

THE IMPLEMENTATION OF THE LAW ENFORCEMENT ACTIVITIES OF FOREIGN COUNTRIES

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Abstract. Today, one of the issues that are Central to a number of branch of law enforcement Sciences is the search for an optimal model of law enforcement function of the state. The answer to this question lies in the plane of the fundamental foundations of the nature and purpose of the state, the understanding of which allows to optimize the model of the national law enforcement system. In this context, the primary task is to determine the parameters of such optimality, which can be identified both by using the deductive method of studying national models of law enforcement function of foreign States, and by analyzing the causal relationship between historically established national law enforcement systems and national cultural characteristics of specific States, their role and position in the social system.

Key words: foreign state, law enforcement, human rights and freedoms

1. Introduction.

The organizational structure of the police of foreign States, the distribution of functions and powers between different levels of government depend on the existing in each country forms of government and the degree of centralization of government [1, p.12]. A.V. Makarin and A.I. Strebkov emphasize that "the judicial system in various federations differ depending on the level of autonomy of the Federation members, distribution of competences between them and the center of the balance of Federal law and adopted in the entities forming the Federation" [2, C. 63]. Thus, even the main subjects of the implementation of the law enforcement function of the state have their own specifics depending on the form of the state. Models of law enforcement function can be divided into three types: centralized, decentralized and mixed. The countries of the centralized type of law enforcement function include France, Italy, Spain, Portugal and others. The US represents a decentralized type of law enforcement system. The mixed type is typical for such States as great Britain, Japan, Germany, Russia and others. The regional specifics of law enforcement can be most fully analyzed through the legal and organizational forms of implementation of the law enforcement function of the state. Thus, in the Russian Federation there are uniform legislative standards (mechanisms of legal regulation) concerning the order of formation and hierarchical subordination (management) of law enforcement authorities at the local, regional and Federal levels, the organization of civil society institutions endowed with auxiliary law enforcement functions. A single, unified legislative structure of law enforcement is also typical for criminal and administrative procedures, national security, expressed in the appropriate Federal regulations [3, p. 11]. In General, the law enforcement system of Russia is based on the principles of centralization, unification and vertical control system. In this context, there is a interdependence of the administrative-territorial structure of the Russian state and its law enforcement model. This legal model, which defines the order and limits of law enforcement activities, is due to the mixed model of the Federation, which is typical for Russia, in contrast to the United States of America, where law enforcement is more decentralized. Accordingly, carrying out a comparative analysis of the American and Russian law enforcement models, it is necessary to dwell on the peculiarities of the implementation of the law enforcement model in the United States and the grounds for such decentralization [4, p.105].

2. Method. Methodological basis of this study is the dialectical method of cognition of social and legal phenomena and concepts in their development and interdependence. In the process, general-purpose and scientific methods of scientific knowledge are used as well, historical and legal, systemic, structural-functional, comparative legal, statistical, sociological, specifically the formal-logical, logical-legal and others. The legal framework and information base includes the research of international legal instruments, scientific sources, investigative and judicial practices to ensure the rights and lawful interests of individuals in the pre-trial proceedings.

3. Results. The formation of a law-enforcement subsystems with respect to local administrative and jurisdictional autonomy of municipal law enforcement agencies and law enforcement bodies of States, regional legislation defining territorial features of administrative and criminal prosecution, is not evaluated in USA as a disadvantage. Starting with the peculiarities of criminal enforcement proceedings, the construction of trials and ending with administrative regimes, each state has developed a unique law enforcement subsystem, adapting legal tools to territorial social, criminogenic and other features. For example, in USA the acquisition, possession and carrying of weapons by citizens is perceived as a guarantee of observance of the right to life and security of the person [5, p. 94-99]. In the legal system of States, there has been considerable decentralization, manifested in particular in the field of criminal law. For example, 38 States have the death penalty, and 12 have only life imprisonment. The researchers link this decentralized model of the law enforcement system with the historical feature of the formation of the United States, which once was a Confederation. At the same time, the specific nature of the law enforcement traditions reflected in the current legislation of each state is determined by the law enforcement traditions. For example, an attempt to centralize

the administrative police in the United States has failed because of the resistance of the States and counties. In force went on a way of destruction of the developed system which came to the level of civilized forms in favor of centralization and unification of law-enforcement function at least because at their elimination the Federal center would have to compensate the arisen gap the budgetary resources (on police local 66 budgets are allocated to 80% of the means spent for all police forces of the country).

In addition, "a characteristic feature of the fragmented model of the police system in General and the American police system in particular is the traditional use of parts of the armed forces (national guard) to suppress "civil unrest" [6, c. 44]. According to the type of law enforcement systems, the closest to the United States is the law enforcement model of great Britain, where the police are also subordinate to the municipal authorities and indirectly accountable to the population through the elected mechanisms of the head of municipalities [7, c. 68]. The judiciary has a degree of decentralization in relation to two special regions of the UK. In particular, Scotland's judicial system has retained considerable independence, and Northern Ireland's judicial authorities, although copying the UK's judicial system, also stand apart in the implementation of the law enforcement function. The English legal system is of a mixed type and, together with centralized criminal and civil law, allows for separate sources of law in Northern Ireland and Scotland. The law enforcement system of the Federal Republic of Germany also reflects the peculiarities of Federal relations between the regions (länder) and the Federal centre. Thus, characterizing the law enforcement system of Germany, V. Goltsov notes that "the historical traditions predetermined a significant share of the independence of the lands of the Federal center. Each of the 16 länder of Germany, while maintaining the General legal framework, independently determines the structure and staffing of the police, the priorities of law enforcement agencies" [8, c. 31-33]. However, along with the police of the länder in Germany, the Federal police. The model of implementation of the law enforcement function of Germany is based on a mixed type of relationship, it is equally present centralization and decentralization principles. Coordination of law enforcement agencies of the länder and Federal law enforcement agencies is carried out on the principle of coordination and coordination. Thus, the Federal criminal police Agency (Bundeskriminalamt), within its powers and functions, inter alia, coordinates between the Federal and länder police, as well as the police and justice authorities, supports the police's activities in the prevention and fight against crime at the interregional and international levels. Thus deformation of law-enforcement function of the state which is not providing in due measure personal and property protection of the citizens [9, c. 138-146].

The architecture of the law enforcement function of Japan has special national features and is due not only to the unitary state structure, but also to the traditional social order. Thus, while in the Western European tradition law enforcement is based on legal formalism and legality, provided by the imposition of legal sanctions of positive law, in the Japanese legal system the emphasis is shifted to public condemnation, and the application of legal sanctions of positive law by law enforcement officers is extremely limited. "This behavior of the Japanese law enforcement agencies is primarily due to their extremely large powers, allowing to apply the law at their discretion and focus on "correcting" the criminal, and not on his punishment " [10, c. 45]. Singapore is of considerable interest in the context of breakthrough improvements in the level of law and order and the rule of law, in which there was a qualitative transformation of the law enforcement function of the state from a practically incapable, critically corrupt law enforcement system to a strictly organized, highly effective form in a criminalized society.

The content of the law enforcement functions of the Singapore, regardless of the innovativeness of the economy and government policy is dictated by external threats and challenges, which defined anti-liberal mechanisms to ensure the rule of law. In particular, Y. O. Kuchina links the rigidity of Singapore's criminal policy with objective national and regional factors. For example, as the researcher notes, "we should not forget that the rigidity of sanctions in Singapore's legislation is not a reason, but a derivative of a number of factors: the state's entry into the Golden Triangle, the threat of the influence of Chinese and Japanese organized crime on the territory through migration from these countries, historically passing through the territory of Singapore drug routes, the small population and, at the same time, the extreme population of the country" [11, c. 112]. In contrast to the models of state law enforcement in the Anglo-Saxon and Romano-German legal systems, law enforcement in Muslim law countries is inextricably linked to Sharia. In particular, criminal prosecution is carried out according to the rules and legal understanding determined by religious sources: the Koran, the Sunnah, kiyas (acts of interpretation of the Koran and the Sunnah), ijma (agreement of Muslim jurists), URF (customary law). At the same time, customary law at the legal level retains a number of institutions that are considered to be crimes in the rest of the world. For example, the institution of blood revenge is to some extent recognized in a number of Muslim States. But along with this, Muslim law does not legalize a speedy, unsubstantiated lynching. Only by a court decision the relatives of the victim (murder) are given the right to choose legal sanctions (forgiveness, fine or death penalty) [12, c. 298].

Such international legal acts as the Convention for the protection of human rights and fundamental freedoms (concluded in Rome 04.11.1950) [13], the universal Declaration of human rights (adopted by the UN General Assembly 10.12.1948) [14], the international Covenant of 16.12.1966 "on civil and political rights" [15], de jure define the principles of law enforcement activities of the States parties, among which the unconditional value of human rights and freedoms, but at the same time take into account public and state security as a priority activity. However, the de facto international policy of the modern world demonstrates the forcible imposition of Western European values that have received the status of "international" in at least two aspects. First, the law enforcement function of the state ensures its external and internal sovereignty. Accordingly, the change in this state function affects the effectiveness of national sovereignty in the context of specific geopolitical conditions. It is obvious that a series of color revolutions, financially

and organizationally accompanied by the United States, as well as armed invasions of a number of States was based on the absolute priority of the rights and freedoms of the individual. The absolutization of this legal value was a mechanism of domestic and international legitimation of the actions of invasion into the internal Affairs of Yugoslavia, Iraq, Ukraine, Egypt, etc. The ideology of the absolutization of the rights and freedoms of the individual, their unconditional priority over the interests of society and the state made it possible to implement projects of artificial globalization, promoting national interests of the interpenetration of contiguous cultures and ethnic groups. But if natural globalization is based on mutual influence, historical adaptation of axiological elements of cultures, globalization as an artificial process is associated with the displacement of national values of society Western liberal values, elevated to the level of universal. At the same time, the promotion of the ideas of the absolutization of human rights and freedoms eventually leads States not only to law enforcement dysfunction, but also creates a stable political and legal instability in the respective regions, implementing the well-known concept of "controlled chaos" due to the actual (situational) mass restriction of the very human rights and freedoms for which national law enforcement systems were initially destroyed.

4. Discussion. According to the study conducted by the authors, the United States demonstrates the minimization of economic costs for the implementation of the law enforcement function of the state at the expense of the Federal budget, while maintaining high law enforcement efficiency due to the recognition and legalization of regional law enforcement traditions. In this vein, the us Federal center does not see the destructive consequences of preserving this law enforcement space, which, for all its regional diversity, works very effectively.

The national law enforcement model of Germany is based on a stable economy and a high level of legal awareness, and "police officers carry out their activities with the support of the vast majority of citizens" – more than 70 %. It is obvious that these factors set different standards of law enforcement efficiency in German society, shifting the emphasis from control and enforcement methods of ensuring the rule of law to the mechanisms of cooperation of the law enforcement system and civil society institutions, coordination of legitimate interests and prevention of offenses in society. At the same time, the liberal law enforcement model of Germany today, in the conditions of the migration crisis, is subjected to a serious test. The flow of refugees from Syria leads to a sharp surge in crime, involving attacks on life, health, personal integrity, as well as property of German citizens. It is characteristic that in social networks (unlike the German media) there is an active public discussion of the passivity of the police and its inability to solve problems related to migration crime in the liberal mode of operation.

A new architecture of law enforcement functions of Singapore is also located in the national features. Thus, the presence of mass legal nihilism in society received a corresponding response from the updated law enforcement system in the form of total control, repeatedly strengthened legal sanctions and consistent criminal policy at all social levels. Without changing the key principle – the state's monopoly on violence – Muslim law uses a dispositive method of legal regulation in criminal law with the involvement of citizens in law enforcement. It is quite natural that in this regard there is a complete discrepancy between the Western-liberal models of the implementation of the law-enforcement function of the state and the models of Muslim countries. This example makes it possible to conclude that the legal family (the type of national system of law) is also interrelated with the type of model for the implementation of the law enforcement function of the state. Analysis of the law enforcement system in Japan suggests that the level of law and order and the rule of law also has a natural character (to some extent established and maintained by society without the control and Supervisory functions of the state, based on morality, tradition, national Outlook-public justice). At the same time, the experience of States with a critically low level of legal awareness, which have achieved high levels of law and order (for example, Singapore), convincingly proves that the level of public control, the severity of sanctions, measures of restriction of rights and freedoms, that is, the specific content of the law enforcement function of the state, depends on the level of legal culture of the society itself. While studying the features of the law enforcement function of the state within the framework of national legal systems, it is also necessary to take into account the processes of globalization, summarizing the universalization and standardization of the content, goals and values of state functions. It should be noted here that international law has a strong influence, including on national law enforcement systems, primarily from the standpoint of generally recognized principles and norms of international law, human and civil rights and freedoms. Specific force, means, methods of formation of law and order and legality are determined by a complex system of territorial factors within the state and even in its individual territories. This forces the national legislator and the law enforcer to use not universal hierarchies of legal values detached from the real context, but effective law enforcement mechanisms in a specific geopolitical regional space. This means that, for example, the system of total law enforcement control applied in Singapore is absolutely unacceptable for European States, Japan, which have a high level of legal culture of the population. As in the reverse order, the use of liberal models of law enforcement for Russia is fraught not with the observance and strict enforcement of human rights and freedoms, but with the shadowization and criminalization of economic, political, religious and other activities.

6. Conclusion. Decentralization of the us law enforcement function, firstly, was due to historical reasons (the history of the police, the proliferation of civilian weapons, etc.). Second, Washington has balanced this decentralization organizationally, allowing the Federal center to maintain actual control over the rule of law and the legality of each state in emergency situations. As a result, the law enforcement function of the United States as a whole is fairly balanced and is currently de facto not as rationalized as representatives of the scientific and professional community believed. Significant steps towards centralizing the law enforcement function of the state in the United States were also made after the terrorist attacks of September 11, 2001. In particular, the United States Department of homeland security was

established in 2002, bringing together the Executive branch of national security, thereby effectively recognizing the need to centralize and unify law enforcement in the face of global threats to public and public security.

Models of law enforcement function of England and the United States have different bases of their national traditions. While in the States the principle of decentralization is a consequence of the formation of the political system from Confederation to Federation, in the UK, along with historical traditions, there is a national-territorial factor. Northern Ireland and Scotland, being historically annexed territories, determined their special status in the legal field. Hence, it can be stated that the specific content and structure of the law enforcement function of each state is influenced by the history of its formation (the accession of other territories inhabited by an ethnic group, which differs from the titular nation in its cultural, religious and legal traditions). Japan's law enforcement function is based primarily on social crime control, again because of its special national structure, which is successfully used by the authorities, providing one of the lowest crime rates in the world. It should be noted that as part of the fight against drug crime as a regional threat of the highest level, Singapore's legal system abolishes the universally recognized principle of human rights – the presumption of innocence.

It follows from the above that the model of implementation of the law enforcement function of the Eastern States is significantly different from the Western ones to the extent that it is dictated by the ratio of the legal culture of society, national traditions and the effectiveness of legal means used in Eastern societies. At the same time, the latter are characterized by legal nihilism, primarily from the standpoint of legal positivism, but not law in its broad sense. Thus, the understanding of the essence and nature of the state and law in a particular ethno-cultural space determines the national features of the law enforcement function of the state, its standards. Thus, the above-mentioned law enforcement systems of the leading countries of the world are based on deep historical traditions. In the world there is no "ideal" model for the implementation of the law enforcement function, and each national model is adapted to the specific socio-cultural characteristics, traditions of the societies in which they have historically developed and operate. At the same time, most of these countries carried out fruitless attempts to move away from the traditional law enforcement system, ultimately only confirming the need for a civilizational approach to the architectonics of the law enforcement function.

Summarizing the above, it can be argued that the model of implementation of the law enforcement function of the state is predominantly national. The General principles and rules of international law are applicable to law enforcement only in the sense that they are not contrary to public and national security. At the same time, specific national models for the implementation of the law enforcement function of the state are determined by the actual state of its social, political, economic, cultural, spiritual, legal and other stability. The latter is an individualizing characteristic of any state, defines a specific system of priorities of legal values, forces and means of their protection in law enforcement.

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