

JOURNAL OF SECURITY AND SUSTAINABILITY ISSUES

ISSN 2029-7017 print/ISSN 2029-7025 online

2016 June Volume 5 Number 4

[http://dx.doi.org/10.9770/jssi.2016.5.4\(9\)](http://dx.doi.org/10.9770/jssi.2016.5.4(9))

ISSUES OF SOCIETY SECURITY: PUBLIC SAFETY UNDER GLOBALISATION CONDITIONS IN LITHUANIA

Vladas Tumulavičius¹, Jānis Ivančiks^{2,3}, Oleksandr Karpishchenko⁴

¹The General Jonas Žemaitis Military Academy of Lithuania, Šilo Str. 5A, Vilnius, LT-10322, Lithuania

²Daugavpils University, Parades Str. 1, Daugavpils, LV-5401, Latvia

³Turība University, Graudu Str. 68, Riga, LV-1058, Latvia

⁴Sumy State University, Department of Marketing and Management of Innovation Activity,
2 Rimsky-Korsakov Str., Sumy, 40007, Ukraine

E-mails: ¹vladas.tumulavicius@lka.lt; ^{2,3}janis.ivanciks@inbox.lv; ⁴a.karp@bk.ru

Received 20 January 2016; accepted 15 May 2016

Abstract. The article presents the current issues and latest trends of the first public security policy priority – analysis is made of how public security is ensured in the field of public order. The research starts with the discussion of the legal basis for ensuring public order, primarily revealing the concept of public order as such and today’s main threats to public order. Further, analysis covers the problematic aspects of the legal protection of public order: the legal mechanisms of order protection are discussed, whether they are effective, if not effective, how the legal regulation in this field is to be perfected. Attention is also devoted to the problems of human rights protection while ensuring public order. Hereafter, an analysis is provided of the administrative aspects of ensuring public order, covering the set-up of the state and municipal institutions, responsible for maintenance of public order, and problems of their activity organisation and coordination. Special attention in this work is devoted to the state-of-the-art problematic aspects of police activity organisation, to the compatibility of the functions and competences of the Public Security Service, analysis of strategic goals, to the research of the opportunities of municipality and local communities for their participation in maintaining public order. As a result in this research is emphasised the importance of decentralisation in ensuring public order; the main guidelines of modernisation in this field are presented. The authors applied general scientific methods of studying objective reality, peculiar to legal sciences: systematic document analysis, meta-analysis, structural-functional analysis, teleological, comparative, critical approach, generalisation and prediction.

Keywords: security of society, public order, police activity, public security service, municipal institutions.

Reference to this paper should be made as follows: Tumulavičius, 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))

JEL Classifications: K1, K14, F52

1. Introduction

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 (Official Gazette, 1997). It is notable that “global modernization processes stimulate not only the enhancement of welfare but also of threats,” and that “contemporary society is living in the environment of a constantly changing risk; therefore, the problem of security exists in each state” (Vilnius, 2011).

The problem of ensuring security remains relevant despite of the fact that as proposed in the National Public Security Development Program for 2015–2025, on the basis of the public opinion poll, it is possible to state that human environment has become safer, for example, in 2005, just 40 percent of the population thought that a risk to become a crime victim in their residential locality was small. In 2013, such opinion was shared already by 57 percent of the residents, almost more than one-third (Resolution No. XII-1682, 2015).

Firstly, 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. It is likely that this factor is predetermined by comprehensive factors: a level of confidence in institutions ensuring security and the individual perception of threats, evaluation, and experience of victimhood. This is underlined in the Program, stating thereof that residents confident in law enforcement institutions feel more secure (Resolution No. XII-1682, 2015). Hence, not neglecting the probability that the situation of public security has improved, such data should be assessed cautiously.

Secondly, it is notable that the threat to public order may be posed not only by human actions but also by many other factors that quite often may be hardly predictable and completely independent of the will of man or suitability of administrative legal regulation, in particular, it concerns natural phenomena. Thus, crime and relevant threats are just one of the dimensions, requiring specific attention on the part of the legislator and those enforcing the law.

Meanwhile, 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, as afore-mentioned, is determined by other factors as well. Thus, "reduction of mortality from traumas, other accidents, violence and suicides, labor security, civil security and other spheres, not directly related to crime, as if are left outside the limits of human security" (Vilnius, 2011). 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. It is also notable that according to the narrow approach – when ensuring the security of environment is perceived only through the crime control dimension – the key role in the process of ensuring security belongs to law enforcement institutions. Meanwhile, if the issue of security is perceived comprehensively, other important entities get involved in the security ensuring process, especially local communities and self-government institutions; their synergy is likely to make an impact on the positive results (much more important and broader) in ensuring public security.

Surveys of law enforcement officers reflect a similar opinion: according to the officers, "the police role in society is given too much prominence, presuming that everything pertaining to local community security should be performed by the police even though quite a number of functions relevant to ensuring security and crime prevention belong to the competence of municipalities; especially those functions that pertain to ensuring a safe and tidy physical environment, for example, instilment and implementation of situational preventive measures" (Nikartas, 2012). Diminishing the role of other institutions in ensuring public order also has an effect on failure in achieving better results in this field.

Presumably, 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 where it is indicated explicitly that "aiming to provide a safe residential environment it is necessary to reduce indifference of people, to help each person perceive his self-esteem and the right to protect oneself and others, to promote self-security of people and cooperation with law enforcement institutions, to encourage residents and business organizations to more broadly use property insurance services" (Resolu-

tion No. XII-1682). In a democratic state, the involvement of communities and separate individuals in ensuring public order is the right rather than the duty. Attention, however, should be focused on the fact that “17 percent of the residents would actually agree and another 37 percent would rather agree to be involved in the activity of taking care of the safety of their own place of residence” (Resolution No. XII-1682, 2015). Such data of the population surveys presuppose a hypothesis that communities probably possess the enormous amount of untapped potential to improve a public security situation.

Thirdly, certain problematic aspects for ensuring public order also relate to public order as an extraordinary dimension of security. For example, in 2007, according to the victimology research data, quite a big number of respondents (over 48 percent) indicated that they had a chance to experience that “somebody in a public place by his defiant conduct, taboo words, threats, taunting or acts of vandalism demonstrated his disrespect to the surrounding people or the environment and disturbed the public peace or order” (Nikartas, 2012).

Such survey results demonstrate not so much the frequency of public order offences but rather reflect a reaction of the residents to the so-called ‘signal crimes’. This means that 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; (Vileikienė, 2015), 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. It is possible to state that public order is primary and pivotal starting point, determining the stability inside the country.

Attention ultimately is focused also on the importance of human rights protection in ensuring public order. A. Kargaudienė’s (2005) proposition is fully agreeable that “it is difficult to deny the opinion that old administrative institutions usually were and are estimated as a benchmark of inflexibility and non-professionalism.” In the process of modernization of the administrative-legal regulation mechanism, attention should be devoted to the fact that in the contemporary state the notion of law enforcement institutions as power structures, empowered in the name of the state to apply the measures of coercion, is replaced by a qualitatively new approach to the activity of law enforcement institutions as a social service.

Relevance of the afore-mentioned problems predetermines the further expediency to discuss the legal regulation and the institutional mechanism of ensuring public order.

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 an offence).

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. *Anschauungen*) prevailing at the time, as an indispensable (Germ. *Unerlässlich*) prerequisite for an orderly (Germ. *Geordnet*) communal human existence within a defined area (Information from BVerfGE 69, 315).

Hence, according to this definition, public order may be perceived as a certain regime of society, the mainte-

nance thereof predetermines public security and stability.

Like in Lithuania, the concept of public order and the fundamentals of its legal protection are enforced in the constitutions of France, Italy, and Switzerland. In other countries (e.g., the USA) the term *public order* is applied to define the corresponding category of law offences (public order offences) or denotes the totality of the not codified norms of behavior, identifying the order in the society (Germany).

Like in Lithuania, the concept of public order and the fundamentals of its legal protection are enforced in the constitutions of France, Italy, and Switzerland. In other countries (e.g., the USA) the term *public order* is applied to define the corresponding category of law offences (public order offences) or denotes the totality of the not codified norms of behavior, identifying the order in the society (Germany) (OECD, 2009).

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. The main difference in the rules of public security and public order in German law is that public security provisions are regulated by legal acts, whilst the provisions of public order are not regulated since they encompass the universally recognized conduct rules (OECD, 2009). However, such indefiniteness of the concept of öffentliche Ordnung is subject to criticism as giving too much space for interpretations.

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. Such offences are perceived in the broad sense – as threats to the social and legal order, if it is violated illegally. The limitation of other rights which are equally enforced in the Constitution may be based and justified by other rights (OECD, 2009).

In Switzerland, public order is a ubiquitous concept at both Federal and Cantonal levels. The Constitution of the Swiss Confederation contains references to both the concepts of public order and to external and internal security. 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). In the Cantonal Constitutions the terms ‘public order and public security’ are also mentioned, and the concept ‘public order’ is relevant in various aspects to federal and cantonal administrative law. However, the specific content of the concept of public order has not been defined in any legal act.

A conclusion is to be made that public order and security is the umbrella term for the concepts that are the basis of administrative law for protection of universally recognized values. Explaining systematically the provisions of Swiss law, the concept of public order implies universally recognized conduct rules designed to safeguard the fundamental preconditions for normal public life. The concept of public order means the protection of both the individual (the fundamental rights of the individual) and the state as the institutional framework (OECD, 2009).

In the USA, the term – public order – is used in a variety of ways in legal regulation. This term 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. It is notable that in the common law tradition, the equivalent of *ordre public* in the French sense of the term is the concept of *public policy*, denoting community conduct rules, specified and applied by the state institutions to ensure the protection of such values as public morals, health, safety, welfare, and the like (OECD, 2009).

In Peru the protection of public order is also enforced at a constitutional level. Article 2 of the Constitution of Peru contains the provision that legal norms governing public order may circumscribe the rights and freedoms of individuals if it is necessary to safeguard the security of society, tranquility, public health, peaceful and legal implementation of the fundamental individual rights. Hence, 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 (OECD, 2009).

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

It is also notable that the concept of public order is closely linked with the concept of a public place. Attention should be drawn to the fact that no exhaustive and explicit definition of public place is given in the legal acts of the Republic of Lithuania. This predetermines that “operation and application of legal acts, conditioned by the circumstance of a public place, gives rise to quite a number of discussions and even judicial disputes” (Šimkaitytė-Kudarauskė, 2011). It is likely that the Republic of Lithuania Law on Meetings defines the concept of a public place most exhaustively as *streets, squares, parks of cities, townships, and other public places and common-use buildings*. Under the Republic of Lithuania Law on Noise Management, public administration institutions are authorized to exercise noise control in public places: *streets, squares, parks as well as other public places of cities and settlements, and buildings of common use, bars, discotheques, cafés and entertainment events* (Šimkaitytė-Kudarauskė, 2011). No doubt, this is not a final list of places to be treated as public. Other national laws also do not contain such a list. The concept of public order is quite broadly regulated in the rules on noise prevention in public places, adopted by municipal councils, for example, in the rules, approved by Kretinga district, Panevėžys city, Radviliškis district, Anykščiai district, Ukmergė district, Vilnius district municipal councils, places to be treated as public are listed, indicating thereof that such lists are not *final*, and that other places which are of common use or may be freely attended by community members are deemed to be a public place (Šimkaitytė-Kudarauskė, 2011).

Presumably, in terms of methodology, interpreting a public place by listing the places to be treated as public is not expedient. R. Šimkaitytė-Kudarauskė (2011) explains the concept of a public place in the doctrine as a space open to society. This concept seems to be revealed when interpreting it as opposed to a private space since a public place most often is perceived as a territory which is not part of the private property.

The concept of public place is of special topicality when considering the cases related to public order offences; it is this dimension where it is disclosed that public order offences are conceived as offences of law committed at a public place.

The Lithuanian Supreme Court jurisprudence contains the interpretation that a *public place* is the place in which “other persons are present or are entitled to attend during the commission of the criminal act. The act is deemed to be committed irrespective whether at the time of commission of the criminal act anybody was present here or not” (Šimkaitytė-Kudarauskė, 2011). Thus, publicity of the place does not depend on its belonging by the right of ownership but rather on the accessibility of this place to the public, this predetermining the necessity to defend the public interest if order is disturbed in that place. *Hence, a public place* is the place which is freely accessible to the public, and the accessibility thereof predetermines the need by means of legal regulation measures to defend the public interest from the possible offences of order at that place.

Another important aspect is that of decoupling the concepts of ensuring public order and protection thereof. A. Novikovas (2009) points out that dissociation of these concepts is important in terms of law since “when comparing the ensuring (guarantee) of public order and public order protection, in the former case it should be spoken about the declaration of how public order protection shall be organized, whilst in the latter case of how this protection shall be implemented”. The author explains that the term “ensuring” means guarantee and assurance and perceives it as the identification of general, political, economic, social and legal guarantees. Thus, the function of ensuring public order is the function of legislative and law enforcement authorities. Meanwhile,

public order protection means safeguarding and protecting social relations within the framework of public order. Therefore, according to A. Novikovas (2009), “public order protection shall be perceived as the activity (the system of legal and organizational measures), intended to maintain peace and safety, to protect human health, property, rights and freedoms, honor and dignity, interests of the society and the state against unwarranted infringement in public places”.

Firstly, the author’s opinion is to be maintained that ensuring public order already begins at the stage of law-making when creating constitutional and other guarantees established by laws for maintenance of public order. Later, guarantees established by the lawmaker are implemented at the law application stage.

Secondly, the simulated attribution of ensuring public order to the stage of lawmaking and especially that of public order protection to the law application stage is subject to discussion. First of all, public order protection should be perceived not only as physical protection (e.g., with police officers on patrol) but also as legal protection which has already been embedded in the text of the Constitution. The concept of ensuring is to be evaluated in the same way – ensuring may become manifest by enactment of guarantees in the text of a legal act and by physical maintenance of safety.

Therefore, presumably, it is not expedient to strictly delimit the concepts of public order ensuring and protection, thereby not denying the theoretical and practical importance of the distribution of public order guarantees to the lawmaking guarantees and guarantees related to the application of law.

In summary, the concept of public order formulated by the German Constitutional Court is the totality of unwritten rules, the obedience to which (according to social and ethical opinions prevailing at the time) is regarded as an indispensable prerequisite for an orderly communal human existence within a defined area; and is pertinent and relevant in Lithuanian law as well. The concept of public place, embedded in Lithuanian law, complies in essence with the conception of French *ordre public* and German *öffentliche Ordnung*. Even though in the legal acts of Lithuania the concept of public order is not specifically defined when comprehensively interpreting the provisions of legal acts and judiciary jurisprudence, one draws a conclusion that a public place is the place which is freely accessible to the public and the accessibility thereof predetermines the need by means of legal regulation measures to defend the public interest from the possible offences of order at that place.

1.2. Legal protection of public order of the community

According to the data on a public security situation in Lithuania for the period of 2005–2014, public order offences comprise several percent of the total criminal acts recorded in the country. Within the period under analysis, a comparative part of these criminal acts stayed at about 4 percent. Due to the type of these acts, their latency is not high; therefore, quite precise data on these offences have been collected (Vileikienė, 2015).

Nevertheless, it is notable, that not all the data fall into the criminological statistics, since administrative offences constitute a major part of public order offences. As already mentioned, the concepts of public order and public place are closely interrelated: public order offences cover offences of law that are usually committed in a public place.

As concerns the control of public order offences, it is notable that national legal acts envisage both criminal and administrative liability for these offences. 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. The criminal liability for public order offences is foreseen in Article 284 of the Republic of Lithuania Criminal Code (further the CC) (Official Gazette, 2000).

The wording prior to 1 April 2016 foresees that those *who by defiant conduct, threats, taunting or acts of vandalism demonstrated disrespect to the surrounding people or environment and disrupted public peace or order shall be punished by community service or by a fine or by restriction of liberty or by arrest or by imprisonment*

for a term of up to two years.

The wording prior to 1 April 2016 also foresees the constituent elements of a criminal offence.

The wording from 1 April 2016 does not contain any more the constituent elements of a criminal offence, and the formulation of Pt. 1 of 284 remained almost the same, except for the circumstance inserted that the constituent elements of such an act include “vicious taunting”. The Lithuanian Supreme Court (further LSC) in one of its rulings has interpreted the qualification of an act under the said article.

The court spoke up for that the legal regulation of the state had enacted that the order of coexistence of community members, communication of people in public spaces should be based on the cultural traditions, principles of respect and tolerance. Personal safety, protection of moral-cultural traditions and spiritual comfort in a public life is a social value, which is not only stimulated and cherished but also protected by the corresponding legal acts, and by criminal law measures in the cases established by laws. Article 284 of the Criminal Code foresees the liability for violation of public order to a person, who by defiant conduct, threats, taunting or acts of vandalism, demonstrated disrespect to the surrounding people or the environment in a public place and thereby disrupted public peace or order. The object of this offence is public order; complementary objects are human health, honor, dignity, and property. At the disposition of Article 284 of the Criminal Code several alternative ways of violation of public order are indicated: 1) defiant conduct; 2) threats; 3) taunting; 4) acts of vandalism. A criminal act commonly becomes manifest as the demonstration of disrespect to the surrounding people or the environment or neglect to the universally adopted rules of conduct. Defiant conduct means aggressive, unacceptable in terms of morals, act or omission, shocking the surrounding people thereby public peace or public order is disrupted. Such behaviour may entail physical violence against the person, interfering with persons in their work, studies, rest, etc. Since the constituent element of this offence is material, therefore, it is imperative to identify the effects that actually disrupted public peace or order (Supreme Court of Lithuania, 2014).

*However, it is notable that the application of CC Article 284 causes quite a lot of problems. First of all, the law does not define strictly the criteria of both criminal and administrative liability for public order violations. As referred to by the LSC in the other case, the acts, described in the dispositions of CC Article 284 and Article 174 of the Code of Administrative Violations of Law (CAVL), are in the essence of similar degree of dangerousness (...). An issue of dissociation of the liability under such conditions is to be tackled in accordance with (...) the provision of Part 2 of Article 9 of the CAVL, wherefrom the requirement ensues that when settling an issue on the criminality of an act it is necessary to take into account the type of a specific act and evaluate the peculiarities of the actions of a perpetrator, intensity, duration, the individuality of the aggrieved party, and specificities of a public place (Supreme Court of Lithuania, 2013). In the CC wording from 1 April 2016 the legislator has filled this gap partly, decriminalizing the acts that were foreseen under CC Article 284 Part 2. Due to this reason, the CC wording from 1 April 2016 reveals the main criterion of criminal and administrative liability for such violations – criminal liability shall be applied when real consequences are caused by an act – public order is disturbed. However, the above-mentioned interpretation of the LSC, explicitly maintaining that the acts described in CC Article 284 by their dangerousness are similar to the violations of administrative law, reflects not only the problems of dissociation of criminal and administrative liability but also the substantiation *per se* of the criminal liability for public order offences.*

*It is assumptive that this not completely substantiated criminalization of an act is incompatible with the principle of criminal liability as *ultima ratio*, recognized in a democratic state. It is assumptive that on the basis of this fundamental principle this act is to be decriminalized. In the cases when another act is committed in a public place and it results in the disturbance of peace of the surrounding people, it would be enough to treat it as an aggravating circumstance.*

As regards the administrative liability for public order offences, emphasis should be laid on the enactment of the new Republic of Lithuania Code of Administrative Offences (further the CAO) (new wording since 01-01-2016, Official Gazette, 1985), which has come into force from 1 April 2016 and replaced the old Republic of Lithu-

ania Code of Administrative Violations of Law (further the CAVL) (TAR, 2015). Upon the enactment of a new CAO, serious gaps in the regulation of public order offences have been remedied. Administrative violations of law whereby public order is infringed have been regulated by Chapter XIII of the CAVL.

The main shortcoming of legal regulation, demonstrating the legislator's omission, was that some violations of law, regulated in this Chapter, in general, could not even be attributed to public order offences (e.g., violation of child's rights or production of strong alcoholic beverages). Fortunately, this shortcoming was eliminated after the enactment of the CAO, where administrative offences relating to public order are regulated in Chapter XXIV.

Further, the constituent elements of several basic offences by which attempts are made to infringe public order and their changes upon the enactment of the CAO are briefly discussed. Aiming to provide a concentrated analysis, the changes in sanctions for these offences are not discussed since this does not pertain directly to the topic (pointing out in brief that the major part of sanctions remained the same, except of one type of administrative penalties – administrative arrest).

It was set out in Article 174 of the CAVL that *petty hooliganism* included swear-words or gestures in public places, offensive molestation of people or other similar actions that disturbed public order and peace of people. This article corresponds to CAO Article 481, regulating the liability for a minor violation of public order which is being manifest as swear-words or gestures in public places, offensive molestation of people, other *intentional* actions, whereby public order and peace of people are aimed to be disturbed. It is notable that the CAO envisages administrative sanctions to be applied for the repeat administrative offence under this Article: obligation to attend programs for alcoholism and drug prevention, early intervention, health care, resocialization, improvement of communication with children, change of violent behavior or other programs (courses). This is to be evaluated very favorably as such sanction could reduce a risk of repeat violations in the future as well.

Article 178 of the CAVL foresaw the liability for *consuming alcoholic beverages in public places or the appearing of a drunk person in public places*. In the CAO this violation is regulated by Article 484, it is also regulated that the administrative offence under this Article also entails imposition of an administrative sanction, namely, obligation to attend programs for alcoholism and drug prevention, early intervention, health care, resocialization, improvement of communication with children, change of violent behavior or other programs (courses).

It is notable that the liability for this offence has become stricter; in addition, an option appeared to impose an administrative sanction. Article 178¹ of the CAVL also regulated the liability for *consumption or possession of alcoholic beverages by persons under the age of 18 years*. This violation is regulated by CAO Article 485, whereby it is also envisaged that an administrative sanction may be imposed for the repeat administrative offence, namely, obligation to attend programs for alcoholism and drug prevention, early intervention, health care, resocialization, improvement of communication with children, change of violent behavior or other programs (courses).

Article 183 of the CAVL regulated that *disturbance of the public peace* included shouts, whistling, loud singing or playing musical instruments and other audio apparatuses or any other noise generating actions in the streets, squares, parks, beaches, public transport and other public places, and in the evening and at night also in the residential premises, enterprises, offices or organizations, if this disturbs public peace. In Article 488 of the CAO an analogous offence is foreseen.

It is notable that a penalty has become stricter conditionally since a warning is not imposed any more for this offence.

Article 186 of the CAVL regulated such violation as *a knowingly false alarm call to fire protection, police, emergency medical service, and other special services*. In the CAO the constituent elements of the offence got

changed: Article 489 of the CAO envisages the liability for a false report about violence in close environment or abuse of the rights of a person who experienced violence. Meanwhile, CAO Article 493 regulates the liability for interfering the work of the General Emergency Response Centre, being aware that help is not needed. Stricter liability is imposed for alarm calls to fire protection, police, emergency medical service, and other special services, being aware that help is not needed.

It is notable that constituent elements of this offence were expanded, and liability for it has become stricter. Three new public order offences have been also included in the CAO: Article 494 regulates the requirement for organizing meetings and other events (an offence of the Law on Meetings entails, in addition to a fine, prohibition to attend the events organized in public places for a term of up to 18 months); Article 495 – organization of the illegal meeting, demonstration, protest and other actions within the territory of the nuclear energy object and in the sanitary protection zone. Article 496 of the CAO sets out additionally several new constituent elements of offences: offence of the order of film presentation (trailer) in cinemas, public demonstration of films, video films and video programs, reproduction or distribution, violation of the order of public demonstration of events of erotic type, violation of the order of the use of mandatory filtration measures at the places of access to the public communication networks (internet).

In summary, it may be said that national legal acts for violations of public order foresee both criminal and administrative liability. According to the wording of Article 284 of the Criminal Code, 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 LAC clarification, 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 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 CAO, 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. Improvement in the activity of state governance and self-government institutions to guarantee public order

As already mentioned, 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.

It should be noted that, according to Eurostat data, in comparison with the number of the population, in 2010–2012, the most numerous force of police officers was in Cyprus, and the lowest number in Finland. The interstate indicators differ by almost six times (Information from Crime Statistics). It is presumptive that such differences are related to the general setup of the institutions, responsible for maintaining public order, and division of functions. As illustratively expounded by A. Novikovas (2010), the present situation in the field of ensuring public order may be defined by applying the economic term – the police monopoly. The author also observes that, in accordance with the economic rules, competition becomes reduced in the monopolized market, and as a result makes consumers suffer most of all.

Presumably, a similar situation got formed having in mind the role of the police in the context of ensuring public order. Therefore, an emphasis is placed on the necessity of creating the alternative mechanisms for ensuring public order, which would take over and, probably, would perform certain police functions more qualitatively. Another group of problems is related to the internal police problems. As underlined by the Latvian authors E. Melnis, A. Garonskis and A. Matvejevs (2006), 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' op-

pression 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 20th century the police were even perceived as a threat to human rights and freedoms rather than a protector. Therefore, attention should be focused on the fact that trust in the police on the part of residents is directly related to information on the police activities and inducement of the communities for cooperation in ensuring public security.

Statistical research data show that, in the opinion of the residents, the police should devote utmost attention in their activities *inter alia* to patrolling public places and a swift response to the reports received (Vileikienė, 2012). In addition, “citizens are demanding from the police services more diverse crime prevention services, higher accountability and effective work” (Raipa, Smalskys 2006). Thus, attention should be focused on the necessity of modernization of the administrative-legal regulation mechanism. According to V. Domarkas (2005), 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.

In accordance with these principles, it may be said that of special importance also is to guarantee their operation in the activities of the 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” (Bubnys, Smalskys 2005).

Due to these reasons, it is expedient to discuss in this subtopic the problematic aspects of the activities of the police and other institutions – the Public Security Service and self-government institutions – in ensuring public order.

2.1. Contemporary problematic aspects of policing organization

State policing function. As already mentioned, the science of police law that was dissociated from the science of criminalistics has become the foundation of the contemporary administrative law. For example, police law in the law theory of Poland is deemed to be the branch of law, regulating social relations, resulting from implementing the functions of ensuring security and maintaining order. According to Lithuanian authors, the state and its different institutions carry out certain policing functions, for example, “to ensure state and society security, maintain public order and peace, as well as perform human life, health and property protection” (Kalesnykas, Mečkauskas 2003). According to D. Žilinskas (2003), the state policing function is manifest through administrative supervision, opportunity to apply administrative coercion, collection of information about persons, events, phenomena, organizations, carrying out prevention of law offences and implementation of pertaining programs, etc.

Hence, the function of policing at the level of the state and its institutions means that upon a threat being posed to the protected values, for example, public order and security, institutions, responsible for protection of these values, undertake active actions for preventing those threats. If public order is disturbed, the state is entitled to apply coercion, seeking to restore the infringed rights. Thus, the state performs the policing function with a view to maintaining and restoring public order.

The principal institution, performing this function, is the police. The Law on Police of the Republic of Poland, adopted in 1990, identifies the police destination in Poland, the principles of activity and legal fundamentals,

the tasks and organizational structure, the competence and responsibility of a police officer. Article 1 of the Law defines the police as a uniformed and armed formation, serving society and designed to maintain public order and to protect public safety.

The main tasks of the police are: protecting the life of people and their property against unlawful attacks; ensuring public safety and order in public places; initiating and organizing activities to prevent the perpetration of offences and cooperation in this field with other state agencies, local governments, and social organizations.

Like in Lithuania, the police in Poland are subdivided into public, criminal, and support staff; it is interesting though that here the special judicial police are distinguished, with the function of maintaining public order at courts and prosecutors' offices. The premises of the said police are usually located in neighboring premises (Kalesnykas, Mečkauskas 2003).

It is presumptive that the need for such police units also exists in Lithuanian courts where ensuring safety remains a problem. For example, the officers from the detention facility and convoy division of the Public Order Service under the subordination of the County Chief Commissariat practically are constantly present at the Vilnius city courts, but they perform a very narrow function: conveying and transfer of the detained and convicted to the courtrooms, whereas the staff safety is not included in their duties.

The problem of residents' (dis)trust in the police. In 1996, only 22 percent of the population of the country trusted 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 (Kalašnykas, Deviatnikovaitė 2007).

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 (Bandzevičienė *et al.* 2010). It should be noted that lately trust in the police has been on the increase. According to the data of the Ministry of the Interior, one of the main reasons for victimized persons not applying to the police was their disbelief that the police could help.

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. Nevertheless, according to the 2014 poll data, this reason is in fourth place – it was indicated by one-tenth of the aggrieved persons (Vileikienė 2015). Nonetheless, in comparison with other institutions within the criminal justice system (prosecutor's office, courts, imprisonment facilities, correctional inspectorates), the police activities are evaluated best (Vileikienė, 2015).

It is assumptive that such results are not so much related with the police work quality but rather with the publicity of their activities. The police are faced by more numerous residents as compared to the prosecutor's office or imprisonment facilities, the activities thereof are more closed and more restricted.

It is assumptive that residents' trust in the police could be increased not only due to the enhancement of transparency and openness, but also due to the police attention to operational activities. In this aspect, special emphasis should be placed on the necessity to increase the efficiency of response to reports on violations of law by improving the organizational, technical, information and communication systems of the law enforcement institutional forces, and especially to ensure the qualitative services of the general emergency telephone number 112 and the efficient operational control of forces (TAR, 2015). 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 (2013). Thus, those accidents which undermine trust in the law enforcement system and are relevant to the inefficiency of these systems could be avoided (Information from Delfi.lt, 2013).

Qualification problem of police officers. A number of reasons for contraposition of police and community pertain to the improper attitude of police officers to their duties performed. For example, research findings showed that police protection and services were less accessible to the residents of the communities in the poverty-stricken districts. According to the research data, “the police tended to treat the residents from communities with a high rate of crime as victims that got what they deserved, their way of life stimulating their victimization” (Nikartas, 2012).

Such approach of the officers is closely linked to their insufficient qualification and competences. 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, applied in the majority of the EU Member States, and cannot fully satisfy the need for training of officers and their qualification” (TAR, 2015). This presupposes the need for creating a system of qualification improvement and training of officers, which would ensure operative training of the proper personnel and would grant the opportunities for qualification improvement of personnel with allowance for the problems of ensuring public security.

One of the possible problem-solving options is the creation of attractive training conditions and actualization of officer training and qualification programs. It is noteworthy that quite an urgent problem is becoming a provision of the agreement on recruitment to the internal service (TAR 2015), according to which the interior professional training establishment or another educational institution undertakes to provide proper conditions for training; the central office of the interior obligates to ensure that a trainee upon completing the interior professional training establishment or a person upon graduating from another educational institution will be appointed to the duties corresponding to his education and profession at the interior office and be afforded proper service conditions, as established in this Statute, and legal and social guarantees for officers as specified in other laws, and that a person entering the internal service upon completing training shall serve in the internal service no less than 5 years; and if he is expelled from another educational institution or upon completing training refuses to serve in the internal service, or if he is discharged from the internal service at his own request or earlier due to his fault, he shall reimburse the training-related expenses to the central office of the interior in proportion to his term of service at the internal service.

On the one hand, this provision helps to be protected against recruitment of accidental and unmotivated persons to the internal service.

On the other hand, the imperative duty to serve in the internal service for 5 years, and, upon breach of this condition, to reimburse training expenses, considerably reduces the attractiveness of employment in the internal service.

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” (Nikartas 2012). 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*. Even though no thorough research of formal and informal social control interaction has been performed, it is presumptive that not only inactivity of the police but also its exaggerated interference with community matters may have a negative effect on informal social control.

It should be noted that a sufficiently high potency of the alternative ways for ensuring public order is inherent in the communities; according to the 2008 research data, even 63 percent of the respondents indicated that they would take active actions seeking to prevent a criminal act, which was not directly targeted against them or their family members (Analysis of the..., 2008). Actually, this number would probably be less, though the results of surveys demonstrate the approach of part of the residents to be active when ensuring public order and safety. Some 57 percent of the respondents are also resolute to assist the police in maintaining public order. It is notable that according to the 2010 research findings, this percentage stayed almost unchanged at 56 percent

(Nikartas 2012). In spite of this, one-fifth of the residents evaluate the work of the police officers negatively and think that “if the latter worked as expected, no assistance from the community would be needed” (Analysis of the..., 2008).

Thus, 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. This is also confirmed by the public opinion poll data indicating that only one-third of the respondents believe that police furnish enough information on their activities (Analysis of the..., 2008). An issue remains open whether the expressed willingness of a major part of the residents to help the police to maintain public order shows a big potential of the society’s participation since “the residents’ willingness to help the police (as revealed through the research) contradicts the exploratory results pertaining to general volunteering and civic activity, exhibiting somewhat lower level not only of actual participation but also of willingness to participate in various social or/and volunteer activities” (Analysis of the..., 2008).

Presumably, the lower number of the population, expressing an active willingness to partake in these activities or actually participate in them, as compared to the inhabitants who just declare such wish during polls, is natural. Quite a number of people, who would indeed be willing in principle to help the police to maintain public order, have some other priorities or cannot participate in the volunteering due to their busyness. Nevertheless, the specific reasons of the conditionally not active collaboration of the residents with the police are the subject of further special research.

One of the forms of collaboration between police and community is the activity of police support volunteers, which becomes revealed in maintaining public order, for example, patrolling together with police officers or undertaking targeted measures. By evaluation of police officers, “police support volunteers is a beneficial support to the police in consideration of lacking police human resources” (Nikartas 2012). The rights and duties of police support volunteers in fact are realized only together with the rights and duties of police officers – that is, police support volunteers cannot operate fully on their own and do not acquire a totality of the rights and duties of an officer. Even though in 2011, the lawmaking initiatives existed to expand the content of the rights of police support volunteers by providing a higher independence (Nikartas 2012), such projects were rejected on the ground that upon expanding the right to use coercion the police support volunteers in fact would be comparable to police officers. It is assumptive that such opinion is reasonable.

The rights of the police officers being granted to the police support volunteers, the human rights protection would be jeopardized; moreover, in contrast to the police officers, no special qualification and other requirements are set to police support volunteers. Presumably, the content of the rights and duties of a police support volunteer should not be extended, but the available potential could be used more effectively. For instance, police supporters could perform the role of intermediaries (mediators) between the local community and police officers (Nikartas 2012).

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 (Kalesnykas, Mečkauskas 2003). Such conception of the police is hardly compatible with the opportunity to perceive the police activities as a social service.

It is notable that 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” (Bubnys, Smalskys 2005). 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” (Bubnys, Smalskys 2005). The statutory part of the public sector – the police get adapted to these innovations with difficulty; therefore, more considerable attention should be devoted to the modernization of police structures.

Police modernisation 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 (Official Gazette, 2000), which is common for all types of policing. Instructions on Police Patrolling Activities are also of relevance to the public police (Official Gazette, 2011), 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.

R. Kalašnykas and I. Deviatnikovaitė (2007), emphasizing the necessity of harmonizing the national administrative law with the EU legislation, R. Kalašnykas and I. Deviatnikovaitė indicate that this is not just an issue of incorporating the norms of one legal system into another legal system but “the implementation of the prevailing ideas of law – legal principles – in the national legal system, affecting other parts of the legal totality: practice of implementing administrative law norms, operation of public administrative institutions, human resources, etc.”

The principles, which should be implemented in the police activities and would help to perceive the police as a social service, are the principles of subsidiarity, proportionality, legitimate expectations, of the legal certainty, good administration principles and they are “not only the foundation of the process management, but also a measure of the proper relation of management entities to the management objects” (Kalašnykas, Deviatnikovaitė 2007). The following principles of police activities are reinforced in Article 4 of the Law on Police Activities: the principle of non-discrimination (obligation for the police to impartially protect all persons who are in the territory of the Republic of Lithuania, regardless of their nationality, race, sex, language, origin, social status, religious beliefs, convictions or views); democracy, respect for human rights, humanism, morals of society, lawfulness, professional openness, as well as the principles of the use of coercion only when necessary and proportionality thereof; the principle of not participation in political activities.

Even though this system of principles is state-of-the-art and modern, a question arises as regards the level of their implementation in practical policing. It is noteworthy that modernization perspectives, however, are paving their way in the police with difficulty. For example, from 1 July 2015 handling of the cases on the violations of administrative law had to be commenced in e-format (National courts administration, 2014). Despite of the reformed legal basis, the electronic cases of administrative law violations still are not existent in practice, though such format of the cases would be convenient both for persons prosecuted for administrative offences who could access the e-case and for police officers who would shape such cases; in addition, the budgetary funds would be saved (just as regards paper and CDs, into which video or audio records, appended to the case, are made).

It is presumptive that a positive step in expanding the concept of the police, as a social service, is the adoption of the new Statute of the Internal Service (further the Statute) (TAR, 2015) where the principles of officer activity and social guarantees are regulated comparatively smoothly and thoroughly. Article 3 of the Statute has reinforced that internal service is based on the principles of the rule of law, equality of rights, political neutrality, transparency, career, compensation for internal service specificities, official subordination, legitimate expectations and respect for the rights granted, and constant exercising of the officer’s general duties.

It is also positive that this elucidates the content of each of these principles. However, distinguishing of the principle of the constant exercising of the officer’s general duties is subject to criticism – it is presumptive that

such distinguishing is excessive since the law when envisaging the general duties of the officer obligates to follow them; if the officer fails to perform those duties, he violates a specific norm where such duty is regulated, but not the principle of activities.

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. This situation partly discloses the reason why barely 31 percent of the crimes are investigated in the city of Vilnius, whereas in other major cities this share ranges from 42 percent to 47 percent (Vilnius City Municipality, 2010).

It is subject to discussion whether such big difference in detection of criminal acts in the cities of the country is determined by the number of officers here, which is not so much distinct. The problem of human resources in the police, however, 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” (TAR, 2015).

The qualified personnel is highly lacking in the police and other law enforcement institutions. For example, as at 1 January 2014, vacant statutory state servant posts in the statutory institutions of the interior accounted for 12.7 perc.

It is evident that such negative tendencies were highly impacted by unattractiveness of the officer’s profession, gaps in the regulation of official relations, the reduced social guarantees, and the underdeveloped motivational system of statutory service. Even though Article 25 of the new Statute of the Internal Service regulates in detail the evaluation of the official activities of officers, targeted at estimating the annual work results and achievements of an officer, and upon assessment of the activities of an officer as very good, giving motivation, a question arises how effectively and transparently these provisions are implemented in practice.

It is noteworthy that evaluation of the officers’ activities, reinforced in the Statute, is analogous to that in the Law on Civil Service, the application practice thereof revealing its imperfections and problems. For example, some authors note that “assessment by results, in general, is attributed to the more subjective (or less strict and precise) assessment methods. Its implementation seems to require most of efforts (organizational, managerial), as compared to other assessment methods. Thus, such evaluation is especially costly in terms of input” (Kaselis, Pivoras 2012).

Such assessment in big organizations takes much time; in addition, the assessors themselves are to be trained. All that put the assessment of officer activity in jeopardy as being performed just formally and subjectively. It is presumptive that the problem of human resources should be tackled in the order of priority, since the existing shortage of qualified and motivated specialists makes the reform of the efficient police structures impossible. No doubt, an important obstacle in creating the motivational statutory service system is the lack of funding. In this case, however, the problem of irrational distribution of funds is also urgent.

In summary, it should be said that the police when maintaining public order implement the state policing function; therefore, in the case of a threat to public order, the police structures shall acquire the right to use coercion. 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.

It is notable that an urgent goal is to oust from public policing the coercive activity models and to start applying

public management methods aiming to ensure that public policing should be started to be conceived as a social service, with the standards of quality being applied thereto. Therefore, it would be useful that the principles and tasks of public policing activities should be regulated by a special law.

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 (Official Gazette, 2006). 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. It is therefore expedient to discuss the main legal acts regulating the Public Security Service and to give the reasonable critical feedback on some provisions.

It is notable that 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 (National Audit Office of the Republic of Lithuania, 2015).

The Public Security Service is under subordination of the Ministry of the Interior of the Republic of Lithuania. It is laid out in Article 3 of the Law on the Public Security Service that the Public Security Service is “a state agency in the state of constant special readiness and accountable to the Republic of Lithuania Minister of the Interior whose purpose shall be to restore and/or ensure public order in cases of extraordinary situations and emergencies and as part of the armed forces to defend the state in wartime, also to perform other functions established by this Law and other laws” (Official Gazette, 2006).

Thus, as distinct from the police, the activities of this institution are more specialized and related to extraordinary situations and ensuring public order in these cases. Article 4 of the Law regulates that activities of the Service shall be governed by the principles of the rule of law, lawfulness, respect for human rights and freedoms, equality of persons before law, political neutrality, coordination of publicity and confidentiality of activities, professionalism, coordination of personal initiative and official discipline, official subordination, and proportionality in using coercion.

In accordance with these principles, 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 (Art. 6).

The task of this Service as enforced in this Law covers assistance to other institutions, carrying out the functions delegated upon them (the Lithuanian police, the State Border Guard Service under the Ministry of the Interior, the Fire and Rescue Department under the Ministry of the Interior, the VIP Security Department under the Ministry of the Interior, and the Financial Crime Investigation Service under the Ministry of the Interior).

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. It is assumptive that such important tasks assigned to the Public Security Service cause certain vagueness and make presumptions for “overlapping” of institutional functions. If the obligation to assist the police, the State Border Guard Service, the Fire and Rescue Department and the VIP Security Department to perform functions delegated upon them is understandable, since their functions are directly related to ensuring public security and maintaining public order, the obligation to assist

the Financial Crime Investigation Service, which is an institution investigating economic and financial crimes, is not quite understandable.

Certainly, the Financial Crime Investigation Service is also an institution, carrying out a pre-trial investigation, though it is disputable in regard to the grounds this institution was listed in conjunction with other services, the activities thereof are pertinent to maintaining public security and public order, the more so that other special pre-trial investigation institutions, for instance, the Special Investigation Service, also carry out certain operations, where assistance of the Public Security Service could be useful. Therefore, one may conclude that such extension of the tasks assigned to the Public Security Service is to be evaluated negatively, since it presupposes the indefiniteness of the activities of this institution and “overlapping” of institutional functions. In the same way a task assigned to the Public Security Service to defend the state in the event of war is also subject to criticism since this is a general civic duty of the country’s citizens.

Making an analysis of this norm, it is probable that the legislator whereby intended to enforce the duty of the Public Security Service in the event of war to perform certain functions related to maintaining security, but in this case this provision, as being too abstract, should be revised. Article 7 of the Law defines the specific functions of this Service.

The first functions: two of these are to suppress riots, mass disturbances, group actions violating public order or resisting law enforcement officers, riots at imprisonment institutions or group resistance to the administration of imprisonment institutions, also other intentional actions constituting a grave violation of internal procedures of imprisonment institutions, and to free hostages; to prevent, in cases of extraordinary situations and emergencies, the actions posing a hazard to human life or health, property, nature or constituting a grave violation of public order or of internal procedures of an imprisonment institution. It is assumptive that regulation of these functions is not very precise and overlapping each other.

The definition of *the second function* contains an excess provision, obligating the Public Security Service *in cases of extraordinary situations and emergencies* to prevent the actions constituting a grave violation of internal procedures of an imprisonment institution. Meanwhile, the definition of the first function states that the Public Security Service shall suppress riots at imprisonment institutions or group resistance to the administration of imprisonment institutions, also other intentional actions constituting a grave violation of internal procedures of the imprisonment institutions, this in essence being identical to the second obligation.

The same may be also said about the second obligation – in cases of extraordinary situations and emergencies to prevent the actions constituting a grave violation of public order. Therefore, the corresponding provisions are to be eliminated from the second function, retaining the following statement: “to prevent, in cases of extraordinary situations and emergencies, the actions posing a hazard to human life or health, property and nature”.

The third, fourth and fifth functions of the Public Security Service are related to conveying the persons arrested and convicted to imprisonment institutions or from one imprisonment institution to another, from imprisonment institutions to the Supreme Court of the Republic of Lithuania, the Court of Appeal, regional courts, the Supreme Administrative Court of the Republic of Lithuania and regional administrative courts, and in cases of especial convoy (when conveying the persons in respect whereof there is an effective court judgment of life imprisonment, also in other cases established by law) also to local courts of cities and districts and back to imprisonment institutions, to guard them during court hearings.

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 (Order No. 1R-240/1V-246..., 2015). 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 convoyed, this not being in line with the provisions of a democratic state.

In the Convoying Regulations some rights of the convoyed persons are enforced only as the grounds for the convoy to not accept the persons under convoy, for instance, in accordance with Paragraph 98.2 of the Convoying Regulations, if a person is sick or disabled, whose convoying is impermissible under the conclusion of the personal health specialist, entered in a personal case certificate of the person convoyed, it shall be the grounds for the convoy to refuse to accept the person to be convoyed. The convoy also shall refuse to accept the person to be convoyed, if the latter is not supplied with the food ration, whilst convoying will take more than 6 hours. Also the provisions are stipulated that persons are not subject to convoying without a personal health care specialist, stocked with medical emergency remedies. However, it is hardly possible to state that these provisions are aimed at enforcing the rights of persons under convoy, the more so that alongside these provisions are those contained in Paragraph 98.4 of the Convoying Regulations, setting forth that convoying of intoxicated persons shall be refused. Paragraph 102 of the Regulations contains the reinforced principle of non-discrimination that the convoyed persons are equal, regardless of their origin, sex, social or property status, nationality or race, political views or party membership, education, language, religious or other beliefs, genetic properties, sexual orientation, type and character of activities, place of residence and other circumstances, not stipulated in the Republic of Lithuania laws. However, it is again doubtful, whether this provision was targeted to enforce the rights of the convoyed persons, since further the basics for keeping of the convoyed persons separately are listed.

Special attention is to be devoted to the absence of a separate clause in the Convoying Regulations whereof the rights of the convoyed persons should be enforced; instead of it the Regulations contain Clause V “Regulations of the Convoy Conduct with the Persons Convoyed,” thus as if transforming the convoyed from the legal relationship of the *subject* to the *object*. In addition, this clause is the shortest of all the clauses and covers just four paragraphs, enforcing thereof that the conduct of convoys is based on the principle of legitimacy; it is prohibited for the convoys to have non-official contacts with those convoyed; the convoys are obligated to address the convoyed using the word “you” and surname; it is prohibited to torture, injure the convoyed person, degrade his dignity or otherwise subject him to cruel treatment.

Naturally, the convoying 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 convoyed person. It is assumptive that this just presupposes the 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.

Two above-mentioned aspects subject to criticism are also specified as functions and they are also indicated as tasks: assistance to the authorized institutions to implement the functions assigned to them and to defend the state in wartime. Articles 10 and 11 of the Law regulate comprehensively the rights and duties of the Service officers.

The first right of the officer refers to the right to require that natural and legal persons take immediate actions to promptly eliminate the obstacles preventing a Service officer from performing his direct tasks.

The second right is to use, in the cases and in accordance with the procedure laid down by this Law, physical coercion, special means, firearms and explosives. The fact of interest is that the Law grants the right to a Service officer also to use mental coercion; actually, Article 12 of the Law sets forth explicitly that such right shall be

granted only under the conditions, regulated in Parts 1 and 4 of Article 13 and Part 2 of Article 14. Mental coercion is specified in Article 2 of the Law as a warning of the intention to use physical coercion, special means, a firearm or explosives. Warning shots shall be held equal to mental coercion.

Conditions when it is permissible to use mental coercion cover the striving to protect himself or the life or health of the surrounding people from a hazard, to save a person from mutilation or suicide; to secure compliance with a lawful demand when a person is avoiding the compliance; to detain a person, avoiding detention; where an attempt is made against an object guarded by the Service, a vehicle, a firearm, explosives, special communication means, special means or other property of the Service; in *extraordinary situations*; when it is necessary, to free hostages or to prevent an act of terrorism.

Extraordinary situations under Art. 2 are deemed to be situations, where riots, mass disturbances, group actions violating public order or resisting law officers, riots at imprisonment institutions or group resistance to the administration of an imprisonment institution take place and where these actions are accompanied by pogroms, fire-raising, hostage taking and other intentional actions, also escape of the persons held at imprisonment institutions, taking of hostages or other intentional actions constituting a grave violation of internal procedures of the imprisonment institutions.

The Public Security Service officer shall have the right when persecuting a person who escaped during a convoy operation or from an imprisonment institution or a person who is suspected of a criminal act, also when seeking to prevent a criminal act being committed, to enter at any time of day and night the residential or non-residential premises, territories belonging to natural and legal persons, to stop and enter vehicles, also to use all the vehicles.

It is also noteworthy that a list of the rights of a Service officer is not final – it is indicated that a Service officer also has other rights granted to him by laws. It is assumptive that seeking to avoid inadequacies, it would be expedient in this norm to indicate legal acts where other rights of an officer are enforced. *It is notable that the duties* of the Service officers are regulated in Art. 11 of the Law more succinctly than *the rights* of an officer.

On the one hand, the more detailed regulation is reasonable seeking to avoid abuse of an officer's rights and *ultra vires*.

On the other hand, it is subject to criticism that some duties of a Service officer are of too general type, for instance, “to respect and defend human dignity, ensure and protect human rights and freedoms,” which due to their high abstractiveness are rather declarative. Other duties of a Public Security Service officer permit him, upon receiving a notification of a criminal act or some other offence being committed or an officer himself being a witness to an accident, *take immediate measures* to prevent the criminal act or some other offence being committed, protect the place of the accident and evidence, establish witnesses, detain a person who has committed the criminal act and notify thereof a police establishment. Also a Service officer must provide immediate medical or other necessary aid to a victim or a helpless person; take all possible measures to rescue people, property and nature in cases of extraordinary situations and emergencies; keep confidential information secret unless official duties require otherwise; wear a uniform. It is also indicated that an officer of the Service must perform other duties prescribed for him by law.

It is assumptive that in this norm it is also expedient to specify legal acts wherein such duties are foreseen for an officer. As concerns the Public Security Service regulations (Official Gazette, 2007), attention should be devoted to the fact that most of them are excessive, for example, Chapter I “General Provisions” contains the norms, transferred from the Law on the Public Security Service, regulating the Service functions and rights, the Service structure. Such mechanical transfer of the Law provisions does not give any tangible benefit, but rather increases the probability of the Law provisions to be transferred inaccurately, the content of the rights of the Service officers, specified by law, to be expanded without any grounds, and the content of the duties to be narrowed

It is presumptive that a major attention in the Public Security Service provisions shall be devoted to the practical aspects of the activities of this institution and to the elaboration of the provisions of the Law on the Public Security Service. For example, if the function of the Public Security Service to assist the police and other law enforcement institutions in implementing the functions assigned to them is regulated in the Law on the Public Security Service, it could be elaborated in the regulations how this task would be implemented in the practical activity of the institution.

Practical problematic aspects of the Public Security Service activities are specified in detail also in the activity report for 2015. In this report it is indicated that in 2013–2014 and the 1st half of 2015 one extraordinary situation occurred in Lithuania (in the Marijampolė correctional facility) and one case of emergency (regarding African swine fever in the Ignalina district) (National Audit Office of the Republic of Lithuania, 2015). These hazards being rare explain in part why so little attention in the doctrine and in practice is devoted to the activities of the Public Security Service. It is notable, however, that the Public Security Service unlike the police shall ensure public order in case of hazards, which though being seldom may cause especially grave outcomes.

For this reason, as stated in this report “irrespective of how often the Public Security Service forces are required the state of constant special readiness of the Service shall be ensured” (National Audit Office of the Republic of Lithuania, 2015). Nevertheless, the Ministry of the Interior in 2010–2015 has not assessed the efficiency of the activities of the Public Security Service in ensuring public order in cases of extraordinary situations and emergencies and did not make an analysis of practice of other states

Attention in the report is also devoted to such problems as improper organization of ensuring the state of constant special readiness of the Public Security Service, inadequate distribution of the conveying function, upon insufficient evaluation of distances from imprisonment facilities to institutions, performing conveying, 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. In addition, even one-third of the buildings belonging to the state under the right of ownership and managed by the Service are not used for performance of the assigned functions (National Audit Office of the Republic of Lithuania, 2015).

It is assumptive that special attention should be focused on the problems, mentioned in the report, that legal acts do not obligate the Service officers to react to the situations that happened after working hours; therefore, upon occurrence of such situation, the number of officers collected may be less than required since no constant watch regime is applied (National Audit Office of the Republic of Lithuania, 2015).

Given the work specificity of the Service, it is expedient to change the legal regulation by establishing a constant work regime. With account of the human resources problem, *it is presumptive* that the conveying function could be partly undertaken by the police, this especially referring to the conveying of the arrested and convicts to court sessions. It is assumptive that the officers of conveying divisions of territorial police units could actually perform this function properly and operatively. Meanwhile, the Public Service activities in ensuring public order should be concentrated on management of extraordinary situations and extremities. Also, in terms of human rights protection it is important to review the Conveying Regulations, regulating thereof the content of the main rights of the conveyed persons, in consideration of legal restrictions.

2. 3. Compatibility of the functions and competences of municipal institutions

According to A. Novikovas (2009), 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.” In the opinion of many authors, ensuring public order in contemporary states is “a task of all levels” (Pitrėnaitė *et al.* 2011). 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 (Information from United Nations, 1995).

This instrument emphasizes the importance of problem tackling at a local level and of the coordinated actions of all institutions concerned. The United Nations Economic and Social Council Guidelines for the Prevention of Crime 2002 (Information from United Nations, 2002) also underline that the leader's role in organizing the preventive activities shall be undertaken by government at all levels. 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. In Canada, in 2007, recommendations for security assessment in local communities have been prepared wherein a mechanism for organization of the residents' security activities in local communities was presented; insecurity factors and measures for their reduction were assessed.

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. According to these principles, local authority governance and community safety are comparable to other local priorities; constant community safety maintenance adjustment with other activities; identification of local priorities, partnerships, involvement of society and private sector, effective use of knowledge and data, etc. (Official Gazette, 2011). No doubt, these principles are state-of-the-art and applicable, whereas a question arises how they should be implemented in practice.

It is worthwhile to mention that a local self-government model has a great impact on the role of a municipality in ensuring public order. Of worldwide existing continental, Anglo-Saxon and mixed local self-government models, the continental model traits are inherent in the Lithuanian local self-government system (Novikovas, 2003). This means the conditionally limited discretion of municipalities in adopting decisions and a comparatively big effect of the Government on them. The formation of such a system was highly impacted by both the statehood development and, presumably, by the fact that Lithuania is not a big state not only in terms of the territory, but, first of all, the number of the population. For the state of Lithuania, surrounded by big external threats, such a centralized governance method was beneficial and useful. However, in consideration of the recent changes, Europeanisation and democracy, the decentralization process is urgent in seeking to use all the benefits of decentralized government.

Nevertheless, the implementation of the decentralized governance model first of all faces such lack in governance skills and traditions due to which the central government transfers its functions unwillingly to the subnational authority, and the residents do not appreciate the importance of the strong local self-government either. The significance of the decentralized model is based on the principle of subsidiarity (Novikovas, 2003), widely applied in the EU, its application being based on the rule that in a specific situation the most competent party shall take a decision. The importance of this principle is emphasized by Latvian scholar E. Vanags (2005), who holds that decisions should be taken by the institutions at the lowest level which are closest to the people, since not any of the tasks should be solved at a higher level than it is necessary. As concerns ensuring public order, it is evident that the local government that is "closest" to the local communities should implement that function most properly both as possessing most of the information on the local problems and as most interested in the proper tackling of such problems.

Nevertheless, shaping of a public order protection strategy is attributed to the competence of the Ministry of the Interior (Novikovas, 2003). Actually, it is the Police Department, a structural unit of the Ministry of the Interior, which is responsible for strategy formation. The Police Department sets out a strategy that is implemented by territorial police institutions, which, certainly, also take into account the needs of the local communities,

but following the general state strategy formed by the central government institution. Therefore, the specific interests of local communities which cannot be identified at that level are neglected. Even though the society of Lithuania, as a small state, externally may seem sufficiently homogeneous, this does not deny the existence of the specific interests of different local communities. For example, in the eastern part of Lithuania, inhabited comparatively abundantly by national minorities, this may become one of the sources of tension in the community, which may have an effect on the condition of public order.

Following exclusively the national public order ensuring strategy, this may be insufficient in ensuring the effective safe environment. This problem may be solved foreseeing that local self-government institutions should be responsible for strategic planning. A. Novikovas (2003) also envisages an important problem, pertaining to the fact that public order is practically ensured by structural units of the internal system (police institutions), which are under the subordination of “senior hierarchical level institutions and in their activities are being guided not by interests of the local residents, but by control commands”. This may predetermine the improper positioning of priorities, when, for example, utmost attention is devoted to the prevention of high-resonance crimes rather than public order ensuring problems, which, though being of little importance at a national level, are very urgent for a local community.

It should be noted that initiatives for strengthening of decentralization and the role of municipalities are given more attention at a national level as well. For example, it is enforced in the Public Strategy Development Program for 2015–2025 that even though under Article 94 of the Republic of Lithuania Constitution the Government shall ensure State security and public order, “in creating a safe residential environment the role of municipalities is of special importance, and it shall not be restricted just to the establishment of public order maintenance units in municipalities.”

Expedient distribution of functions. In this case the compatibility of state and local government functions is necessary in ensuring public order. A. Novikovas’ (2002) position is agreeable first of all that the state government function is to create the favorable political, legal, economic, organizational and other conditions, enabling public order to be effectively maintained, and in self-government formations the specific legal and organizational measures should be implemented. An analogous position is enforced in the Public Security Development Program for 2015–2025, where it is set out that in the organization and coordination of the prevention of violations of law at a municipal level, municipalities should take the lead, “concentrating for this activity the state and municipal institutions and establishments, non-governmental and business organizations, communities of residential localities, operating within the municipality territory.”

While organizing such preventive activities, the role of non-governmental organizations shall be expanded, whereas the role of the police should remain in essence as that of an expert and advisor (Resolution No. XII-1682, 2015). Also, it is laid out in Article 6 of the Law on Local Self-Government that “one of the independent functions of municipalities is participation, cooperation in ensuring public order, creating and implementing crime prevention programs” (Safe Municipality Concept, 2011). In analogy, Article 7 of this Law envisages that the functions delegated to municipalities are related to ensuring civil protection, fire protection, protection of the rights of children and the youth, liquidation of natural meteorological events, communicable diseases of animals, etc. The Republic of Lithuania Law on Civil Protection shall obligate the director of the municipal administration to perform the prevention of emergencies, to ensure that such situations will be predicted and the residents will be trained on the issues of civil protection. Municipalities also participate in fire prevention, provide information to the state fire prevention officers necessary for implementing preventive measures, and organize training of the residents in this field (Official Gazette, 2002).

Attention in *the concept of a safe municipality* is focused on the fact that even though the cooperation between the central and local government is based on legal measures, “quite a lot of space is left for local government decisions and effective operation” (Safe Municipality Concept, 2011). This predetermines that solely the proper legal regulation of these situations is not sufficient to ensure the proper results. Here the unresolved organizational-managerial issues relating to ensuring the municipality safety are of special importance. In addition, it is

a matter of relevance not only to create and implement safety ensuring methods, but also to strengthen the local communities, in general, and to carry out proper surveillance and assessment of insecurity factors.

The concept of a safe municipality covers the complex of the integrated methods for carrying out such surveillance (2011):

a description of risks shall be compiled and assessment of the existing situation made;
analysis of injuries and traumas as well as accidents and causes thereof performed;
environmental impact analysis made, identifying the possible mechanisms of impact and modelling of the possible impact;
crime and fire analysis conducted.

Criteria of a safe municipality encompass “indicators, specifying safety conditions in a municipality and the results of implementation of a safe municipality model” (Safe Municipality Concept 2011).

Two safe municipality criteria are distinguished in the safe municipality concept 2011:
criteria, intended for assessment of the situation of residents’ safety;
criteria, specifying the level of municipal efforts to improve the safety situation.

The first group covers qualitative indicators, reflecting the specifications of various insecurity factors. Such criteria may include crime statistical data, statistical data of traffic accidents, etc.

The second group is related to organizational and legal measures, applied by a municipality, for example, the creation of those programs which are intended to implement the goals for promoting the residents’ safety.

The concept of a safe municipality distinguishes the following key problems of safety-promoting activities in municipalities (*inter alia* ensuring public order):

too narrow approach to safety and the institutions in a municipality responsible for it;
the activities of these institutions are insufficiently well coordinated, planned, controlled and assessed;
this activity is not enough oriented towards the results;
involvement of the local community is too little and information thereof is too scanty.

It is notable that these problems are closely interlinked and impact each other directly; therefore, they should be resolved in a comprehensive way. The concept of a safe municipality (2011) proposes the application of legal, organisational and other measures, intended for improving the situation in the field of ensuring public security and implementing the safe municipality model – the totality of legal, administrative and organisational measures, intended for ensuring of the safety of residents in a municipality.

These measures shall be subdivided into the following categories (Safe Municipality Concept, 2011):

improvement of the internal (organisational) structure of a municipality;
improvement of planning system;
creation of the system for accounting and estimation of most of the facts and the results achieved, relevant to a safety situation in the municipality and administrative efforts to strengthen it;
better provision of information to the local community and involvement in decision-taking processes.

An important role in the implementation of these measures belongs to the structural bodies of a municipality; first of all, to a municipal council, which is a local authority formed by way of democracy. The municipal council shall take decisions on the trends in the municipality development and shall adopt statutory administrative legal acts to be followed by all persons. Therefore, it is proposed in the concept of a safe municipality to initiate amendments to the Law on Local Self-Government, seeking to enforce that it is mandatory in the municipality to form the commission for safety promotion in the municipality and of the safe municipality development to be guided by the municipality mayor. Such commission shall be set up by decision of the municipal council. The commission would organize and guide the preparation of safety promotion in the municipality and of safe

municipality development programs; would give proposals to commissions in charge of separate safety spheres on the identification of the values of assessment indicators for short-term program goals and tasks each year; would furnish notes and proposals on the strategic action plan of the municipality and municipal budgetary projects; would assess reports on a public security situation and would perform other important functions for ensuring public security. Also, it would be possible to form commissions (councils) for separate safety areas (Safe Municipality Concept, 2011).

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” (Mikulskienė *et al.* 2011). The said Resolution of the Government of the Republic of Lithuania (Official Gazette 2011) 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.

The Resolution also includes recommendations that the safety situation of the municipality residents should be also periodically assessed. It is also explicated that such assessment would include municipality demographic, economic, criminogenic, civil protection, public health and education specifications, and evaluation of the development of residential localities in terms of residents’ safety promotion.

It is also necessary to assess and to use all available information sources, to identify most urgent safety problems of residents, their causes and conditions, to evaluate the available administrative, organizational, financial and human resources for organizing the activities of promoting the residents’ safety. The need is foreseen for preparing assessment conclusions, according to which an action strategy for residents’ safety promotion will be formed, priorities identified and measures planned. It is also important to specify the residents’ safety promotion goals in the municipality strategic planning documents and to develop programs or plans of measures, which would be comprehensive, and which could be implemented in the whole or the larger part of the municipality territory. Such plans could resolve not one specific problem but much more problems (Official Gazette 2011).

In generalisation of the laid out provisions, it is to be said that even though they are very elaborate (here only most important of these are distinguished and provided), but they are abstract enough in terms of their content.

Firstly, it is assumptive that it would be hardly possible to specify a clear solution of each problem in the Government Resolution. The destination of the document of that type is to indicate the main guidelines which would be quite elaborate to be used for guidance in developing a safe municipality model.

Secondly, such guidelines should be specified to the extent as not to lose their universality, and that they could be followed in creating a safe municipality model, irrespective of the specificities of such municipality (size, number of inhabitants, specific problems of the locality). Therefore, the criticism of the concept, expressed in the above-mentioned literature, is not acceptable due to its high level of abstractness.

Thirdly, this does not eliminate the possibility to criticize the content of separate provisions. For example, the concept foresees that programs and plans of measures shall be focused not on tackling a specific problem but as many problems as possible. This provision is subject to criticism since it is assumptive that identification of the plan of measures for resolving a specific problem could give more effective results than the plan where the whole complex of problems is being tackled.

In summary, 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; an insufficient analysis is made of the feasibility of implementing the experience of this country in Lithuania where a continental local self-government model is prevailing and the state governance historically has always been centralized.

Importance of a decentralised self-government model is based on the principle of subsidiarity. Lately, the growth of the role of municipality in the field of ensuring public order has been observed. In the National Public Security Development Program for 2015–2025, it is also emphasized that the role of municipalities is very important in creating a safe residential environment and it shall not be limited only to the establishment of public order maintenance units in municipalities.

When evaluating the present-day legal regulation, it is assumptive that it presupposes sufficient premises for the active participation of a municipality in ensuring public order, though special attention should be devoted to the improvement of organizational-managerial aspects, especially to promoting the community awareness and involvement in the processes of ensuring public order. Considerable attention should be also devoted to the proper creation of the assessment system of results. The plans and programs created, contrary to those, enforced in the Government Resolution on the approval of the concept of a safe municipality, should tackle separate specific problems.

Presumably, 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.

Conclusions

The subjective sense of security of the residents shows that lately the situation of the security of environment has been improving in Lithuania, though this is just one of the indicators, therefore such data should be assessed cautiously. Ensuring public security in Lithuania is most often related exclusively to crime reduction; though such approach is erroneous and too narrow since the security of residents’ environment is determined by other factors as well, which quite often may be hardly predictable and completely independent from the will of man or the suitability of administrative legal regulation.

Too narrow perception of the security of environment has an effect on other problems pertaining to residents’ security which is accorded insufficient attention. If a security problem is perceived comprehensively, other important entities get involved in the security ensuring process, especially local communities and self-government institutions, their synergy making an impact on the positive results, much more important and broader, in ensuring public security. *Therefore, today in Lithuania*, like in other Baltic states – Latvia and Estonia – the problem of coordinated institutional interaction and compatibility of functions as well as the problem of strengthening of communities in ensuring public order has become highly topical. Public order is primary and pivotal starting point of public security, determining the stability inside the country.

In the process of modernisation of the administrative-legal regulation mechanism, attention should be devoted to the fact that in the contemporary state the approach to the activities of law enforcement institutions as power structures, empowered in the name of the state to apply the measures of coercion, gets changed – the activities of law enforcement institutions are assessed as a social service.

The concept of public place, embedded in Lithuanian law, complies in essence with the conception of French *ordre public* and German *öffentliche Ordnung*. Even though in the legal acts of Lithuania the concept of public order is not specifically defined, when comprehensively interpreting the provisions of legal acts and judiciary jurisprudence, a conclusion is to be drawn that a public place is the place which is freely accessible to the public and accessibility thereof predetermines the need by means of legal regulation measures to defend the public interest from the possible offences of order at that place.

Criminalisation of public order violations is to be estimated as incompatible with the principle of criminal liability as *ultima ratio*, recognised in a democratic state. This is witnessed by the LAC clarification, explicitly expounding that acts, described in CC Article 284, are similar to the administrative law offences. For this reason, it is to be proposed to decriminalise this act, and, in the cases when the other act is committed in a public place and therefore the peace of the surrounding people is disturbed, to enforce the option to treat it as the aggravating circumstance. Even though that upon the enactment of the new CAO the meticulous detailing of legal regulation was not avoided, 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 conduct of the offenders and reduce the risk of the repeat public order offences.

Traditionally, the main institution, responsible for maintaining public order in Lithuania is deemed to be the police. The key problems of the police activities, 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, 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. *It is notable* that an urgent goal is to oust from public policing the coercive activity models and to start applying public management methods aiming to ensure that public policing should be started to be conceived as a social service, with the standards of quality being applied thereto. It would be useful that the principles and tasks of public policing activities should be regulated in a special law.

A special institution, responsible for maintaining public order in cases of emergencies and extraordinary situations and other relevant tasks is the Public Security Service. *Special attention* should be focused that legal acts do not obligate the Service officers to react to the situation that happened after working hours, therefore, upon occurrence of such situation, the number of officers collected may be less than required, since no constant watch regime is applied. *Given the work specificity of the Service*, it is expedient to change the legal regulation by establishing a constant work regime. With account of the human resources problem, it is presumptive that the conveying function could be partly undertaken by the police, this especially referring to the conveying of the arrested and convicts to court sessions. Also, in terms of human rights protection it is important to review the Conveying Regulations, regulating thereof the content of the main rights of the conveyed persons, in consideration of the legal restrictions.

The concept of a safe municipality of the Republic of Lithuania is based on the Canadian experience in the organisation of ensuring public order at a level of a municipality, though an insufficient analysis is made of the feasibility of implementing the experience of this country in Lithuania, where a continental local self-government model is prevailing and the state governance historically has always been centralised. Lately, strengthening of a decentralised self-government model, based on the principle of subsidiarity, has been observed in Lithuania. *When evaluating the present-day legal regulation*, it is assumptive that it presupposes sufficient premises for the active participation of a municipality in ensuring public order, though special attention should be devoted to the improvement of organisational-managerial aspects, especially to promoting the community awareness and involvement in the processes of ensuring public order. *Presumably*, at present one of the most serious problems of the active role of municipalities in ensuring public order is lack of analogous experience in the field of governance.

References

- Bandzevičienė, R.; Birbilaitė, S.; Diržytė, A. Kriminalinės policijos pareigūnų stresas, jo įveika ir vidinė darna [Stress of the Criminal Police Officers, Its Management and Internal Harmony]. *Social Sciences Studies*. 2010, 4(8), p. 21–37.
- Bubnys, G.; Smalskys, V. Policijos struktūrų valdymas ir personalo rengimas naujosios viešosios vadybos kontekste [Management of Police Structures and Personnel Training in the Context of New Public Management]. *Public policy and administration*. 2005, 13, p. 92–97.
- Domarkas, V. Viešojo administravimo aktualijos [Public Administration Current Issues]. *Public policy and administration*. 2005, 13, p. 7–15.
- Information from 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>.
- Information from Crime Statistics. Available in Internet: http://ec.europa.eu/eurostat/statisticsexplained/index.php/Crime_statistics/lt.
- Information from Delfi.lt. “The Case of a Girl, Incinerated in the Car: D. Barakauskas Disclosed the Names of the Guilty”. 2013-09-22 [E.g., in 2013, mass media highlighted the case when a victim, placed by the kidnappers in the car boot, called to the General Emergency Response Centre from her mobile without a SIM card. Since she could not point out her exact place of presence, and the Centre employees did not have any technical possibilities to identify her by IMEI code, a victim was left without any help, and she was murdered]. Available in Internet: <http://www.delfi.lt/news/daily/lithuania/masinoje-sudegintos-merginos-by-la-d-barakauskas-ivardijokaltuosius.d?id=62408807>.
- Information from United Nations, Economic and Social Council, Guidelines for the Prevention of Crime, New York, 2002. Available in Internet: https://www.unodc.org/pdf/criminal_justice/UN_standards_and_norms_in_crime_prevention_at_your_fingertips.pdf.
- Information from 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>.
- Kalašnykas, R.; Deviatnikovaitė, I. Kai kurių bendrųjų Europos Bendrijos teisės principų taikymo ypatumai administruojant viešąjį saugumą [European Community Principles in Administration of Public Security]. *Jurisprudence*. 2007, 4(94), p. 44–53.
- Kalesnykas, R.; Mečkauskas, V. Lenkijos policijos teisė: funkcinis požiūris į sistemą [Police Law in Poland: Functional Approach to System]. *Jurisprudence*. 2003, 49(41), p. 85–96.
- Kargaudienė, A. Administracinės teisės pokyčiai šiuolaikinėje demokratinėje visuomenėje [The Changes of Administrative Law in a Modern Democratic Society]. *Jurisprudence*. 2005, 70(62), p. 31–41.
- Kaselis, M.; Pivoras, S. Valstybės tarnautojų veiklos vertinimas pagal rezultatus: taikymo iššūkiai Lietuvoje. [Assessment of Civil Servants’ Activity by Results: Application Challenges in Lithuania]. *Public policy and administration*. 2012, 11(1), p. 139–152.
- Lietuvos Aukščiausiojo Teismo Baudžiamųjų bylų skyriaus teisėjų kolegijos 2014 m. gruodžio 2 d. nutartis baudžiamojoje byloje Nr. 2K-7-404/2014 [Ruling of the Judicial Board of the Criminal Cases Department of the Lithuanian Supreme Court in the criminal case No. 2K-7-404/2014 of 2 December 2014]. Supreme Court of Lithuania, 2014.
- Lietuvos Aukščiausiojo Teismo Baudžiamųjų bylų skyriaus teisėjų kolegijos 2013 m. kovo 19 d. nutartis baudžiamojoje byloje Nr. 2K-160/2013 [Ruling of the Judicial Board of the Criminal Cases Department of the Lithuanian Supreme Court in the criminal case No. 2K-160/2013 of 19 March 2013]. Supreme Court of Lithuania, 2013.
- Lietuvos policijos generalinio komisaro 2011 m. liepos 19 d. įsakymas Nr. 5-V-673 „Dėl policijos patrulių veiklos instrukcijos patvirtinimo“ [Lithuania’s Police Commissar General Order No. 5-V-673 of 19 July 2011 “On Approval of Instructions for Police Patrol Activities]. *Official Gazette*. 2011-07-23, Nr. 96-4537.
- Lietuvos Respublikos administracinių nusižengimų kodekso patvirtinimo, įsigaliojimo ir įgyvendinimo tvarkos įstatymas [Law on the Procedure of Approval, Entry into Force and Implementation of the Code of Administrative Offences of the Republic of Lithuania]. TAR. 2015-07-10, No. 11216.
- Lietuvos Respublikos administracinių teisės pažeidimų kodeksas (aktuali redakcija nuo 2016-01-01) [Code of Administrative Violations of Law of the Republic of Lithuania (new wording since 01-01-2016)]. *Official Gazette*. 1985, No. 1-1.
- Lietuvos Respublikos baudžiamasis kodeksas (aktuali redakcija) [Republic of Lithuania Criminal Code (New Wording)]. *Official Gazette*. 2000, No. 89-2741.
- Lietuvos Respublikos civilinės saugos įstatymas [Republic of Lithuania Law on Civil Protection]. (suvestinė redakcija nuo 2015-07-01). *Official Gazette*. 1998, No. 115-3230.

Lietuvos Respublikos Konstitucija [Constitution of the Republic of Lithuania]. *Official Gazette*. 1992, No. 33-1014.

Lietuvos Respublikos nacionalinio saugumo pagrindų įstatymas [Republic of Lithuania Law on the Basics of National Security] (suvestinė redakcija nuo 2014-10-29). *Official Gazette*. 1997, No. 2-16.

Lietuvos Respublikos policijos veiklos įstatymas [Republic of Lithuania Law on Police Activities]. *Official Gazette*. 2000, No. 90-2777.

Lietuvos Respublikos priešgaisrinės saugos įstatymas [Republic of Lithuania Law on Fire Safety]. *Official Gazette*. 2002, No. 123-5518.

Lietuvos Respublikos Seimo 2015 m. gegužės 7 d. nutarimas Nr. XII-1682 „Dėl viešojo saugumo plėtos 2015–2025 metų programos patvirtinimo“ [Resolution No. XII-1682 of the Seimas of the Republic of Lithuania of 7 May 2015 “On the Approval of the Public Security Development Programme for 2015–2025”]. *TAR*. 2015-05-13, No. 7293.

Lietuvos Respublikos teisingumo ministro ir Lietuvos Respublikos vidaus reikalų ministro 2005 m. liepos 29 d. įsakymas Nr. 1R-240/1V-246 „Dėl Konvojavimo taisyklių patvirtinimo“ [Order No. 1R-240/1V-246 of the Minister of Justice and the Minister of the Interior of the Republic of Lithuania of 29 July 2005 “On the Approval of the Convoying Regulations]. *TAR*. 2015-01-07, No. 233.

Lietuvos Respublikos vidaus tarnybos statuto pakeitimo įstatymas [Republic of Lithuania Law on the Amendment of the Statute of the Internal Service]. *TAR*. 2015-07-03, No. 10814.

Lietuvos Respublikos viešojo saugumo tarnybos įstatymas [Republic of Lithuania Law on the Public Security Service]. *Official Gazette*. 2006-09-26, No. 102-3935.

Lietuvos Respublikos Vyriausybės 2007 m. kovo 14 d. nutarimas Nr. 278 „Dėl Viešojo saugumo tarnybos prie Vidaus reikalų ministerijos nuostatų patvirtinimo“ [Resolution No. 278 of the Republic of Lithuania Government of 14 March 2007 “On the Approval of the Regulations of the Public Security Service under the Ministry of the Interior”]. *Official Gazette*. 2007, No. 34-1241.

Lietuvos Respublikos Vyriausybės 2011 m. vasario 17 d. nutarimas Nr. 184 „Dėl Saugios savivaldybės koncepcijos patvirtinimo“ [Republic of Lithuania Government Resolution No. 184 of 17 February 2011 “On the Approval of the Concept of a Safe Community”]. *Official Gazette*. 2011, No. 22.

Melnis, E.; Garonskis, A.; Matvejevs, A. Development of the Policing in Latvia. *Jurisprudence*. 2006, 79, p. 72–84.

Mikulskienė, B.; Pitrenaitė, B.; Astrauskas, A. Saugios savivaldybės vertinimo sistemos formavimas [Elaboration of Safe Community Assessment System]. *Social technologies*. 2011, 1(2), p. 283–300.

Nikartas, S. *Bendruomenių dalyvavimas nusikalstamumo prevencijoje*. Daktaro disertacija [Communities Involvement in Crime Prevention. Doctoral Thesis]. Vilnius: Mykolas Romeris university, 2012.

Novikovas, A. Public Order Protection in Municipal Territories. *Social Sciences Studies*. 2010, 1(5), p. 125–136.

Novikovas, A. Savivaldybių viešosios tvarkos apsaugos tarnybų veiklos perspektyvos Lietuvoje [The Perspectives of Activities of the Municipal Public Order Protection Services in Lithuania]. *Social Sciences Studies*. 2009, 3(3), p. 305–316.

Novikovas, A. Viešosios tvarkos apsauga savivaldybių teritorijoje: teisinis ir organizacinis aspektai [Public Order Protection in Municipal Area: Legal and Organization Aspects]. *Jurisprudence*. 2003, 49(41), p. 46–53.

Novikovas, A. Vietos savivaldos institucijų vaidmuo įgyvendinant viešąją tvarką [Role of Local Municipal Institutions in Implementing Public Order]. *Jurisprudence*. 2002, 35(27), p. 46–52.

Pitrenaitė, B.; Astrauskas, A.; Mikulskienė, B. Saugios savivaldybės organizacinės valdymo struktūros kūrimas. [Creation of the Organisational Structure of a Safe Community]. *Public policy and administration*. 2011, 10(4), p. 642–658.

Raipa, A.; Smalskys, V. Policijos personalo rengimo vadybiniai ir istoriniai aspektai [Administrative and Historical Aspects of Police Personnel Training]. *Public policy and administration*. 2006, 18, p. 78–85.

Saugios savivaldybės koncepcija [Safe Municipality Concept]. Vilnius, 2011.

Security Related Terms in International Investment Law and in National Security Strategies. OECD, 2009.

Šimkaitytė-Kudarauskė, Rūta. Viešosios vietos sąvokos samprata ir problematika [A Concept of a Public Place and Problems of Conception]. *Public policy and administration*. 2011, 5, p. 199–219.

Teismų elektroninės paslaugos: iššūkiai ir perspektyvos [Electronic Services in Courts: Challenges and Perspectives]. National courts administration. 2015.

Vanags, E. Development of Local Government Reforms in Latvia. *Public policy and administration*. 2005, 13, p. 15–24.

Viešojo saugumo tarnybos veikla. Išankstinio tyrimo ataskaita [Public Security Service Activity. Preliminary Research Report]. National Audit Office of the Republic of Lithuania. 2015.

Vileikienė, E. *Ataskaita apie viešojo saugumo būklę Lietuvoje 2005–2014 metais* [Report on the Situation of Public Security in Lithuania in 2005–2014]. Vilnius: Ministry of the Interior of the Republic of Lithuania, 2015.

Vileikienė, E. *Lietuvos gyventojų požiūris į teisėsaugos institucijas ir viešojo saugumo būklės vertinimas* [Lithuanian Population Attitudes towards Law Enforcement Institutions and Public Security Assessment]. Ministry of the Interior of the Republic of Lithuania, 2012.

Vilniaus miesto savivaldybės tarybos 2010 m. lapkričio 24 d. sprendimas Nr. 1-1778 „Dėl Vilniaus miesto 2010–2020 metų strateginio plano ir Vilniaus miesto 2010–2020 metų strateginio plano valdymo ir stebėsenos sistemos tvirtinimo“ [Vilnius City Municipal Board Resolution No. 1-1778 of 24 November 2010 “On Approval of the Strategic Plan of Vilnius for 2010–2020, Its Management and Surveillance System”]. Vilnius city municipality, 2010.

Visuomenės savisaugos sistemos Lietuvoje būklės ir visuomenės bendradarbiavimo su teisėsaugos institucijoms analizė [Analysis of the Situation of the Community Self-Protection System in Lithuania and Community Cooperation with Law Enforcement Institutions]. Ministry of the Interior of the Republic of Lithuania, 2008, p. 12.

Žilinskas, D. Policijos teisės prielaidos: operatyvinės veiklos teisinio reglamentavimo problema [Premises of the Police Law: the Problem of Legal Regulation of Operative Activities]. *Jurisprudence*. 2003, 49(41), p. 54–64.