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## **Organizational and Legal Model of the Activities of the Police of Germany regarding Anti-Smuggling: Prospects for the Implementation of the Positive Experience in Ukraine**

*В статті визначено сутність та особливість організаційно-правової моделі діяльності поліції Німеччини щодо протидії контрабанди. Зазначено, що поліція ФРН працює в складі Міністерства внутрішніх справ, яке має значно ширшу компетенцію, ніж МВС інших країн. Фактично МВС ФРН контролює всі основні сфери внутрішнього життя країни.*

**Ключові слова:** *сутність, правове регулювання, організаційно-правова модель, діяльність, поліція, Німеччина, протидія контрабанда, досвід, Україна*

*It is emphasized that the Police of the Federal Republic of Germany works as part of the Ministry of Internal Affairs, which has a much wider competence than the Ministry of Internal Affairs of other countries. In fact, the Ministry of Internal Affairs of the Federal Republic of Germany controls all the main areas of the country's internal life.*

*It was determined that the main functions of the Federal Police are as follows: 1. Ensuring border security, combating smuggling, including coastal protection. 2. Protection of federal buildings and diplomatic missions located in the city of Berlin and the former capital of Bonn, as well as the two highest courts of Germany - the Federal Constitutional Court and the Supreme Federal Court in Karlsruhe. 3. Organization of mobile response forces of the Federal Government for the purpose of protecting officials during events within the country. 4. Ensuring security at international airports and railways. 5. Organization of counter-terrorism forces (unit GSG9). 6. Airspace protection.*

*It is noted that the Federal Criminal Office of the Criminal Police of Germany is the central body responsible for coordinating the actions of federal and state structures in all matters related to police activity; acts as the main intelligence agency and repository of information about the activities of the German police; is the founder of the National Central Bureau of the International Criminal Police Organization (Interpol).*

*It was emphasized that in accordance with its functional duties, the Federal Criminal Office of the Ger-*

*man Criminal Police carries out: maintenance of official relations between German police authorities (both federal and state level) and justice, other partners abroad; providing support to federal and state police structures in activities related to the prevention and fight against crime, the fight against smuggling at the interregional and international levels and the detection of particularly serious crimes; criminal prosecution of members of Germany's constitutional bodies; protection of witnesses, their family members and relatives.*

**Keywords:** *essence, legal regulation, organizational and legal model, activity, police, Germany, anti-smuggling, experience, Ukraine.*

**Formulation of the problem.** The experience of highly developed foreign countries in the issue of legal, including administrative and legal regulation of police activity in combating smuggling, can be borrowed and used in Ukraine to improve the quality of regulatory and legal support for the activities of the National Police of Ukraine. It should be noted that a number of researchers emphasized the need for meaningful study of the experience of legal regulation of the functioning of police bodies in foreign countries. So, for example, M. V. Loshytskyi in his research notes that the forms and methods of work of the Ukrainian police are in some cases outdated, police officers act on the basis of ineffective normative acts, in some cases they act ineptly, indecisively or rudely, violating elementary moral attitudes, which causes legitimate indignation of citizens. It is for these reasons that we see the need to study the activities of the police of foreign countries to protect public order, and more specifically, to study the observance of human and citizen rights in the activities of the police of developed democratic states to protect public order [1, p. 105].

**Analysis of recent research and publications.** General and specific issues of reforming the law enforcement system and improving the activities of police bodies and units were studied in the works of such scholars as: S. M. Alfyorov, M. I. Anufriev, O. M. Bandurka, V. M. Beschastnyi, V. T. Bilous, I. P. Golosnichenko, O. P. Hetmanets, S. M. Husarov, S. F. Denisyuk, I. V. Zozulya, R. A. Kalyuzhny, O. M. Klyuev, V. V. Kovalenko, A. T. Komzyuk, Y. F. Kravchenko, A. M. Kulish, K. B. Levchenko, M. V. Loshytskyi, V. V. Malikov, N. P. Matyukhina, O. I. Mykolenko, R. V. Myronyuk, O. I. Nikitenko, O. V. Negodchenko, V. I. Olefir, V. I. Osadchiy, V. M. Plishkin, T. O. Protsenko, O. Yu. Sinyavska, A. A. Starodubtsev, V. D. Sushchenko, V. K. Shkarupa, H. P. Yarmak and other scientists. These scientists made a significant contribution to the development of the science of administrative law and law enforcement activities. However, currently there are practically no comprehensive stud-

ies of the experience of the German police in combating smuggling.

Thus, the need to improve the activities of the police in combating smuggling, the imperfection of legal regulation in this area and the lack of comprehensive scientific research on this issue determine the relevance and indicate the need for a comprehensive study of the legal regulation of police activity in combating smuggling.

**The purpose** of this article is to determine the essence and peculiarities of the organizational and legal model of the German police in combating smuggling and the prospects for the implementation of positive experience in Ukraine.

To achieve the goal, the following complex tasks are solved in the article:

- to determine the organizational and legal model of the activity of the German police in combating smuggling;
- describe the organizational and legal support for the functioning of the German police in combating smuggling;
- to propose directions for improving the organization and activities of the National Police of Ukraine in combating smuggling, taking into account successful foreign experience.

**Presenting main material.** Scientist V. Beschasny, analyzing the problems of using international experience in the activities of the Ukrainian police, notes that nowadays, in the conditions of the modernization of the entire civil service system in Ukraine, the reform of internal affairs bodies, and their integration into the system of law enforcement agencies of foreign countries, the need to improve the activities of the Ukrainian police naturally grows, optimization of professional training of personnel, especially management staff, implementation of systemic transformations in the legal regulation of official activities and social security of employees of the OAS. To fulfill these tasks, the author writes, it is useful to turn to foreign experience, first of all, highly developed countries that traditionally embody the principles of the rule of law, have developed structures of civil society, formed

legal systems and established mechanisms for the implementation of legal prescriptions. This message is also determined by the integration of Ukraine into world and European political, legal, economic and social institutions, as a result of which there is an internationalization of the legal space, which requires the coordination of interstate law enforcement activities [2].

O. S. Pronevich, drawing attention to the imperfection of the domestic law enforcement system, notes that one of the priority directions of the evolution of modern national legal systems is the formation of a balanced legal basis for police activity, as a core institution of the law enforcement system, authorized to perform a wide range of tasks in the field of public security. There is no established tradition of in-depth research of foreign police-legal theory and practice in domestic administrative and legal science. On the other hand, in the context of the discussion about the prospects of separating a sub-branch of police law, it is appropriate to consider the doctrinal interpretation of police laws of foreign countries (in particular, Germany) as the main source of police law [3, p. 808]. E. Yu. Sobol and S. S. Kolomoitsev, in their reflections on the role of foreign experience in the organization and activities of the police for improving the activities of domestic law enforcement agencies, emphasize that today it is urgent to find and implement new approaches in the field of management of internal affairs bodies, building them a qualitatively new model in accordance with the standards, principles and norms developed by the world community. The experience of law enforcement agencies of other countries of the world, knowledge of those phenomena, trends and regularities that determine the current state and prospects for the development of police management are of important theoretical and practical importance on this path. Lawyers emphasize that foreign countries have accumulated significant experience in this field today [4, p. 808].

The point of view expressed by V. O. Zaryslo is valid. He says that the deep and inevitable democratic transformations taking place in Ukraine require restructuring and a significant increase in the level of efficiency and quality of law enforcement agencies on this basis. First of all, these requirements concern the police, the most numerous unit of law enforcement officers, since their performance of today's tasks is primarily related to the implementation of a number of new principles

based on the recognition of universal human values: dignified treatment of the person, strengthening the protection of the rights and freedoms of citizens, various forms of property and other priorities of a legal, democratic society defined by the Constitution of Ukraine [5, p. 3].

According to I. A. Grigorenko, law enforcement bodies occupy a special place in the mechanism of ensuring people's power, the degree of protection of citizens' rights and freedoms, law and order, national economy, and ultimately state security largely depends on their effective work. In recent decades, the modern world has faced new problems and threats related to the further globalization of the most dangerous organized forms of criminal violence and illegal enrichment. Manifestations of political, ideological and religious extremism, national and racial enmity, and international terrorism are increasingly impressive. The need to reform law enforcement agencies, whose system still does not meet the needs of society and generally recognized international democratic standards, is universally recognized, and all political forces in Ukraine are aware of it [6, p. 249]. The researcher notes that the scientific approach to both reforming the law enforcement system in general and determining ways to improve the activities of internal affairs bodies as its component involves the search for a qualitatively new model of the internal affairs bodies of Ukraine, taking into account the experience of leading European countries [6, p. 249].

It can be seen from the above that each of the researchers focuses on various aspects of the police activities of foreign countries, which should be paid attention to in order to improve the quality of the performance of their functional purpose by domestic law enforcement agencies, in particular, the National Police. However, in general, most of them are unanimous in the fact that, first of all, attention should be paid to the analysis of the organizational and legal principles that determine the legal status of the police in combating smuggling — its place in the state mechanism, the social and functional purpose of this body.

The Federal Republic of Germany (FRG) has a great deal of experience in establishing and legally ensuring the activities of the police in combating smuggling. In this country, the functions of maintaining public order are divided between the relevant police structures at the state (16 federal

states) and republican levels. The main law enforcement institutions are the Federal Police, the Land Police and the Federal Department of Criminal Police [7].

The German police work as part of the Ministry of Internal Affairs, which has much broader competence than the Ministry of Internal Affairs of other countries. In fact, the Ministry of Internal Affairs of the Federal Republic of Germany controls all the main areas of the country's internal life [8].

The main functions of the Federal Police are as follows:

1. Ensuring border security, combating smuggling, including coastal protection.

2. Protection of federal buildings and diplomatic missions located in the city of Berlin and the former capital of Bonn, as well as the two highest courts of Germany - the Federal Constitutional Court and the Supreme Federal Court in Karlsruhe.

3. Organization of mobile response forces of the Federal Government for the purpose of protecting officials during events within the country.

4. Ensuring security at international airports and railways.

5. Organization of counter-terrorism forces (unit GSG9).

6. Airspace protection.

Also, employees of the Federal Police can act as additional forces to strengthen regional police units at the request of the government of one or another federal state [7].

The legal basis for the activity of the German Federal Police is the Constitution and a number of laws, among which, by the way, there is no special law on the police. The main role as regulators of the Federal Police is performed by the following laws: "On Federal Police Officials" from 1976 [9, p. 51], "On the Federal Department of the Criminal Police and Cooperation of the Federation and the Lands in Criminal Matters" from 1997 [10], the Federal Disciplinary Statute from 2001 [11], "On the Provision of Employees and Judges of the Federation and the Federal Lands" from 2006 [12], "On the salaries of federal officials" from 2002 [13].

Land police are formed and managed by the authorities of the federal lands. In addition to the above-mentioned federal laws, the police of the states are guided in their activities by the police legislation adopted by the leadership of these states. Such legal acts, for example, are the Law on the

Organization of the Bavarian State Police from 1976 and the Law on the Tasks and Powers of the Bavarian State Police from 1990 [9, p. 54].

The main tasks of the Land Police are:

1. Criminal police of the lands: ensuring security at the land level, combating the illegal circulation of weapons and explosives; investigation of particularly dangerous crimes related to illegal drug trafficking; fight against smuggling, fight against organized crime, fight against money laundering, investigation of crimes committed by high-ranking officials; information and analytical work.

2. The Land Police Service is engaged in the prevention of minor crimes and issues relevant charges; performs the functions of the traffic police.

3. The emergency police (on-duty police) provide general support to the Federal Department of Criminal Police at its request during the organization of official visits, mass demonstrations, major sporting events, international exhibitions and in cases of natural disasters.

4. The water police controls the movement of water transport in the water area of the inland waters of Germany and, in particular, the transportation of dangerous materials and cargo.

5. The Air Police ("Air Wings") controls the movement of ground transport from the air, provides support to employees of other police departments in the implementation of surveillance and crime prevention.

6. Specialized paramilitary tactical units and mobile intelligence units, as a rule, are involved in special cases related to particularly dangerous crimes, and conduct specific intelligence activities [7].

As for the Federal Criminal Department of the Criminal Police, it is the central body responsible for coordinating the actions of federal and state structures in all matters related to police activity; acts as the main intelligence agency and repository of information about the activities of the German police; is the founder of the National Central Bureau of the International Criminal Police Organization (Interpol). In accordance with its functional responsibilities, this authority carries out: maintenance of official relations between German police authorities (both federal and state level) and justice, other partners abroad; providing support to federal and state police structures in activities related to the prevention and fight against crime at the interregional and international levels and the detection of

particularly serious crimes; criminal prosecution of members of Germany's constitutional bodies; protection of witnesses, their family members and relatives [14,15,16, p. 125,17, p. 648, 18].

### Conclusions.

Summing up the above, we consider it expedient to join the position of O. S. Yunin, who notes that despite the national specificity, in the relevant approaches to the study of the role of the police and its place in the state mechanism in the studies of foreign scientists, common principles can be traced, which gives grounds to talk about general trends in the development of police systems of different countries [12], including the peculiarities of the legal status of police bodies.

Summing up, we can conclude that the study of foreign experience in the issue of activities of police bodies in combating smuggling is a very

important moment on the way to improving the activities of the National Police of Ukraine in combating smuggling. At the same time, we consider it necessary to note that the borrowing of foreign experience should not be spontaneous and mindless, it should be based on a deep and meaningful analysis of all the essential conditions and circumstances in which this experience was formed, and their comparison with the existing social political and economic situation in Ukraine. This is necessary so that borrowed ideas are not simply declared in legislation, but can actually be implemented in the practical activities of police bodies.

Prospective further scientific research should determine the essence and peculiarities of the legal regulation of police activity in combating smuggling in the member states of the European Union.

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