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### STATE AND NON-STATE ACTORS ENSURING CONSTITUTIONAL ORDER AND PUBLIC SECURITY: PROBLEMS OF LEGAL REGULATION OF INTERACTION

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**Anna I. Yastrebova, Alexander I. Stakhov, Vladimir M. Redkous, Marina I. Lavitskaya\*, Tatyana Y. Suchkova. State And Non-State Actors Ensuring Constitutional Order And Public Security: Problems Of Legal Regulation Of Interaction--Palarch's Journal Of Archaeology Of Egypt/Egyptology 17(10), 3424-3446. ISSN 1567-214x**

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#### **ABSTRACT:**

**Relevance:** need to develop rule-making and law enforcement activities to increase the effectiveness of interaction between state and non-state actors in ensuring constitutional order and public safety. **Purpose:** to develop doctrinal points that reveal the features of interaction between state and non-state actors and to improve the regulatory framework of such

interaction. **Methods:** dialectical relationship between state-legal institutions and non-state (civil society) institutions; comparative legal method for comparing the interaction of these subjects in Russia and foreign countries, as well as analyzing the normative regulation of such interaction in various subjects of the Russian Federation (RF); system-structural approach for considering the provision of constitutional order and public security as an integral system conducive to the realization of the constitutional rights and freedoms of citizens; legal cybernetics for analyzing the current state of legal regulation of civil society institutions in ensuring public order and security. **Results:** the present study analyzes:

- the provisions of the Constitution of the RF, federal legislation and laws of the constituent entities governing the interaction of state and non-state subjects in ensuring constitutional order, public security and public order;
- the constitutional principles of their interaction, approaches to defining key concepts (including constitutional order, public security, constitutional security);
- various proposed legal forms of their interaction and the experience of such interaction between civil society institutions involved in ensuring constitutional order and public security;
- government entities in foreign countries, including the US, Britain, Western Europe.

**Value:** the materials of the present study can be used in domestic and foreign theory of constitutional and administrative law; in the rule-making; the educational process; the activities of the executive authorities, citizens and public associations participating in the implementation of state policy on ensuring constitutional order and public safety.

**Keywords:** constitutional order, public order, public security, constitutional security, interaction, civil society

## INTRODUCTION

In the modern period, the process of ensuring constitutional order and public security forms complex and multilateral legal relations between elements of the state-public system. The present study considers state law enforcement agencies and non-state actors (civil society institutions, public associations being their most common organizational and legal form) which carry out activities to ensure constitutional order and public security. The urgency of the problem of interaction between the elements of this system lies in the fact that through interaction, internal control of the system elements is exercised, and the role of public organizations and their influence on the effectiveness of the entire state-public system for ensuring constitutional order is determined. In the framework of ensuring constitutional order, public security and public order, a most important direction of the policy of the Russian state in accordance with Art. 7 of the Constitution of the Russian Federation is to create conditions ensuring a decent life and free development of a person (Constitution of Russia 1993). To implement this constitutional norm, the state creates the necessary mechanisms, one of which is the system for ensuring constitutional order and public security. Some subjects of the Russian Federation attempted to use the potential of civil society to ensure public order; these attempts were considered successful and gave positive results. According to the data of the Ministry of Internal Affairs of the Russian Federation in 2009, there are more than 34 thousand public law enforcement units with more than 363,000

people. With the participation of vigilantes, about 40,000 crimes and over 400,000 administrative offenses are revealed annually (Falaleev 2009). The legal framework established in 2014 for the voluntary participation of citizens of the Russian Federation in the protection of public order (Federal Law of April 2, 2014 No. 44-FL “On the participation of citizens in the protection of public order”) proved fruitful. Analysis of statistical data reveals that the number of national teams, individuals in them and of offenses suppressed by them increases (comparing the available statistical data for 6 months in 2009 and for 6 months in 2018). Thus, as of June 30, 2018, about 12,000 teams unite more than 195,000 people. According to the results of 6 months in 2018, more than 5,000 people were detained for committing crimes, and more than 228,000 administrative offences were stopped (based on the analysis of certain operational activities of the Main Directorate of the Ministry of Internal Affairs of Russia for ensuring the protection of public order and coordinating interaction with the executive authorities of the subjects of Russian Federation. *Official website of the Ministry of Internal Affairs of the Russian Federation*). However, the statistics do not cover the work of other law enforcement organizations and voluntary organizations. Citizens assist the police and other law enforcement agencies to protect the life, health, honor and dignity of a person, their property and the interests of society and the state from criminal and other unlawful attacks committed in public places. It should be noted it is quite difficult for the state structure to organize 500-1000 people in a short time to search for the missing; this is done by members of ‘Lisa Alert’, a volunteer organization; its search teams are represented in 44 regions of Russia. During 10 years of activity, ‘Liza Alert’ found about 7,000 missing people, almost 2,000 of them children (‘Shield and Sword’; *official website of the Ministry of Internal Affairs of the Russian Federation*). Analysis of the activities of this volunteer organization shows the need to create an electronic resource of the Search Center, which could become a platform to combine the efforts of both federal and regional authorities – the Ministry of Internal Affairs, the Emergency Ministry, and the Investigation Committee and the Ministry of Defense – for quick response in organizing the search for missing people. At the same time, along with public organizations in the sphere of law and order, professional vigilantes (including Cossack brigades) appeared in the public service. These are already difficult to attribute to the institutions of civil society, so there is a difficulty in determining their legal status. In addition to vigilantes, public law enforcement associations, voluntary organizations, Cossack brigades, employees of private security organizations can also be involved in ensuring law, order and public security. Thus, in September, 2018, 142,000 employees of the internal affairs bodies, military personnel of the Federal Service of the National Guard troops of the Russian Federation, as well as 12.3 thousand employees of private security organizations, 22.8 thousand representatives of the national vigilantes and 3,3 thousand representatives of the Cossacks were involved in measures to ensure public order at polling stations (*Public order and the safety of citizens during the preparation and conduct of the Unified Voting Day. Official website of the Ministry of Internal Affairs of the Russian Federation*). At the

same time, the statistics of the Ministry of Internal Affairs indicate a decrease in the number of crimes in 2018 compared to the same period in 2017. For instance, in January-September 2018, 1,490.9 thousand crimes were registered – 3.9% less than during the same period last year. An increase in the number of registered crimes was noted in 27 subjects of the Russian Federation, a decrease – in 58 subjects; almost every second (57.8%) crime investigated was committed by old offenders, every third crimes (32.5%) was committed UI, every twenty-seventh (3.7%) by minors or with their complicity (*Brief description of crime state in the Russian Federation in January-September 2018. Official website of the Ministry of the Interior of the Russian Federation*). Thus, official statistics indicate a decrease in the number of crimes in the general analysis, but an increase in the number of repeated crimes, crimes UI, and crimes of minors. These statistics indicate the imperfection of the system of crime prevention in the Russian Federation, which is also confirmed by the results of law enforcement monitoring carried out by the Ministry of the Interior of the Russian Federation in 2017 (*Report on the results of law enforcement monitoring carried out by the Ministry of the Interior of the Russian Federation in 2017*). Thus, the use of cybernetic methods in the study of the current state of the rule of law and public safety, according to official data, indicates a decrease in the number of crimes, along with an increase in the number of various civil society institutions as voluntary law enforcement assistants. Civil society can be viewed as a structure separate from the state and consisting of many voluntary associations (Taylor, 2006); independence from the state is fundamental here (Khabrieva and Chirkin 2005). Numerous examples of citizens' associations (in certain constituent entities of the Russian Federation) created on a voluntary basis to ensure public order indicate the awakening civil conscience, the desire of citizens to organize a system of public control over the law enforcement activities of the state, the manifestation of independence and the desire of citizens to ensure additional guarantees of observing their rights and freedoms provided for by the Constitution of the Russian Federation. In his works, A. B. Kozlovsky considered certain aspects of public participation in law enforcement and interaction with government bodies from the standpoint of state law and government and of the constitutional law; the author analyzed the issues of public participation in the fight against offenses (Kozlovsky 1998). G.P. Yermolovich investigated US voluntary organizations in the fight against crime (Yermolovich 2001), S.I. Shkurkin analyzed the administrative and legal status of public associations of law enforcement in the field of public order (Shkurkin 2003), D.V. Vasiliev studied the concepts of organizing police activities and the possibility using these in domestic practice (based on the materials from the United States and some countries of Western Europe) (Vasiliev 2005). V.B. Belorusev analyzed the administrative and legal status of non-state subjects of law enforcement in the Russian Federation (Belorusev 2005), P.A. Kunakov considers the participation of civil society actors in ensuring law and order as a form of manifestation of social and legal activity (Kunakov 2007), S.A. Terentyev studied the legal and organizational framework for citizen participation in the protection of public order

(Terentyev 2009). However, these and other authors investigated the issues of public participation in ensuring public order primarily from the administrative, legal, criminal and theoretical positions, without paying due attention to constitutionally – the legal basis of such activities. Separate studies address issues of constitutional order and constitutional security, in particular, investigate problems of constitutional order in the regions of the federation: a sociological analysis (Kazantsev 2004); the activities of the prosecution authorities to ensure the constitutional security of the Russian Federation (Kot 2004); the institute of federal intervention as an emergency mechanism to ensure the constitutional order in the territory of a federal state: a comparative legal analysis (Basiev 2007); ensuring the constitutional security of a federal state in the modern development of the Russian Federation: the constitutional legal aspect (Dimitrova 2007); the interaction of local governments with bodies of internal affairs to protect public order in a municipality: constitutional legal and organizational bases (Skripkina 2009); study of the powers of local governments to ensure law and order (Balikoeva 2013). These studies do not take into account such important event (in the legal regulation of the participation of civil society institutions in law enforcement and public safety) as the adoption of the Federal Law of April 2, 2014 No. 44-FL “On the participation of citizens in the protection of public order”. At the same time, the law enforcement practice reveals that certain provisions of the above federal law are not without flaws. This is due to the fact that currently, there is no scientifically based concept for the development of the law enforcement system and of law enforcement agencies involved in such public activities from a constitutional and legal position, along with the lack of comprehensive interdisciplinary research on the legal regulation of public participation in public order after adoption of the 2014 federal law. At the same time, it should be emphasized that these studies, although conducted from the standpoint of constitutional law and state administration, address only some aspects of the interaction of state and non-state actors in ensuring the constitutional order and public security. No systematic analysis of the constitutional legal and administrative legal frameworks of interaction between state and non-state subjects to ensure the constitutional order and public security was carried out. The study of the legal foundations of the interaction of these subjects is of not only theoretical but also practical interest. Thus, a topical issue in modern legal science is the study of the legal foundations of interaction between state and non-state actors to ensure constitutional order and public security.

## **METHODS**

The study of the interaction of state and non-state actors in ensuring constitutional order and public safety implies various research methods, the main being the dialectical, the comparative historical, the formal logical methods, as well as analysis and synthesis. The comparative legal method is widely used, which lets to compare the interaction of these subjects in Russia and foreign countries, as well as analyze the state of normative regulation of interaction in various subjects of the Russian Federation as a federal state. The system-structural approach allowed considering the provision of constitutional

order and public security as an integral system for the realization of the constitutional rights and freedoms of citizens. The legal cybernetics method allowed analyzing the current state of legal regulation of civil society institutions in ensuring public order and security, investigating the effectiveness of the norms and acts of Russian legislation, solving specific tasks in lawmaking and systematizing legislation, improving the analysis of statistical data and of combating offenses. Academician V.N. Kudryavtsev dedicated his works to legal cybernetics (Kudryavtsev 1978); V.V. Lunev continued the studies (Lunev 1997). The complexity of using the presented methods allows getting a complete picture of the legal basis of interaction between state and non-state actors in ensuring constitutional order and public security. To further investigate the topic, the authors analyzed the provisions of the Constitution of the Russian Federation, federal laws, by-laws, laws of the constituent entities of the Russian Federation, and other regulatory legal acts of the Russian Federation and constituent entities of the Russian Federation adopted in the field of law enforcement and public safety. In addition, the authors studied the work of Russian scientists in the considered area (Stakhov 2017), Agabalaev and Voronov 2012)). The works of Russian scientists investigating the participation of non-state actors in ensuring public safety and public order in Russia, including G.P. Yermolovich (2001), S.I. Shkurkin (2003), D.V. Vasilyev (2005), V.B. Belorusov (2005), P.A. Kunakov (2007), S.A. Terentyev (2009), and others are analyzed. Separate studies address issues of constitutional order and constitutional security, in particular, by M.S. Basiev (Basiev 2007); V.G. Kazantsev (Kazantsev 2004); S.V. Kot (Kot 2004); S.A. Dimitrova (Dimitrova 2007); Yu.G. Skripkina (Skripkina 2009); and L.M. Balikoeva (Balikoeva 2013).

After the adoption of the federal law “On the participation of citizens in the protection of public order” in 2014, the studies reflected only certain issues of interaction between government and non-state actors; the works include those by K.I. Usenov (Usenov 2014); E.V. Zotov (Zotov 2014); D.V. Pozharsky (Pozharsky 2015); Yu.G. Fedotova (Fedotova 2015); A.V. Bezrukov (Bezrukov 2016, 2017).

At the same time, it should be emphasized that in the studies conducted over the past 20 years, mostly certain aspects of interaction between state and non-state actors in ensuring the constitutional order and public safety were addressed, and no system analysis of the interaction of these subjects from constitutional legal positions was carried out.

## **RESULTS**

A comprehensive analysis of rule-making and law-enforcement activities (aimed at increasing the efficiency of interaction between state and non-state actors in ensuring constitutional order and public security) established the following.

1. The analysis of the Constitution of the Russian Federation, of other legal acts and of foreign PR experience established that the legal mechanism for regulating the interaction of elements of the state-public system for ensuring the constitutional order must meet certain requirements. Firstly, it should correspond to the democratic vector of development of the Russian state and the basic principles of the formation of a civil society, namely: state intervention in the activities of public associations is not admissible; vesting public associations with state power is not admissible; public associations are not supposed to be governed by state bodies; public associations are independent from the state, the inadmissibility of conferring authority is inadmissible. Moreover, the constitutional order must comply with the constitutional principles of interaction between state bodies and public associations, namely, the principle of legality, the principle of respect and observance of the rights and freedoms of man and citizen; the principle of voluntary association of citizens; self-government; the principle of state guaranteeing social protection and social security. These principles determine the nature of the interaction of these subjects.

Second, this legal mechanism should provide for organizational types of relationships, namely: mutual information exchange between the elements of the system; provision of communications and protection; organization of briefings for members of public associations involved in ensuring constitutional order; assistance from state bodies and local self-government bodies to public associations in ensuring public order and carrying out preventive work with offenders; methodical training of members of such organizations in the prevention and suppression of offenses; training members of public organizations in the basics of legal knowledge in the field of ensuring public order, as well as motivational types of relationships, namely: a system of social protection measures (in the form of various benefits and privileges) compensating for an increased life and health risk of members of public organizations involved in ensuring public order; and measures to stimulate the interest of state law enforcement officials in cooperation with such public organizations.

2. Improving the effectiveness of interaction between state and non-state actors in ensuring constitutional order and public security is promoted by understanding the correlation of concepts of constitutional order, public order, public security and other related concepts. Activities to ensure constitutional order are also aimed at eliminating threats to national security, including state security, public security, environmental security, personal security, and other types of security, while constitutional security is part of state security.

3. The use of foreign experience in organizing the interaction of state bodies and public organizations involved in ensuring the constitutional order in modern Russia will allow creating a more effective state-public system for ensuring such order. Thus, bilateral interaction can manifest itself in mutual informing, which will allow public organizations (involved in ensuring

constitutional order and public security) to promptly inform law enforcement agencies about persons who are wanted or suspected of committing crimes, and promptly respond to police officers information for the purpose of detaining identified persons. The forms of interaction between state and non-state actors on law enforcement successfully used in foreign countries include: conducting joint events, briefings, conferences, seminars, round tables, sharing positive experiences; training the participants in public associations on the forms and methods of work to ensure the public order, familiarizing them with the basics of legal knowledge on public order, thus improving their legal literacy; and effectuating the search for missing persons.

4. The analysis of the powers exercised in order to ensure constitutional order and public security revealed that the powers of public associations in the system for ensuring constitutional order should be limited only to those non-related to state coercive measures and non-domineering, namely: participation in events held by authorized bodies; joint activities, such as patrolling territories, informing the population and increasing legal literacy through round tables and conferences; informing the authorized bodies about offenses and threats to the constitutional order; participation in the search for missing persons; assisting authorized bodies in preventive work with persons inclined to commit crimes, to prevent juvenile delinquency, and to promote legal knowledge; taking measures to assist citizens who have suffered from crimes, administrative offenses or accidents, as well as being in a helpless or other state dangerous to their life and health; rendering other assistance to authorized bodies, permitted by the legislation of the Russian Federation. The use of physical force and self-defense weapons by members of such associations is allowed only in cases provided by law, within the framework of necessary defense or in conditions of extreme necessity.

5. A promising area of ensuring constitutional order is the involvement of individuals and organizations in the public safety system. These individuals and organizations are to be given separate administrative and public powers to exercise state control and supervision over the activities of individual entrepreneurs and legal entities obliged to fulfill the mandatory requirements of various types of security (including, for example, fire safety requirements, ecological security, etc.). This direction of administrative-public activities of individuals and organizations is highlighted by the Federal Law 'On the Protection of the Rights of Legal Entities and Individual Entrepreneurs in the Implementation of State Control (Supervision) and Municipal Control' and is detailed in federal laws regulating the relevant public safety relations.

6. Analysis of the activities of public organizations involved in the search for missing persons reveals a need to create an electronic resource of the Search Center which could become a platform for combining the efforts of both federal and regional authorities, as well as non-state actors.

7. Strengthening constitutional order in modern Russia should, above all, be viewed from the perspective of implementing constitutional principles and norms. The role of the Constitution of the Russian Federation in creating the legal basis for ensuring constitutional order is multifaceted. Firstly, it establishes the foundations, principles and characteristics of the 'constitutional order' which forms the core of 'public order'. Second, the Constitution of the Russian Federation defines a system, a set of subjects ensuring the constitutional order, among which it is possible to single out non-state actors (people, groups, associations of citizens, individual citizens) and state bodies (state authorities of the Russian Federation and of its constituent entities). Third, the Constitution of the Russian Federation determines the state-public nature of the system for ensuring constitutional order and public security.

## **DISCUSSION**

### ***Constitutional and legal principles of interaction between state and non-state actors in ensuring constitutional order and public security***

Exploring the issues of interaction between public authorities and civil society institutions in ensuring constitutional order and security, it is necessary to focus on using various forms and methods of interaction between these subjects and on the effectiveness of such interaction. The choice of the most optimal (from the point of view of functional capabilities of the elements of the state-public system for ensuring constitutional order and public security) and effective (in terms of influencing violators of the constitutional order) forms and methods of such interaction is the center of numerous scientific works, including the present research. The fundamental factor of this choice is the provision on the supremacy of the Constitution of the Russian Federation. The interaction of all the elements of the state-public system of ensuring constitutional order should be based on the principles set forth in the Russian Constitution. Some scholars, exploring the interaction of state bodies and public associations, highlight the principles arising from the provisions of the Constitution of the Russian Federation (legality, publicity, respect for human and citizen rights and freedoms, etc.), as well as special principles of interaction – planning, voluntariness, continuity, individuality and collectivity, science, confidentiality, self-government, interdependence, territoriality, efficiency, and others (Belorusev 2005); the second group of principles can be called organizational. An important event in the legal regulation of the participation of civil society institutions in ensuring constitutional order and public security is the adoption of the Federal Law 'On the participation of citizens in the protection of public order' (04.04.2014 No. 44-FL). The adoption of this law was preceded by many years of consideration of bills regulating these legal relations. For more than ten years, similar associations existed in many subjects of the Russian Federation, and their activity was regulated by regional legislation, including Moscow, St. Petersburg, the Altai Krai, Nizhny Novgorod, Tomsk, the Udmurt Republic and others. Among

other provisions, the specified federal law defines the principles based on which the interaction of state and non-state actors is carried out. At the same time, the law enforcement practice reveals that certain provisions of said law are not without flaws.

**The principle of legality** is the most important principle of law enshrined in several articles of the Constitution of the Russian Federation, in particular, Part 2 Art.4, Part 4 Art.13, Art.15, Art.18, Part 1 Art.19, Subparagraph B Part 1 Art.72. This principle establishes the obligation of state authorities, local governments, citizens and their associations, civil society institutions, in sum, of all the legal entities to comply with the Constitution of the Russian Federation and the laws. In direct connection with the principle of legality is the principle of prioritizing the rights and freedoms of man and citizen, giving them of the highest value. The Constitution of the Russian Federation enshrines that the meaning, content and application of laws define the rights and freedoms of man and citizen (which are of supreme value). Yet, their implementation should not violate the rights and freedoms of others, as set forth in Art.18, Art.2, Part 3 Art.17 of the Constitution. One of the principles of activity of individual non-state actors and public associations (as one of the most common organizational forms of civil society institutions) is **the principle of voluntariness**, expressed in the norms of the Constitution of the Russian Federation, Art.30. It is noteworthy that the principle of voluntariness is enshrined in federal legislation (Art.5 of the Federal Law ‘On public associations’; Art.4 of the Federal Law ‘On the participation of citizens in the protection of public order’). The legislation of the constituent entities of the Russian Federation contains different approaches to consolidating this principle. The legislation of Moscow establishes this principle; it is contained indirectly in the laws of St. Petersburg and Sevastopol.

In accordance with **the principle of social and legal protection of non-state actors** involved in this activity, the Constitution of the Russian Federation guarantees everyone social security in case of illness, disability, etc. (Art.39 of the Constitution). In the Federal Law ‘On the participation of citizens in the protection of public order’, this principle was not embodied, but the text of the law contains provisions on the social protection of the vigilantes, as well as individual measures of their material incentives. A detailed analysis of these social protection guarantees for Moscow vigilantes shows that they are formulated most generally. In St. Petersburg, such measures take the following forms: the allocation of subsidies and subventions; funding programs, etc. Yet, despite various measures of support, the legislation does not regulate in which cases they should be provided and to what extent, which significantly complicates enforcement. In Sevastopol, more specific measures of social protection for vigilantes are fixed, namely: while participating in the law enforcement agencies' measures for the protection of public order, the vigilantes or members of their families are provided with a lump-sum benefit at the expense of the budget of the city of Sevastopol – in case of death or death due to injury it amounts to 1 million RUR; in case of grievous health

injury it is 500,000 RUR; in case of moderate or minor health injury the incurred treatment costs are compensated (not more than 100,000 RUR). Thus, at present, at the federal level and at the level of the constituent entities of the Russian Federation, there is no clear legal mechanism that would ensure the social protection of persons involved in the protection of public order (with the exception of the legislation of some constituent entities of the Russian Federation). These norms refer to an indefinite circle of other legal acts, without fixing a clear legal mechanism guaranteeing the social protection of vigilantes and other persons involved in the protection of public order; implementation of the principle of social protection depends on the financial capabilities of the subjects of the Russian Federation, which, as is well known, differ significantly among regions. The use of physical force and self-defense weapons by members of such associations is allowed only in cases provided for by law, within the framework of necessary defense or actions in conditions of extreme necessity (Art.37, 39 of the Criminal Code of the Russian Federation). **The principle of self-government** is enshrined in the Constitution (Part 1 Art.3), the Federal Law ‘On public associations’ (Art.3, 5); this principle guarantees the freedom of activity of public associations. It is noteworthy that in the Federal Law ‘On the participation of citizens in the protection of public order’ (04.04.2014 No.44-FL) this principle is not fixed; this may be due to the fact that Art.17 of this law establishes, among other rights, the right to demand from citizens and officials to stop unlawful acts. Such requirement can be attributed to the authority of members of public associations, which contradicts the constitutional norms under study. The Constitution and the law stipulate that it is forbidden to create armed formations (Part 5 Art.13), as well as to appropriate authority (Part 4 Art.3), and to carry out activities related to the competence of state bodies; the state bodies exercising state power in Russia are listed (Art. 11). A more appropriate formulation of the interaction of state and non-state actors is not directly governing the latter but coordinating their activities to ensure law and order and public security. Currently, the issue of empowering public associations with state-governmental powers cannot be considered as developed in terms of both theory and practice. The tasks of vigilantes only include assistance to state bodies in the performance of their functions but not the implementation of state powers or the substitution of powers of law enforcement agencies.

***Problems of defining constitutional order and public safety in connection with related categories***

In order to study the interaction of state and non-state actors in ensuring constitutional order and public security, the need arises to clarify the following concepts – constitutional order and public security – in connection with related concepts. The term ‘constitutional order’ in legal science is understood as the order established in accordance with the norms of the Constitution and laws based on it, in which the organization and functioning of the entire system of power, the relationship between government and the population is based on law. Ensuring constitutional order is one of the main activities of the state. The Constitution of the Russian Federation establishes the foundations, principles

and characteristics of the ‘constitutional order’ which forms the core of the ‘public order’. One of the means of ensuring public order is administrative coercion (Belov et al. 2018). Despite the similarity of activities in ensuring law and order, there are differences between them that allow a more specific definition of the concept of ‘ensuring public order’. Until now, legal scholars lack a uniform understanding of the boundaries, structure and content of public security in the administrative and legal sphere (Yastrebova et al. 2017). Determining the place and role of public safety, A.M. Voronov argues that the criterion for distinguishing between the various systemic and complex security types defined by the legislator (namely personal security, public security and state (national) security) should be a ‘security threat’ (Agabalaev and Voronov 2012). The basis of the legal security regulation in the Russian Federation is the provisions enshrined in Art. 55, 71, 72 of the Constitution of the Russian Federation, FCL ‘On the state of emergency’, the provisions of the Federal Law ‘On Security’ developing these constitutional norms, and the by-laws including the Public Security Concept in the Russian Federation approved by the President of the Russian Federation (President Decree ‘On the National Security Strategy of the Russian Federation’). In accordance with Art. 55 of the Constitution of the Russian Federation, rights and freedoms of a person and a citizen may be limited by federal law only to the extent necessary to ensure the security of the state, to protect the foundations of the constitutional order, morality, health, rights and legitimate interests of others, and to ensure the defense of the country. In addition, according to Part 1 Art. 56 of the Constitution of the Russian Federation, to ensure the safety of citizens and the protection of the constitutional system in a state of emergency in accordance with federal constitutional law, certain restrictions on rights and freedoms can be established, specifying the limits of their validity, for example, provided for by the Federal Law On State of Emergency. In the Concept of Public Safety in the Russian Federation, approved by the President on November 20, 2013, public safety refers to the protection of a person and a citizen, the material and spiritual values of society from criminal and other unlawful encroachments, from social and interethnic conflicts and natural and man-made emergencies. A comprehensive analysis of the provisions of the National Security Strategy of the Russian Federation and the Public Security Concept in the Russian Federation suggests that public security is a type of national security of the Russian Federation. The following example differentiates between the concepts of national security and constitutional security. The authors of an article on state policy against information war examine in detail the information security of Russia and information wars through the prism of the national sovereignty of the Russian Federation and propose amendments to the Criminal Code in terms of establishing responsibility for causing harm to the national security of the country in the information sphere and violating the national sovereignty in the global information space (Shibaev and Uibo, 2016). National sovereignty in its most simplified understanding is independence from internal and external threats. Thus, the concepts of information security and national security correlate as part and whole, and respectively, constitutional security and national security

also correlate as part and whole. According to S.A. Dimitrova, the **state security** is an integral part of the broader concept of **national security** (Dimitrova 2007). The transition from the category ‘state security’ to the category ‘national security’ led to the separation of its independent types (economic, environmental, informational, military, food, and several others). From the point of view of **sociology as applied to the regions of Russia, the constitutional order** can be viewed as a state of orderliness of relations, as the fact that the Russian Constitution has significance, it is respected and its provisions are executed with interest (Kazantsev 2004). M.S. Basiev examines the concept of ‘constitutional rule of law’ from the point of view of the institution of federal intervention (Basiev 2007).

A.V. Bezrukov considered **the rule of law** category in the constitutional and legal dimension, and along with the adjacent category ‘**the constitutional rule of law**’, introduced them into the constitutional doctrine. The essence of the constitutional rule of law is revealed in his work in a broad sense, integrating the social and legal characteristics of the rule of law as a whole, based on the provisions of the constitutional law specified in industry legislation (Bezrukov 2017). **The constitutional security** according to Yu.G. Fedotova is a guarantee of the security of the constitutional system of the Russian Federation, the provision of which aims at implementing the Constitution of the Russian Federation (Fedotova 2015). S.V. Kot understands constitutional security as the protection of citizens, society and the state from threats in the sphere of public relations regulated by the norms of the Constitution (Kot 2004). Thus, the activity on ensuring the constitutional order aims at eliminating threats to national security, including public security, environmental security, personal security and other types of security, while constitutional security is a component of state security.

***Forms of interaction between state and non-state actors to ensure constitutional order and public security***

In the process of ensuring the constitutional order, complex and multilateral relations are formed between elements of the state-public system for ensuring constitutional order and public security. In this study, state law enforcement agencies and non-state actors (civil society institutions) carry out activities to ensure constitutional order and public security. It is especially important to increase the effectiveness of ensuring constitutional order and public security in those countries where population migrates from neighboring countries in search of a better life (Chlebny 2018) and the cooperation of state and non-state actors will contribute to this. Exploring the works of Western scholars on ensuring public order, D.D. Shalyagin comes to the conclusion (confirmed by the results of research in this area by many American, British and Australian scientists) that it is impossible to achieve a reduction in the number of crimes and offenses through a mechanical increase in the number of police officers per capita or the adoption of ‘hard’ laws (Shalyagin 1998). Many foreign researchers, for example, van Stokkom and Terpstra came to this conclusion examining the police in Canada and Austria and found that attention should be

paid not only to an increase in the number of police officers but also to the public good (van Stokkom and Terpstra 2018). In addition, crime control can be viewed as part of a narrower process of constructing crime, and if the state constructs crime most actively and this process becomes a mass repression against the population, it can receive an adequate response in the form of an increase in the number of anti-state crimes (Pashentsev 2016). Analyzing the activities of the police in the United States and in some countries of Western Europe, D.V. Vasiliev, among other reasons for the high efficiency of such activities, notes the active cooperation of the police and the population involved in the prevention of offenses and ensuring public order (Vasiliev 2005). The interaction of the police and the public in the field of public order is particularly active in some foreign countries, for instance, in the United States where, along with the traditional system of organization of the police, the concept of 'communal police' developed, providing for active interaction and cooperation of state and non-state actors (Ermolovich 2001). Modern foreign studies point out the need for close cooperation between the police and the public, defining their convergence criteria (Lichtenberg 2007), noting the effectiveness of ensuring public order and security with the participation of civil society institutions – independent observers (Walsh 2016). The interaction between the elements of the state-public system of ensuring the constitutional order should be considered as the exchange of information (special knowledge, information about the criminal situation in the region, reports of violations of the constitutional order) and of material objects (means of material support, documents, means of communication, remedies). Forming and considering the classification of interaction between elements of the state-public system of ensuring constitutional order, it should be emphasized that the main types of such interaction are organizational and motivational interaction. The lexical meaning of the term 'interaction' is mutual support, concerted actions in the performance of certain tasks (Ozhegov 1990). Some scholars identify different types of interaction, differing from each other by the nature of the objective and subjective connection of the subjects: cumulative, cooperative activity, episodic cooperation, mutual information, indirect interconnection, direct interconnection, etc. (Kudryavtsev 1978). In addition, it is possible to classify forms of interaction between state and non-state actors according to various criteria, for example, direct and indirect according to the degree of participation of non-state actors in public affairs. As a **direct form** of interaction between state and non-state actors, one can single out the participation of citizens in the activities of the vigilantes and public control over the activities of government. The **indirect forms** of interaction include the institution of direct democracy and local government (Kunakov 2007). In addition, the forms of interaction according to the direction in the implementation of goals can be divided into **co-directional** (for example, private partnership) and **multi-vector** (individual activities), and regarding the degree of influence of interaction forms they can be divided into the material and non-material (Kunakov 2007). An interesting form of classification of the interaction of state and non-state actors is given by S.V. Kalashnikov, who highlights **the mutual purposeful impact; mutual assistance; mutual**

**responsibility** of the state and society; **cooperation** of the state and society in solving various problems and in ensuring constitutional order and security (Kalashnikov 2001). From the complex analysis of Ch. 4 of the Constitution of the Russian Federation and the Federal Law of 2010 'On security', it can be concluded that the President of the Russian Federation and the Security Council, as well as the bodies of the Ministry of Internal Affairs of Russia, the police and the National Guard troops play a central role in the public security system. The National Guard troops of the Russian Federation are a state military organization designed to ensure state and public security, protect the rights and freedoms of a person and citizen, according to Art. 1 of the Federal Law 'On the National Guard troops of the Russian Federation'. Local government bodies (according to Art. 131 of the Constitution of the Russian Federation and Ch. 4 06.10.2003 No 131-FL 'On the general principles of the organization of local self-government in the Russian Federation') are not included in the system of state power. Moreover, as subjects of ensuring public order, these bodies may be vested with separate state powers to ensure certain types of public security and protection of public order carried out under the control of state authorities. From the point of view of organizational types of interaction of state bodies with public organizations, the main state subjects for ensuring public order at the federal, regional, local levels are the central and territorial divisions of the federal body – the Ministry of Internal Affairs of the Russian Federation (Skripkina 2009); this is enshrined in the relevant regulations of this body, including the police (Art. 4 of the Federal Law 'On police') and executive authorities, and the status of the state control (supervision) body in accordance with Art. 2 of the Federal Law 26.12.2008 No 294-FL 'On the protection of the rights of legal entities and individual entrepreneurs in the exercise of state control (supervision) and municipal control'. At the same time, state and municipal bodies, public associations, organizations and officials should assist the police in carrying out their duties, in accordance with Art. 10 of the Federal Law 'On Police'. Significant influence on the work of the police is exerted by internal political communication, interaction between state authorities, the police and civil society, the media (Harrison and Adlard 2018). The principle of interaction and cooperation is specified in the departmental legal acts of the Ministry of Internal Affairs of the Russian Federation, which enshrined the Charter of the patrol and inspection service of the police and the Instruction on the organization of the activities of district police officers. Investigating the interaction of units of the patrol service and public law enforcement associations, it is possible to identify interaction at the level of commanders of units and at the level of sentry and patrol outfits. In particular, the commander of the patrol unit is charged with ensuring interaction with public law enforcement units on matters of public order, as well as providing them with methodological and practical assistance in teaching forms and methods of preventing and suppressing offenses, and patrol outfits must cooperate with public law enforcement entities involved in ensuring law and order, and, according to the limit of their competence, to assist in the implementation of their tasks to ensure public order in the streets, transportation facilities and

other public places (P. 16.6, 225.1 of Patrol Charter). Another form of interaction is informing which allows public law enforcement associations to directly report to the units of the patrol and inspection service about cases of impending or committed offenses and of suspicious citizens. Precinct police officers carry out activities to ensure public order and to prevent offenses, as well as other functions on their territory. Their duties include the involvement of public law enforcement associations to work on the prevention of crimes and offenses, possession of information about the placement of representatives of law enforcement public associations on the site, as well as ensuring the interaction of patrol officers with public law enforcement associations and conducting trainings for members of public associations (P 7, 36.3., 36.6. Instructions on the organization of the activities of the sites authorized by the police). Foreign countries gained great experience in the interaction of the police and the public, which is carried out in various forms. For example, in the US, the UK and Western European countries, the communication between the police and public organizations is well established (volunteer police of the US, volunteer police of the UK; security brigades; neighborhood organizations for combating crime, civilian units patrolling the territory; organizations such as 'Stop Crime'; 'Advisory committees of citizens', etc.) (Vasiliev 2005). One of the forms of interaction between the police and public organizations in foreign countries is bilateral interaction, which can manifest itself in mutual information. Among the optimal forms of interaction there are: preparation and examination of documents, analytical reviews and draft legal acts, development and implementation of joint target programs in the field of law enforcement, encouraging members of public associations who have distinguished themselves in ensuring public order, etc. (Bezrukov 2016). The analysis of Russian and foreign experience established that one of the most effective activities of public associations in the system of ensuring constitutional order is the prevention of offenses. The foreign experience of the interaction between the police and the public is largely focused on the prevention of offenses, especially early warning of offenses (Helsby et al. 2018). The current federal law 'On the basis of the system for the prevention of child neglect and juvenile delinquency' has a limited sphere of influence, since it regulates questions of the prevention of delinquency only among minors. In 2016, a federal law was adopted for a comprehensive approach to solving issues of crime prevention among all population categories and for the formation of a unified system for preventing violations of constitutional order and public safety, consisting of government agencies, local governments and public associations of citizens – the Federal Law on crime prevention in the Russian Federation. The essential innovations of the legislation are the provisions of the federal law on the prevention of offenses by public associations and other institutions of civil society. It is obvious that when exercising these powers to ensure public safety and public order, measures of state coercion will be applied, primarily administrative and legal coercion. At the same time, giving members of public associations powers that allow them to use state measures, including administrative and legal coercion, is unacceptable, since it conflicts with the provisions of the Constitution of the

Russian Federation. It should be emphasized that the Code of Administrative Offenses of the Russian Federation in 2014 was amended, establishing administrative responsibility for obstructing the legitimate activities of a vigilante or a freelance police officer (Art. 19.35 of the Administrative Code of the Russian Federation); similar changes were made to the laws of the constituent entities of Russia. Public organizations that have the right to apply state authority currently exist in some foreign countries, particularly in the US, Great Britain, etc. In the US, members of the public organization 'Union of Guardian Angels' (not funded by the state but existing on voluntary donations) can produce civilian arrests of persons who have committed crimes (Ermolovich 2001). In this area, it is necessary to fully develop state support for the activities of public associations for ensuring public order. Such state support can be targeted financing of individual socially useful programs of public associations upon their applications (state grants); any types of contracts, including the execution of works and provision of services; social order for the implementation of various government programs to an unlimited circle of public associations.

## CONCLUSION

1. Investigating the works of Russian and foreign scholars on law enforcement and security, it can be concluded that many American, British and Australian studies in this field have confirmed that reducing the number of crimes and offenses is impossible by mechanically increasing the number of law enforcement officers or tightening legislation. Other reasons for the high efficiency of law enforcement and security in foreign countries include active cooperation between the police and the public involved in crime prevention and law enforcement.
2. The practice of empowering public organizations with authority, followed by their subordination to the state and its bodies, does not allow civil society to be fully formed and developed as a part of the political system of society that is independent of the state. In addition, the use of state powers by non-state actors is contrary to the principles enshrined in the current Constitution of the Russian Federation.
3. As domestic and foreign experience shows, interaction between state entities and non-state actors and civil society institutions in the area of ensuring constitutional order and public security is possible in the form of briefings, joint activities, information, as well as training in forms and methods of working to ensure public participants in public associations, familiarizing them with the basics of legal knowledge in the field of ensuring public order, increasing legal literacy, holding joint conferences, seminars, round tables, sharing positive experience in preventing crime.
4. Expanding the participation of civil society institutions to ensure constitutional order will: contribute to further democratization of the provision of constitutional order and public security; to ensuring, safeguarding and

protecting the rights and freedoms of man and citizen; to increasing the efficiency of public administration; to increasing the level of trust between the state and all civil society institutions; to enhancing the interaction of state and non-state sectors of public security; to improving interfaith and interethnic relations; to increasing the level of public confidence in the state as a leading actor in ensuring national security.

5. The practical significance of the present study lies in the fact that its results can be used to improve the legislation meant to increase the effectiveness of law enforcement in the Russian Federation. The main areas here can be: making relevant changes and amendments to the regulatory legal acts at the federal level in order to ensure coordination of the activities of all the entities involved in the state-public system for ensuring the constitutional order, bringing regulatory legal acts of the constituent entities of the Russian Federation and local self-government in conformity with the federal legislation of the Russian Federation.

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