



## On Some Problems of Qualifying Criminally Punishable Mass Riots

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### Abstract

*Introduction:* the article is devoted to certain controversial issues of qualification of elements of criminally punishable mass riots committed in penitentiary institutions. *Purpose:* based on the analysis of the problems of applying some qualifying elements of mass riots, to develop proposals for improving criminal legislation. *Methods:* comparative-legal, structural-logical, method of dialectical cognition, induction, deduction, analysis, synthesis, etc. *Results:* the article has characterized legislative elements of mass riots, such as the use of weapons, provision of armed resistance, organization of mass riots, persuasion, recruitment or other involvement of a person in the commission of mass riots, etc. Controversial issues of individual elements of the composition of criminally punishable mass riots are studied. *Conclusion:* based on the study of theoretical provisions, norms of the criminal law and extensive empirical material, proposals are developed to clarify Article 212 of the Criminal Code of the Russian Federation. The author's concept of the use of weapons and armed resistance during mass riots is proposed, the totality of persons belonging to government representatives within the framework of the application of Article 12 of the Criminal Code of the Russian Federation is determined, the need to specify citizens involved in the protection of public order is proved. The analysis of the organization of mass riots and the training of the organizer of mass riots is carried out. There is a need to distinguish between calls for violence against citizens and calls for mass riots. It is proposed to exclude an element of violence against citizens from the disposition of Article 212 of the Criminal Code of the Russian Federation as redundant.

**Key words:** mass riots; government representative; use of weapons; calls for mass riots; penal system; Federal Penitentiary Service of Russia.

### 5.1.4. Criminal law sciences.

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### Introduction

A significant level of public danger and a sufficient prevalence of mass riots, especially in institutions of the Federal Penitentiary Ser-

vice of Russia, determine the urgency of developing and improving methods of countering these acts. One of the central tasks of the fight against mass riots is the improvement of crimi-

nal law measures to counter this criminal phenomenon.

The severity of such criminally punishable acts increases significantly when they are carried out in places of punishment. Preparation of the riots themselves, armament of the participants, training of their organizers and other participants, as well as direct management of the investigated criminal acts, lead to simultaneous harm to a significant number of objects of criminal protection.

#### *Discussion*

One of the elements of criminally punishable mass riots is the use of weapons, explosive devices, explosives, toxic or other substances and objects that pose a danger to others. The legislator does not specify what should be understood by their application. One can agree with A.M. Bagmet that the use of weapons and other listed items and substances during mass riots should entail criminal liability in case of encroachment on the life or health of citizens, as well as the destruction or damage of material objects [1, p. 80]. However, the threat of using weapons and other generally dangerous objects during mass riots can hardly be considered criminally punishable, since it is not specified as a qualifying element in the disposition of Part 1 of Article 212 of the Criminal Code of the Russian Federation. If the act contains compositions of illegal manufacture, carrying, storage of weapons, then such acts are qualified separately. Perhaps the threat of the use of weapons and other items that can be used as weapons should be included in the norm under study. But while there are no such changes, it is impossible to impute this threat to the perpetrator of organizing mass riots or participants in mass riots, since the analogy of law and the analogy of legislation in Russian criminal law are unacceptable.

It is criminally punishable to use any weapon, firearms and non-firearms, as well as any explosives, toxic substances, as well as other objects that pose a danger to others and are used as weapons (this may be a stone, rod, stick, bottle, etc.).

We do not back the position of S.K. Kudashkin that the application of weapons and other objects in mass riots should also be understood as their demonstration and use for intimidation, etc. [2, p. 104]. It seems that such actions cannot be considered the use of weapons. This

follows from the analysis of Article 24 of the Federal Law "On Weapons" stipulating that the use of weapons must be preceded by a clearly expressed warning to the person against whom the weapon is used, except in cases where delay in the use of weapons creates an immediate danger to human life or may entail other grave consequences. At the same time, the use of weapons for necessary defense should not cause harm to third parties". So, the legislator defines the application as the use of its damaging properties.

Such an element of mass riots as the provision of armed resistance to government representatives is also quite uncertain. Such actions do not require additional qualifications under Article 318 of the Criminal Code of the Russian Federation. Since the legislator does not specify which weapons are in question, they can be any: firearms, cold, propellant, and gas. However, in this situation, the question arises about household items, such as an axe, a knife, an awl, etc. are not edged weapons, and probably their use would require additional qualifications if there were no qualifying element, such as violence, in the disposition. Consequently, in such cases, an additional qualification of the act under Article 318 of the Criminal Code of the Russian Federation seems unnecessary. Nevertheless, there is a position on the need for additional qualification. In this case, a reference is made to Paragraph 9 of the clarification of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 45 of November 15, 2007 "On Judicial Practice in Criminal Cases of Hooliganism and Other Crimes Committed from Hooligan Motives" that hooligan actions related to resistance to a representative of power, during which violence was used, both non-dangerous and dangerous to life and health. It should be qualified according to the totality of crimes provided for in Part 2 of Article 213 of the Criminal Code of the Russian Federation and the corresponding part of Article 318 of the Criminal Code of the Russian Federation [3, p. 153].

We believe that this analogy is not entirely appropriate, since the resolution of the Plenum of the Supreme Court of the Russian Federation is not a normative legal act. This is a comment by the country's highest judicial body, which refers to a different composition of the crime. Additional qualifications in the use of simple violence during mass riots and the non-use of

additional qualifications in armed resistance are clearly disproportionate.

The concept of “representative of the authorities” in relation to Article 212 of the Criminal Code of the Russian Federation also requires understanding. The definition of “representative of the authorities” is contained in the Note to Article 318 of the Criminal Code of the Russian Federation: “in this article and other articles of this Code, an official of a law enforcement or supervisory authority, as well as another official endowed with administrative powers in accordance with the procedure established by law in relation to persons who are not dependent on him, is recognized as a representative of the authorities”.

To some extent, this issue was resolved by the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 14 of June 1, 2023 “On Certain Issues of Judicial Practice in Criminal Cases of Crimes Provided for in Articles 317, 318, 319 of the Criminal Code of the Russian Federation”. Paragraph 2 fixes bodies related to law enforcement: “the Prosecutor’s Office of the Russian Federation, the Investigative Committee of the Russian Federation, internal affairs bodies of the Russian Federation, the Federal Security Service, the Federal Penitentiary Service, customs authorities of the Russian Federation, enforcement authorities of the Russian Federation, bodies of state fire supervision of the Federal Fire Service, the Federal Service of the National Guard of the Russian Federation, the military police of the Armed Forces of the Russian Federation and other state bodies in their law enforcement activities”.

However, the Resolution does not clarify who should be attributed to other officials who, in accordance with the procedure established by law, have administrative powers in relation to persons who are not dependent on them.

Paragraph 11 of the Resolution states that “officials of regulatory authorities are, for example, officials of the Federal Tax Service, the Federal Service for Environmental, Technological and Nuclear Supervision, the Federal Service for Supervision of Consumer Rights Protection and Human Well-Being, authorized in accordance with the procedure established by law to organize and (or) implement the specified control (supervision) in the relevant fields of activity in relation to subjects beyond their jurisdiction”.

In accordance with Part 1 of Article 2 of the Federal Law No. 45 of March 22, 1995 “On State Protection of Judges, Officials of Law Enforcement and Supervisory Authorities”, law enforcement and supervisory authorities subject to protection are the following: 1) judges, commercial assessors, jurors; 2) prosecutors; 3) investigators; 4) persons conducting an inquiry; 5) persons carrying out law enforcement intelligence operations; 6) employees and federal state civil servants of the internal affairs bodies of the Russian Federation; 6.1) employees and federal state civil servants of institutions and bodies of the penal system; 6.3) military personnel, employees and federal state civil servants of the National Guard troops of the Russian Federation; 6.5) military personnel and federal state civil servants of the Armed Forces of the Russian Federation; 6.6) employees of the foreign intelligence agencies of the Russian Federation; 6.7) employees of the federal fire service of the State Fire Service, military personnel of rescue military formations and federal state civil servants of the federal executive authority in the field of emergency prevention and elimination of consequences of natural disasters; 7) employees of the Federal Security Service; 8.2) employees of the Investigative Committee of the Russian Federation; 9) employees and federal state civil servants of compulsory execution of the Russian Federation; 10) employees of control bodies of the President of the Russian Federation exercising control over the implementation of laws and other regulatory legal acts, detection and suppression of offenses; 11) employees of state security bodies; 12) employees of customs and tax authorities, antimonopoly authorities, federal state control bodies, the Federal Financial Monitoring Service, the Accounting Chamber of the Russian Federation, and also other categories of state and municipal employees according to the list established by the Government of the Russian Federation; 13) relatives of the persons listed in paragraphs 1–12 of Part 1 of this Article; 14) citizens of the Russian Federation dismissed from service (work) in the internal affairs bodies of the Russian Federation, the troops of the National Guard of the Russian Federation, bodies of the federal security service, state security bodies, in respect of which state protection is carried out in accordance with this Federal Law if there is a continuing threat of encroach-

ment on the life, health and property of these persons.

Based on this, all listed persons can be classified as victims of armed encroachment on them during mass riots or when resisting them during the suppression of such riots.

One of the unresolved issues is whether a serviceman who performs legitimate activities to protect public order and ensure public safety during mass riots should be considered a representative of the authorities? We believe so, since the above-mentioned Federal Law includes military personnel, as well as federal state civil servants of the Armed Forces of the Russian Federation, among representatives of the authorities and regulatory bodies.

However, the analysis of Article 317 of the Criminal Code of the Russian Federation indicates that a soldier who protects public order and security is not part of law enforcement agencies.

At the same time, from the meaning of practical activities of military personnel to protect public order and public safety, including during mass riots, they should be attributed to the authorities, however, they are not mentioned in the Note to Article 318 of the Criminal Code of the Russian Federation, therefore, encroachment on these persons during mass riots, apparently, should be additionally qualified under articles 317, 318 of the Criminal Code of the Russian Federation, etc.

It seems that this contradictory situation should be eliminated by amending the Note to Article 318 of the Criminal Code of the Russian Federation to fix there the military personnel guarding law and order.

We will also highlight the problem of armed resistance to citizens participating in the protection of public order during mass riots. Participation in such events is regulated by the Federal Law No. 44 of April 22, 2014 "On Participation of Citizens in Public Order Protection". Citizens are entitled to participate in public order protection events at the invitation of the police and other law enforcement agencies as freelance police officers, people's vigilantes, as part of law enforcement-oriented public associations.

Additional protection should be extended to all these persons if, during mass riots, the acts specified in Part 1 of Article 212 of the Criminal Code of the Russian Federation were used against them. The logic of the disposition of

Part 1 of Article 212 of the Criminal Code of the Russian Federation requires all listed persons involved in the protection of public order and security to be protected by criminal law measures on an equal basis with representatives of the authorities in case of encroachment on them during mass riots.

Organization of mass riots includes planning of actions that constitute criminally punishable mass riots, selection of people to participate in the crime, distribution of liabilities between them, search for tools and means to commit it, and direction of participants' actions during mass riots. Moreover, organizers can involve participants in illegal actions that have already begun. The organizer can plan and prepare mass riots in advance, or suddenly start organizing and directing them.

Thus, by the verdict of the Supreme Court of the Republic of Khakassia in Abakan on September 5, 2017, T. was convicted under Part 1 of Article 212 of the Criminal Code of the Russian Federation, who organized mass riots together with other persons in an institution of the penal system, accompanied by pogroms, arson, and destruction of property.

On July 24, 2016, from 12 to 22 pm, being in the premises of the detachment of the correctional facility No. 35, T. and persons No. 1, No. 2 met with persons No. 3, 4, 5, 6, 7, and 8, who were informed of criminal intentions to organize mass riots among convicts on the territory of the correctional facility No. 35 in order to violate (destabilize) the established order of serving their sentences, put pressure on the leadership of the correctional facility No. 35 and the Federal Penitentiary Service of Russia, weaken conditions of the regime of serving their sentences, and suggested participating in these riots as their organizers. They conspired to commit mass riots.

For preventing lawful actions of employees of the correctional facility No. 35, T. and persons No. 1, 2, 3, 4, 5, 6, 7, and 8 agreed to disable the video surveillance system, barricade entrances, exits and window openings of residential premises, as well as organize the commission of similar actions by convicts of detachments No. 2–4, who were warned by person No. 5. After that, persons No. 3, 4, 6, and 7 were supposed to take part in negotiations with representatives of the facility administration. They planned to put forward demands

for easing regime conditions. On July 24, 2016, in 10.05 pm, the prepared mass riots began. T. caused property damage to the correctional institution in the total amount of 5,069.80 rubles by pogrom and arson. In addition, during the specified time period, T. barricaded window openings, entrances and exits from the detachment with the help of improvised means (beds, bedside tables, stools) and directed actions of other convicts who participated in mass riots, called for barricading windows and doors, gave instructions to monitor penitentiary facility employees from windows, called for mass suicide in case of an attempt to suppress their illegal actions, for which he distributed blades to convicts [4]. These actions continued until 5.30 a.m. on June 25, 2016, when the riots were suppressed. Thus, T. prepared mass riots in advance, and made adjustments to the plan and management in the process of their implementation.

Dynamically developing mass riots may go beyond actions of the participants intended by the organizer. The organizer's actions can serve as a trigger for the action of a mass of accomplices, which later develop spontaneously. However, for organizing mass riots accompanied by violence, destruction of property, pogroms, etc., the person who organized or led them should bear full responsibility, since his intention was aimed at organizing mass riots.

In accordance with Part 1 of Article 212 of the Criminal Code of the Russian Federation, a person who prepared the organizer of mass riots accompanied by the actions specified in the law and a person who prepared participants in criminally punishable mass riots are also subject to criminal liability.

It should be emphasized that the organizer's actions should be qualified as completed after the riots took place. In the case of prevention of mass riots by law enforcement or other bodies, the fact of their organization or preparation of the organizer or participant cannot be considered a completed crime. We believe that in such a situation, it is necessary to qualify these acts as preparation for the composition in question.

The expediency of the introduction by the legislator in 2016 of Part 11 of Article 212 of the Criminal Code of the Russian Federation is questionable, since the inducement, recruitment or other involvement of a person in committing mass riots accompanied by violence and

other acts specified in the disposition of Part 1 of Article 212 of the Criminal Code of the Russian Federation constitute nothing more than incitement to commit a crime (Part 4 of Article 33 of the Criminal Code of the Russian Federation). Therefore, if there is incitement to commit mass riots, the act of the perpetrator should be qualified under Part 4 of Article 33 and Part 1 or 2 of Article 212 of the Criminal Code of the Russian Federation. In this regard, we should agree with the opinion of S.K. Kudashkina on the need to exclude Part 1.1 of Article 212 of the Criminal Code of the Russian Federation [2, p. 104].

A place of mass riots can be any. There is an opinion that in most cases these are public places: parks, streets, and squares [9, p. 44]. It is difficult to agree with this statement, since our sample study of sentences leads to the conclusion that most often mass riots occur in places of deprivation or restriction of liberty.

For example, on June 5, 2019, P. was convicted by the verdict of the Kola District Court of the Murmansk Oblast under Part 2 of Article 212 of the Criminal Code of the Russian Federation. "While serving a sentence of imprisonment in the correctional facility of the Directorate of the Federal Penitentiary Service of Russia in the city of Murmansk, he decided to take an active part in mass riots taking place on the territory of the correctional institution, protesting and claiming general dissatisfaction with the order and conditions of serving a sentence. Pursuing personal interests and opposing them to the interests of society and the state ... he directly took part in mass riots, accompanied by pogroms and destruction of property, namely, P., breaking the glazing of the window ... damaged furniture and objects in the office, as well as a door block with a trim, electrical fittings ... which brought the room into a state unsuitable for further use. The wreckage of the damaged property was thrown out into the street through a broken window, where other convicts built a bonfire and burned the damaged property. As a result of deliberate criminal actions of P... the property belonging to the correctional facility was destroyed and damaged ... for a total amount of 12,531 rubles, and normal activities of the correctional institution were disrupted" [6].

It should be agreed that "riots and mass actions of convicts in penitentiary institutions are often caused by organizational and managerial

shortcomings, including incompetence of staff or ineffective organization of conditions and regime of serving sentences” [7, p. 79]. It can also be added that the concentration of persons with criminal tendencies in one place, often negatively disposed towards the requirements of discipline and regime, contributes to criminal explosions in the form of mass riots.

Qualifying participation in mass riots, it is necessary to comprehensively study specific actions of each participant in the crime. Just being in a crowd does not yet constitute participation in criminally punishable mass riots. Criminal liability is imposed only against those who committed violence, or destruction of property, or arson, or participated in a pogrom, or provided armed resistance to a representative of the authorities.

Criminal liability under Part 2 of Article 212 of the Criminal Code of the Russian Federation for participation in mass riots accompanied by violence, pogroms, arson, destruction of property, use of weapons, explosive devices, explosives, toxic or other substances and objects that pose a danger to others, as well as providing armed resistance to a representative of the authorities, as well as for preparing a person to organize mass riots or participate in them, begins at the age of 14 (Article 20 of the Criminal Code of the Russian Federation), and for all other compositions contained in Article 212 of the Criminal Code of the Russian Federation – at the age of 16. The list of offences for which criminal liability begins at the age of 14 is determined by the legislator according to minors’ possibility to realize public danger, illegality and punishability of such mass riots. It seems that at the age of 14 it is difficult to define the very concept of criminally punishable mass riots. The composition design proposed by the legislator is rather debatable. Sometimes even experts do not have a common opinion on many qualifying features due to the vagueness of legislative formulations and ambiguity in the interpretation of norms. Apparently, it is even more difficult for a teenager to figure this out. In this regard, we believe it necessary to raise the age threshold of criminal liability for committing mass riots to the age of 16. Teenagers at the age of 14 should bear criminal liability only for committing specific crimes specified in Part 2 of Article 20 of the Criminal Code of the Russian Federation during mass riots.

The subjective side of organizing criminally punishable mass riots is guilt in the form of intent. Some legal scholars believe that intent can be mostly only direct, other researchers speak about indirect intent. When committing these crimes, a motive is an obligatory optional feature, which is realized by striving to violate public order [8, p. 19; 4, p. 4].

It should be recognized that mass riots can be organized both with direct and indirect intent, since the organizer is not always able to anticipate and control all the actions of participants in mass riots. The specifics of mass riots is that participants often act spontaneously and do not adhere to any clear plan. However, the organizer should still be responsible for all participants’ actions, since it was he/she who planned mass riots.

The position of those who believe that mass riots are only intentionally organized seems to be incorrect. The organizer cannot plan in advance all the consequences of mass riots, but he/she can assume their onset or treat them indifferently, but it does not belittle his/her guilt. The very wording of the disposition of Part 1 of Article 212 of the Criminal Code of the Russian Federation on mass riots indicates the assessment of the organizer’s guilt after events, which just emphasizes the possibility of indirect intent. These acts are associated with the term “disorder”, which proves a spontaneous outbreak provoked and managed by the organizer.

Additional qualification during the period of mass riots requires the commission of other illegal actions not specified in the disposition of Part 1 of Article 212 of the Criminal Code of the Russian Federation, for example theft. At the same time, we cannot agree with the point of view of I.Yu. Konovalova that acts in mass riots involving violence do not include murder, rape, robbery, etc. and require additional qualification [10, p. 240].

Unfortunately, the legislator has not specified which actions are covered by the concept “violence” fixed in Part 1 of Article 212 of the Criminal Code of the Russian Federation. So, any violent actions can be either included or not included in the objective side of mass riots, which creates difficulties in qualifying this crime. We believe that appropriate amendments should be made to the wording of Part 1 of Article 212 of the Criminal Code of the Russian Federation. In our opinion, correct qualification of an act re-

quires establishment of the subjective side of a crime: if a person realizes that he/she commits violent acts while participating in mass riots, the crime should be qualified only according to the relevant part of Article 212 of the Criminal Code of the Russian Federation.

However, if violent and other crimes are committed during the period of mass riots, but not in connection with them, such crimes are qualified only according to the relevant compositions without additional qualification under Article 212 of the Criminal Code of the Russian Federation.

Part 3 of Article 212 of the Criminal Code of the Russian Federation provides for criminal liability for calls to mass riots accompanied by violence, pogroms, arson, destruction of property and other acts listed in Part 1 of Article 212 of the Criminal Code of the Russian Federation. Calls can be oral, written, or with the help of gestures and encourage people to commit criminally punishable mass riots. According to the legislator, responsibility for calls should occur only after the mass riots accompanied by the listed acts are committed. In this regard, we cannot agree with I.Yu. Konovalova that these calls should be considered successful regardless of the results [10, p. 240].

There are various points of view about the moment of the end of incitement both in science and law enforcement practice. For example, the Plenum of the Supreme Court of the Russian Federation in its Resolution of February 1, 2011 "On Judicial Practice of Applying Legislation Regulating the Specifics of Criminal Liability and Punishment of Minors" clarifies that crimes for which liability is provided for in articles 150 and 151 of the Criminal Code of the Russian Federation are completed from the moment when a minor commits a crime, prepares for a crime, attempts to commit a crime or after committing at least one of the antisocial actions provided for by the disposition of Part 1 of Article 151 of the Criminal Code of the Russian Federation.

Along with this, in the Plenum of the Supreme Court of the Russian Federation "On Judicial Practice in Cases of Crimes related to Narcotic Drugs, Psychotropic, Potent and Poisonous Substances", the inclination to consume narcotic drugs, psychotropic substances or their analogues (Article 230 of the Criminal Code of the Russian Federation) can be found in any intentional actions aimed at arousing the desire of another person to consume them (persua-

sion, suggestion, giving advice, etc.), as well as deception, mental or physical violence, restriction of freedom and other actions committed with the aim of forcing the consumption of narcotic drugs, psychotropic substances or their analogues by the person being affected. At the same time, in order to recognize the crime as completed, it is not required that the person being incited actually use a narcotic drug, psychotropic substance or their equivalent.

Thus, according to articles 150 and 151 of the Criminal Code of the Russian Federation, incitement is considered to be over only after the commission or the beginning of the commission of a crime, and according to Article 230 of the Criminal Code of the Russian Federation, only the very fact of inciting in any form is sufficient to recognize the crime, regardless of whether the incited person began to consume narcotic or other means.

As for calls for the commission of the composition under consideration, we believe that it is necessary to proceed from the following. In fact, calls constitute incitement to commit a crime if another person agrees to it by persuasion, bribery, threats or in another way (Part 4 of Article 33 of the Criminal Code of the Russian Federation). Incitement is considered to be over at the moment of obtaining the consent of the perpetrator or performers, regardless of whether the incited person has committed a crime or not. The wording of parts 1 and 3 of Article 212 of the Criminal Code of the Russian Federation indicates that in this case calls will be criminalized only after the instigated have committed acts that entail liability for mass riots.

In particular, on March 11, 2015, the Klintsovskii City Court of the Bryansk Oblast convicted O. under Part 2, Part 3 of Article 212 of the Criminal Code of the Russian Federation. Being in the detachment No. 3 of the correctional facility No. 6 of the Directorate of the Federal Penitentiary Service of Russia, O. together with other convicts violated public order and public safety, demonstrating obvious disrespect to society. Participating in the mass riot, he broke glass in the windows of the detachment No. 3, broke beds and stools and threw furniture out of the window openings of the detachment No. 3. In addition, O. tried to involve other convicts in the mass riot, realizing public danger of his acts that can paralyze normal functioning of the correctional institution. He called detachments No. 2, 5, 6, 8, and 9 to take part in the mass riot

by shouting “Support us!” from the window of the detachment No. 3.

During the mass riot, O. together with other persons committed pogroms and destroyed the property of the correctional facility for a total amount of 588,412 rubles 68 kopecks [11].

Specifying criminal liability for mass riots that have been accompanied by violence, pogroms, arson, destruction of property, use of weapons, explosive devices, toxic or other substances and objects that pose a danger to others, as well as armed resistance to a representative of the authorities, the legislator underlines that “riots have been accompanied”, thereby showing that it is possible to qualify any acts related to this only after the commission of these acts. If the legislator used the expression “mass riots being accompanied by ...”, it would mean that certain actions are carried out at the time of the call for them. However, it is possible to establish whether they are actually committed by certain persons only after the end of the act. Consequently, specific qualification of mass riots is also possible after their commission.

It is necessary to separately focus on criminal liability for calls to violence against citizens provided for in Part 3 of Article 212 of the Criminal Code of the Russian Federation. This provision does not fit into the general scheme of liability for mass riots, since they include acts that have already been accompanied by violence; calls for violence against citizens are not related to mass riots at all and it is inappropriate to place them in Article 212 of the Criminal Code of the Russian Federation. If we talk about calls for any violent actions, including against citizens during mass riots, then this is covered by the disposition of Part 3 of Article 212 of the Criminal Code of the Russian Federation. We believe that calls for violence against citizens should be excluded from the disposition as excessive and unrelated to this crime.

Part 4 of Article 212 of the Criminal Code of the Russian Federation provides for liability for a person who underwent training on the organization of mass riots or participation in them. The disposition of the specified norm lists skills and abilities, the acquisition of which knowingly for the purpose of organizing mass riots or participating in them entails criminal liability. This list is not exhaustive. The acquisition of skills and abilities other than those listed in order to commit mass riots should also entail criminal liability. The definition of other skills and abilities

belongs to the evaluation categories and is at the discretion of the law enforcement officer.

A comparative analysis of the sanction of Part 4 of Article 212 of the Criminal Code of the Russian Federation with other sanctions indicates some discrepancy with the principle of justice: punishment for completing training is imprisonment for 5–10 years, for incitement to mass riots under Part 11 of Article 212 of the Criminal Code of the Russian Federation – from 5 to 10 years, and for participation in criminally punishable mass riots under Part 2 of Article 212 of the Criminal Code of the Russian Federation – from 3 to 8 years.

Perhaps the norm on education should be separated into a separate article by analogy with Article 205.3 of the Criminal Code of the Russian Federation, as well as Article 205.2 of the Criminal Code of the Russian Federation, defining their sanctions correlatively with acts of organizing mass riots or participating in them.

The legislator allows a compromise in order to prevent a person from undergoing training for the purpose of organizing criminally punishable mass riots or for the purpose of participating in them. The Note to Article 212 of the Criminal Code of the Russian Federation provides for the exemption from criminal liability of persons undergoing or having undergone such training if the person informed the authorities about its passage and actively contributed to the identification of persons who also underwent training, funded training, reported on places of study and other information specified in the law. If both conditions are fulfilled in combination, a person should be released from criminal liability.

In other words, a person should not only inform the authorities about his/her training, but also, in a way that is still regulated in criminal legislation, actively contribute to the identification of persons involved in the crime under investigation in one way or another.

#### *Results*

We believe that the use of weapons and other objects used in such a capacity during mass riots cannot be recognized as their demonstration, use for intimidation, etc. The fact of the use of weapons during mass riots should be imputed only if it is used for its intended purpose.

The provision of armed resistance to government representatives during mass riots does not require additional qualifications under Article 318 of the Criminal Code of the Russian Federation.



Proposals have been made to determine the range of persons who should be classified as representatives of the authorities and other officials endowed with administrative powers in accordance with the procedure established by law in relation to persons who are not dependent on them, as well as to citizens involved in the protection of public order, with regard to the qualification of mass riots.

The question of the moment of the end of the crime in the form of organizing mass riots is studied. At the same time, it is proposed to consider the commission of organized mass riots as such a moment.

Direct participation in mass riots should be considered from a simple passive presence at the scene of mass riots, which does not form the composition of the crime.

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