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ANALYSIS OF THE OBJECTIVE PART AND COMPOSITION OF THE CRIME AIMED AT VIOLATING PUBLIC ORDER AND PEACE

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Abstract: *The establishment of criminal liability, as well as the direct prohibition of human behavior that causes or may cause harm, constitutes one of the most important and complex tasks of criminal law. This mission derives from the fundamental need of society to protect its internal order and essential social relations, using the specific instruments of criminal law, considered the last and most energetic means of legal defense. In the doctrine of criminal law, an essential theoretical distinction has crystallized between the de facto basis and the de jure basis of criminal liability, each having its role in the process of establishing guilt and holding the person accountable. The de facto basis of criminal liability presupposes the finding of the existence of a concrete, prejudicial act, committed in the real world. This involves the identification and exact description of the conduct and the consequence produced or threatened, as well as the establishment of all elements related to the objective side of the crime: the illicit action or inaction, the socially dangerous consequence, the causal link, the means, the manner and the circumstances in which the act was committed. However, the mere presence of an act that corresponds to the objective characteristics of a crime is not sufficient to engage the criminal liability of a person. Criminal law does not only sanction the external manifestation of the conduct, but requires a complex, multidimensional analysis, which also includes other elements indispensable for the legal qualification. Consequently, there is a need to establish the de jure basis of criminal liability, which consists in determining the existence of all the constituent elements of the crime, in the sense fully defined by criminal legislation. This basis is much more comprehensive, because it involves not only verifying the objective side, but also the subjective side, the object of the crime, the subject of the crime and all the essential signs provided for by the incrimination norm. Only when all these elements are met can the existence of the crime be confirmed in the legal sense and, implicitly, the person can be held criminally liable. Thus, the composition of the crime becomes the true de jure basis for criminal liability, which is expressly provided for and enshrined by the legislation in force, more precisely by the provisions of art. 51 of the Criminal Code of the Republic of Moldova, which enshrines the principle according to which criminal liability can be incurred only if all the constitutive elements of the crime are present. In this regard, the doctrine emphasizes that, in the absence of any essential element of the composition, criminal liability cannot be established, even if the act itself presents a prejudicial appearance.*

Keywords: *meeting, place, time, method, order, silence, law enforcement bodies.*

Introduction

Within the general theory of law, the objective side of the crime represents one of the fundamental pillars of legal analysis, having the role of highlighting the concrete and perceptible manifestation of the illicit conduct. This includes, essentially, the material (objective) element, which constitutes the effective expression of the act and allows its assessment from the perspective of the social damage caused or the danger created. The material element is structured by means of a set of mandatory signs, which must always be

present for the act to be legally classified as a crime, but can be supplemented, as the case may be, by optional signs, the presence of which influences the legal qualification or the severity of the liability. This distinction between mandatory and optional signs allows not only the individualization of each crime, but also the adaptation of criminal liability to the concrete circumstances of the act, providing a rigorous and flexible analytical framework for criminal law practitioners. In this sense, the objective side functions as a filter that separates the simple manifestation of conduct from the criminally relevant legal act, thus being indispensable for guaranteeing the legality and correctness of the application of sanctions.

The author A. Borodac argues that ,,the objective side of the crime constitutes the external aspect of socially dangerous behavior, which is expressed by causing, provoking a danger or causing damage to social relations" (Borodac, 1994:79).

The authors C. Mitrache and Cr. Mitrache mention that ,,the objective aspect or the objective side of the constitutive content of the crime designates the totality of the conditions required by the incrimination norm regarding the act of conduct for the existence of the crime" (Mitrache, 2009: 128).

In the understanding of the author N. I. Vetrov, the objective side of the crime is ,,a component (element) of a crime that characterizes the external manifestation of a specific socially dangerous behavior, an aggression occurring in certain conditions, place and time, causing harm to the object (social relations) protected by the criminal law" (Vetrov, 1999: 125).

Therefore, it is concluded that the objective side represents a set of necessary conditions, regulated in the content of the incriminating legal norm, which highlights the type of behavior of the person, considered as a crime. This is manifested through action or inaction, which brings about violations of social values and relations protected by criminal law.

Materials and Methods

In the analysis of the mentioned topic, the method of comparative analysis was used as the main research method. This is an universal procedure, which involves identifying similarities and differences between two or more aspects compared and drawing general conclusions based on them. At the same time, the present work includes extensive investigations of the criminal laws of the countries under comparative analysis. Other research methods have also been used, as well: systematics, logical analysis, logical interpretation etc. At the same time, it is stated that the scientific basis of the research is the analysis of studies on the subject in scientific articles, collections of conference materials, etc.

Basic content

From the examination of the objective side of the crime of mass disorder, it is found that the respective crime can be committed exclusively through action, that is, through active external manifestation of an illicit behavior. From the incriminating norm regulated in art. 285 of the Criminal Code of the Republic of Moldova, it is deduced that the harmful act is presented in the form of three groups of actions, and for qualification it is sufficient to commit at least one alternative normative method, among the following:

1) organizing mass disorder, accompanied by at least one of the following actions: the use of violence against persons; pogroms; arson; destruction of property; application of firearms; application of other objects used as weapons; offering violent resistance to representatives of the authorities; offering armed resistance to representatives of the authorities;

2) leading mass riots, accompanied by at least one of the actions listed *above*;

3) active participation in the commission of at least one of the actions listed;

4) calls for active violent disobedience to the legitimate demands of representatives of the authorities;

5) calls for mass riots;

6) calls for the commission of acts of violence against persons.

In order to carry out a broad and detailed analysis of the objective side of the crime of mass riots, we propose that its examination be initiated by highlighting the meaning of the notion of ,,mass riots", which is expressly indicated in the title of the incrimination norm established in art. 285 of the Criminal Code of the Republic of Moldova. Since the notion of ,,mass disorder" does not find its legal regulation in the current normative framework of the Republic of Moldova nor in the historical one, it is mentioned that it is to be initially understood, through the light of explanations taken from the Explanatory Dictionary of the Romanian Language and from the specialized literature.

The notion of ,,mass disorder" is made up of two components, as follows: ,,disorder" and ,,mass". According to the explanations provided by the Explanatory Dictionary of the Romanian Language, the word ,,disorder" can be interpreted under three aspects: ,,1) lack of order, disorder, disturbance; 2) lack of organization, discipline; disorder, disorganization, (social) disturbance, revolt, uprising; 3) confusion (in ideas), incoherence" (Explanatory dictionary of the Romanian language).

The second part of the aforementioned notion is made up of the word ,,mass" and is explained in the form of several meanings, but the most appropriate explanation in the case is: ,,a compact crowd of people, considered as a unit; large group of people with certain common characteristics; wide circles of the population". In its ordinary meaning, the word ,,crowd" is explained as a gathering of people, regardless of sex, age, nationality, opinion, profession, ethnic, linguistic, political or religious affiliation, etc., who have a certain goal in common.

So, we argue that violence is a collective expression of aggression, which is externalized when the perpetrator, influenced by the crowd, loses control and acts impulsively, brutally, under its influence. However, such behavior resonates, from a legal point of view, with the constitutive elements of the crime of mass disorder, in light of the fact that the legislator prescribes in the norms of para. (1) and (2) of art. 285 of the Criminal Code of the Republic of Moldova the phrase ,,application of violence against persons", and in the one established in paragraph (3) of the same article – the phrase ,,committing acts of violence against persons".

The father of psychoanalysis S. Freud, through the theory of crowd behavior, points out two specific characteristics of the crowd: ,,1) contagiousness, which is understood as an action of hypnosis; 2) suggestibility, which is manifested through the reactions of the crowd to symbols, elements, individualized perceptions, completely avoiding general reasoning" (Freud, 2016: 21).

The authors O. P. Kopîlova, S. V. Medvedeva et al. note that: ,,mass riots are a crime in the course of which damage can be caused not only to representatives of state authorities, but also to society as a whole or to a particular person" (Kopylova, 2025: 15).

The author V. N. Grigoriev explains mass riots as ,,intentional acts, accompanied by pogroms, arson, destruction of property, as well as resistance to representatives of the authorities, undertaken by a group of persons, such as a crowd, which, by their actions, threaten public security" (Grigoryev, 2008: 5).

Authors L. D. Gauhman and S. V. Maksimov believe that the concept of ,,mass disorder" should be understood as ,,the actions of an indefinite number of persons (crowd), violating public security, the alternative content of which is related to the commission of pogroms, arson, destruction of property, the use of firearms, explosive substances or devices, as well as the offering of armed resistance to representatives of the authorities" (Gaukhman

and Maksimov: 204).

However, the Public Order Act 1986, passed by the United Kingdom Parliament, sets a minimum number of participants for persons to be considered to have committed the offence of mass disorder. Thus, according to art. 1 para. (1) of the said Act ,,where 12 or more persons present together use or threaten to use unlawful violence for a common purpose and their conduct (taken together) is likely to cause any other person present at the scene to fear for his personal safety, each of the persons using unlawful violence for the common purpose is guilty of rioting". In art. 2 para. (1) of the same law stipulates that ,,in the event that 3 or more persons present together use or threaten acts of illegal violence, and their behavior (taken together) is such as to cause another person present at the scene to fear for his or her personal safety, each of the persons who use or threaten acts of illegal violence is guilty of violent disorder" (Public Order Act 1986).

Therefore, mass disorder constitutes a negative social phenomenon, with a high degree of danger, which may occur in a space with public access, during demonstrations, meetings, protests or other events of a public nature, aimed at expressing dissatisfaction, disagreements, strident views towards state institutions, as well as towards the nature of other social, political, cultural, religious events, etc. (Chepestru, 2023: 150).

In our opinion, the simple determination of the number of participants in mass disorders is not sufficient. A complex analysis is indispensable that includes the scale of the disorders, the ability of the crowd to disrupt or paralyze the activity of the authorities, as well as the degree of social danger posed by the actions committed.

The material element of any crime is represented by the prohibited act of conduct (*verbum regens*), which indicates the prohibited action (Neagu, 2019: 86).

Based on the fact that the objective side of the crime of mass disorders can be materialized through three distinct normative varieties, in the following we propose to thoroughly analyze the particularities of each of them.

The prejudicial act provided for in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova is committed by organizing or leading mass disorders, accompanied by the use of violence against persons, pogroms, arson, destruction of property, the use of firearms or other objects used as weapons, as well as by offering violent or armed resistance to representatives of the authorities (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

Literally, according to the Explanatory Dictionary of the Romanian Language, the term ,,organization" represents, in the first sense, the action of organizing and its result, and in the secondary sense - composition, arrangement. In turn, the verb ,,to organize", in the reflexive sense, is understood to proceed methodically and orderly in one's actions, to coordinate one's actions, orienting oneself according to a plan; to gather and strengthen one's forces; to thoroughly prepare an action according to a well-thought-out plan (Explanatory dictionary of the Romanian language online).

Similarly, the notion of ,,leading" is explained as the action of leading (oneself); the activity of the leader, and the verb ,,to lead" is explained as: ,,1. to guide a group of people, an institution, an organization, etc., having the entire responsibility of the work in the respective field; 2. to orient oneself according to someone; 3. to accompany someone" (Explanatory dictionary of the Romanian language online).

According to the opinions of the authors S. Brînză, X. Ulianovschi, V. Stati, etc., ,,the organization of mass disorders consists in the preparation, creation of conditions for the realization of mass disorders, as well as in the management of these disorders. On the other hand, the management of mass disorders is carried out by directing the masses of people, in order to commit mass disorders, coordinating the activity of the masses of people, etc." (Brînză, 2005: 550).

Separately, the authors S. Brânză and V. Stati detail the meanings of the actions of organizing and leading mass disorders, as follows: "the organization of mass disorders is expressed, as the case may be, by: a) preparing and planning provocations, in order to incite the aggressiveness of the masses of people; b) creating a favorable atmosphere for the application of violence against individuals – pogroms, arson, destruction of property, the use of firearms or other objects used as weapons or the offering of violent or armed resistance to representatives of the authorities; c) creating other necessary conditions for the implementation of mass disorders. In turn, the management of mass disorders involves, as the case may be: a) directing the masses of people in order to commit mass disorders; b) coordinating the actions of the participants in mass disorders; c) directly guiding the masses of people in order to apply violence against individuals, commit pogroms, arson, destruction of property, of the use of firearms or other objects used as weapons, or in order to offer violent or armed resistance to representatives of the authorities, etc. (Brînză and Stati, 2015: 582).

In the same vein, the author A. Borodac notes that ,,by organizing mass riots one should understand their preparation by manufacturing and distributing leaflets or other materials, public appeals to gather a crowd of people, etc. Leading mass riots involves directing the gathered crowd by calling on them not to obey the authorities, to gather, instigating people in the crowd to block transport arteries, to disrupt the normal activity of enterprises, institutions and organizations, or to resist representatives of the authorities" (Borodac, 2004: 415).

The authors L. D. Gauhman, L. M. Kolodkin and S. V. Maksimov elucidate that ,,the organization of mass riots is expressed in the actions of a person to create a crowd in order to disrupt public security through agitation, calls for violence or other illegal acts, or to lead a crowd, with the aim of disrupting public security" (Gaukhman, 1999: 560).

At the same time, the authors M. I. Yakubovich and V. A. Vladimirov argue that ,,the organization of mass disorder constitutes an illicit action, which encompasses the preparation of a crime, by making prior agreements in this regard, identifying a criminal plan for the persons participating in mass disorder, leading them in the process of committing the acts, addressing calls to persons to form a crowd by various methods, instigating the mob to cause fires, pogroms, destruction, by propagating aggressive and slanderous opinions" (Yakubovich and Vladimirov, 1961: 149). We do not fully support the opinion of the authors M. I. Yakubovich and V. A. Vladimirov, since, based on the definitions researched, the organization and leadership of mass disorder constitute two distinct actions, both from the explanatory reasoning and from the point of view of the methods of committing. However, we do not exclude the situation in which one and the same subject can successively or simultaneously carry out both activities of organization and leadership of mass disorder.

In such a case, the organization of mass disorders primarily includes the coordination of the perpetrator's arrangements for committing the illicit act (drafting action plans, choosing methods, means and instruments in this regard, etc.), while their management directly refers to the process of orientation and guidance of participants in the process of mass disorders.

In order for the harmful act to be legally classified under paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova, it is sufficient for the perpetrator to commit one of the two illicit actions described *above* (Chepestru, 2024: 526). In the case, the moment of consummation of the offense is important, which is determined by the adjacent actions of the criminal activity. Therefore, in order for the actions of organizing or leading mass disorders to have a consummated character, it is indispensable that the latter be accompanied by the application of the actions listed in the incrimination norm, following the rendering of the normative modalities.

In the context in which the mandatory actions that accompany the basic criminal act

have a major importance in the process of its legal classification, we opine on the imperativeness of explaining each adjacent action of the organization or management of mass disorders, in the event that they are typical and the normative manner stipulated in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova, and the application of acts of violence being also characteristic of the act indicated in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova.

The first adjacent action stipulated in the content of paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova is „**the application of violence against persons**".

To begin with, the term „violence" will be investigated, which comes from the Latin „*violenstus/violentum*", and in general terms means: „1. the attribute, the character of what is violent; power; 2. lack of control in words or deeds. 3. the fact of using brute force; violation of the legal order" (Explanatory dictionary of the Romanian language online).

At the same time, by application we mean: „1. to put one thing on (or over) another in order to fix them, unite them, make them a common body; 2. to put something into practice; 3. to administer" (Explanatory dictionary of the Romanian language online).

From a legal point of view, violence represents the general violation of the rights of the human being: the right to life, to security, to dignity and to physical and mental integrity. In a general sense, it designates the use of physical force or other persuasive means, in order to cause damage to property or harm to the integrity of a person. In this sense, an act of violence has, most of the time, a premeditated character, being committed with intent or signifying the intention to cause suffering or physical harm to another person (Căprioară, 2013: 481).

The authors V. Bujor and A. Tighineanu call „violent crimes" those criminal acts in whose normative content „the presence of violence is necessarily mentioned: „with the application of violence"; „accompanied by violence"; „with the threat of violence"; „acts of violence", and in some cases – by expressions that imply violence: „particularly cruelty"; „torture or torture"; „with the use of a weapon" etc. [...] are crimes of violence all the components that have the effect of attacking the life and health of a person, regardless of the fact that in the context of the Criminal Code they are found within different sections or chapters" (Bujor and Tighineanu, 2015: 13).

The authors V. D. Ivanov and P. V. Ivanov explain that „the violence applied within mass disorders can be both physical and psychological. Physical violence is manifested by hitting, beating and injury to health of varying severity. Psychological violence consists of mental coercion to commit the named actions" (Ivanov, 2001: 273).

The author M.-V. Grigoriu identifies three types of violence: „1) private violence, which in turn can be: a) criminal violence: deadly (murder, poisoning of persons, capital executions); corporal (intentional blows and injuries); sexual; b) non-criminal violence, which involves suicide and attempted suicide, road accidents, work accidents, etc.; 2) collective violence, which includes: a) violence of citizens against the government, terrorism, revolutions and strikes, b) violence of the government against citizens, state terrorism, industrial violence; 3) paroxysmal violence – war" (Grigoriu, 2006: 26). We consider that, in the case of mass disorders, the form of collective violence is applied, since this crime is specific to the common conceptions of the mob. Therefore, it is characterized by the formation of groups of people, who pursue common goals, namely to act exactly in the manner in which they were instructed and/or influenced by the organizer or leader of the crime.

The author A. I. Rarog explains the notion of violence through the lens of the crime of mass disorder, as follows: „violence is understood as physical and psychological. It can be expressed by causing or threatening to cause minor, medium and serious injuries to health, as well as by imposing or threatening to inflict beatings and blows. Causing death or qualified

types of serious bodily harm requires additional qualification" (Rarog, 2001: 313).

In the Commentary on the Criminal Code of the Republic of Moldova with amendments up to August 8, 2003, drafted by the author A. Barbăneagră, the typology of violence is presented, in the context of the crime of mass disorder, which manifests itself both physically and psychologically (Barbăneagră, 2003: 836).

The author Y. Nabat notes that „the very term „violence" is regularly used to denounce both the commission of physical violence against individuals, and the causing of material and psychological damage" (Nabat, 2025: 358-378).

The authors V. Bujor and O. Bejan emphasize that „violence represents the influence of one subject over another, an act of applying power, although the act of violence is not limited only to actions such as the application of force or the threat of such application. The act of violence cannot be reduced only to coercion, it can also fulfill the function of repression or even destruction of the object of violence" (Bujor and Bejan, 2016: 61).

Given the immediate impact of the analyzed crime and the profound psychosocial effect it can cause, we align ourselves with the opinions of the aforementioned doctrinaires, who consider that, when committing the crime of mass disorder, both physical and psychological violence can be applied. Therefore, physical violence, being the most visible and clear form of committing the crime in question, causes immediate effects on public security, which can materialize through: physical aggressions on individuals, causing bodily harm to individuals, as a result of the application of violence against individuals, causing pogroms, arson, destruction of property, the application of firearms or other objects used as weapons, as well as the opposition of violent or armed resistance to representatives of the authorities, etc.

On the other hand, psychological violence in mass disorders can manifest itself through: spreading collective threats, causing fear in society through various rumors, displaying behavior that induces fear in society, forcing participants to act violently, etc.

At the normative level, two types of violence are recognized: non-dangerous and dangerous to the life or health of the person.

According to point 5 of the Decision of the Plenum of the Supreme Court of the Republic of Moldova no. 23 of 28.06.2004 on judicial practice in criminal trials on theft of property, violence not dangerous to the life or health of the person is considered to be that type of physical aggression, as a result of which insignificant injuries were caused to the bodily integrity or health of the person (which did not generate a health disorder for more than 6 days, nor loss of work capacity) or the intentional application of blows or the commission of other violent actions that caused physical pain (art. 78 paragraph (1) of the Code of Minor Offences), if these actions did not create a danger to the life and health of the victim (Decision of the Plenum of the Supreme Court of Justice on judicial practice in criminal trials on the theft of property: no. 23 of 28.06.2004).

In the context, point 35 of the Regulation on the forensic assessment of the severity of bodily injury or health, approved by Government Decision no. 534/2023 regulates the criteria for assessing insignificant bodily injury or health, as follows: „lack of health impairment or health impairment for no more than 6 days and lack of permanent general incapacity for work" (Government Decision No. 534/2023).

According to point 6 of the Decision of the Plenum of the Supreme Court of the Republic of Moldova no. 23 of 28.06.2004 on judicial practice in criminal trials on the theft of goods, the spectrum of violence dangerous to the life or health of the person includes medium or light injuries to the bodily integrity or health of the person or which, although they did not cause these consequences, at the time of its application, due to the operating method, pose a real danger to life and health (Decision of the Plenum of the Supreme Court of Justice on judicial practice in criminal trials on the theft of property: no. 23 of 28.06.2004).

So, according to point 32 of the Regulation on the forensic assessment of the severity of injury to bodily integrity or health, approved by Government Decision no. 534/2023, the criteria for assessing light injury to bodily integrity or health are: short-term health disorder and permanent and insignificant general incapacity for work. And according to points 33 and 34 of the same regulation, short-term health disorder is a morbid condition caused by trauma, which lasts for more than 6 days, but not more than 21 days, inclusive, and by permanent and insignificant general incapacity for work is meant an incapacity of up to 10%, inclusive (Government Decision No. 534/2023).

Extrapolating the above, we can highlight the following particularities of violence:

1) it represents an illicit, intentional manifestation and has a high degree of danger;

2) depending on its typology, it can be physical and psychological;

3) depending on the degree of harm, it can be dangerous and non-dangerous for the life or health of the person;

4) it is applied directly or indirectly;

5) the exact type of violence specific to the result sought by the perpetrator is applied to the victim.

The second adjacent action of the act of organizing or leading mass disorders is manifested by provoking **pogroms**.

The term ,,pogrom" comes from the Russian word ,,*громить*", translating as ,,to destroy, to consume", with the meaning of ,,massacre, carnage". Making a contingency with the general meaning of the respective notion, we note that ,,pogrom" is explained as the massacre of a minority national or racial group, organized by ultranationalist, chauvinistic elements (Explanatory dictionary of the Romanian language online).

Author A. I. Rarog notes: ,,pogroms are actions that include the damage to living spaces or work offices, vehicles, means of communication, as well as their destruction or looting" (Rarog, 2001: 638).

Author I. Macari explains that ,,pogrom means the destruction or destruction of buildings, property, means of transport and communications, which are often accompanied by mass killings of people, acts of robbery, looting, etc." (Macari, 2003: 324).

We express a reserved opinion regarding the way of explaining the notion of ,,pogrom" offered by the author I. Macari, because, according to his opinions, it would be presumed that pogroms include degradation and destruction of property, accompanied by other criminal acts, which constitute components of separate crimes. However, when legally qualifying such acts, the competent authority is to classify the perpetrator's actions as concurrent crimes, because the listed actions cannot be prescribed as actions specific to the act of organizing or leading mass disorders, since they constitute components of distinct crimes. Respectively, in the stated cases, art. 285 of the Criminal Code of the Republic of Moldova is to enter into competition with the relevant article, which incriminates another crime committed by the perpetrator during the mass disorders, as the case may be with art. 145 of the Criminal Code of the Republic of Moldova (intentional murder), art. 151 of the Criminal Code of the Republic of Moldova (intentional serious injury to bodily integrity or health), art. 187 of the Criminal Code of the Republic of Moldova (robbery), art. 188 of the Criminal Code of the Republic of Moldova (robbery), etc.).

The authors S. Brînză and V. Stati mention that ,,by 'pogroms' we mean vandalism, that is, desecration of buildings or other premises, violent resistance or destruction of property in public transport or in other public places. In the case under consideration, the additional qualification according to art. 288 CP RM" (Brînză and Stati, 2015: 583).

The author A. M. Bagmet argues that ,,pogrom is a chauvinistic spectacle against a nationality or other group of the population, accompanied by robberies and murders. Pogrom is a collective term that characterizes the socially dangerous actions of active participants in

mass disorders and is aimed at the destruction or devastation of property, means of transport, means of communication, which are often accompanied by violence, mistreatment of persons, murder, rape, robbery, theft. The commission of separate crimes committed during a pogrom should be qualified in accordance with the rules on the accumulation of crimes" (Bagmet, 2019: 56-61).

Therefore, we conclude that the meaning of the concept of pogrom is practically clarified differently in the specialized literature, some authors considering that pogroms are related to the destruction or devastation of buildings, means of transport and goods, and others emphasizing that they are limited to the looting, ruining of various material objects, homes, spaces, buildings of institutions, enterprises and organizations. In light of the various existing explanations regarding the notion of ,,pogrom", we believe that it is necessary to take into account that, in the case of mass disorders, the provocation of pogroms cannot be limited to only one crime. In the legal analysis of the notion in question, it is necessary to establish all the signs that delimit the action of pogrom carried out within the framework of mass disorders from other similar crimes.

The third adjacent action to the act of organizing or leading mass disorders is manifested by **arson**.

The general explanation of the notion of ,,arson" is summarized in the action of setting *fire* and its result. The verb ,,to set fire" means to set fire, to cause a fire (with the aim of destroying) (Explanatory dictionary of the Romanian language online).

The authors S. Brînză and V. Stati understand by ,,arson" – ,,the causing of fires, by triggering a physical-chemical phenomenon, through which the combustion of one or more combustible substances occurs in the presence of oxygen in the air. In the case of destruction of goods, any other goods than buildings or other rooms, or goods in public transport or other public places are affected. Damage to goods is not taken into account" (Brînză and Stati, 2015: 583).

Another definition of ,,arson" is proposed by the author A. Borodac, namely, arson consists of ,,the ignition or burning of property, even if it was not destroyed when the fire was extinguished" (Borodac, 2004: 416).

The author V. G. Enghibarian argues that ,,arson is an act aimed at setting fire to buildings, various objects and vehicles, which causes by various means the appearance of open flames capable of turning into a fire, that is, a process of uncontrolled combustion accompanied by the destruction of material values and endangering the life and health of people" (Engibaryan, 2015: 85).

Thus, it is concluded that, during mass disorders, fires are characterized as deliberate actions, which generate the ignition and burning of various movable or immovable property, regardless of their type of ownership.

The fourth adjacent action of the act of organizing or leading mass disorders is materialized through the **destruction of property**.

In a general sense, the term ,,destroy" is explained as ,,to cause to cease to exist" (Explanatory dictionary of the Romanian language online).

The authors A. I. Rarog, V. P. Stepalin, etc. are of the opinion that ,,the destruction of property occurs when the goods become completely unusable and it is impossible to use them for the purpose for which they were intended" (Rarog, 2000: 197).

The authors S. Brînză and V. Stati argue that ,,in the case of the destruction of goods, any other goods than buildings or other premises or goods in public transport or other public places suffer. The deterioration of goods is not taken into account" (Brînză and Stati, 2015: 583).

On the other hand, I. Macari argues that ,,the destruction occurs when the good has been caused considerable damage and without the necessary repair it cannot be used

according to its intended purpose". In the context, we deduce that the notion of ,,destruction of goods" refers to the action of partial devastation of material objects, which subsequently, due to the deplorable state in which they are, can no longer be used according to their original purpose, as well as their total devastation (Chepestru, 2024: 67).

The fifth adjacent action to the act of organizing or leading mass disorders is materialized by **the use of a firearm or other objects used as a weapon**.

The mentioned action can have multiple connotations, respectively, it is important to realize the difference between the application of a firearm and the application of other objects used as a weapon.

The authors V. Cușnir and C. Nemțanu note the following: ,,some crimes are inextricably linked to the illegal handling of weapons and ammunition. When committing crimes involving violence (and not only) as a special means to achieve the criminal result, various types of weapons are used, among which the most commonly used is the firearm. It is not by chance that the application of a weapon when committing a crime constitutes an aggravating circumstantial sign within several articles of the Special Part of the Criminal Code" (Cușnir and Nemțanu, 2024: 102).

According to art. 2 of Law no. 130/2012 on the regime of weapons and ammunition for civilian use, a firearm is a portable weapon with a barrel that can throw, is designed to throw or can be converted to throw a shot, a bullet or a projectile through the action of a propellant. It is considered that an object can be converted to throw a shot, a bullet or a projectile through the action of a propellant, if it has the appearance of a firearm and, as a result of its construction or the material from which it is made, can be converted for this purpose. Also in the content of the mentioned article is found the notion of ,,application of a firearm", which is defined as ,,execution of firing a firearm (Law No. 130/2012).

At the same time, in art. 2 para. (2) of Law no. 218/2012 on the application of physical force, special means and firearms, the notion of ,,application of a firearm" is also explained as ,,firing a shot at the target" (Law No. 218/2012).

A detailed definition of a firearm is outlined in Joint Order No. 4MAI/44MJ/17-O/MF/6CNA/1SIS/4SPPS of January 11, 2018 on the approval of the Guide on professional intervention in the exercise of the function, which is explained as a portable weapon with a barrel that can throw, is designed to throw or can be converted to throw a shot, a bullet or a projectile by the action of a propellant. It is considered that an object can be converted to throw a shot, a bullet or a projectile by the action of a propellant if it has the appearance of a firearm and, as a result of its construction or the material from which it is made, can be converted for this purpose (Joint Order No. 4 MAI/44 MJ/17-O MF/6 CNA/1 SIS/4 SPPS of January 11, 2018).

In the context of the application of the firearm, it is important that the firearm is in the appropriate condition to be used according to its intended purpose. If the perpetrator uses a weapon that has a certain defect, a fake, unloaded weapon, a mold or a model of a weapon, this fact cannot be considered an eloquent sign for the act to be considered as having been committed with the use of a firearm.

,,Other objects used as weapons" means any object that has a purpose other than attacking a person, or defending against an attack, but which may cause damage to the health or life of the person (knives, including kitchen knives, razors, crowbars, axes, clubs, metal rods, chains, etc.), as well as objects intended for the temporary disorientation of the victim, such as revolvers, balloons and other devices with neutralizing toxic gases. Incidents are weapons, which cannot be used to neutralize a person (art. 2 of Law no. 130/2012 on the regime of weapons and ammunition for civilian use). By ,,application of a weapon or other objects used as a weapon" is meant the use of these objects in order to annihilate the victim (targeted firing of firearms, application of blows, demonstration of a weapon or object used as a weapon for the

purpose of intimidation, etc.), (Poalelungi, 2019: 408).

The authors V. D. Ivanov and P. V. Ivanov explain: ,,a weapon is any firearm or bladed weapon used in an attack to harm the life or health of people. Objects used as weapons may include various items, both prepared in advance and those found in the possession of the perpetrators at the time of committing the crime. The use of firearms consists in making shots, which harm human life and health" (Ivanov, 2001: 464).

In these circumstances, one of the optional signs of the objective side appears, namely the means used to achieve the criminal purpose, in this case the firearm or other objects used as a weapon.

From the legal analysis of the normative acts and the doctrine, we note that the notion of ,,firearm" has a narrower meaning compared to the notion of ,,weapon", or, according to art. 129 para. (1) of the Criminal Code of the Republic of Moldova, weapons are understood as instruments, parts or devices declared as such by legal provisions. Likewise, paragraph (2) of the same article provides that any other objects that could be used as weapons or that have been used for attack are assimilated to weapons (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

According to art. 2 of Law no. 130/2012 on the regime of weapons and ammunition for civilian use, a weapon is an object or device provided for in the categories in annex no. 1 to the aforementioned law, designed or adapted, through which bullets, bullets or other projectiles or harmful substances, regardless of their state of aggregation, can be projected by explosive, gaseous or atmospheric pressure or by means of other propellant agents (Law No. 130/2012).

From the corroboration of the meanings of the notions ,,weapon" and ,,firearm", we note that the spectrum of firearms does not include weapons in category C (such as: pneumatic weapons, short weapons specially made to disperse harmful, irritating or neutralizing gases, tranquilizer weapons, crossbows and bows intended for sports shooting, arrows related to them, etc.) and category D (such as: airsoft weapon replicas, tear gas or irritant sprays, electroshock devices, edged weapons, etc.) from Annex No. 1 to Law No. 130/2012 on the regime of weapons and ammunition for civilian use.

Generally, we highlight that category C includes weapons that are subject to declaration, and category D includes other weapons not subject to authorization.

We consider that, in the context of art. 285 of the Criminal Code of the Republic of Moldova, the legislator's limitation of weapons in categories C and D of Annex No. 1 to Law No. 130/2012 on the regime of weapons and ammunition for civilian use generates significant normative gaps for the application of the criminal law. For example, in mass disorders, the perpetrator may apply pneumatic weapons, edged weapons, electroshock devices, tear gas or irritant sprays, etc., weapons that are found exclusively in categories C and D of the said annex, the consequences of the application of which may be practically similar to those of the application of firearms.

In addition, according to Art. 2 of Law No. 130/2012 on the regime of weapons and ammunition for civilian use, non-lethal weapons and ammunition are considered to be weapons and ammunition in category B letter m) and in category C, according to Annex No. 1 to the respective law, which have a utilitarian purpose or which are intended for leisure or self-defense, made in such a way that, when used, they do not cause the death of persons (Law No. 130/2012).

Therefore, from the aforementioned explanation, the legislator categorically excludes as a harmful consequence – ,,causing the death of persons", as a result of the use of weapons included in category C, but does not guarantee that after their use serious, medium or light injuries cannot be caused, as the case may be.

In the event that the legislator establishes in art. 285 of the Criminal Code of the

Republic of Moldova, exclusively, only the necessity of using a firearm, the weapons in categories C and D of annex no. 1 to Law no. 130/2012 on the regime of weapons and ammunition for civilian use remain outside legal control, making it impossible to legally classify the crime, based on that article. So, although they may be dangerous for the health of the person, the use of these types of weapons in mass disorders is possible, but, at the moment, does not attract criminal liability, in the sense prescribed in art. 285 of the Criminal Code of the Republic of Moldova.

The presence of this normative gap generates the emergence of a different legal treatment compared to similar acts, which are committed with the types of weapons indicated in categories C and D and which may have the same degree of danger as firearms. For example, the use of an air pistol or a tear gas spray during mass riots cannot be sanctioned under art. 285 of the Criminal Code of the Republic of Moldova, which denotes the emergence of a discriminatory regime against identical criminal behaviors, depending on the type of weapon used. At the same time, in the absence of a clear legal norm, for such types of weapons, uncertainties may arise in the application of the law by criminal investigation bodies and courts, which may issue non-unitary or even arbitrary solutions.

On the other hand, we would like to mention that edged weapons, as well, are part of category D of annex no. 1 to Law no. 130/2012 on the regime of weapons and ammunition for civilian use, but their scope "does not include folding knives, kitchen knives and tourist knives with a blade length of up to 105 mm and a thickness of up to 3.5 mm" (Law No. 130/2012). For this reason, the typology of the aforementioned knives will fall within the scope of the notion of "other objects used as weapons".

In a comparative aspect, it is noted that the Romanian Criminal Code criminalizes in art. 372 paragraph (1) the act of carrying without right, at public gatherings, cultural-sports events, in places specially arranged and authorized for entertainment or leisure or in public transport: a) a knife, dagger, box or other such objects manufactured or made specifically for cutting, stabbing or hitting; b) non-lethal weapons that are not subject to authorization or electric shock devices; c) irritating-tear-producing substances or paralyzing substances (Criminal Code of Romania of July 17, 2009).

Therefore, tangentially to the local criminal legislation, we note that the objects prohibited in par. (1) of art. 372 of the Romanian Criminal Code, largely coincide with certain weapons in categories C and D of annex no. 1 to Law no. 130/2012 on the regime of weapons and ammunition for civilian use, such as: crossbows, bows for sports shooting, arrows related to them, tear gas or irritant sprays, etc.

Based on the factual and legal arguments invoked, we consider it appropriate to replace the phrase „firearm" with the word „weapons", so as to expand the scope of application of art. 285 of the Criminal Code of the Republic of Moldova, in the part related to the use of weapons. This amendment will have the following benefits:

1) it will ensure extensive and efficient legislative coherence;

2) it will exclude the limitation of weapons in categories C and D of Annex No. 1 to Law No. 130/2012 on the regime of weapons and ammunition for civilian use in the process of legal qualification of the crime, based on art. 285 of the Criminal Code of the Republic of Moldova;

3) will guarantee criminal liability for committing the crime of mass disorder with the use of weapons that are not apparently „firearms";

4) will contribute to the prevention and fight against the „mass" criminal phenomenon.

The last adjacent action of the act of organizing or leading mass disorders is carried out by **offering violent or armed resistance to representatives of the authorities**.

In the context, it is relevant to elucidate the mentioned action, by outlining the

differences between the concepts of ,,opposition to violent resistance" and ,,opposition to armed resistance".

By opposition to violent resistance to representatives of the authorities is meant the commission of active physical actions of opposition to resistance, which is carried out in the process of committing criminal acts. Ignoring the demands of representatives of the authorities to cease criminal activity does not constitute opposition to resistance, but only physical intervention, the use of force to stop physical actions is considered as opposition to resistance (Decision of the Plenum of the Supreme Court of the Republic of Moldova on judicial practice in criminal cases on hooliganism: no. 4 of 19.06.2006).

Authors V. D. Ivanov and P. V. Ivanov are of the opinion that ,,armed resistance means active opposition to representatives of the authorities, including law enforcement officers and military personnel, who perform tasks of suppressing mass disorders by using weapons, explosive devices or the threat of their use" (Ivanov, 2001: 284).

Authors A. I. Rarog, V. P. Stepalin and O. F. Shisov explain armed resistance to a representative of the authorities as ,,the direct use of firearms, bladed weapons or other weapons or the threat of their use against a representative of the authorities in order to prevent the restoration of order and the suppression of mob outrages. The use of violence against a representative of the authorities during armed resistance is regulated separately as a violation of the right to life of a law enforcement officer or military personnel during the commission of mass disorders, respectively, requires additional legal qualification" (Rarog, 2000: 314).

According to the opinions of the authors S. Brînză and V. Stati, violent or armed resistance to representatives of the authorities constitutes ,,the commission of active physical actions of resistance. Ignoring the demands of the indicated persons to cease criminal activity does not constitute resistance. Only intervention in order to counteract the actions of representatives of the authorities, assuming the application of violence or weapons against them, is considered violent or armed resistance to representatives of the authorities within the meaning of the provision of paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova. It is not the subject of the crime specified in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova who applies the accompanying actions, he only organizes or directs the performance of these activities. The direct performance of such activities is characteristic of the person who commits the crime provided for in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova" (Brînză and Stati, 2015: 583).

In our opinion, the notion of ,,violent resistance" is explained by the idea that the perpetrator applies dangerous or non-dangerous violence to the representative of the authority, causing, as the case may be, insignificant, light or medium injuries to the body or health, using physical force or various objects as a weapon. In the case of armed resistance, the weapon becomes the only means of committing the criminal act, or, the use of the weapon by the perpetrator in the process of mass disorder makes the exclusive distinction between the types of manifestation of resistance.

In support of that conclusion, it is relevant to note the following case from judicial practice: ,,X, on 06.09.2015, starting at 14.00, by mutual agreement and by understanding with XXX, acting with direct intent, aware of his actions, with the aim of destabilizing the situation, in complicity with other unidentified persons, actively participated in violent resistance to representatives of the authorities, expressed by pushing and striking them with objects on them, used as weapons" (Sentence of the Chisinau Court (Râșcani seat) of June 28, 2017. File no. 1-334/2017).

Therefore, in the case cited, the court concluded that, if the perpetrator uses other objects used as weapons in resisting the representatives of the authorities, then this constitutes violent resistance and not armed resistance, or, armed resistance necessarily involves the use

of a weapon by the perpetrator.

In the situation where, as a result of violent or armed resistance, the representative of the authority is caused serious bodily harm or health or in the event of his death, the harmful act is to be qualified in conjunction with one of the crimes specific to each separate case, art. 285 and, as the case may be, art. 145 of the Criminal Code of the Republic of Moldova (intentional murder), art. 151 of the Criminal Code of the Republic of Moldova (intentional serious bodily harm or health), etc.

In the process of offering violent or armed resistance to representatives of the authorities, it is necessary that this action be carried out during the course of mass disorders. In the event that the offering of violent or armed resistance to representatives of the authorities occurs following the completion of mass disorders, the respective act will not be qualified under art. 285 of the Criminal Code of the Republic of Moldova, because the respective action can no longer be considered an action inherent to the act of organization or leadership, or active participation in mass disorders. In such cases, depending on the harmful degree of the committed acts, the illicit act is to be legally classified either under art. 349 of the Criminal Code of the Republic of Moldova (threat or violence committed against a person with a responsible position or a person performing his public duty), or according to art. 353 of the Code of Minor Offenses no. 218/2008 (insulting a collaborator of law enforcement agencies, offering resistance).

In order to clarify the materialization of the normative modality incriminated in art. 285 para. (1) of the Criminal Code of the Republic of Moldova, the practical case is outlined, in which the court notes that: ,,X., in agreement and by agreement with XX., being in the immediate vicinity of the headquarters of the General Prosecutor's Office, in order to destabilize the situation, organized and led mass disorders, in which several people participated, including by applying violence and opposing violent resistance to representatives of the authorities, expressed by pushing and hitting with objects on them, used as weapons. [...] The witness states that the defendant X. had an aggressive behavior, inciting people to violence, trying to break the cordon of employees to enter the premises of the Prosecutor's Office. The witness states that the defendant X had the quality of organizer. Everyone listened to him, [...] and through his behavior, it was observed that he was an influential person. Whatever he said, they did. [...] The witness states that the defendant X instigated acts of violence. [...] X pleads guilty to committing the crime provided for in art. 285 paragraph (1) of the Criminal Code and based on this Law, he is sentenced to imprisonment for a term of 4 (four) years" (Sentence of the Chisinau Court (Râșcani seat) of June 28, 2017. File no. 1-334/2017).

The selected case clearly nuances the behavior that can be included in the spectrum of the act of organizing or leading mass disorders, as well as the actions that may accompany the harmful act. In the cited case, the practical ways are highlighted, through which the act incriminated in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova is committed, namely: breaking the cordon of employees of public authorities, shouting about violent actions to be taken, demonstrating aggressive and influential behavior, which generates provocations among the participants.

Following the research of the mandatory adjacent actions for the commission of the crime of mass disorders, we find that, in practice, the forms of manifestation of the respective actions do not exhaustively cover all the illicit actions that may occur during the commission of this crime.

It is mentioned that, in the case of art. 285 of the Criminal Code of the Republic of Moldova, the legislator did not provide sufficient levers for holding the perpetrator criminally liable. However, mass disorders, in the forms outlined in paragraphs (1) and (2), may be committed, including with the use of explosive devices or other devices with lethal effect.

Attention is drawn to the fact that art. 134^4 of the Criminal Code of the Republic of Moldova regulates the meaning of the notion of ,,explosive device or other device with lethal effect", as: a) explosive or incendiary weapon or device intended or capable of causing death, serious bodily injury or health or essential material damage; b) weapon or device intended or capable of causing death, serious bodily injury or health or essential material damage by the release, dissemination or action of toxic chemical substances, biological agents or toxins or other analogous substances, radiation or radioactive substances (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

Likewise, it is noted that on March 28, 2024, Law No. 67 on the regime of explosives for civil use was adopted, which partially transposes Directive 2014/28/EU of the European Parliament and of the Council of February 26, 2014 on the harmonisation of the laws of the Member States relating to the making available on the market and supervision of explosives for civil use, published in the Official Journal of the European Union L 96/1 of March 29, 2014. Accordingly, according to Art. 3 of the aforementioned law, an explosive device is an assembly of parts connected together in a certain way, which performs a well-determined function in a technical system with explosive properties (Law No. 67/2024).

The use of explosive devices or other lethal devices in mass disorders involves a high degree of social danger, as they can cause death of people, bodily harm, mass destruction, instability, social chaos, paralysis of social, political, economic activities, etc., affecting public security. Thus, the express omission of the phrase ,,explosive devices or other lethal devices" in art. 285 of the Criminal Code of the Republic of Moldova significantly exhausts the criminal regime for preventing, suppressing and sanctioning their use in mass disorders. At the same time, this regulatory lapse may allow for the avoidance of criminal liability in cases where explosive devices or other lethal devices are used in mass disorders.

Therefore, it is proposed to complete the list of mandatory additional actions provided for in par. (1) of art. 285 of the Criminal Code of the Republic of Moldova, which are applicable including for par. (2), by including a new adjacent action, namely the application of explosive devices or other lethal devices, which although they can practically manifest themselves during mass disorders, currently cannot be included in the spectrum of adjacent actions specific to art. 285 of the Criminal Code of the Republic of Moldova.

In the same context, we propose to supplement the adjacent actions indicated in par. (1) of art. 285 of the Criminal Code of the Republic of Moldova, which are applicable also for par. (2), with the phrase ,,toxic substances", or, it is pointed out that, just like explosive devices and other lethal devices, toxic substances constitute a major social danger to public security.

In fact, toxic substances can be used in mass disorders, being easy to procure or manufacture, including having lethal potential. The absence of the phrase ,,toxic substances" from the legal text may create difficulties in the process of legal classification of the offense based on art. 285 of the Criminal Code of the Republic of Moldova, if the perpetrator uses such substances to commit the act. Therefore, the use of toxic substances in mass disorders can generate dangers to the life and health of a large number of people, the possibility of contamination of public space with various pathogens, the creation of a climate of fear and social destabilization.

Therefore, the express inclusion of the phrases ,,explosive devices or other devices with lethal effect" and ,,toxic substances", in the appropriate grammatical form, in the list of adjacent actions provided for in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova will contribute to a clear and efficient regulation of actions that may pose a real and imminent threat to public security.

The harmful act regulated in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova is carried out by active participation in the commission of the actions

provided for in paragraph (1), i.e. the use of violence against persons, pogroms, arson, destruction of property, the use of firearms or other objects used as weapons, as well as the offering of violent or armed resistance to representatives of the authorities (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

According to the author A. Borodac, active participation in mass disorders consists of: ,,the activity of participants in mass disorders in the application of physical or mental violence, which causes minor, medium or serious bodily harm, in causing fires or in destroying means of transport, offices or other property. Causing minor or medium bodily harm is included in the given modality of mass disorders, and causing serious bodily harm constitutes a contest of crimes" (Borodac, 2004: 415).

The authors L. D. Gauhman, L. M. Kolodkin and S. V. Maksimov are of the opinion that ,,participation in mass disorder is explained as the commission by a person of any of the actions that constitute the content of the objective side of the respective crime, with the exception of actions of organizing or leading them. These actions are: the use of violence, provoking pogroms, arson, destruction of property, use of firearms, explosive substances or explosive devices" (Gaukhman, 1999: 561).

The author O. V. Shvedova believes that ,,participation in mass disorder, namely the use of violence, provoking pogroms and arson and other actions provided for in the provision of the criminal norm, is a less dangerous act in comparison with the organization of mass disorder, taking into account the fact that in judicial practice, participation in mass disorder is sanctioned more leniently" (Shvedova, 2016: 48).

Regarding participation in mass disorder, author T. Rotsch believes that ,,the act is not materialized by simple participation, but rather by committing acts of violence or threats to public security. Criminal liability can only be applied to the member of the crowd, who endangers public security" (Rotsch, 2015: 583).

There are also opinions that argue that individuals should be held criminally liable not only for committing illegal actions, but also for simply being present in a crowd. Thus, the author A. M. Bagmet is of the opinion that ,,if a person voluntarily joined a disorderly crowd and began to move within it, he has already committed the crime of mass disorder" (Rotsch, 2015: 48).

We disagree with the opinion expressed by the author A. M. Bagmet, because the mere presence of a person in a crowd, without committing one of the actions specific to mass disorder, cannot attract criminal liability. The very essence of the act in question consists in active participation in mass disorder, which must necessarily include the performance at that moment of one of the adjacent actions listed in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova.

Furthermore, in the case of Ezelin v. the French Republic, the applicant challenged his conviction for a disciplinary sanction with a reprimand for taking part in a demonstration which had resulted in damage to public property. The ECtHR thus found a violation of Article 11 of the ECHR and held that ,,if the participants in a demonstration which has harmful consequences do not themselves commit violent acts, they cannot be prosecuted solely on the ground of their participation in the demonstration. The freedom to participate in a peaceful assembly is of such importance that a person cannot be subject to a sanction – even one of the lower level of disciplinary sanctions – for taking part in a demonstration, as long as that person has not himself committed any reprehensible act on such an occasion" (Case EZELIN v. French Republic. Application no. 11800/85. ECtHR judgment of 26 April 1991, final of 26 July 1991 (Strasbourg)).

Making a jurisprudential connection with those presented above, in order to highlight the illicit actions that can be prescribed within the scope of the normative modality of active participation, the following practical case is considered: ,,X., being part of a group of protesters,

throwing stones at the building of the Parliament of the Republic of Moldova, actively participated in the mass disorders of April 7, 2009, expressed through violent actions resulting in causing bodily injuries of varying degrees to 296 collaborators of the internal affairs bodies; by setting fire to and destroying the premises of the Parliament and the Presidency of the Republic of Moldova, the means of transport located nearby, the furniture, the computing equipment, other material goods, the prior material damage to which was assessed at the amount of 146707941 lei, seriously affecting public order and security" (Decision of the Criminal Chamber of the Supreme Court of Justice of the Republic of Moldova of January 29, 2014. File no. 1ra-175/14).

Along the same lines, another relevant case from national jurisprudence stands out, as follows: „X., being part of a group of protesters, prone to aggression, who incited the demonstrators to acts of public violence by expressing uncensored words to representatives of the authorities, pushing the cordon of police officers who ensured public security, acted with direct intent, in a violent manner, and struck the deputy of Parliament Y., causing him, according to the forensic report, minor bodily injuries. In this way, X. actively participated in the mass disorders, expressed through acts of violence, resulting in causing bodily injuries of varying degrees to employees of internal affairs bodies and other persons; by damaging nearby means of transport, damaging portions of the building of the Parliament of the Republic of Moldova, seriously endangering public order and security" (Sentence of the Chisinau Court (Buiucani seat) of January 27, 2021. File no. 1-818/17).

From these cases it follows that, under the aegis of the action of active participation, the following actions are included: blocking the main transport arteries, setting fire to and destroying buildings and movable property, throwing stones at public administration buildings, damaging and overturning means of transport, mocking people and committing acts of violence against them, etc.

On the other hand, the authors S. Brînză and V. Stati argue that „it is difficult not to manifest subjectivism when dissociating active participation from inactive participation. For this purpose, the following dissociative criteria should be considered: a) the degree of aggressiveness of the participant in the mass disorders; b) his/her spirit of initiative; c) the ability to make decisions and execute them; d) the refusal to spare the victim; e) recalcitrance in relation to representatives of the authorities, etc. Liability cannot be applied under paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova in the case of inactive participation in the use of violence against persons, in pogroms, arson, destruction of property, in the use of firearms or other objects used as weapons or in the offering of violent or armed resistance to representatives of the authorities" (Brînză and Stati, 2015: 585).

The author S. Copeţchi is of the same opinion, who specifies that „in order for the offense provided for in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova to be imputable, it is necessary and sufficient that the perpetrator has committed at least one of the six actions. What is important is that the perpetrator's behavior implies active participation in the commission of the named actions. In other words, a simple participation in the commission of the actions that form the mass disorder is not enough. An active involvement of the perpetrator is necessary" (Copeţchi, 2020: 28).

Therefore, we agree with the opinion of the authors S. Brînză, V. Stati and S. Copeţchi, that the distinction between active and non-active participation, in the case of the offense of mass disorder, involves an analytical exercise susceptible to subjective influences, since the actions of active participation can be diverse, and the margin of appreciation in terms of active or non-active participation can be erroneous.

As an example, in a practical case, the court notes that „X. , on 03.09.2015, starting at 9:00 p.m., together with XX, [...] actively participated in mass disorder, expressed by active violent disobedience to the legitimate demands of the employees of the indicated institution

to cease illegal actions, calling the employees of the indicated institution with uncensored and obscene words, destroying cell doors, video recording cameras, lighting lamps in the corridor and detention cells, chairs and other objects, including damaging the plaster on the walls, using objects as weapons in this regard. [...] X. is found guilty of committing the offense provided for in art. art. 42 para. (2) and (3), 285 para. (2), art. art. 42, 321 of the Criminal Code" (Sentence of the Chisinau Court (Buiucani seat) of May 31, 2024. File no. 1-354/2020).

Therefore, in practical cases related to para. (2) of art. 285 of the Criminal Code of the Republic of Moldova do not clearly and precisely state the ways of active participation in mass disorders, the courts being limited only to listing the mandatory actions specific to the act, which are expressly established in the incriminating norm. These omissions regarding the phrase „active participation" confirm the impossibility of assessing and explaining the active nature of participation in mass disorders. However, we point out that the very action of participation in the commission of actions such as: the application of violence against persons, pogroms, arson, destruction of property, the application of firearms or other objects used as weapons, as well as violent or armed resistance to representatives of the authorities, viewed as a whole, manifests itself as active behavior in the commission of mass disorders (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

Therefore, we conclude that, from a normative point of view, the phrase „active participation" generates interpretations in the process of legal qualification of the act, based on para. (2) of art. 285 of the Criminal Code of the Republic of Moldova.

This aspect raises reasonable doubts about the compliance with the quality standards of the legal norm regulated in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova, or, taking into account the guarantees expressly provided in art. 7 of the ECHR, it is noted that the legislator must present the text of the criminal law in such a way as to protect the person from a possible accusation, conviction and arbitrary punishment. Accordingly, the explanation of the composition of the crime must be formulated in such a way that from its highlighting, the person independently or through the litigants understands the essence of the committed crime (Chepestru, 2022: 125).

Therefore, the aforementioned gives expression in modern terms to the adage *nul lum crimen, nulla poena sine lege*, prohibiting an extensive application of the criminal law by analogy (Charrier and Chiriac, 2008: 306).

Based on Article 7 of the ECHR, two principles are recognized: 1) the principle of legality of the criminal offence, according to which no one may be convicted of any act or omission which, at the time it was committed, did not constitute a criminal offence, under national or international law, and 2) the principle of non-retroactivity of criminal law, in the sense that a more severe penalty than that which was applicable at the time the offence was committed may not be applied (Cojocaru and Larii, 2019: 119). The aforementioned requirement is also transposed into the national criminal law, which in Article 3 paragraph (1) provides that no one may be declared guilty of a criminal offence, nor subjected to a criminal penalty, except on the basis of a court decision and in strict accordance with the criminal law, and in paragraph (2) of the same article provides that the extensive unfavourable interpretation and the application by analogy of the criminal law are prohibited (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

In this context, we establish that the normative text of paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova does not accurately indicate the limits within which it would be considered that the perpetrator actively or non-actively participates in mass disorders, which may create biased aspects in the process of qualifying the act by the criminal investigation body. At the same time, this normative dissonance complicates the activity of the courts, which, arising from the ambiguity of the legal norm stipulated in paragraph (2) of

art. 285 of the Criminal Code of the Republic of Moldova, cannot provide a precise assessment of the act of active participation in mass disorders. Accordingly, there is a risk that the courts will pronounce arbitrary or non-unitary sentences, which would seriously violate the rights of the potential guilty person. Thus, in the absence of objective criteria for establishing the limits of the act of active participation in mass disorder, courts are put in a position to reach different conclusions in similar cases, alarmingly affecting the unity of judicial practice.

Another problem that may be generated by the perpetuation of the phrase ,,active participation" in the wording of paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova is the extensive application of the legal norm. This aspect may determine the criminalization of actions that, in fact, do not meet the objective elements of the respective act, that is, without clear and accurate demonstration of the person's guilt. Therefore, the right to a fair trial and the presumption of innocence, which constitute essential principles in judicial processes, are directly violated.

In conclusion, we support the idea that it becomes impossible to elucidate the differences between active and inactive behavior during participation in mass disorder, which is why we opt for a legislative intervention in the normative content of paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova, in the sense of excluding the word ,,active" from the content of the mentioned paragraph.

According to paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova, calls for active violent disobedience to the legitimate demands of representatives of the authorities and for mass disorder, as well as for committing acts of violence against persons, are criminalized (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

Generally, within the meaning of the aforementioned paragraph, the call should be understood as an appeal, a request made publicly to an undetermined number of persons, with the aim of provoking them to commit illegal activities.

In the view of the authors S. Brînză and V. Stati, the aforementioned act knows, in turn, the following alternative normative modalities:

,,1) addressing calls for active violent disobedience to the legitimate demands of representatives of the authorities;

2) addressing calls for mass disorder;

3) addressing calls for committing acts of violence against persons" (Brînză and Stati, 2015: 585).

It is noted that the subject of the summons differs substantially in the hypostasis of the three normative modalities of commission.

In the case of addressing the summons to active violent disobedience to the legitimate demands of the representatives of the authorities, it is important to draw special attention to the following aspects:

1) the requests of the representatives of the authorities must be carried out within the limits of the law, because in the event of their illegality, the act cannot be qualified under art. 285 para. (3) of the Criminal Code of the Republic of Moldova;

2) simple neglect of the requests of the representatives of the authorities or the manifestation of disobedience to them does not constitute grounds for holding them liable, according to art. 285 para. (3) of the Criminal Code of the Republic of Moldova. For such legal classification, the perpetrator must take violent actions against the representatives of the authorities, thereby expressing disagreement with the legal demands submitted.

Addressing calls for active violent disobedience to the legitimate demands of representatives of the authorities directly aims at determining individuals to undertake concrete physical actions of active opposition, manifested through hostile, aggressive

behavior or blocking the exercise of legal powers by the authorities.

For example, in the Sentence of the Chisinau Court (Buiucani seat) of August 3, 2020, the court notes that ,,[...] ignoring the demands of the authorities' representatives to cease criminal activity does not constitute resistance, only the intervention in order to stop the actions of the authorities' representatives, assuming the application of violence against them, is considered active violent disobedience to the legitimate demands of the authorities' representatives within the meaning of the provision in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova. In this case, the demands of the authorities' representatives must be legitimate. Addressing calls for active violent disobedience to the illegitimate demands of the authorities' representatives does not fall under the provision in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova" (Sentence of the Chisinau Court (Buiucani seat) of August 3, 2020).

The authors L. D. Gauhman, L. M. Kolodkin and S. V. Maksimov note that ,,calls to violence against persons are manifested by making exhortations to a group of people (crowd), which contain an incentive to cause harm to health, bodily integrity or restrict the rights and freedoms of an indefinite number of persons" (Gaukhman, 1999: 561).

Addressing calls to commit acts of violence against persons is materialized by provoking some persons to commit acts of violence against other persons. It is important to specify that acts of violence against third persons must be applied exclusively in connection with mass disorders and in no way with other circumstances.

The author Borodac A. expresses his opinion that ,,calls to active disobedience to the legitimate demands of representatives of the authorities and to mass disorder, as well as to commit acts of violence against persons consist, as well as in active participation in mass disorder, in the activity of participants in mass disorder to carry out the stated calls, because the realization of these calls by the organizer or leader of mass disorder will constitute the first two actions of mass disorder provided for in art. 285 para. (1) of the Criminal Code of the Republic of Moldova" (Borodac, 2004: 415).

Accordingly, it is deduced that only if the calls for active violent disobedience to the legitimate demands of the representatives of the authorities and for mass disorder are made by the participants, the act can be qualified according to art. 285 paragraph (3) of the Criminal Code of the Republic of Moldova. However, in the case of addressing the mentioned calls by the organizer or leader of the mass disorder, they are included in the composition of the crime incriminated in art. 285 paragraph (1) of the Criminal Code of the Republic of Moldova, because in this sense the submission of the calls can be considered as a stage in the organization of the mass disorder.

The public nature of the calls is a mandatory condition, regardless of the method/means used by the perpetrator to ensure the dissemination of criminal ideas. Calls for active violent disobedience to the legitimate demands of the representatives of the authorities and for mass disorder can be made in various ways:

1) directly in front of an audience (spectators, listeners, eyewitnesses);

2) indirectly, in a way that the information becomes or may become known to an unlimited number of persons.

In this context, a wide range of methods and means can be used, in verbal and/or written form, by which the perpetrator can make calls for active violent disobedience to the legitimate demands of the representatives of the authorities and for mass disorder, such as: audio-visual means, sound amplifiers, photographs, placards, leaflets, etc. Regardless of the way in which the information is provided, all methods and means of informing the public must have an instigating character.

However, at present, calls for active violent disobedience to the legitimate demands of the representatives of the authorities and for mass disorder can be actively disseminated

among Internet users, through social networks or any other interactive channels in Internet networks, which, in our opinion, can be considered a method of committing an illegal action.

The authors S. Brînză and V. Stati note that ,,the addressing of calls for mass disorder represents the so-called ,,qualified incitement" in relation to those committed by the subject of the offense provided for in paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova. The act of the one who commits ,,qualified incitement" is assimilated to the act of the perpetrator of the offense. Consequently, in the case of addressing calls for mass disorder, it is not necessary to refer additionally to paragraph (4) of art. 42 and to paragraph (2) of art. 285 of the Criminal Code of the Republic of Moldova" (Brînză and Stati, 2015: 586).

The author A. Borodac mentions that ,,the actions indicated in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova cannot be considered as an incitement to trigger mass disorder, they do not have the specific character of actions of leading the crowd to direct the disorder. Calls for violent disobedience to legitimate demands, stated by representatives of the authorities, and for mass disorder, as well as for committing acts of violence against persons, are to be delimited from the similar activity of organizing and leading mass disorder" (Barbăneagră, 2009: 629).

Based on the legal norm provided for in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova and based on the opinions of the authors S. Brînză, V. Stati and A. Borodac, we consider that this actually takes the legal form of incitement to mass disorder. Therefore, it is mentioned that such an approach should be found in a separate article, which would exclusively criminalize the crime of incitement to mass disorder.

The current wording of paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova cumulatively and relatively includes the actions of calls for active violent disobedience to the legitimate demands of representatives of the authorities, calls for mass disorder and calls for the commission of acts of violence against individuals.

This legal formulation fails to make an explicit differentiation between the forms of manifestation of the act, the means used in its commission and the gravity of such calls. In such circumstances, we propose to exclude the content of paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova, with the completion of the Special Part of the Criminal Code of the Republic of Moldova, according to art. 285, with a new article – Article 285^1. ,,Incitement to mass disorder", which would criminalize incitement by any method to commit the crime of mass disorder mass disorder.

We would like to point out that, following the proposed amendment, the current regime for sanctioning the act provided for in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova is maintained, continuing to be part of the category of minor offenses.

By analogy, we highlight that in the Criminal Code of Romania, the act of public incitement is distinctly criminalized in art. 368. This is materialized by ,,the action of urging the public, verbally, in writing or by any other means, to commit offenses and is punishable by imprisonment from 3 months to 3 years or by a fine, without exceeding the penalty provided by law for the offense to which the incitement was committed" (Criminal Code of Romania of July 17, 2009).

In relation to the aforementioned legal norm, the authors G. Nistoreanu and A. Boroi mention that ,,incitement means an incitement, the awakening of an interest, which means less than a determination and is not directed at a specific person, but is addressed to the public, in order to disobey the laws or to commit crimes. This can be done by speech, writing or by any other means" (Nistoreanu and Boroi, 2002: 480).

This fact is also supported by the authors V. Dobrinoiu and N. Conea, who additionally mention that ,,criminal participation is possible in all its forms: co-authorship,

instigation or complicity. Co-authors carry out the instigation action together. An instigator can be someone who causes another to urge the public to disobey the laws or to commit crimes. An accomplice can be someone who helps or facilitates the perpetrator to commit the crime, providing him with the means to disseminate the instigation of the public to disobey the laws or to commit crimes" (Dobrinoiu and Conea, 2000: 559).

So, we note that in the local criminal legislation the crime of mass disorder is reflected through the prism of three standard variants of committing criminal activities, and the Romanian legislator divides each prejudicial act into separate articles.

For example, by possibly including art. 285^1, a clear definition of the act of incitement to commit mass disorder would be ensured, regardless of the method, as well as a terminological and logical concordance with modern criminal concepts, which impose a clear and proportionate sanctioning of incitement to commit crimes.

In another vein, we would like to mention that current realities, which endanger public security, are influenced by a possible significant increase in acts of violence committed on a mass scale. At the moment, the criminal legislation does not cover in any way the preparatory stages of the crime of mass disorder, such as: training, self-training or receiving training, for the purpose of organizing or leading, or participating in mass disorder accompanied by the actions provided for in paragraph (1) of art. 285 of the Criminal Code of the Republic of Moldova.

We consider it very important to expand the scope of criminalization of actions preceding the crime of mass disorder, basing ourselves exclusively on the imminence of effective prevention of acts of collective violence, which endanger public security.

This aim comes to strengthen the capacity of reaction and intervention of the competent authorities in advance, in order to timely stop the actions of training, self-training or receiving training, for the purpose of organizing or leading, or participating in mass disorder, thus discouraging the respective actions. In this way, the prevention of the commission of the harmful acts incriminated in paragraphs (1) and (2) of art. 285 of the Criminal Code of the Republic of Moldova will be strictly ensured, public security being guaranteed.

Additionally, we propose to include a form of release from criminal liability of the person, if he/she has notified the authorities about the training, self-training or receiving training for the purpose of organizing or leading, or participating in mass disorders, has contributed to the discovery of the committed crime, or to the unmasking of other trained persons, instructors, financiers, organizers of such training, if his/her actions do not contain another component of the crime.

In this way, a configuration of non-punishment of persons is to be conditionally established, having as its prerogative the encouragement of active collaboration of potential perpetrators with the law enforcement authorities. This will facilitate the unmasking of persons or groups of persons who are preparing to commit mass disorders.

It is specified that the proposed regulation complies with the principles of legality and proportionality in criminal matters, since training, self-training or receiving training for the purpose of organizing or leading or participating in mass disorders are actions that are committed with direct intent and in no way in the context of peaceful public demonstrations.

Furthermore, it is noted that similar provisions are found in art. 279^1 of the Criminal Code of the Republic of Moldova, relating to the terrorist act, which constitutes a coherent approach with reference to the criminalization of the preparatory stages of the terrorist act. Despite the fact that mass disorders differ from the terrorist act, both crimes have in common the organized nature, the potential for social disruption and the provoking of harmful consequences both on public order and security, and on other social values and relations, such as: life, health, physical and mental integrity of the person, his property, etc.

Therefore, it is justified to expand the mechanism for punishing actions of training, self-training or receiving training, for the purpose of organizing or leading, or participating in mass disorder, in a similar way to the existing regulations in the field of combating terrorism. Overall, the highlighted additions will contribute to strengthening the state's capacity to prevent and combat threats to public security quickly, without prejudice to the fundamental rights of individuals.

In another sense, attention is drawn to the optional signs of the objective side of the crime: the place, time, method and means of committing the harmful act, which will be further characterized. Optional signs take the form of main signs of the objective side only in cases where they are directly regulated in the enacting terms of the criminal legal norm. Otherwise, optional signs may be treated as circumstances that aggravate or mitigate criminal liability, respectively, they are taken into account by the court when determining the type and term of the criminal punishment.

It is worth noting that the incriminating text does not provide for special conditions of place or time for the existence of the crime (Dobrinoiu and Conea, 2000: 541).

The **place** of commission of the crime of mass disorder, regardless of the normative modality committed by the perpetrator, constitutes a sign of the objective side with particular importance for establishing the elements of the objective side.

There are several theories on the place of commission of the crime: ,,1) the action theory – explains that the place of commission of the crime is that of the commission of the action, as a material element of the criminal act, without regard to the place where the harmful result occurred; 2) the result theory – considers that the place of commission of the crime is that of the production of the result, without regard to the place where the action was committed; 3) the preponderance theory – sets the place of commission of the crime according to the place where the most important act for the commission of the crime was committed, the act that has the greatest efficiency within the criminal activity; 4) the theory of illegality – considers that the place of commission of the crime is where the first punishable activity was committed (preparatory or attempted acts), which demonstrates sufficient guilt to attract criminal liability; 5) the subjective theory of the offender's will – considers that the place of commission of the crime is where the of the crime is where the offender understood, wanted the result to occur, even if it took place in another territory (Ulianovschi, 2009: 17); 6) the theory of ubiquity – which indicates that the crime is considered committed wherever the criminal activity was carried out or any of the consequences of this activity occurred, except for places that served only as a transit for the criminal activity" (Grama, 2016: 121).

From a legal point of view, according to art. 12 par. (1) of the Criminal Code of the Republic of Moldova, the place of commission of the act is considered the place where the prejudicial action (inaction) was committed, regardless of the time of the consequences (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

In the context, the legislator establishes that the place of commission of the act is considered the place where the prejudicial action or inaction was committed, regardless of the time (and not the place) of the consequences (the legislator accepting the theory of action for determining the place of commission of the crime), and on the other hand, all crimes committed on the territory of the Republic of Moldova are to be punished according to the criminal law of the Republic of Moldova (the legislator accepting the theory of ubiquity), (Grama, 2016: 122).

So, in the case of art. 285 of the Criminal Code of the Republic of Moldova, the legislator does not specifically establish in the incriminating norm the place of committing mass disorders, but we can deduce that the prejudicial act can be committed in a place where a large gathering of people is present.

Based on the public nature of the crime of mass disorders, we emphasize that, in the event of committing the crime of mass disorders, the criminal law does not establish in the incriminating norm the imperativeness of its commission in a public place, but rather the public's awareness of the nature of the prejudicial act.

Or, according to art. 133 of the Criminal Code of the Republic of Moldova, ,,an act committed in public is understood to mean an act committed: a) in a place which, by its nature or destination, is always accessible to the public, even if at the time of the act no person was present in that place, but the perpetrator was aware that the act could become known to the public; b) in any other place accessible to the public if at the time of the act two or more persons were present; c) in a place inaccessible to the public, with the intention, however, that the act be heard or seen, if it occurred in front of two or more persons; d) in a gathering or reunion of several persons, with the exception of reunions that can be considered family in nature, due to the nature of the relationships between the participating persons; e) by any means resorting to which the perpetrator was aware that the act could become known to the public" (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002).

By analogy, we highlight the Decision of the Plenum of the Supreme Court of the Republic of Moldova on judicial practice in criminal cases on hooliganism, which notes that when examining criminal cases, the fact that the commission of the crime of hooliganism in a public place is not a mandatory characteristic of this crime will be taken into account. The public nature of the crime is mandatory: hooligan acts are committed in the presence of certain persons or the result of hooligan acts inevitably becomes known to other persons. However, it is important that the perpetrator resorts to such procedures that make it possible for the act or communication about it to reach the public (for example, displays some offensive texts or images at night in a public place where no other persons were at that time), (Decision of the Plenum of the Supreme Court of the Republic of Moldova on judicial practice in criminal cases on hooliganism: no. 4 of 19.06.2006).

In par. previously, the criteria for grouping mass disorders put forward by the author Starostin S. A. were also highlighted, one of which is the place of commission of mass disorders, in turn being divided into: localities and penitentiary institutions (Starostin, 1994: 84).

Thus, the place of commission of the examined crime constitutes a public space, predestined for a large gathering of people, which in itself forms a crowd.

So, mass disorders can be committed in various places, both in urban and rural areas. They can usually occur in those places or near those places, which represent the source of the conflict and, respectively, arouse the discontent of the people or against whom these discontents are directed. Such places can be the administrative buildings of state authorities, such as: Presidency, Parliament, Government, ministries, courts, headquarters of public authorities, etc., as well as the places adjacent to them.

As a rule, mass disorders can often also occur in places of large concentrations of people, such as: squares, stadiums, boulevards, streets, etc.

The **time** of commission of the crime of mass disorders constitutes an additional sign of the objective side, since it is not relevant in the process of legal classification of criminal activity. According to Art. 9 of the Criminal Code of the Republic of Moldova, the time of commission of the act is considered the time when the prejudicial action (inaction) was committed, regardless of the time of occurrence of the consequences (Criminal Code of the Republic of Moldova No. 985-XV of April 18, 2002). The time of the commission of the investigated crime may be taken into account when individualizing criminal liability, especially in cases where the perpetrator commits the illicit acts during protests, public demonstrations of a cultural, religious, sports nature, as well as other mass gatherings involving a large number of participants.

The **method** of committing the crime of mass disorder is not important in the process of qualifying the criminal act, but just like the time of the crime, it may be taken into account when individualizing criminal liability. For the most part, this optional sign appears when establishing the objective side of art. 285 para. (3) of the Criminal Code of the Republic of Moldova, where calls for active violent disobedience to the legitimate demands of representatives of the authorities and for mass disorder can be carried out by various methods, which have already been explained in the process of describing the respective act.

The **means and instruments** of committing the crime of mass disorder are expressly deduced from art. 285 para. (1) of the Criminal Code of the Republic of Moldova, which are typical, including for paras. (2) and (3). Respectively, these may be firearms or other objects used as weapons, which were previously characterized in a particular way in the explanation of the accompanying actions of the normative modalities of committing the analyzed crime.

Taking into account the means of committing the act provided for in art. 285 para. (1) of the Criminal Code of the Republic of Moldova, in the Sentence of the Chisinau Court (Buiucani seat) of August 3, 2020, the court explains the meaning of the word ,,summons" as ,,an invitation made by a sign, a gesture, a signal. Convocation (official in nature) to a meeting, a public event, in front of a court of law or a state authority. Oral or written expression of someone's desire for someone to come near or to a certain place. Urge to participate in an action, in an act" (Sentence of the Chisinau Court (Buiucani seat) of August 3, 2020. File no. 1-755/2019).

In this sense, the authors T. Toader and O. Loghin point to the imperative existence of three cumulative conditions: ,,1) the existence of the incitement; 2) the incitement being addressed to the public. If the incitement is addressed to one or more specific persons, the requirement of the law is not met;

3) the incitement must refer to the non-compliance with laws or the commission of crimes. It may be the non-compliance with a specific law or legal provision or the non-compliance with laws in general. Likewise, it may be the commission of a specific crime or the commission of crimes in general" (Toader and Loghin, 1999: 587).

In our opinion, we cannot limit ourselves to the means of commission exhaustively regulated in the text of the law, because during mass riots, perpetrators can also use other technical means, explosive devices or other devices with a lethal effect, toxic substances, which can endanger the health and bodily integrity of persons and, in general, people's lives. Taking into account the fact that in the previous chapter the criminal legislations of other states were investigated, based on the crime of mass riots, it is noted that in the criminal legislations of Georgia, the Russian Federation, Kazakhstan, the Republic of Azerbaijan, the Republic of Armenia, the Republic of Kyrgyzstan, the Republic of Tajikistan, the Republic of Turkmenistan, in addition to weapons, the legislator also recognizes as means of commission: explosive devices, toxic, incendiary or radioactive, poisonous or other substances, which endanger the life, health and bodily integrity of persons.

In the case of mass disorders, the **circumstances** in which the criminal activities were committed are not important in the process of legal classification of the act, but may be relevant for the individualization of criminal liability.

In what follows, we will analyze the structure of the composition of the crime of mass disorders, depending on the signs of its objective side. The identification of the taxonomy of the crime component under investigation will be accomplished by concisely presenting each type of crime component. Formal crime components are the components in whose content the objective side of the crime is described only by the prejudicial act (action/inaction). Thus, a characteristic of formal components is the fact that for their existence the criminal law does not require the production of a certain result, implicitly or explicitly provided for by the incriminating norm itself as a constitutive sign (Copețchi and Hadârca, 2015: 67). Material

crimes are those whose content the law has provided for the consequence, which, as a rule, consists of an injury, in the production of a material result (Botnaru, 2005: 134).

Conclusion

Given that the occurrence of harmful consequences is not an indispensable condition for the existence of the objective side of the crime of mass disorder, it should be noted that the crime provided for in art. 285 of the Criminal Code of the Republic of Moldova presents, in all three standard modalities regulated by law, a formal component. In other words, to establish the consummation of this crime, it is not necessary to prove material consequences, but it is sufficient to carry out the conduct prohibited by the criminal norm, even if it did not generate concrete harmful effects.

As for the acts incriminated by para. (1) and (2) of art. 285 of the Criminal Code of the Republic of Moldova, they are considered consummated from the moment the subject begins to organize or lead mass disorder, or from the moment of active participation in such disorder. For the existence of the crime, however, the law requires the presence of additional actions, likely to enhance the social danger of the conduct. Such actions may include: the use of violence against persons; the commission of pogroms or other anarchic manifestations; the setting on fire of goods or buildings; the intentional destruction or damage of property; the use of firearms or other objects used as weapons; as well as the offering of violent or armed resistance to representatives of public authorities. Therefore, the mere presence at the scene of mass disorder is not sufficient; visible and active involvement is necessary, accompanied by the adjacent actions listed by law.

As for the act incriminated in paragraph (3) of art. 285 of the Criminal Code of the Republic of Moldova, it is committed when the perpetrator publicly launches calls for violent and active disobedience to the legitimate demands formulated by representatives of the authorities, as well as incitements to trigger or amplify mass disorder. Also, the crime is considered committed when direct calls are made to exercise acts of violence against persons. An essential element of this method is the public perception: the calls must be formulated in a way that allows the audience to consider them real, credible and likely to be implemented. It is not necessary for the public to actually respond to these calls; it is sufficient that the calls be likely to incite, in a plausible manner, to violent actions or to disrespect the legitimate authority of the state. In conclusion, all three standard methods provided for in art. 285 of the Criminal Code of the Republic of Moldova have in common the fact that they emphasize the dangerous nature of the conduct itself, and not its possible material consequences. The law aims to sanction any form of behavior that risks destabilizing public order, affecting the authority of state bodies or generating a climate of collective violence.

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