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## The retrospective analysis of the criminal-legal counteraction to mass riots in the Russian Federation

*In the article it is given the historical analysis of criminal-legal means of counteraction to such a criminal offense, as mass riots. The research allowed the author to make theoretically substantiated conclusions and proposals which may be taken as a principle of improvement of the criminal legislation of our country.*

**Key words:** mass riots, historical and criminal-legal analysis, categories of crimes, responsibility differentiation.

In the period of proceeding reforming of the criminal legislation, the knowledge of the features of development of the normative base on responsibility for organization of mass riots, participation in them and calls for them allows to use as much as possible all the positive from the past and not to repeat previous miscalculations and mistakes in counteraction to criminality.

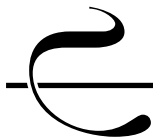
After political shocks in 1917, there came the lawlessness period in Russia. The Russian society which had rejected the former norms and yet hadn't found new ones was overflowed by a crime wave. Its unprecedented scope caused the Provisional government's Decree from March 18, 1917 on a general amnesty. Thousand liberated dangerous criminals, using weakness of the power, overflowed the country by criminal terror, thus quite often committing crimes under cover of mass riots.

During this period the Soviet lawyers unequivocally insisted on political background of mass riots, arguing that they were used as a form of class fight against the Soviet power. From the point of view of the Soviet jurists, the purposes of mass riots at that time were: disorganization of work of state authorities, undermining their authority and prestige, destruction of certain objects, murder of public agents and public workers, failure of carrying out of economic and political actions of the Soviet power (surplus-appropriation system, collectivization of agricultural industry, etc.) [2, p. 179–180].

In the first Soviet Criminal Code of 1922 (further – the Code of 1922) mass riots were attributed to state crimes (articles 75 and 77, Chapter 1 "State crimes") [4].

Thus as signs of mass riots they treated: murders, infliction of a bodily harm, rapes, pogroms, destructions of ways and means of communication, liberation of the arrested, arsons, armed resistance to the authorities.

In the Code of 1922 the differentiated responsibility of organizers, heads, instigators and participants of mass riots wasn't provided.



However the differentiated punishment on performance of the objective aspect of socially dangerous act was provided by them. According to section 1 of article 75 of the Code of 1922, the specified persons, "who were proved guilty of murders, arsons, infliction of a bodily harm, rapes and armed resistance to the authorities", were subject to punishment in the form of capital punishment and confiscation of all property. Other armed participants were punished by imprisonment with strict isolation for a term of not less than two years with confiscation or without confiscation of all or a part of property (section 2, article 75 of the Code of 1922). Unarmed participants of disorders were punished by imprisonment for a term of not less than a year (section 3, article 75 of the Code of 1922). Thus the persons not taking a direct participation in disorders and violent acts, but promoting participants of disorders by rendering them help or concealment of crime evidences and criminals or by other actions were punished by imprisonment for a term of not less than six months (section 4, article 75 of the Code of 1922).

Besides, for the bare disobedience to legitimate demands of the authorities it was provided more strict punishment concerning instigators, heads and organizers (imprisonment for a term of not less than two years with strict isolation), concerning other participants – imprisonment for a term of not less than six months (article 77 of the Code of 1922).

The special peril of mass riots caused also this crime inclusion in a group of state crimes by the Regulations "On state crimes" of 1927 (further – Regulations), in the section "Especially dangerous for USSR crimes against a governance order". Article 16 of the Regulations, providing two types of mass riots, with aggravating circumstances and without them, established the differentiated criminal responsibility for various categories of participants of mass riots.

Mass riots with aggravating circumstances (section 1, article 16 of the Regulations) were defined as "mass riots, being accompanied by pogroms, destructions of ways and means of communication, murders, arsons and other similar actions". Responsibility was provided not only for organizers of mass riots and the persons who had made pogroms, murder and other similar actions, but also for other participants of disorders.

To mass riots without aggravating circumstances the Regulations attributed "mass riots which have not been aggravated by crimes, specified in section 1, article 16 of the Regulations, but with obvious disobedience to legal demands of the authorities, or with counteraction to execution of conferred obligations, or their compulsion to execution of obviously illegal demands".

Article 16 of the Regulations on state crimes as a standard of the all-union criminal law was included without any changes in criminal codes of union republics (article 59.2 of the Criminal Code of RSFSR of 1926 and the corresponding articles of the Criminal codes of other union republics) [2, p. 180].

In the Criminal code of RSFSR of 1926 (further – the Code of 1926) they provided the differentiated responsibility not only for the organizer, the head, the instigator and the participant of mass riots, but also for the accomplice [3].



According to article 59.2 of the Code of 1926, for organization of the mass riots accompanied by pogroms, destructions of ways and means of communication, liberation of the arrested, arsons, etc. if participants of a disorder were armed, it was provided shooting and confiscation of all property. Participants of disorders who committed murders, arsons, infliction of a bodily harm, made rapes and showed armed resistance to the authorities were to take the same punishment (section 1).

Other armed participants of disorders were punished by imprisonment with strict isolation for a term of not less than two years with confiscation or without confiscation of all or a part of property (section 2).

Unarmed participants of disorders were punished by imprisonment for a term of not less than a year (section 3).

Concerning accomplices, i.e. the persons who were not taking a direct part in disorders and violent acts, but promoting participants of disorders by rendering them help or concealment of crime evidences and criminals and other actions, it was provided imprisonment for a term of not less than six months (section 4).

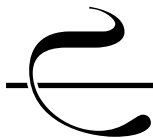
According to article 59.3 of the Code of 1926, for disobedience to legal demands of the authorities or counteraction to execution of their conferred obligations or their compulsion to execution of obviously illegal demands, at least disobedience was expressed only in refusal to stop the gathering menacing to public safety, concerning accomplices, heads and organizers it was provided imprisonment with strict isolation for a term of not less than two years (section 1); concerning other participants there was imprisonment or forced labor for a term up to six months (section 2).

For agitation and propaganda of mass riots was provided imprisonment with strict isolation for a term of not less than a year. If agitation and propaganda took place during war and were directed to citizens' non-fulfillment of military or connected with hostilities obligations and duties there was shooting (article 59.6 of the Code of 1926).

For production, possession for the purpose of distribution and distribution of the literary works calling for mass riots there was provided imprisonment for a term of not less than six months. If the specified acts took place during war and were directed to citizens' non-fulfillment of military or connected with hostilities obligations and duties there was imprisonment for a term of not less than a year (article 59.7 of the Code of 1926).

The law of USSR from 25.12.1958 "On criminal responsibility for state crimes" (further – the Law of 1958) (article 16 "Mass riots") formulated the structure of the considered crime: "organization of the mass riots accompanied by pogroms, destructions, arsons and other similar actions, and equally their participants' direct commission of the specified above crimes or their armed resistance to the power" [1].

Thereby in comparison with the Regulations "On state crimes" the Law of 1958 has considerably narrowed the structure of mass riots, having excluded the responsibility for disobedience to legal demands of the authorities, counteraction to execu-



tion of their obligations, their compulsion to execution of obviously illegal demands. Besides, in the Law it was only provided the responsibility for organizers of the mass riots accompanied by pogroms, destructions, arsons and other similar actions, and for those participants of disorders who are guilty in commission of pogroms, destructions, arsons and other similar actions, or in armed resistance to the power. Criminal responsibility for "other" participants of mass riots, which was provided by the former legislation (section 1, article 16 of the Regulations "On state crimes"), wasn't provided by the Law.

In the Criminal Code of RSFSR of 1960 (further – the Code of 1960) it was not provided the differentiated responsibility for organizers of mass riots and their participants who were punished by imprisonment for a term from two to fifteen years, thus didn't have punishment for calls for it (article 79) [6].

As objects of the considered socially dangerous act there were specified: internal security of Russia, public tranquility, public life, normal work of enterprises and transport, life, health, moral of people [5].

Mass riots were understood as violation of the public order established and protected by the power from the spontaneously gathered considerable group of persons – crowd (for example, creation by the gathered crowd of difficulties in movement of city transport, preventing normal work of the authorities protecting a public order, pointed refusal of the crowd to fulfill legal demands of public agents or other public officials etc.).

Mass riots, described in article 79 of the Code of 1960, concerned three types of criminal acts:

- a) organization of mass riots accompanied by pogroms, destructions, arsons and other similar actions;
- b) active participation in such disorders;
- c) armed resistance to the power.

Disorder was understood as a ruin and plunder of dwellings, shops, warehouses, the rooms occupied by various state or public institutions and organizations and certain citizens.

The action, brought to ignition or burning of the set on fire property was considered as arson, even if this property wasn't damaged, since they managed extinguish a fire.

Under destruction it was supposed annihilation or damage of the state, public and personal property, railway lines, means of communication, vehicles, power supply network damage.

To other actions by which mass riots could be accompanied there were attributed:

- different violent acts against private persons and officials (infliction of blows, beatings, bodily harm, etc.);
- capture of hostages;
- illegal liberation of the arrested;



- lynching of the imaginary or real detained criminal;
- commission of malicious hooliganism.

Organization of mass riots covered:

- a) calls for pogroms, destructions, arsons and other similar actions;
- b) management of actions of a riotous crowd irrespective whether the subject made the specified acts.

Organization of mass riots and their management consisted in measures in crowd gathering, in incitement to commission of riots, destructions, arsons and other similar actions.

If at mass someone tries to raise a hostile relation to an existing law and order, the criminal responsibility should follow according to article 70 of the Code of 1960 (calls for violent change of the constitutional system).

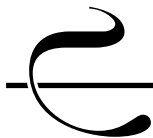
Active participation in disorders assumed the direct execution of pogroms, destructions, arsons, capture of hostages, liberation of the arrested, violence against citizens, etc.

Inactive participation in mass riots in the presence of the corresponding signs involved the responsibility according to sections 2 and 3 of article 206 of the Code of 1960 (hooliganism), or article 191 of the Code of 1960 (resistance to the authority representative or to the public representative who is carrying out duties on maintenance of a public order), or article 191.1 of the Code of 1960 (resistance to the employee of militia or to the member of voluntary police). Mass riots without pogroms, destructions, arsons and other similar socially dangerous acts, should be considered as a crime provided by article 190.3 of the Code of 1960 (organization or active participation in the group actions breaking a public order).

Armed resistance to the power was understood as participants' of disorders creation (by use of firearms or cold weapon) of obstacles to public agents (city hall, militia, interior troops, etc.) in performance of their duties (for example, by threat of weapon use, creation of obstacles to detention of the most active participants of mass riots), in establishing the order or compulsion to violation of their duties in this sphere (demands to liberate the arrested, to give out arms, etc.).

If guilty person had illegal weapon they were responsible according to article 218 of the Code of 1960 (illegal carrying, possession, purchase, production or sale of the weapon, ammunition or explosives).

According to the Code of 1960, a criminal action at mass riots consisted in direct commission by their participants of pogroms, destructions, arsons and other similar actions, and in armed resistance to the power. All listed actions themselves formed independent structures of crimes, but in this case they were covered by the structure of mass riots. Therefore acts of guilty persons in pogroms, destructions, arsons and in armed resistance to the power were qualified only according to article 79 and didn't demand additional qualification according to article 86 (destructions of means of communication and vehicles), article 98 (deliberate destruction or damage of the state or public property), article 108 (deliberate grave bodily harm), 109 (deliberate



less grave bodily harm), article 112 (actual bodily harm or beating), article 113 (torture), article 149 (deliberate destruction or damage of personal property of citizens) and to other articles of the Code of 1960.

If during mass riots there was a murder of a private person or an employee of militia and a member of voluntary police, there was responsibility on accumulative sentence: according to article 79 and article 102 of the Code of 1960 (premeditated aggravated killing) or according to article 79 and article 1912 of the Code of 1960 (infringement on an employee's of militia or a member's of voluntary police life).

When pogroms or destructions were accompanied by misappropriation of the state, public or personal property, the criminal responsibility for the guilty was on accumulative sentence: for mass riots and for misappropriation of the state, public or personal property (according to the relevant articles).

When participants of mass riots made any others, not named in article 79 of the Code of 1960 crimes, for example, insult of a public agent or unarmed resistance to authorities or hooliganism, participants of disorders should be responsible according to article 1903 or according to article 191 (resistance to the authority or public representative accomplishing the duty on maintenance of a public order), article 192 (insult of a public agent or a public representative accomplishing the duty on maintenance of a public order), article 206 (hooliganism) etc., instead of according to article 79 of the Code of 1960.

To the motives and purposes guiding the persons, organizing mass riots and committing pogroms, destructions, arsons and other similar actions, the Soviet legislators, applicably to the Code of 1960, attributed: rampageous motives, intention to use mass riots for illegal release from custody of prisoners or the arrested to use these disorders for simplification of misappropriation of the state, public or personal property.

Those organizers and participants of mass riots who pursued the aim of undermining or weakening of the Soviet power should be responsible according articles on especially dangerous state crimes (article 66 (act of terrorism), article 68 (diversion) and other articles of the Code of 1960).

Thus, the retrospective analysis of the legislation of our country regarding counteraction to mass riots showed:

- 1) mass riots in our country were distinguished as crimes against the power and the state;
- 2) the considered type of crime concerned one of most serious crimes;
- 3) for organization of mass riots, their management and participation in them there was provided more strict punishment, than for other collective crimes;
- 4) it was provided punishment for the bear meeting of people that wasn't unauthorized by authorities;
- 5) instigators of disorders were also subject to punishment;
- 6) signs of disorders were established by the legislator in compliance with a political situation in the country.



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