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LEGAL ASPECTS OF THE CONCEPT AND ESSENCE  
OF PUBLIC SECURITY

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Analyses the existing views on public safety. In considering of the legal aspects of the essence of public security, focuses on the types of threats to public security. Notes socially dangerous deeds and emergencies of social, natural, technical and biological nature. Here are made conclusions on achieving public safety by means of implementation of an uniform State policy in the field of providing public safety, including means of criminal and administrative and tort legislation.

**Keywords:** security, public security, threats to public security, objects of public security.

The concept of public security is itself a capacious social and legal category. Its importance at the present stage of development of Russian statehood is increased by objective patterns that determine ultimately the pace of scientific and technological progress and the democratization of all state, public and other structures.

As a concept public safety is the most widely used in various fields of knowledge and activities. To understand the essence and concept of public security it is necessary to emphasize that public safety - it is an independent phenomenon with historical form, content, and mechanisms of the origin, development and maintenance and also one of the characteristics of social reality, which indicates the state of satisfying the vital interests of personality, society and State.

In philosophical and philological sense public safety includes two elements: Safety and Society, which is a complex of historical patterns of joint activity of people, in other words, the totality of social relations in the State. This view, on the whole, determined the conclusion on that public safety is a state of social relations,

preventing a threat of harm, and ensuring thereby their normal functioning. In short, it's not only the safety of health of a society member or a collective (group), but this is the safety of their property, honor, dignity and morality. This is the safety of all major components of an individual person or collective, which represent a certain aggregative value protected by the moral and legal norms.

In legal dictionaries Public Safety is defined as “a system of public relations and legal norms governing these relations, in order to ensure public safety, the inviolability of people life and health, normal work and recreation of citizens, normal activity of state and public organizations, institutions and enterprises” [9, 204].

In the Federal Law on Safety [5], safety is defined as a condition of security the vital interests of a personality, society and State from internal and external threats. Giving such a concept of safety, the legislator has apparently pursued a goal to determine security objects, having distributed them in order of importance – personality, society, State, and the sources of risk – internal and external, without naming them concretely.

A more extended interpretation of the security gives B. P. Kondrashov: safety – is a state of protection of the security objects' vital interests – personality, society and the State provided by the subjects of security against socially dangerous acts and other harmful phenomena of social, technogenic and natural character through the use of a system of measures, means and methods provided for by law [8, 6].

It is important that the author of this definition not only lists the sources and types of dangers, but rightly highlights socially dangerous deeds (not necessarily a crime) and other malicious natural and technogenic phenomenon.

V. V. Gushhin defines public safety as a socio-legal phenomenon, which refers to a totality of mediated by sources of extreme danger social relations which are regulated by a system of legal norms for prevention, localization and elimination the conditions and factors that create a potential or real threat to the vital interests of personality, society and the State [7, 49].

A. P. Korenev links public safety to the manifestation of the negative properties of the sources of extreme danger when their wrong use [6, 35]. However, it seems that their presence also poses a potential threat to public safety.

According to many authors, the term “sources of extreme danger” is a basis for understanding of public safety in the narrow sense, i.e., the sources of increased danger are one of the essential conditions of emergence relations in which manifests public safety. However, the discussions taking place within the criminal law, administrative-legal and civil law literature do not provide exhaustive answers to the questions: What is the source of increased danger, what properties does it have,

what material expression does it find in public life? This is facilitated by the fact that in normative acts there is no any sign by which a particular subject or object can be attributed to a number of mentioned sources. In science is not developed the unified concept of a source of increased danger.

Consideration of the sources of extreme danger is inherent mainly to civil law. This in its turn determines its sectorial interest, because outside of its study remains questions that lie outside the institution of obligations arising in consequence of the harm infliction. In other words, civil law deals only with situations that due to their consequences involve the obligation to provide compensation for harm or damage. The latter is known to imply a physical person or legal entity incurring civil-law liability and which is simultaneously the owner of the source of increased danger. For example, article 1079 CC RF gives an approximate list of activities posing an increased danger to others (the use of vehicles, machinery, electrical high-voltage power, nuclear energy, explosives, potent poisons, etc., the implementation of construction and other related to it activities, etc.).

A comprehensive list of them cannot be provided due to the constant development of science and technology. It seems that attribution of these or those objects and materials used in the activities of physical persons and legal entities to the sources of increased danger depends on two signs minimum: their harmful properties and the impossibility of total control by the human.

However, along with duration, which represents an increased danger to the surrounding people, where emerge relations of public safety, there are other threats to public safety. Therefore, it is insufficient to associate the concept of public safety only with a source of extreme danger.

To clarify the nature of public safety it is necessary to analyze threats to public safety, pose a danger to the vital interests of personality, society and State.

Policy of threat to public safety is associated with impaired functioning of the State and local government's bodies, political parties and other public associations, errors and distortions in the national policy in the center and the regions.

In economics, they arise from defects, distortions of economic policy, legal unsettlement of many aspects of market and economic relations, significant expansion of the criminalization of the economy, stratification of the population while reducing living standards of the majority of the population, unsatisfactory control over foreign economic activity.

In the social sphere the threats are associated with the violation of legitimate rights and interests of citizens, with refusal and the inability of the State to protect them, with the trouble in the system of physical and moral health protection of the

population, as well as with the threats arising from extremely unfavorable demographic situation.

In ecology – this is a sharpening of contradictions between the development of the productive forces, technology and the need to maintain a favorable ecological environment of human life; unbalance and not comprehensive solution of economic, social, environmental and technological issues, as well as environmental pollution, depletion of natural resources, destruction of ecological balance, the growth of anthropogenic pressure on Earth, depletion of fertile soil and energy resources.

In culture, they are related to the unsatisfactory state of cultural values protection, resulting in a loss or a real destruction threat of many values of national significance, as well as the massive smuggling abroad; the threat arising from poor conditions for creativity, degradation of morality and national self-awareness, decreasing of the level of education and good manners among the population.

In the of man-made area, threats arise from technogenic accidents and disasters, technological and industrial exploitation of worn out and non-serviceable equipment, delayed repair and maintenance works, violation of rules governing the storage and transportation of hazardous materials, deviations from the design documentation in the manufacture and operation of equipment, facilities in the construction of buildings and structures.

Also, security threats are associated with the quick increase in crime, the criminalization of the most important spheres of government and society, increasing the severity of criminal actions and the escalation of violence, brutality, aggression, armament and organization of criminals; the manifestation of new types of crimes that cause great stir among the public: hijacking of a large number of hostages, terrorism, bank frauds, criminal political extremism, corruption of the state apparatus, including law enforcement agencies; with an increase in the number of different kinds of abuses and violations of law by law enforcement officials, as well as with the fall of public confidence in the ability of the State to effectively protect their interests from criminal attacks.

Analysis of current legislation shows that the public safety threat may arise when a violation of the rules of exploitation rail, sea, river and road transport; traffic rules, construction and other works, exploitation fire dangerous objects and equipment, as well as in cases of violation of rules handling of weapons, ammunition, explosives, potent poisons, radioactive isotopes and other dangerous objects and substances. Socially dangerous violations of these rules are classified according to the criminal legislation as crimes encroaching on public safety (articles 215-222, 225, 228, 246, 247, etc. of the Criminal Code of the RF).

Offenses encroaching on public safety are also described in several chapters of the Code on Administrative Offences of the RF. For example, the violation or failure to comply with the rules of fire safety entails administrative responsibility under article 20.4, and article 12.14 of the Code provides for liability for violation rules for the transport of dangerous substances and items by rail, sea, river and road transport, etc.

The development of human society is a complex and contradictory process, and at certain times of the society life happens a sharp aggravation of the contradictions between nature and society. In turn, this gives rise to environmental disasters, large-scale accidents, natural disasters, i.e., emergencies, which are characterized by violation of the habitual links and relations in the economic, social and other spheres.

Thus, the main types of threats to public safety are socially dangerous acts and emergency situations of social, natural, technological and biological nature.

In sum, the threat to public safety can be defined as a totality of conditions and factors that create a real and potential threat to objects of public safety. The objects of public safety include: the rights and freedoms, life and health of citizens, property, environment, as well as public and social institutions, which ensures normal living conditions of citizens, society and the State. It is precisely these objects of public safety are the vital interests of personality, society and the State and on the merits represent the highest level of interest. In its turn, these interests are the most important categories of individual and social life, deviation of parameters of which from the established level adversely affects on the integrity, consistency and progress in the development of personality, society and the State. Therefore, there is an objective need of their protection by people, society and the State. In other words vitally important interests are a totality of needs the satisfaction of which provides the existence of possibility of progressive development personality, society and the State.

The vital interests of a personality, society and State should be reliably protected. By the state of safety, you need to understand the absence or adequate parry threats to public security objects. Hence the purpose of public safety is to create and maintain the necessary level of protection of public safety objects and adequate parry threats to these objects.

According to the law of the Russian Federation on Safety, public safety entities are the State, citizens, public and other organizations and associations. The main subject, which is responsible to ensure public safety, is the State. The functions in this area, it provides through bodies of a legislative, executive and judicial



powers. The State provides public safety of citizens in the Russian Federation and outside it guarantees them protection and patronage.

Citizens, public and other organizations and associations, being the subjects of public safety, have rights and responsibilities of participation in ensuring public safety in accordance with the Russian Federation legislation, the legislation of subjects of the Russian Federation, adopted within their competence in this area on the basis of article 71, 72 of the Constitution of the RF.

Achieving public safety is ensured by conducting a single state policy in the field of ensuring public safety, implementation system of measures of economic, political, organizational and of other nature that are adequate to threats to the vital interests of a personality, society and the State. In order to create and maintain the necessary level of protection of public safety objects is being improved the system of legal rules governing social relations in the field of public safety, determined the main directions of activities of public authorities in this area, formed or converted public security bodies and the mechanism of control and supervision over their activities. Direct execution of functions to ensure public safety is assigned to State agencies for ensuring public safety, which, in accordance with law, are formed within the executive power system.

Legal bases for public safety are laid down in the Constitution of the Russian Federation, Russian Federation Law on Security, laws and other normative acts of the Russian Federation regulating relations in the field of public safety; in constitutions, laws and other normative acts of state power bodies of the subjects of the Russian Federation, adopted within their competence in this area, international treaties and agreements concluded or recognized by the Russian Federation.

The leading role in the regulation of social relations in this sphere belongs to the Russian Constitution. Constitutional and legal norms define the basic rights and freedoms of Russian citizens and implementation the rights and freedoms inseparably from the performance of duties. These norms consolidate the system of legislative, executive and judicial authorities ensuring public safety, determine their legal status.

Executive and administrative activities of the executive power bodies shall be based on administrative-legal norms, which are widely used for the establishment of administrative coercion measures.

Civil law norms are used to ensure public safety of physical persons, legal entities, and the state by establishing civil law liability for the inflicted harm. Thus, in accordance with article 1079 CC RF legal entities and citizens whose activities are linked to increased risk to others, must compensate the damage caused by a source

of danger, unless they prove that the damage was caused due to force majeure or intent of the victim.

Criminal legal norms govern relations in the field of public safety arising from the committing of the most socially dangerous deeds. For example, Chapter 24 of the Criminal Code of the RF envisages criminal responsibility for crimes against public security: terrorism (article 205 of the Criminal Code of the RF), robbery (article 209 of the Criminal Code of the RF), mass riots (article 212 of the Criminal Code of the RF), as well as crimes in the sphere of production when violation of safety rules at explosive objects (article 217 of the Criminal Code of the RF), at nuclear power objects (article 215 of the Criminal Code of the RF), fire security (article 219), and others.

Thus, the scope of public safety, which includes public relations related to the prevention or elimination of threats to human life and health, property, environment, government and social institutions, adjusted by nearly all branches of the law of the Russian Federation.

Along with the legal norms relations in the field of public safety are regulated by the technical standards secured in the passports, rules, regulations and other documents of this kind, but the technical standards become technical-legal, and their violation implies legal responsibility.

At the same time relations in the field of ensuring public safety are regulated also by organizational norms that secure certain organizational structures and institutions that provide in-system unity, the consistency of elements functioning of certain organizational structures and reflect the dynamic nature of the organization of certain subjects, but these rules are ultimately also of a legal nature.

Based on the above, under the public safety system we understand the system of social relations happening in accordance with legal and technical norms when the use of objects and items posing an increased danger to society, or upon the occurrence of special conditions in connection with a natural disasters or other emergencies.

## References:

1. Constitution of the Russian Federation (accepted on National Voting, December 12, 1993) [Konstitutsija Rossijskoj Federatsii (prinjata na vsenarodnom golosovanii 12 dekabrja 1993 g.)]. *System GARANT* [Electronic resource], Moscow: 2012.
2. Civil Code of the Russian Federation, No. 51-FL part 1 of November 30, 1994, No. 14-FL part 2 of January 26, 1996 [Grazhdanskij kodeks Rossijskoj Federatsii. Chast' pervaja ot 30 nojabrja 1994 g. № 51-FZ, chast' vtoraja ot 26 janvarja 1996 g. № 14-FZ]. *System GARANT* [Electronic resource], Moscow: 2012.
3. The Code on Administrative Offences of the Russian Federation [Kodeks ob administrativnyh pravonarushenijah Rossijskoj Federacii]. *System GARANT* [Electronic resource], Moscow: 2012.
4. Criminal Code of the Russian Federation No. 63-FL of June 13, 1996 [Ugolovnyj kodeks Rossijskoj Federatsii ot 13 ijunja 1996 g. № 63-FZ]. *System GARANT* [Electronic resource], Moscow: 2012.
5. Federal Law No.390-FL of December 28, 2010 On Safety [Federal'nyj zakon ot 28 dekabrja 2010 g. № 390-FZ «O bezopasnosti»]. *System GARANT* [Electronic resource], Moscow: 2012.
6. *Administrative Activity of Internal Affairs Bodies. General part* [Administrativnaja dejatel'nost' organov vnutrennih del. Obshhaja chast']. Edited by Korneev A. P., Moscow: 2000.
7. Gushhin V. V. *Legal and Management Basics of Ensuring Public Security in the Russian Federation in Emergency Situations*: thesis of Doctor of Law [Pravovye i organizacionnye osnovy obespechenija obshhestvennoj bezopasnosti v Rossijskoj Federacii pri chrezvychajnykh situacijakh]. Moscow: 1998.
8. Kondrashov B. P. *Public Security and Administrative and Legal Means of its Ensuring*: thesis of Doctor of Law [Obshhestvennaja bezopasnost' i administrativno-pravovye sredstva ee obespechenija]. Moscow: 1998.
9. *Juridical encyclopedic dictionary* [Juridicheskij jentsiklopedicheskij slovar']. Moscow: Soviet Encyclopedia, 1984.