

RESPONSIBILITY FOR VIOLATION OF PUBLIC ORDER IN THE CRIMINAL LEGISLATION OF THE CIS COUNTRIES

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Abstract. *The article provides a comparative analysis of the norms that establish responsibility for hooliganism, as well as aggravating circumstances in the criminal legislation of the Russian Federation, Armenia, Belarus, Ukraine, Azerbaijan, and Turkmenistan, which are included in the CIS.*

Keywords: *hooliganism, responsibility, public order, public safety, comparative analysis, public danger, aggravating circumstances of responsibility.*

Introduction. The development and improvement of the legislative system of any state, of course, depends on the identification of shortcomings and gaps in them and their elimination. A comparative legal analysis of the current legislation with the legislation of other countries plays an important role in this. Improving the criminal law and solving existing problems in it, including the study of crimes against public order, is carried out through a comparative legal analysis of the criminal law of other countries.

We will try to analyze the issue of liability for crimes against public order, in particular hooliganism, by dividing the legislation of foreign countries into two groups. The first group includes states that are directly liable for the crime of hooliganism, while the second group includes states where hooliganism is not considered an independent type of crime, but its symptoms are included in crimes against public order and safety.

The crime of hooliganism, its composition and location in criminal law are almost identical in the countries of the former Soviet Union and the current CIS, and even in some countries the issue is addressed in the same way in the criminal law. Common aspects, such as intentional disregard for the rules established in society, and blatant disrespect for them, are common features of the crime of hooliganism provided for in the criminal law of these states.

The reason for the similarity of hooliganism in the criminal law of the CIS countries is one of the crimes against public order, firstly, the history and stages of development of criminal law in these countries are inextricably linked, secondly, the Model Criminal Code was developed in 1996 for CIS countries. is based on.

In the Model Criminal Code of the CIS countries, hooliganism is included in the section "Crimes against public order and immorality." According to Article 234 of the Model CC, gross violation of public order, expressed in disrespect to society, is considered harassment in connection with the use or threat of use of force, as well as the destruction or injury of another's property.

Intentional homicide as a result of hooliganism (Article 111, part 2, item "k"), intentional grievous bodily harm (Article 119, part 2, item "k") and moderate bodily injury (Article 120, part 2, item "d") paragraph) is one of the aggravating circumstances of these crimes.

Therefore, in the criminal law of the CIS countries, this crime is included in the section on crimes against public safety and order. Even the CCs of some countries (Tajikistan, Kyrgyzstan) commit hooliganism and hooliganism crimes are the same as the hooliganism in the Model CC.

There are differences in the legislation of some states depending on some of the elements of the crime of bullying, aggravating circumstances and their level of social danger. Below we will focus on the specifics of the crime of hooliganism in the Criminal Code of the Russian Federation, Armenia, Belarus, Ukraine, Azerbaijan, Turkmenistan.

Russian Federation.

The ninth section of the Criminal Code of the Russian Federation is entitled “Crimes against public safety and order”, and crimes against public order are included in Chapter 24, “Crimes against public safety”. Although there is a similar section in the Criminal Code of the Republic of Uzbekistan, there is a separate section for crimes against public order.

Liability for hooliganism is provided for in Article 213 of the Criminal Code. This crime falls into the category of moderately serious (Article 213 Part 1) and serious crimes (Article 213 Part 2) according to the level of social danger in accordance with Article 15 of the Criminal Code of the Russian Federation¹.

According to the disposition of Article 213 of the Criminal Code of the Russian Federation, hooliganism is a gross violation of public order, which is a clear disrespect to society. The crime of hooliganism is a crime of a formal nature according to the structure of the objective side, and for the above actions to be considered a crime, it must be one of the following two grounds:

- a) using weapons or objects that can be used as weapons;
- b) on the basis of political, religious, racial, national motives or religious hatred or on the basis of hatred or enmity towards a social group.

These two criteria, which are the basis for classifying an act as hooliganism, are not found in the criminal law of other states. Hence, public order must be grossly violated by the use of weapons or objects that can be used as weapons. However, in addition to the motive of hooliganism in the act, political, religious, racial, national motives or motives based on religious hatred or hatred or enmity towards a social group are also necessary signs of the crime. In our view, the fact that the law requires that two motives be present at the same time may lead to problems in qualifying such crimes in practice. However, as in the legislation of other countries, in the Criminal Code of the Russian Federation, this crime is based on the motive of hooliganism, and it has taken the lead among the elements of the crime.

Under the sanction of Part 1 of Article 213 of the Criminal Code of the Russian Federation, a person may be sentenced to one hundred and eighteen to two hundred hours of forced labor or one to two years of correctional labor or up to five years of imprisonment for the crime of hooliganism.

If the above act is committed by a group of individuals with prior conspiracy or by an organized group, a representative of the authorities, a person who is obliged to maintain public order or prevent public disorder, it is qualified by Part 2 of Article 213 of the Criminal Code. may be sentenced to up to seven years in prison.

Due to the fact that the crime of hooliganism has a formal content, the consequences of which are not covered in Article 213 of the Criminal Code, the motive of hooliganism is specified as an aggravating circumstance in a number of other norms. In Russia, as in the Criminal Code, the motive of hooliganism in the crimes of intentional homicide (Article 105,

¹he Criminal Code of the Russian Federation; Criminal Procedure Code of the Russian Federation. –M.: Aktion –media., 2012. - 496 p.

part 2, item “1”) and intentional grievous bodily harm (Article 111, part 2, item “d”) is a qualifying feature of the crime.

In addition, moderate intentional infliction of grievous bodily harm (Article 112, part 2, item “d”) of the Criminal Code of the Russian Federation, intentional infliction of minor bodily injury (Article 113, Part 2 of the Criminal Code), beating (Article 116, Part 2 of the Criminal Code) , the motive of hooliganism is also mentioned as one of the qualifying features in crimes against the person, such as intentional destruction or damage to another’s property (Article 167, Part 2).

Another peculiarity is that in a number of norms of the section "Crimes against public safety and order" in the RF J, the motive of hooliganism is one of the necessary features of the subjective side of the crime. In particular, crimes such as the destruction of vital objects (Article 2152), the destruction of oil pipelines, oil product pipelines and gas pipelines (Article 2152), cruelty to animals (Article 245), hooliganism or other motives can be considered a crime only if it is committed with.

Based on the above, we can distinguish the following specific aspects of hooliganism and hooliganism-related crimes in the Russian Federation:

- hooliganism is a crime against public safety, the crime is of a formal nature according to the structure of the objective party, moderately serious and grave crime according to the level of social danger;
- a necessary indication of the crime of hooliganism is that it was committed with the use of weapons or objects that can be used as a weapon, or on the basis of political, religious, racial, national motives or religious hatred or hatred or enmity towards a social group;
- in most crimes against the person, the motive of hooliganism is shown as an aggravating circumstance, and in some crimes against public safety and order, the motive of hooliganism is a necessary feature of the subjective side of the crime.

The Criminal Code of **the Republic of Armenia** provides for the crime of hooliganism in Article 258 of the Chapter “Crimes against public order and immorality.” The structure of hooliganism is the same as in Article 277 of the Criminal Code of Uzbekistan. According to him, hooliganism, ie gross intentional violation of public order, which is expressed in disrespect, is an act committed in connection with the use or intimidation of a person, destruction or damage to another's property. included in the category of crimes.

In contrast to our criminal law, the very act of violating public order in the Criminal Code of Armenia can be considered a crime, even if the act does not have the symptoms provided for in Part 1 of Article 258 of the Criminal Code.

In Article 258 (3) of the Criminal Code, acts of hooliganism, expressed in simple hooliganism (part 1) or outrageous obscenity, are committed by a group of individuals or an organized group, a representative of the authorities or a person charged with maintaining public order or any person the aggravating circumstance was defined as the infliction of moderate bodily injury by a person who had previously committed hooliganism. These cases can be punishable by up to 5 years in prison and are classified as moderate crimes according to the level of social danger.

As we can see, the fact that hooliganism is committed by an organized group is not provided for in our legislation. Although the repeated or dangerous recidivism of hooliganism in the Criminal Code of the Republic of Uzbekistan is specified as an aggravating circumstance (Article 277, part 3, paragraph “a”), the Criminal Code of Armenia stipulates that paragraph is more accurate. Because this situation is a recurrence of hooliganism, a previous conviction for this crime, at the same time represents a dangerous recidivist trait.

If the actions provided for in parts 1, 2, 3 of this norm are committed using a weapon or objects that can be used as a weapon, the act is qualified by Part 4 of Article 258 of the Criminal Code of Armenia and falls into the category of serious crimes.

In addition to this special norm, the motive of hooliganism is included in the list of qualifying cases in other crimes. In Armenia, as in our criminal law, the motive of hooliganism is aggravating in such crimes as intentional homicide (Article 104, Part 2, Clause 10) and intentional grievous bodily harm (Article 112, Part 2, Clause 9 of the Criminal Code).

Hooliganism is also included in the Criminal Code of the Republic of Belarus in the section "Public order and immoral crimes."²

According to Article 339 of the Criminal Code of Belarus, acts of gross violation of public order and disrespect for society, threatening to use or threatening to use force or destroying or damaging another's property are considered hooliganism. , may be punishable by a fine, imprisonment for up to six months, or imprisonment for up to three years.

Belarusian criminal law, like Armenia's, provides for acts of hooliganism as a form of hooliganism. We also did not find it necessary to re-analyze the aggravating circumstances provided for in parts 2 and 3 of Article 339 of the Criminal Code, as they are similar in the legislation of these two countries. However, it is noteworthy that the law stipulates that the act is considered "aggravated hooliganism" in the presence of aggravating circumstances under Article 339, Part 2 of the Criminal Code, and "excessive hooliganism" in the presence of aggravating circumstances under Part 3 of the Criminal Code.

The State Criminal Code also defines hooliganism as an aggravating circumstance in cases of intentional homicide (Article 139, part 2, paragraph 13) and intentional grievous bodily harm (Article 147, part 2, paragraph 7) of the Criminal Code.

We can observe a aspect of Belarusian criminal law that is not found in any other country. That is, Article 4 of the Criminal Code, entitled Separate Concepts, provides a definition of the motive for hooliganism. According to paragraph 11 of this article, the motive of hooliganism is an attempt by the perpetrator to openly express disrespect for society and to demonstrate the society's disregard for generally accepted rules. The legal expression of the notion of the motive of hooliganism serves to prevent problems that may arise in forensic practice.

According to the Criminal Code of Ukraine, hooliganism is included in the chapter "Crimes of public order and immorality", which is a crime of a formal nature (Article 296)³. In order for an act to be considered hooliganism, the violation of public order must have been committed through a specific rudeness or outrageous obscenity with a motive of disrespect for society. Hence, under this state law, no action such as the use or threat of use of force against a person, the destruction or damage of property is required to declare an act to be hooliganism. The very act of violating a public order by a person may be considered a crime.

Similar to the criminal law of other states where the aggravating features of the crime of harassment have been studied. In crimes against the person, the motive of hooliganism is indicated only in the crime of premeditated murder (Article 115, Part 2, Clause 7) as one of the aggravating circumstances according to the subjective aspect of intentional homicide. The motive of hooliganism is also cited as a necessary sign of the crime of cruelty to animals, which is included in the chapter on public order and immorality (Article 299).

Hooliganism in **the Criminal Code of the Republic of Azerbaijan** as an independent crime is provided for in Article 339 of Chapter 25 "Crimes against public safety" of the section "Crimes against public safety and order". . The difference is that acts of

² The Criminal Code of the Republic of Belarus. - SPb: Legal Center Press, 2001 .-- 474 p.

³ The Criminal Code of the Republic of Ukraine. - St. Petersburg: Legal Center Press, 2001 .-- 393 p.

hooliganism, expressed in extreme obscenity, have not been established as a sign of the nature of the crime or as one of the aggravating circumstances. Another difference is that only minor bodily injury as a result of harassment can be qualified under Article 339 of the CC. Crimes of moderate bodily harm (Article 127, Part 2, Paragraph 3) and grievous bodily harm (Article 126, Part 3, Paragraph 4), as well as premeditated murder (Article 120, Part 2, Paragraph 2), are independent offenses. evaluated as the composition⁴.

Although Article 2 of the Criminal Code of the Republic of Turkmenistan defines the maintenance of public order as one of the tasks of the criminal law, there is no special chapter or section providing for liability for crimes against public order. Moreover, among the countries of the former Soviet Union, only the Criminal Code of Turkmenistan does not specify bullying as an independent criminal offense. Intentional homicide (Article 101, part 2, item “k”) of the Criminal Code, intentional infliction of grievous bodily harm (Article 107, part 2, item “e”), intentional infliction of moderate bodily injury (Article 108, Part 2, Criminal Code) (E) (hooliganism) was recognized as an aggravating circumstance⁵

⁴ Criminal Code of the Republic of Azerbaijan. - St. Petersburg: Legal Center Press, 2001 .-- 325 p..

⁵ The Criminal Code of the Turkmenistan Republic. - St. Petersburg: Legal Center Press, 2001. - P. 135