International Comparative Jurisprudence 2026 Volume 12 Issue 1
ISSN 2351-6674 (online) DOI: https://doi.org/10.13165/ICJ.2026.12.01.08

LAW ENFORCEMENT AS A LEGAL CATEGORY AND A COMPARISON BETWEEN THE IMPLEMENTATION OF LAW IN GERMANY AND UKRAINE

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Received:29 October 2025; accepted: 24 April 2026
DOI: https://doi.org/10.13165/ICJ.2026.12.01.08

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Abstract. Theoretical approaches to the understanding of law enforcement, its main features and significance in the legal system, are considered. Particular attention is paid to a comparative analysis of law enforcement mechanisms in Germany and Ukraine, taking into account their legal traditions, sources of law, and respective peculiarities of judicial and administrative practice. Law enforcement in Germany is grounded in the system of continental law and is characterised by the stability of legal procedures, independence of the judiciary, and widespread use of precedent-setting decisions of higher courts. In Ukraine, the process of law enforcement is still evolving, due to both legal reforms and the adaptation of national legislation to European standards. Subsequently to the above analysis, the impact of international and European legal norms on national law enforcement mechanisms is studied. Major problems of law enforcement in Ukraine are identified; in particular, the uncertainty of legal norms, their conflict, and the complexity of implementing court decisions. Recommendations for the improvement of law enforcement activities are proposed, in particular, by raising the professional level of judges and law enforcement agencies, ensuring the independence of the judiciary and harmonising legislation with European standards.

Keywords: Law Enforcement, Legal System, European Legal Standards, Judiciary, Implementation of Law.

Introduction

Law enforcement is an important element of the implementation of legal norms, as it ensures their practical implementation in the activities of government agencies, the judiciary and other legal entities. The effectiveness of law enforcement activities determines the level of law and order, the stability of the legal system, and the protection of citizens' rights and freedoms. An important aspect of this study is the correlation between law enforcement and other forms of the implementation of law, as well as a comparative analysis of its features in different legal systems.

Germany has a well-established legal tradition, an efficient judicial system, and clearly defined law enforcement mechanisms based on the principles of continental law. At the same time, Ukraine is in the process of legal reforms and harmonisation of its legislation with European standards. Examining Germany's experience in law enforcement can help improve the Ukrainian legal system’s convergence with European norms. Law enforcement plays a key role in ensuring the rule of law and the efficient operation of the legal system. In the context of reforming Ukrainian legislation, in particular with regard to integration into the European legal area, it is necessary to analyse successful enforcement practices, in particular the experience of Germany. Exploring the similarities and differences between these countries will help identify the problems of law enforcement in Ukraine and find ways to solve them (Kostenko et al., 2024).

Given the complexity of law enforcement in Ukraine and Germany, as well as the impact of European standards on national legal systems, the study puts forward a number of hypotheses. These are intended to identify the peculiarities of law enforcement, the main problems, and potential ways to improve the process of reform in Ukraine. Law enforcement in Germany is more effective due to its well-established legal tradition, clear legal framework, and judicial independence, which can serve as a model for improving practices in Ukraine. However, Ukraine faces challenges which hinder the effectiveness of its law enforcement, such as unclear legal norms, conflicting legislation, and difficulties in implementing court decisions. Adopting European legal standards could improve Ukrainian law enforcement, but this requires comprehensive adaptation of legal mechanisms and a stronger legal culture. The relationship between law enforcement and its implementation differs significantly between Germany and Ukraine, influenced by varying levels of legal certainty, judicial practices, and institutional development, which also affects human rights efforts in these countries. While adapting German approaches to law enforcement is possible in Ukraine, this must take into account national legal peculiarities, citizens' legal awareness, and the capacity of state institutions.

The purpose of this study is to provide a comprehensive analysis of law enforcement as a legal category, to identify its specific features in the legal systems of Germany and Ukraine, and to identify the main problems and ways of improving law enforcement in Ukraine.

The research methodology was selected in accordance with the purpose of the article, which is a comprehensive study of law enforcement, its functions, principles, and requirements. A combination of theoretical and empirical methods was applied. Analysis and synthesis were used to examine law enforcement as a complex legal phenomenon, and to identify its structural elements and interrelations. Induction and deduction enabled the formulation of general conclusions based on the study of specific aspects of law enforcement.

A comparative method was applied to identify similarities and differences between the law enforcement systems of Germany and Ukraine, particularly in relation to judicial practice, constitutional principles, and administrative mechanisms. A systematic approach allowed law enforcement to be considered as an integral component of the legal system interacting with law-making, interpretation, and implementation (Berger, 2010).

Empirical methods included the analysis of legislative acts, court practice, and scientific sources. Documentary analysis was used to examine Ukrainian legislation regulating law enforcement. The analytical method was applied to doctrinal definitions and to the study of decisions of the Federal Constitutional Court of Germany and the European Court of Human Rights. The empirical basis of the study consists of normative legal acts, court decisions, and international legal documents.

The material base of the research includes the Constitution of Ukraine, national legislation, international legal instruments, and scientific publications devoted to law enforcement issues (Berger, 2003).

The research was conducted in several stages: (1) theoretical analysis of law enforcement as a legal concept; (2) substantiation of its principles and criteria in Germany and Ukraine; (3) comparative analysis of law enforcement mechanisms in both legal systems; (4) assessment of the influence of law enforcement on the effectiveness of legal implementation; and (5) analysis of the development of law enforcement under the influence of European legal standards, particularly the case law of the ECHR.

During the preparation of this work, the authors used AI-assisted technology ChatGPT to check grammar and spelling. After using this tool, the authors reviewed and edited the content and take full responsibility for the publication's content, declaring adherence to the highest standards of scientific integrity.

1. The concept of law enforcement

Law enforcement is one of the main legal categories that is directly related to the realisation of law, ensuring the rule of law and achieving justice in society. It reflects the mechanism of official interpretation and application of legal norms by the relevant authorities or other authorised entities. Studying this category is an important area of modern legal science, which considers law enforcement as a special process that ensures the effective functioning of the legal system. A significant contribution to the study of this issue has been provided by Ukrainian scholars, including Nalyvayko (2016; 2019), Onyshchuk (2016), Yukhymiuk (2011), Melnychuk (2015) and others. Their papers contain a comprehensive analysis of law enforcement activities, the principles of its implementation, and the peculiarities of the implementation of law through law enforcement mechanisms.

Control over the implementation of state regulations requires the organisation of a complex mechanism of legal regulation, which is carried out through a special form of the implementation of law - the application of legal norms. This is due to various needs and interests in different areas, such as territorial, political, national, ideological, economic, etc., as well as the performance of the state's function of protection. The legal literature often raises the issue of the relationship between the concepts of “law enforcement”, “law enforcement activity” and “application of law”; in particular, it points to the difficulty of defining them and the impossibility of identifying them. According to Mandrykova (2013), these concepts are correlated as general and particular, part

and whole. She argues that "law enforcement activity" refers to a broader category associated with the exercise of public authority, while "application of law" denotes the process of implementing a legal norm through the adoption of an individual legal act.

Kelman (2007) emphasises the terminological ambiguity of the concepts of law enforcement, application of law (*Rechtsanwendung*), and enforcement (*Rechtsdurchsetzung*). He argues that although these terms are often used as synonyms in Ukrainian legal doctrine, they reflect different dimensions of law enforcement: the authoritative activity of state bodies, the methodological process of bringing facts into line with legal norms, and the enforcement of decisions. So, while their interchangeable use can be seen in doctrinal arguments, such use is not conceptually accurate. In terms of analysis, they should not be confused, although in practice they can be conflated or used interchangeably. According to Bodnar (2019), law enforcement is a specific form of the realisation of rights associated with the use of power, while application of law refers to the realisation of a rule through the act of its application. At the same time, law enforcement activity involves the performance of a number of acts of law application in the process of implementing a legal norm. Yukhymiuk (2011) distinguishes between law enforcement and application of law, defining the former as a general category, and the latter as a part of it. He also proposes to divide law enforcement into application of legal norms and application of legal principles.

Onyshchuk (2016) notes that law enforcement is a complex activity carried out by the competent authorities, which includes the consideration of cases and the issuance of decisions that change or terminate legal relations, granting legal rights and obligations to participants. Nebeska (2016) emphasises that law enforcement should be carried out in accordance with certain requirements and a plan, so that the decisions made are legitimate and effective. In the legal literature, there are different interpretations of the phrase *application of the law.* Some scholars view it as a specific form of implementation of the law through public authorities or other authorised bodies that carry out organisational activities within their powers (Kovalenko, 2020). In addition, some scholars consider that law enforcement is a set of actions that include not only the application of legal norms, but also the creation of regulations, the organisation of the legal process, and the resolution of specific legal cases within the competence of authorised agencies.

The application of legal norms is an integral part of legal regulation. Application of the law is a logical continuation of lawmaking, and it should be carried out according to strict procedural forms. Perepelyuk (2012) emphasises that law enforcement must adhere to the basic principles of law, such as justice, equality and humanism, and that all law enforcement actions should be based on these principles. Law enforcement activities may include numerous acts of applying the law, and it is important that each of these acts complies with the requirements of legal procedure and regulates specific legal relations (Koziubra, 2015). It is essential to note that there are two main types of law enforcement process: jurisdictional and non-jurisdictional. Jurisdictional processes involve state intervention in the event of a dispute over law, while non-jurisdictional processes are carried out in the absence of such a dispute, focusing on self-regulation and ensuring the legitimate interests of the participants (Kravchenko, 2023).

Thus, the law enforcement process is a complex set of actions carried out by entities vested with authority to achieve a legal result within the framework of procedural forms. Duma & Tsymbalyuk (2006) define the organisational and administrative (operational-executive) form of law enforcement as the activities of state bodies, officials and organisations carried out within their competence in order to implement the law. This process includes the creation, modification or termination of legal relations in accordance with established legal norms. Analysing law enforcement activities, the authors emphasise their focus is on maintaining the rule of law, protecting law and order, protecting human rights and combating crime. Summarising the above, we can distinguish the main functions of law enforcement. In particular, the function of individual legal regulation is manifested in the adoption of government decisions that specify legal norms (for example, the imposition of

punishment by a court). The function of legal enforcement is to ensure compliance with legal norms through organisational and power mechanisms. For example, in criminal proceedings, sentencing is the practical implementation of the relevant legal provisions.

Melnychuk (2015) emphasises that law enforcement has two main tasks: organising the implementation of legal norms, and ensuring the state response to their violation. Kostyuk (2016) notes that the principles of the application of legal norms are generally binding legal guidelines that determine the directions of law enforcement activities and affect its substantive and procedural aspects. The correct application of law must meet a number of criteria, among which the main ones are: validity, legality, expediency, and fairness.

All stages of law enforcement must meet these requirements. The requirement of reasonableness implies a comprehensive study of the factual circumstances of the case, the use of scientifically sound methods of interpreting the law, and a logical presentation of decisions. Compliance with established requirements also implies that legal acts should contain a clear justification based on legislative norms (Nalyvayko, 2016). Legality as a principle of law enforcement means that the whole process should be carried out in accordance with the current legislation and within the established legal framework. This makes it impossible to abuse powers and exceed competence. Stepanenko (2017) emphasises that compliance with the rule of law implies that any law enforcement decision should be based on the rules of law and comply with the competence of the authorised bodies.

The Constitution of Ukraine (Article 19) states that state authorities and local self-government bodies act exclusively within the limits of their powers defined by law (Verkhovna Rada of Ukraine, 1996). Uniform application of legal norms to similar situations is a key component of the principle of legality. It covers both the procedural aspects of law enforcement (timing, powers, etc.) and the content of decisions. Some researchers believe that legality and reasonableness are the only relevant criteria. However, a sentence that is legitimate from a formal point of view may be unreasonable in content. Therefore, law enforcement activities should take into account not only formal compliance with norms, but also their relevance and moral justification. Law enforcement is an intellectual and creative activity that involves evaluating evidence, interpreting norms and taking into account the specific circumstances of the case (Yukhymiuk, 2011; Bielov et al., 2019).

The expediency of law enforcement means the most effective application of a legal provision in the light of specific circumstances. It is closely related to legality and is aimed at achieving an optimal result. Mandrykova (2013) emphasises that the expediency of law enforcement implies its effectiveness and compliance with the public interest. The principle of fairness is manifested in ensuring equal opportunities for the parties to the process, impartiality, proportionality of measures of influence, and compliance with legal guarantees. This requirement includes a balance between private and public interests, as well as compliance of decisions with the principles of humanism and equality (Nalyvayko, 2019).

Nalyvayko (2019) notes that law enforcement must comply with the principle of human-centredness, as the main social value is human rights and freedoms. This is confirmed by the provisions of the Constitution of Ukraine, which stipulates that the state is responsible for observing and ensuring the rights and freedoms of citizens. Among recent studies, special attention should be paid to the work of Kravchenko (2023), who defines law enforcement as a tool for realising the state's obligation to protect human rights. She emphasises that this process should be aimed at ensuring equality of all before the law, as well as taking into account the balance between public interests and the rights of citizens.

Thus, law enforcement is seen as a continuously evolving dynamic process. It is not a purely mechanical act of enforcing the law, but includes the analysis, evaluation and interpretation of legal provisions. The examination

of law enforcement is important both from the point of view of maintaining law and order and from the point of view of preventing abuses of justice.

In German legal doctrine, the concepts corresponding to law enforcement are those primarily associated with *Rechtsanwendung* (application of law) and *Rechtsdurchsetzung* (enforcement of law). Unlike the Ukrainian doctrinal debate, German scholarship focuses less on terminological differentiation and more on the structural and constitutional foundations of law enforcement within the framework of the *Rechtsstaat* principle (Meßerschmidt, 2016). Constitutional jurisprudence and doctrinal commentaries on the Basic Law (*Grundgesetz*) play a central role in the theoretical understanding of law enforcement in Germany. Scholars emphasise that the application of law must be strictly subordinate to constitutional principles, in particular the rule of law, proportionality (*Verhältnismäßigkeit*), legal certainty (*Rechtssicherheit*) and the protection of fundamental rights (Werner, 2020). The case law of the Federal Constitutional Court shaped the theoretical understanding of law enforcement as a constitutionally mandated activity of state bodies.

German legal theorists also highlight the structured methodology of legal thinking (*Methodenlehre*), particularly in civil and administrative law (Böckenförde, 2006). The process of subsumption (*Subsumtion*) as the logical application of general legal norms to specific factual situations is considered the main technique of judicial law enforcement. This methodological approach ensures predictability, consistency and doctrinal consistency in court decisions. In administrative law, emphasis is placed on the limits of administrative discretion (*Ermessen*) and the obligation of authorities to provide reasoned decisions (Jestaedt, 2010). German doctrine emphasises that even where discretion is granted, it must be exercised in accordance with the principles of proportionality, equality and constitutional guarantees. The concept of judicial review (*gerichtliche Kontrolle*) is fundamental in ensuring the legality of administrative law enforcement.

In addition, German academia discusses the binding force of constitutional interpretation and the influence of European legal standards on national law enforcement (Kurt, 2023). The interaction between national courts, the European Court of Human Rights (ECHR), and the Court of Justice of the European Union has been extensively analysed in German legal literature, particularly with regard to the harmonisation of human rights protection and procedural guarantees. Thus, while Ukrainian legal doctrine pays considerable attention to the definition and categorisation of law enforcement as a theoretical concept, German scholarship approaches this issue through constitutional doctrine, judicial methodology, and the principles of the rule of law, emphasising structural coherence, methodological rigour, and institutional independence.

Hence, although legal doctrine provides a comprehensive conceptual framework for understanding law enforcement, much of the existing literature remains descriptive and focused on formal definitions. This study takes a critical perspective, arguing that doctrinal classifications alone are insufficient to explain the actual functioning of law enforcement mechanisms. The key analytical contribution of the article is to demonstrate that institutional capacity, judicial independence, and procedural efficiency are more decisive for the outcomes of law enforcement than the formal structure of legal norms.

2. Analysis of law enforcement as a legal category

The theoretical analysis of law enforcement as a legal category involves an in-depth study of its essence, basic concepts, and role in the mechanism of legal regulation. Application of law is one of the key forms of implementation of law, which consists in the activities of the competent state authorities or authorised persons to individualise mandatory legal norms through the adoption of government decisions. This process is aimed at ensuring the proper implementation of legal norms, their specification in accordance with the circumstances of a particular legal situation, and at eliminating legal uncertainty by officially clarifying the content of the norms.

The overall scheme of law enforcement is a structured model that reflects the process of applying legal norms to specific situations (Figure 1).

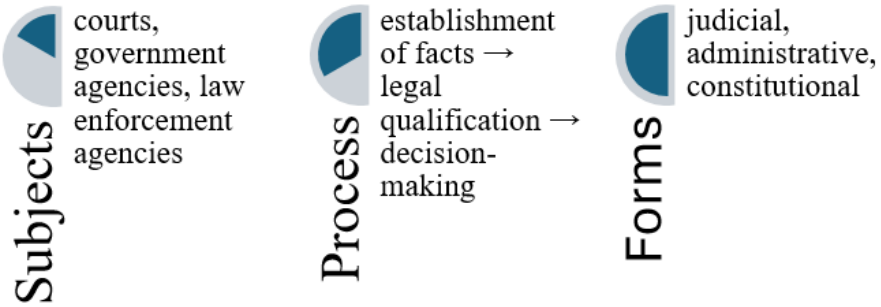

Figure 1. General scheme of law enforcement. Source: based on Nalyvayko (2019).

Modern legal doctrine considers law enforcement as a complex process that includes several interrelated stages: establishing legally significant facts, selecting and analysing relevant legal provisions, interpreting legal provisions, making a law enforcement decision and implementing it. Each of these stages has its own specific features that affect the final results of law enforcement activities. In the course of establishing legal facts, the law enforcement agency analyses the available evidence, examines the circumstances of the case, and evaluates them in terms of compliance with the law. The selection and analysis of legal norms involves determining the normative act or set of norms to be applied in a given situation and checking their relevance and compliance with legislative changes (Hnatiuk, 2007).

The issue of the interpretation of legal norms in the process of law enforcement deserves special attention. Interpretation can be official (authentic, normative, judicial) or unofficial (doctrinal, professional, everyday). Official interpretation is carried out by authorised bodies and is binding, while unofficial interpretation is used as an auxiliary tool for the correct understanding of legal norms. Judicial interpretation, for example, plays an important role in countries with continental legal systems, where decisions of higher courts influence law enforcement practice (Melnychuk, 2015).

Adjudication is the central stage at which a competent authority issues a legally binding decision in the form of a court verdict, administrative act, resolution or other enforcement document. This decision is based on the established facts and selected rules of law, and must comply with the principles of legality, fairness and expediency. Implementation of the law enforcement decision involves the execution or enforcement of the adopted act, which can be carried out voluntarily or compulsorily through the mechanisms of enforcement proceedings (Figure 2).

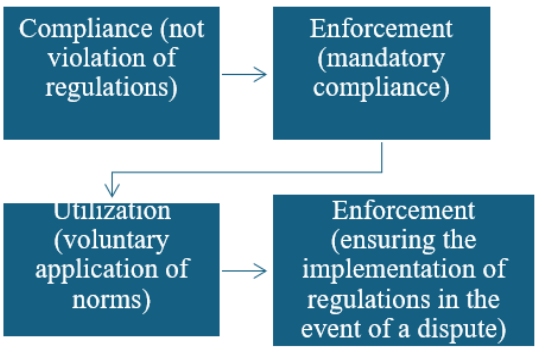

Figure 2. Connectivity of law enforcement and implementation of law. Source: based on Nalyvayko (2019).

Law enforcement activities should be distinguished from other forms of law implementation. Although the implementation of law can take place through compliance, enforcement, or use of legal norms by private entities, law enforcement is a specific form of the state-authorised application of legal norms aimed at individualising general legal provisions in specific cases. First of all, it is an exclusively state activity, since it is carried out by entities vested with the relevant powers. In addition, law enforcement is personalised, as each law enforcement decision is targeted and aimed at a specific subject. Another important characteristic is imperativeness, which means that law enforcement decisions are binding under the threat of legal liability.

It is also important to distinguish law enforcement from other forms of realisation of the law, including compliance, execution, and use of legal norms. Compliance involves the passive behaviour of an entity that does not contradict legal provisions (i.e., is not committing offences). Execution means active actions of an entity aimed at fulfilling legal obligations (e.g., paying taxes). Use of legal norms is the voluntary exercise of subjective rights (e.g., entering into contracts, going to court). Law enforcement differs from these forms of the realisation of the law in that it is the activity of state bodies or officials aimed at making and implementing individual legal decisions in specific legal relations (Luchyn, 2018).

Thus, law enforcement combines legal analysis, interpretation of norms, decision-making and implementation. It plays a key role in ensuring law and order, acts as a mechanism for guaranteeing the rights and freedoms of citizens, and is an important tool for legal regulation of social relations. Law enforcement in the legal systems of Germany and Ukraine is an important aspect of legal activity, as it determines how legal provisions come into effect in practice. For successful law enforcement, it is important to adhere to certain principles and criteria that ensure legality, reasonableness, fairness and efficiency. In this context, comparative studies of the principles of law enforcement in Germany and Ukraine are important, since although both countries have their own specific legal systems, they are jointly based on common legal values such as legal certainty, legality and fairness (Slynko, 2016).

3. Law enforcement in Germany and Ukraine

Legality is one of the basic principles of law enforcement in both Germany and Ukraine (Table 1). It means that law enforcement agencies must strictly adhere to the laws governing certain legal relations. In case of contradictions between laws or their uncertainty, the authorities must act in accordance with the rule of law, taking into account the interpretation of laws adopted by judicial practice. In Germany, the rule of law is embodied in the Constitution (the Basic Law of the Federal Republic of Germany (FRG)), in particular through the principles enshrined in Article 20, which states that all public authorities must act within the law. An important aspect is the principle of *nullum crimen, nulla poena sine lege*, which means that no one can be punished for acts that have not been defined as an offence in the law (Federal Constitutional Court of Germany, 1958).

Criteria for enforcement	Germany	Ukraine
Legal certainty	The courts and public authorities apply only clearly defined rules in the legislation.	Ensuring clear legal certainty of the rules for their correct application.
The principle of proportionality	The main criterion in cases involving administrative sanctions or restrictions on rights.	The principle of proportionality is not directly analogous, but it is used in administrative and criminal cases.
Interpreting in favour of human rights	The interests of the individual and his or her rights in line with European standards are always taken into account.	The principle of human rights is important in proceedings, in particular, regarding restrictions on rights and freedoms.

Balancing rights and responsibilities	Embedded in the principle of proportionality (*Verhältnismäßigkeit*) and the practice of constitutional review.	Clearly emphasised in procedural and constitutional provisions.
The principle of procedural rights	Constitutionally guaranteed (the right to be heard by Article 103(1) of the Constitution; judicial protection by Article 19(4) of the Constitution)	Guaranteed by procedural codes and constitutional provisions
Retrospective analysis	-	Analysing previous court decisions and precedents to ensure uniformity of law enforcement practice.

Table 1. Enforcement criteria in Germany and Ukraine. Source: based on Kravchenko (2023).

In Ukraine, the principle of legality is enshrined in the Constitution of Ukraine (Article 8), which states that laws and other legal acts have the highest legal force, and that any bodies, institutions, and officials must act in accordance with them. In addition, the Supreme Court of Ukraine frequently emphasises the importance of legality in law enforcement in its decisions, as reflected in numerous judicial acts (Verkhovna Rada of Ukraine, 1996). Reasonableness is another important principle of law enforcement. This means that each decision of the law enforcement agency must be logically justified, with clear reference to the law, facts and evidence that led to the decision (Pokalchuk & Suslova, 2020).

In Germany, the reasonableness of decisions, including judicial decisions, is a prerequisite for ensuring the right to a fair trial. An important example is the German Law on Judicial Procedure (*Zivilprozessordnung*), which requires judges to provide detailed reasons for their decisions. According to German law, if a court does not provide sufficient justification for its decisions, this may be grounds for appeal (Federal Constitutional Court of Germany, 1958). In Ukraine, the reasonableness of the decisions of law enforcement agencies is also mandatory. For example, according to the Civil Procedure Code of Ukraine, every court act must be motivated. Judges must clearly explain on what grounds a particular decision was made and refer to the relevant legal provisions. The principle of fairness in law enforcement means that decisions should not only be legal and reasonable, but also socially just, take into account the interests of all parties, and ensure a balance of the rights and obligations of the parties to the legal relations in question.

In Germany, fairness is a fundamental principle enshrined in the Basic Law (*Grundgesetz*). Judges must pursue fair results when applying the law, even if this requires some interpretation or the use of judicial discretion. For example, in criminal cases, the court may take into account the individual circumstances of the accused to ensure a humane approach to punishment, in accordance with the principles of humanism (Federal Constitutional Court of Germany, 1958). In Ukraine, the principle of fairness is also enshrined in the Constitution (Article 8), as well as in many legislative acts, such as the Criminal Code of Ukraine, which states that punishment should be fair and proportionate to the offence committed (Verkhovna Rada of Ukraine, 1996).

The effectiveness of law enforcement means that the rules of law must be applied quickly and efficiently to ensure the protection of human rights and freedoms and the maintenance of law and order in society. In Germany, the effectiveness of law enforcement is ensured through the proper organisation of the judicial and administrative system. For instance, according to the Law on Administrative Proceedings (*Verwaltungsverfahrensgesetz*), public authorities must act promptly within the established time limits to ensure the efficiency of legal processes. At the same time, the German system has a clear system of control over the activities of the authorities, which allows for high efficiency of law enforcement (Federal Constitutional Court of Germany, 1958). The effectiveness of law enforcement in Ukraine is also an important condition for the functioning of the legal system. The Code of Administrative Procedure of Ukraine states that administrative

courts should resolve disputes in a timely manner and ensure prompt application of legal norms (Verkhovna Rada of Ukraine, 1996).

Furthermore, certain criteria for enforcement in Germany, such as the balance of rights and procedural guarantees, are structurally embedded in broader constitutional principles. In particular, the balance of rights is implemented through the doctrine of proportionality (*Verhältnismäßigkeit*), while procedural rights are constitutionally guaranteed by Articles 19(4) and 103(1) of the Basic Law. Thus, the differences between Germany and Ukraine, which will be further explored in the next section, lie not in the existence of these principles, but in their doctrinal formulation and practical implementation. Thus, the principles and criteria of law enforcement in Germany and Ukraine have common features, such as legality, reasonableness, fairness and efficiency. At the same time, each country has its own specific mechanisms and approaches to the application of law, which depends on historical, social and legal conditions. However, despite these differences, both legal systems provide the necessary conditions for the implementation of the rule of law and the protection of human rights.

4. Comparative analysis of law enforcement in Germany and Ukraine

Law enforcement is an important component of the legal system of any state, as it is through it that the rights and obligations of citizens are realised and the efficiency of the legal system is ensured. In this part of the paper, we will consider a comparative analysis of law enforcement in Germany, which has a continental legal system, and in Ukraine, which has a mixed legal system (Berger, 2008). Germany operates on the basis of the continental legal system of civil law, in which the main sources of law are laws formed at the level of federal legislation and the Länder. A central document is the Constitution of Germany - the *Grundgesetz* (Basic Law). The judicial system plays an important role in law enforcement, providing both judicial and administrative enforcement (Federal Constitutional Court of Germany, 1958).

On the other hand, Ukraine is a country with a hybrid legal system. The principles of the continental legal system are implemented in Ukraine on the basis of the Constitution of Ukraine, codes and laws, while in certain areas (e.g., commercial law) elements of the Anglo-Saxon system are actively used. Law enforcement in Ukraine is also carried out through the judicial and administrative systems, but in practice there is more flexibility and room for interpretation (Verkhovna Rada of Ukraine, 1996; Medvedenko & Medvedenko, 2023).

The German court system consists of several levels, ranging from local courts to higher courts and the Federal Constitutional Court. Within Germany, courts are the main law enforcement agencies. They not only exercise judicial control over the legality of decisions, but also actively apply the law by setting precedents (Federal Ministry of Justice, 1949). An important factor is also the functioning of administrative courts, which consider cases related to the activities of state bodies. Special attention should be paid to the fact that the courts in Germany have considerable independence from other authorities, and their decisions are often binding on other institutions.

The system of courts in Ukraine is a three-tiered system (first instance, appeal and cassation), with special jurisdictions (general, administrative, commercial courts), while the Constitutional Court is a body of constitutional control. However, in practice, there is often a problem of political influence on the courts, which can affect the objectivity and independence of judges (Supreme Court of Ukraine, 2020). Further, Ukraine has an active system of administrative courts that resolves disputes between citizens and state authorities. However, as in Germany, courts in Ukraine are the main enforcement bodies, although the decision-making process can be longer and more complicated due to high levels of corruption and a lack of efficiency in the judicial system.

The administrative authorities in Germany have a fairly large role in law enforcement, as they apply the law directly in the course of performing their functions. In particular, they can issue regulations that do not require court approval, although they must comply with the requirements of the Constitution and laws (Federal Constitutional Court of Germany, 1958). In Ukraine, administrative bodies also have a role in law enforcement, but their activities often face problems of legal uncertainty and bureaucratic barriers. Administrative acts can be challenged in courts, providing an additional check on their legality (Verkhovna Rada of Ukraine, 2005) (Table 2).

Selection criteria	Germany	Ukraine
Type of legal system	Continental (civil law)	Mixed (continental and Anglo-Saxon)
Principal law	The Basic Law (*Grundgesetz*)	The Constitution of Ukraine
Main law enforcement agencies	Judicial system, administrative bodies	Judicial system, administrative bodies
The role of the courts	Active role of the courts, setting precedents	The judiciary is also active, but there are problems with independence
The role of administrative authorities	Significant role in the implementation of the law	Problems with efficiency and bureaucracy
Control over law enforcement	A Number of institutions to monitor law enforcement	Corruption is often present in the control system

Table 2. Comparative table of law enforcement in Germany and Ukraine. Source: based on Kravchenko (2023).

Germany and Ukraine have many similarities in their approaches to enforcement, but there are also significant differences, including the level of independence of the judiciary, and the efficiency of administrative bodies. While Ukraine has a significant role for courts in enforcement, there are problems with efficiency and corruption, which can negatively affect the outcome of enforcement. In contrast, in Germany, the system is more established and stable, which allows for more effective enforcement, with greater transparency and predictability of results (Bauer, 1991).

Law enforcement, as a mechanism for implementing legal norms, plays a key role in ensuring the effectiveness of the implementation of law in each state. The process of law enforcement includes the application of legislative norms to specific situations, the resolution of legal disputes and the protection of the rights and freedoms of citizens. For this reason, it is important to consider how the peculiarities of law enforcement in Germany and Ukraine affect the effectiveness of law enforcement, the level of legal certainty, the stability of court decisions and the protection of human rights. Law enforcement in Germany is characterised by high stability and predictability due to the following factors (Figure 3).

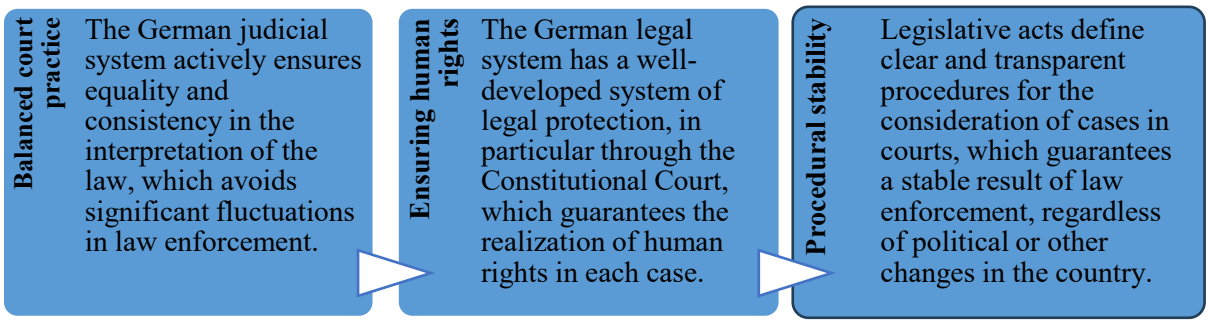

Figure 3. Law enforcement in Germany. Source: based on Kravchenko (2023).

Enforcement in Germany is characterised by a high level of legal certainty and stability in court decisions. This is enabled by clear regulation of the enforcement procedures, enshrined in numerous legal acts, in particular, the *Grundgesetz* (the Basic Law), the *Bürgerliches Gesetzbuch* (Civil Code), the *Verwaltungsgerichtsordnung* (Code of Administrative Procedure) and other legislative acts. An additional feature is that in Germany, many legal norms are clearly mandatory, which ensures predictability of decisions in court proceedings (Federal Ministry of Justice, 2003, 2010; Choi, 2020).

5. The theoretical differences between the German and Ukrainian approaches to law enforcement

The theoretical differences between the German and Ukrainian approaches to law enforcement become more apparent when viewed through the lens of judicial practice. In Germany, the Federal Constitutional Court (*Bundesverfassungsgericht*) plays a central role in ensuring the consistency and proportionality of law enforcement. Its case law emphasises the principles of legal certainty (*Rechtssicherheit*), proportionality (*Verhältnismäßigkeit*), and effective judicial protection (Art. 19(4) GG). The doctrine of proportionality serves as a structural mechanism for balancing individual rights and public interests. This case law ensures predictable and uniform interpretation of legal norms and strengthens institutional trust in the law enforcement system. Another important aspect is the role of the Federal Constitutional Court of Germany (*Bundesverfassungsgericht*), which checks the compliance of laws with the Constitution and has a significant impact on the interpretation of legal norms, thus ensuring stability and predictability of court decisions. The justice system in Germany is not limited to the courts; it also includes mechanisms for ensuring human rights through administrative and constitutional processes, which facilitates the effective realisation of rights (Federal Ministry of Justice, 2003). Moreover, German administrative and ordinary courts demonstrate a consistent methodology based on systematic and teleological interpretation. The consistency of judicial reasoning promotes the practical implementation of constitutional guarantees and limits arbitrary discretionary actions by state authorities.

The case law of the Federal Constitutional Court in Germany demonstrates a highly structured model of law enforcement based on proportionality and legal certainty. In the case of Lüth v. Germany (1958), the Federal Constitutional Court determined that the protection of human rights, in particular freedom of expression, is the basis for all court decisions, which gave a great impetus to the development of law enforcement and the protection of human rights at all levels of the judiciary (Federal Constitutional Court of Germany, 1958). Thus, law enforcement in Germany contributes to the stability of the legal system, ensures legal certainty and effectively secures the rights and freedoms of citizens, in particular through the judiciary and other public authorities. This doctrine transformed law enforcement into a constitutionalised process, where every court decision must be assessed in light of fundamental rights.

In contrast to Germany, the enforcement of law in Ukraine has certain difficulties arising from the lack of stability of court decisions, a low level of legal certainty, and frequent changes to legislation. This has a negative impact on the effectiveness of enforcement, as the interpretation of the law may vary from judge to judge and from one legislator to another, and is hence inconsistently applied. The Supreme Court of Ukraine has repeatedly addressed issues related to legal uncertainty, conflicting legislative regulations and the enforcement of court decisions. The case law shows that contradictions in legislative provisions and frequent legislative changes complicate uniform interpretation. In addition, difficulties in enforcing court decisions affect the practical implementation of rights.

The main legal documents regulating law enforcement in Ukraine are the Constitution of Ukraine (*Konstytutsiia Ukrainy*), the Civil Code of Ukraine (*Tsyvilnyi kodeks Ukrainy*), the Code of Administrative Procedure of Ukraine (*Kodeks administratyvnoho sudochynstva Ukrainy*), and the Criminal Procedure Code of Ukraine (*Kryminalnyi protsesualnyi kodeks Ukrainy*). However, Ukraine's judicial system is significantly flawed due to corruption and a low level of judicial independence, which reduces the effectiveness of law enforcement. The majority of judges, especially at lower levels, are not always able to make objective and informed decisions due to political pressure or other external factors (Verkhovna Rada of Ukraine, 2003, 2004, 2005). At the same time, recent court practice demonstrates a gradual strengthening of European human rights standards in national judicial proceedings. Ukrainian courts refer to ECHR case law, which facilitates the harmonisation of national law enforcement with European principles. However, the practical implementation of these standards remains uneven and dependent on institutional stability and procedural discipline.

In the case of Vasiliev v. Ukraine, the ECHR pointed out violations of the applicant's rights, in particular due to the inefficiency of the judicial process in Ukraine, which reflects the general problem with law enforcement in the country (European Court of Human Rights, 2014). However, in recent years, Ukraine has taken several steps to improve its law enforcement practices, such as judicial reform, the establishment of the High Anti-Corruption Court, and active cooperation with international organisations to improve law enforcement (European Court of Human Rights, 2014).

Therefore, case law confirms that the effectiveness of law enforcement depends on the regulatory framework, the stability of judicial interpretation, institutional capacity, and the consistency of legal doctrine. A comparative review of court decisions supports the theoretical conclusion that structural legal certainty and judicial independence are crucial factors in ensuring consistent law enforcement. However, in Ukraine, administrative bodies often exercise broad discretionary powers with limited practical accountability, leading to inconsistent application of the law and undermining legal certainty. These differences have significant practical implications. In Germany, law enforcement agencies function as a predictable and rights-oriented mechanism, while in Ukraine they often operate as a formalistic process detached from the actual protection of individual rights. Thus, the comparison reveals the different capacities of legal systems to translate normative principles into effective institutional practice.

6. The impact of European Human Rights standards on law enforcement in Germany and Ukraine

In a globalised world, international and European legal standards, in particular the judgments of the ECHR, play an important role in the development of law enforcement practice. Both Germany and Ukraine are actively responding to these standards in their law enforcement activities, which contributes to the adaptation of their legal systems to European requirements. Germany, as a member of the European Union and a signatory to the Convention for the Protection of Human Rights, actively implements European standards in its law enforcement practice. Specifically, ECHR judgments have a significant impact on the interpretation of German domestic law. ECHR case law has helped to resolve a number of issues related to the protection of human rights, such as freedom of speech, the right to a fair trial, and minority rights (European Court of Human Rights, 2011).

In the case of Handyside v. United Kingdom, the ECHR acknowledged the restriction of freedom of expression in the case of a publication ban, but recognised the need for state intervention in certain cases. This decision was taken into account in Germany when resolving disputes related to freedom of speech (European Court of Human Rights, 1976). Ukraine, as a signatory to the European Convention on Human Rights, is also obliged to take into account ECHR judgments in its law enforcement practice. However, in practice, there are problems with the full implementation of ECHR judgments due to existing shortcomings in the judicial system and legal uncertainty. The ECHR has repeatedly pointed out human rights violations in Ukraine; in particular, violations of the right to a fair trial and the right to liberty.

In the case of Schmidt v. Ukraine, the ECHR declared a violation of the applicant's rights based on incomplete execution of the decision by the national court (European Court of Human Rights, 2011). An important element in the development of law enforcement in Ukraine is the adaptation of national legislation to European standards. Ukrainian courts should take into account ECHR case law, which significantly increases the effectiveness of law enforcement, especially in the context of human rights protection (Table 3).

Germany	**Ukraine**
Legal system	
Germany has a continental legal system based on clearly defined codes and laws. The basic law of the country is the *Grundgesetz*, which guarantees human rights and defines the principles of the legal system. German law provides legal certainty through well-defined rules and procedures.	The Ukrainian legal system is a mixed legal system, combining elements of continental and Anglo-Saxon law. Ukraine is governed by the Constitution, numerous codes, laws and international treaties. In practice, this often leads to legal uncertainty, as some laws have contradictory provisions or are not sufficiently detailed.
The independence of the judiciary	
The judiciary in Germany is independent and judges enjoy considerable autonomy in their decision-making. The highest courts, including the Federal Constitutional Court, play an important role in shaping the law and ensuring that laws are in line with the Constitution.	In Ukraine, the judiciary has certain problems with independence due to political influence and corruption. This reduces the level of trust in the judiciary and can negatively affect the enforcement of the law. However, reforms have been launched in recent years to improve judicial independence and reduce the influence of external factors.
Case law and precedents	
In Germany, case law is very important for law enforcement. Although there is no strict principle of case law in Germany, courts often rely on previous decisions to ensure stability and predictability in law enforcement. Judgments of the Federal Constitutional Court are binding on other courts.	In Ukraine, law enforcement is not always based on stable judicial precedents. Although the Supreme Court tries to implement a uniform practice, decisions in different courts can sometimes differ significantly due to insufficient integration of legal standards. Case law in Ukraine is generally less stable than in Germany.
The role of the Constitutional Court	
The German Constitutional Court has a significant role in law enforcement, particularly in matters relating to human rights and constitutional principles. The Court actively reviews laws that may be found to be unconstitutional and ensures that they comply with the Basic Law.	The Constitutional Court of Ukraine performs a similar role, but its decisions are not always as important in law enforcement. In Ukraine, there are often contradictions in the interpretation of laws, which may be due to political or legal factors.
Human rights and legal certainty	
In Germany, human rights are a fundamental element of law enforcement. Legislation clearly defines the limits and means of protecting human rights, which ensures a high level of legal certainty and stability. The judgments of the ECHR influence national law enforcement practice.	Human rights protection in Ukraine requires significant improvement. Despite the existence of international treaties and legislation guaranteeing human rights, law enforcement often encounters violations of citizens' rights due to a low level of legal culture, corruption, and the lack of an effective mechanism for protecting rights.
Problems and challenges in enforcement	

The main problems of enforcement in Germany are overly complex procedures in some areas and excessive bureaucratisation of some administrative processes, which can cause delays in the processing of cases. However, overall, enforcement remains stable and effective.	The main problems in Ukraine are corruption, delays in court proceedings, and imperfect legal regulation in certain areas. This complicates law enforcement and leads to low efficiency of the judicial system. The absence of a unified legal standard in some areas is also a serious challenge.

Table 3. Comparative analysis of law enforcement in Germany and Ukraine Source: based on European Court of Human Rights (1976, 2011, 2014).

A comparative analysis of law enforcement in Germany and Ukraine demonstrates that, despite the similarity of some aspects of the legal systems, there are significant differences in their effectiveness. Enforcement in Germany is more stable and predictable due to a well-developed judicial system and a high level of legal certainty. Ukraine, on the other hand, faces problems such as low efficiency of the judicial system, corruption and insufficient implementation of European legal standards. However, integration into European legal standards and the dynamic development of law enforcement practice in Ukraine are gradually leading to an improved legal environment and better protection of human rights.

7. Challenges and prospects of law enforcement development in Germany and Ukraine

The comparative analysis of law enforcement in Germany and Ukraine demonstrates significant differences in the approaches, methods and results of law enforcement in these two countries. These differences are due to different historical, political and legal traditions, as well as the level of development of the legal system in each country. One of the main advantages of enforcement in Germany is the high level of legal certainty. Due to clearly defined legal rules and stable case law, court decisions in Germany are usually predictable and consistent. The country's legislative and judicial systems are aimed at ensuring the protection of human rights and the rule of law. The independence of the judiciary is an important element of this system, which ensures the security of legal processes and prevents external political or economic influence.

Unfortunately, the situation in Ukraine is somewhat different. While the country's legal system is based on European principles and incorporates numerous international treaties and constitutional provisions, enforcement is plagued by problems related to political influence on the courts, corruption, and the lack of efficiency of the judiciary. Despite the existence of legal acts guaranteeing human rights, law enforcement in Ukraine often remains unpredictable, and court decisions can differ even in similar cases. This reduces public trust in the judiciary and creates an atmosphere of legal uncertainty (Semenets-Orlova et al., 2022). Nevertheless, there is potential for improvement in both countries. Germany continues to improve its legal system through the application of European standards and cooperation with the ECHR, which allows the country to maintain a high level of legal protection. Meanwhile, Ukraine is actively working on reforming its judicial system, focusing on increasing the independence of judges, improving the transparency of court procedures, and strengthening legal standards (Antoshkina et al., 2023). In general, the comparison of law enforcement in Germany and Ukraine emphasizes the importance of institutional independence, clear legal provisions and stable case law to ensure effective law enforcement. Whereas both countries can learn from each other's experience in improving their legal systems, Ukraine still has significant challenges to overcome on the way to real change in enforcement (Melnyk et al., 2022).

This study is based on the assumption that the effectiveness of law enforcement in Germany is largely determined by the stability of its legal tradition, the clarity and consistency of its legal framework, and the high degree of independence of the judiciary. The German legal system demonstrates institutional continuity, a consistent interpretation of the constitution, and predictable judicial practice, which together contribute to legal certainty and uniform application of the law. These structural characteristics can serve as a benchmark for

improving law enforcement practices in Ukraine, in particular with regard to strengthening the independence of the judiciary, improving the quality of legislation and promoting a more predictable legal environment. At the same time, any borrowing of foreign models must take into account national institutional and socio-legal characteristics.

At the same time, law enforcement in Ukraine is characterised by a number of systemic problems. These include insufficient clarity of legal norms, legislative inconsistencies and practical difficulties in enforcing court decisions. Legal uncertainty and conflicting regulations complicate the application of the law in individual cases and reduce the overall effectiveness of rights protection. Such structural shortcomings limit the ability of courts and administrative bodies to ensure consistent and timely resolution of disputes and negatively affect public confidence in legal institutions.

The introduction of European legal standards into Ukrainian legislation is an important area of reform and has significant potential for improving the quality of law enforcement. Harmonisation with European standards strengthen procedural guarantees and aligns domestic practice with international standards in the field of human rights. However, the effectiveness of such reforms depends on institutional capacity, professional training, and the development of an appropriate legal culture among judges, lawyers and state bodies. Without these complementary factors, regulatory convergence may remain largely declarative.

The comparative analysis also shows that the relationship between law enforcement and the implementation of rights differs significantly in Germany and Ukraine. In Germany, a high degree of legal certainty, established judicial doctrine, and institutional stability ensure consistency between regulatory provisions and practical implementation. In Ukraine, on the contrary, legislative instability and the lack of consistent standards for law enforcement reduce the level of effective rights enforcement and create additional obstacles for individuals and human rights institutions seeking judicial protection (Sopilko & Tokarieva, 2023).

Finally, the potential adaptation of German approaches within the Ukrainian legal system seems theoretically possible, but requires careful contextualisation. Institutional transplantation cannot be effective without taking into account the domestic legal culture, the level of legal awareness of citizens and the organisational capacity of state institutions. Sustainable reform requires gradual implementation, systemic institutional changes, and the allocation of sufficient resources to ensure the long-term development of a comprehensive and stable law enforcement system in Ukraine (Antoshkina et al., 2023).

The analysis allows us to draw several important conclusions about law enforcement in Germany and Ukraine. The effectiveness of law enforcement in Germany is evident, thanks to a clear legal framework, stable case law, and a high level of legal certainty. On the other hand, Ukraine faces problems such as conflicts in legislation and uncertainty of legal norms, which reduce the effectiveness of law enforcement. It is also worth noting that in order to achieve a stable development of law enforcement practice, it is necessary to improve the legal culture, enhance the organizational capacity of institutions, and adapt legal mechanisms to the modern requirements of European standards.

Conclusions

Law enforcement is a fundamental legal mechanism that ensures the practical implementation of legal norms and the protection of citizens' rights. Analysis shows that Germany has a highly effective law enforcement system due to clear legal regulation, stable case law, and an independent judiciary. Ukraine, despite sharing similar legal principles, faces structural challenges that reduce the effectiveness of law enforcement, including legal uncertainty, legislative conflicts, and institutional weaknesses.

At the same time, Ukraine has significant potential to improve its law enforcement system through the gradual implementation of European legal standards, strengthening judicial independence, and improving legislative coherence. Sustainable reforms aimed at enhancing legal culture, institutional capacity, and transparency of judicial processes are essential for increasing the effectiveness of law enforcement and ensuring better protection of human rights.

The study demonstrates that law enforcement is a key mechanism through which legal norms are applied to specific cases and through which citizens' rights and freedoms are realised in practice. Although Germany and Ukraine share common principles of law enforcement (legality, reasonableness, fairness, and efficiency) the effectiveness of their implementation differs significantly.

Germany's law enforcement system is characterised by a high level of legal certainty, stable judicial practice, and strong institutional independence. These factors ensure predictability of court decisions and effective protection of human rights. In contrast, Ukraine's mixed legal system faces systemic challenges, including legislative inconsistencies, unstable judicial practice, political influence on the judiciary, and corruption. These factors reduce the effectiveness of law enforcement and weaken public trust in legal institutions.

The study also shows that European legal standards and the practice of the European Court of Human Rights play an important role in shaping law enforcement in both countries. Germany has successfully integrated these standards into its legal system, while Ukraine is still undergoing a process of adaptation and institutional reform.

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