational institutions and training of children during which skills of safe bicycle driving are acquired.

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<sup>173</sup> Lietuvos Respublikos Vyriausybės 2005 m. balandžio 13 d. nutarimas Nr. 403 „Dėl Kelių transporto priemonių techninės būklės kontrolės Lietuvos Respublikos keliuose taisyklių patvirtinimo“. *Valstybės žinios*. 2005, Nr. 49-1627.

<sup>174</sup> Lietuvos policijos generalinio komisaro 2015 m. rugsėjo 24 d. įsakymas Nr. 5-V-851 „Dėl vairuotojų pažymėjimų paėmimo ir perdavimo“, 2015 m. rugsėjo 28 d. įsakymas Nr. 5-V-858 „Dėl Vidutinio važiavimo greičio nustatymo tvarkos aprašo patvirtinimo“.

The *Ministry of the Interior* has the comparatively the broad functions: to set conditions and procedure for expertise of motor vehicle drivers; to collect data on driving licenses issued to motor vehicle drivers; to set the procedure for issuing driving licenses of motor vehicle drivers withdrawing and returning the right to drive vehicles, etc.

Meanwhile, the powers of the *Ministry of Agriculture* cover the issues of traffic safety related to the traffic of tractors and self-propelled machines, driver training and the procedure of technical inspection.

Certain functions are also delegated to the *director of the municipal administration* and the latter shall: *approve* the traffic safety program of a municipality, *form* the municipal traffic safety commission from the representatives of the municipal administration bodies and the state administration bodies at the municipality, non-governmental organizations, and *approve* its regulations; *resolve* traffic organization issues in urban and rural areas, on local significance roads; *implement* educational training activities in the field of traffic safety, etc.

The *activities* of the *Lithuanian Road Police Service* should be discussed separately. The Lithuanian Road Police Service is the specialized police institution, the purpose of which is within the powers granted by the Police Commissioner General together with the Police Department under the Ministry of the Interior to represent the police in the state traffic safety system, to carry out traffic supervision on the roads of the Republic of Lithuania, as well as to perform other special functions delegated by other legal acts at a level of the state and on the non-territorial principle.<sup>175</sup>

*It is noteworthy* that the functions attributed to the Road Police Service are numerous and varied, including some that are somewhat unexpected, *for example*, to control transit of the Russian Federation citizens through the territory of the Republic of Lithuania and illegal migration to the EU; to carry out corruption prevention measures; within its powers to participate in the activities of commissions and workgroups, etc. Upon surveying the functions attributed to the Road Police Service, their abundance and overlapping with the functions delegated to other institutions strike the eye. Moreover, certain functions actually are identical, only presented in a different way; therefore, such regulation should be revised by eliminating the excessive provisions from the legal act text.

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<sup>175</sup> Lithuanian Road Police Service. Available in Internet: [www.lkpt.lt/lt/veikla/](http://www.lkpt.lt/lt/veikla/).



### 5.3. The system for implementing complex measures for accident

*The main legal act*, where the complex measures for accident rate reduction are discussed, is the National Road Safety Development Program for 2011–2017, adopted in 2011.<sup>176</sup> This program has set, probably, a too ambitious goal – to facilitate the implementation of the road safety vision so that no road users are killed or suffer serious injuries in Lithuania. Further, one more objective is to achieve that Lithuania is listed among the ten European Union Member States with the best results in terms of the road users killed in traffic accidents per million of the country's inhabitants (or no more than 60 people killed in traffic accidents per million of inhabitants) by improving the situation in road safety. Further in the program, the priorities are set in accordance with which the objective is to be attained.

The said priorities shall be: *safe conduct of road users; safe roads; safe vehicles; speedy and qualified first aid to road users; modern information technologies.*

*It is notable* that a rather modern and expedient method of regulation has been selected in the program when each set goal is reasonably justified. On the other hand, too abstract tasks, the successful implementation thereof is impossible to be measured, however, are not avoided.

Further in the program the importance of control of road users is emphasized. It is underlined that control of road users is insufficient on the regional and national roads. Even though a sufficiently concrete problem is put forward, the formulated tasks are comparatively abstract. *For example*, the *first* task is “to organize control of road users;” the *second* task is to exercise “control of dangerous and bully behavior;” the *third* task is “to exercise control of inebriated road users,” etc.

Similar problems are also to be distinguished when speaking about the implementation of other priorities, in some cases even tasks are formulated more abstractly than goals.

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<sup>176</sup> Lietuvos Respublikos Vyriausybės 2011 m. kovo 2 d. nutarimas Nr. 257 „Dėl Valstybinės saugaus eismo plėtros 2011–2017 metų programos patvirtinimo“. *Valstybės žinios*. 2011, Nr. 29-1368.

## CONCLUSIONS

1. *Security in the objective sense* is the condition when no threats against protected values exist or they are effectively controlled. *Security in the subjective sense* is the sense of safety implying the individuals' belief that no threats against protected values will be posed or they will effectively be controlled. National security today is still more strongly impacted by international security tendencies: even though the security dimensions in question have always interacted with each other, due to the process of globalization today we can speak if not about the total convergence of international and national security but already at least about the rapid intensification of interaction between these dimensions. These processes underpin the augmenting need for synergy and closer cooperation at all levels. To effectively ensure public security, attention should be focused on the dichotomy of law as a static and dynamic phenomenon – for ensuring public security, of importance is the enforcement of proper elements of a public security policy at the lawmaking stage and successful transformation of static law into dynamic law. The main problem of ensuring public security in the Lithuanian administrative law is the tendency of overlapping formed when the institutional framework is not appropriate, and the responsibilities assigned to institutions are not rationally distributed. This predetermines the need for modernization of ensuring public security.

2. *Public order is the primary and pivotal starting point of public security, determining the stability inside the country.* In the contemporary state the concept of law enforcement institutions as power structures, empowered in the name of the state to apply the measures of coercion, gets changed by a qualitatively new approach to the activities of law enforcement institutions as a social service. The key problems of police activity, aggravating the police opportunities to ensure effectively public order, *are the problem of distrust of the residents in the police structures, lack of human and other resources, low qualification of police officers, and a gap in the cooperation between the police and communities.* The concept of a safe municipality of the Republic of Lithuania is based on the Canadian experience in the organization of ensuring public order at the municipal level, though at present one of the most serious problems of an active role of municipalities in ensuring public order is lack of analogous experience in the field of governance. Lately, strengthening of a decentralized self-government model, based on the principle of subsidiarity, has been prevailing in Lithuania.

3. *At the lawmaking stage,* the most important problem is too weak control of compatibility and efficiency of the sub-statutory implementing legal acts. *At the stage of law application,* ineffectiveness of control over criminal processes is conditioned by the poor quality of institutional activities, due to which distrust in institutions and crime latency get enhanced. Effectiveness of control

over criminal processes also depends on the prevention efficiency; therefore, as much as possible attention should be devoted to the social prevention measures of social assistance and persuasion type, purposeful and focused on specific problems. Even though in Lithuania the perception of renovating a mandatory crime prevention system is observed, however, it is possible to indicate the following obstacles in prevention effectiveness, like *the absence of the structural center; legal regulation of crime prevention, hindering to ensure the efficiency of prevention projects; lack in the control of the real prevention activity efficiency; subjective standpoints and approaches of prevention actors and lack of self-education.*

4. Creating new crime prevention and control models consists of *separate stages. The first stage* consists of problem identification and formulation. The problem is to be formulated precisely and specifically, its scope and problematic phenomenon stability described, thus avoiding the effect of “diffusion” of prevention measures and their impact. *The second stage* identifies the program objectives and tasks; the implementation thereof would be possible to measure. *The third stage* is the selection of prevention measures. Prevention activity participants should be given opportunity to apply more prevention measures, simultaneously raising the qualification of prevention subjects. *The fourth stage* is the identification of the structure of program execution and management. The efficiency of the prevention program is to be assessed by examination and formulation of the problem, choice of targets and tasks, analysis of negative consequences, study of alternative problem-solving ways; analysis of factors; choice of prevention measures, choice of result assessment indicators, formulation of the expected results; efficiency control measures, appraisal and description of the results obtained.

5. *The necessity for modernization of the present legal regulation in the field of state border protection is witnessed by the fact* that currently the state border protection provisions are regulated by the two key laws: *Law on the State Border and Protection Thereof and the Law on the State Border Guard Service*, which should be logically and expediently incorporated into one. The above laws have already been adopted in 2000, when the Republic of Lithuania was neither a member of the NATO nor the EU; the laws have been amended more than once, corrected and adjusted to international and EU legal acts, *inter alia* the Schengen Convention, this predetermining their fragmentary character and not tackling their non-compliance with the geopolitical tendencies of the period. The reasonable doubt also arises whether these mechanisms are effectively implemented in Lithuania where, as seen, the EU external border protection priority is not foreseen even in the main laws regulating the state border protection.

6. *Like crime in general, the deviant behavior on roads is not being curbed by legal measures alone – for safeguarding traffic safety it is necessary to apply complex measures.* Road traffic safety is regulated by numerous laws

and implementing legal acts; therefore, the reasonable doubt arises as to the systematic approach and compatibility thereof, especially emphasizing that in the statutory implementing legal acts a list of functions attributed to the specific institution at a level of the law is unreasonably extended. The tendencies of the stricter liability for the violations of the Road Traffic Rules prevail in the present legal regulation. The amendments adopted to the Criminal Code of the Republic of Lithuania whereby a person is held liable for driving a vehicle under the influence of an average or heavy degree of intoxication are to be evaluated critically as hardly compatible with the principle of *ultima ratio*, principles of process promptness and efficiency, as well as with an aim of reducing the number of convicted persons in the imprisonment facilities.

## RECOMMENDATIONS

1. With the governmental institutions being involved in the modernization of the administrative-legal regulation mechanism for ensuring public security, focus should be laid on safeguarding of fundamental human rights, on transparency, on accountability and democratic control enhancement, ensuring more effective application of the EU law, on adherence to a more coherent interdepartmental and intersectoral approach, and on coupling of all internal and external security aspects. Focus is to be laid on the following main initiatives for the improvement of the administrative-legal regulation mechanism for ensuring public security: enhancement of the synergy of various state governance sectors – public security, health, social and environmental protection, educational, culture and other; development of close cooperation between the state and municipal institutions and agencies and the institutions of science and studies; promotion of partnership of public and private sectors, and increase of the active society involvement.

2. Aiming to oust from public policing the coercive activity models, to start applying public management methods, and to ensure that public policing is conceived as a social service, with the standards of quality being applied thereto, it would be expedient for the Police Department to distinguish and regulate the principles and tasks of public policing activities in a special legal act.

3. Whereas under the present legal regulation the Public Security Service officers are not obligated to react to the urgent situation that happened after working hours and that upon occurrence of such situation, the number of organized officers may be less than required, it is expedient for the Public Security Service command to establish in the legal acts the constant watch regime for the Service officers. Simultaneously, when tackling the human resources problem of the Service officers, the conveying function could be fully undertaken by the police. Also, in terms of human rights protection it is important for the Ministry of Justice and the Ministry of the Interior to review

the Convoying Regulations, regulating thereof the content of the main rights of the convoyed persons in consideration of their legal restrictions.

4. Whereas crime prevention and control have not been regulated exhaustively in any state strategy, it is necessary for the Ministry of the Interior to develop a specialized and timely program targeted towards crime prevention and control measures, the key attention whereof would be devoted to tackling the problems of optimization of crime prevention and repeat crime reduction by reforming the penal system in compliance with contemporary tendencies. In the program, competence overlapping situations should be avoided when the institution, responsible for implementing of a certain task, is appointed and it does not have the necessary authorization to do this, or when the function delegated to the institution may be implemented more successfully by the institution under its subordination.

5. In order to properly assess the crime control and prevention program efficiency, it is necessary to create a smoothly functioning crime prevention information system consisting of criminological-informative, methodical-informative, and managerial-informative sub-systems.

6. *For the Ministry of the Interior in the area of control of separate criminal processes:*

a) In consideration of the present-day social and economic tendencies to adopt a strategy for control of the shadow economy whereby the measures for combating the shadow economy and its prevention should be foreseen.

b) In the field of the fight against corruption it is necessary to fill a gap in the Criminal Code and by expanding the concept of corruption to criminalize corruption in the private sector, and in particular, to supplement the Special Chapter Section XXXIII "*Crimes and Infringements of Law in the State Service and against Public Interests*" of the Criminal Code of the Republic of Lithuania with a legal norm stipulating criminal liability for similar criminal actions in the private sector.

c) Whereas in Lithuania the system of coordination in the public governance of the prevention of trafficking in human beings has not been foreseen in any legal act and the procedure of how this system should be organized is not identified, it is expedient to enforce the regulation of the fight against trafficking in human beings in a special legal act regulating thereof exhaustively the institutions and positions of those in charge of coordination. Likewise, on the example of Latvia, to draft Programs, covering a specific period, which by their type and quality would be comparable to the National Anti-Corruption Program.

d) Whereas latency of domestic violence has yet remained comparatively high, special attention at a state level should be devoted not only to the comprehensive assistance to the victims of violence and the perpetrators of violence but also to the qualification improvement of law enforcement officers,

focusing on psychological aspects in the work with the victims of domestic violence.

7. *For the State Border Guard Service:*

a) To initiate the adoption of the qualitatively new Law on the State Border and Protection thereof, containing therein all the substantial provisions regulating the state border and frontier administrative legal regimes, foreseeing the state border guarding priority trends in compliance with contemporary tendencies (especially the EU external border protection) and objectives. In this new Law also to foresee the SBGS strategic goals and tasks (*inter alia* the priority of the EU external border protection) and shall adjust the norms of the Law and the SBGS Regulations seeking to achieve that the Regulations would not mechanically reiterate the norms of the Law, but would regulate those issues on the SBGS activities that are not expedient to be regulated at a level of laws.

b) Strengthening the EU external border control, it is necessary to use effectively the EUROSUR system opportunities, to improve and modernize the check procedures at the border control points and to supply SBGS officers with the most sophisticated equipment for people detection, travel document check, and vehicle inspection. It is necessary to further strengthen the cooperation with frontier protection (coastal) services of the Baltic Sea region states, ensuring the external border surveillance in the sea, to actively participate in FRONTEX activities, other international forums and projects of the EU and Baltic Sea region states.

8) *For the Ministry of Transport and Communications* in developing a new safe traffic development program in 2017, eliminating the shortcomings the National Road Safety Development Program for 2011–2017 (*abstract and overlapping tasks, the quality of implementation thereof is not possible to be measured by specific indicators*) to include certain measures ensuring road safety increase, not mentioned in the present program (e.g., *driver rehabilitation programs*) and to submit more statistical data, also emphasizing the successful experience of other countries in this field; to ensure the effective monitoring of program implementation.

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