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**PROSPECTS FOR THE ADOPTION OF FEDERAL LAW
"ON THE PARTICIPATION OF CITIZENS IN THE PUBLIC ORDER
PROTECTION"**

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Estimating prospects for adoption at the federal level, the normative act regulating the participation of citizens in public order protection, in the article are being considered problems of correlation citizens' rights restriction by public institutions with ensuring of constitutional human and citizens' rights. Identified issues requiring legislative approval, in case of adoption the political decision at the federal level on inclusion citizens and public associations in the work on the protection of public order, by analogy with the Soviet period in Russian history.

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According to internal affairs bodies data, the number of revealed administrative offences in Russia which are covered only by disorderly conduct (Article 20.1 of the Code on Administrative Offences of the RF) was 2,442,009 in 2006, 2,627,209 in 2007, 2,677,927 in 2008, 2 720,764 in 2009 and 2,205,062 in 2010 (See digests on Russia. Information on the administrative practice of Internal Affairs Bodies of the Russian Federation for January - December 2006-2010). Significant reduction of such crimes in the past year is more likely due to the ongoing reform, reducing staff numbers of law enforcement officers, as well as the beginning of the transition to the new

principles of performance evaluation of Police. This follows from the content of part 6 of article 9 of the Federal Law "On Police", which states that "public opinion is one of the main criteria for a formal performance assessment of police which is determined by the federal executive body in the field of internal affairs". [3]

Thus, in a situation when police is baffled by solution in-house problems, comprehension of new approaches to law enforcement activity, many of administrative offenses simply go unnoticed.

Meanwhile, general modernization of the Internal Affairs bodies provides fundamentally new capabilities in ensuring the protection of public order and public safety. Thus, pursuant to part 7 of article 9 of the Federal Law "On Police", "Under the jurisdiction of the federal executive body in the field of internal affairs and territorial bodies community councils are formed, which are designed to ensure the harmonization of socially important interests of citizens of the Russian Federation, federal authorities, bodies of state power of the subjects of the Russian Federation, local self-government bodies, public associations, human rights, religious and other organizations, including professional associations of entrepreneurs, to resolve the most important issues of the police activities... ". This rights' establishment allows internal affairs bodies to consider other state and public institutions as potential forces and means to improve effectiveness of ensuring the rule of law.

In this sense, the real breakthrough is the way in which it is proposed to do: "... the involvement of citizens and public associations in the implementation of the state policy in the field of public order by ensuring public safety and combating crime". [3] Thus, rather inexpressive state policy in the field of bringing citizens and public associations to law enforcement begins to take specific legal silhouettes.

But this is not enough. Legal mechanism of bringing a wide range of social institutions to maintain law and order in public places requires systemic changes of current federal legislation and the adoption of a special law, which could get rid of existing legal contradictions and gaps.

Let's determine and analyze the most important of them.

1. Public order protection is linked with the need to use coercive measures, based mainly on the use of physical force and special means of influence against persons who violate the public order. This raises the question of how should act a citizen when a delinquent does not obey his requirements: use physical force, special means available, deliver the offender to a specially reserved room for detention? Essence of a problem is that these powers could severely restrict human rights, and in connection with part 3 article 55 of the Constitution of the Russian Federation are possible only on the basis of the federal legislative regulation. This implies the need

to adopt a federal law that specially enshrines the legal status of citizens and public associations, which voluntarily implement protection of public order, specifies the types, reasons and procedures of application measures of state coercion, legality control mechanisms of these actions.

Obviously, the absence of such a law does not prohibit citizens to protect public order, but significantly restricts their abilities. Their scope is outlined by the limits of necessary self-defense (Article 37 of the Criminal Code), and in a situation that goes beyond its limits, should be reduced only to the organized revealing of an offence and the call for internal affairs bodies to the place of the offense. Legislative practice of the majority of subjects of the Russian Federation only confirms this. Regional laws regulating the legal status of citizens and their associations of law-enforcement orientation are similar. Exceptions are only the multi various mechanisms for the promotion and incentives.

2. Protection of public order by citizens, which are members to public associations of law-enforcement orientation, will raise the necessity of the coordination of law-enforcement activities of state and public institutions, harmonization of time and place of patrols and other actions in the event of detection illegal facts. The question of who will manage the available forces and means should be resolved in favor of public authorities, not least because they, unlike the citizens and their associations, implements law-enforcement activity on professional basis, and thus bear a direct responsibility to the society and state for ensuring public order.

Moreover, the powers to apply measures of public enforcement will inevitably raise the issue of control of the activities on the part of the state. Procuratorate, courts, special police possessing the same powers are required to take the complaints, to respond to all cases of illegal activities, including in connection with the performance of public functions of public order protection.

Finally, the affiliation of a citizen to a public formation of law-enforcement orientation, in connection with the implemented functions, puts him in a special position that distinguishes him from the legal status of other citizens.

All this requires building vertical relations based on power of authority powers.

Meanwhile, article 19 of the Constitution of the Russian Federation established, that the State guarantees the equality of rights and freedoms of a man and citizen, regardless of affiliation to public associations. Equality of public associations before the law irrespective of their organizational-legal form is established by article 15 of the Federal Law No. 82-FL "On Public Associations" [2]. In accordance with article

17 of the same federal law intervention of public authorities and their officials in the activities of public associations, as well as interference of public associations in the activities of public authorities and their officials shall not be permitted, except in cases provided for by this Federal Law.

Eliminating of these contradictions is seen in the additions and amendments to articles 15 and 17 of the Federal law "On Public Associations".

3. The function of protection public order, as opposed to the protection of other social relations, for example, in the consumer market, involves the risk of injury, not only offenders, but also public order defenders. In this regard, the critical issue is the creation of regulatory instruments to ensure legal protection of citizens affected during public order protection.

In contrast to the RSFSR Criminal Code (see article 191.1) [1], the current Criminal Code does not have an article about criminal responsibility for resisting a public association representative, encroachment on his life or insult in the performance by him functions of ensuring public order and public safety. At the same time, article 317 of the Criminal Code "Encroachment on life of a law enforcement officer" includes responsibility for the encroachment on the life of a law enforcement officer, a military serviceman, as well as their relatives, in order to obstruct the lawful activities of such persons for the protection of public order and public security, or in revenge for such activity. The same fate befell the administrative and tort legislation.

There are no administrative penalties for disobedience people's guard and freelance police officer, which were provided for in the Code on Administrative Offences of the RSFSR (article 165) in article 19.3 of the Code on Administrative Offences of the RF, which provides administrative responsibility for failure to obey a lawful order of a police officer, military serviceman and other officials.

At present, these norms are increasingly common in the regional laws on administrative offenses, in those regions of the Russian Federation, where have already been established legal and social traditions of public order protection by the citizens (for example, article 2.11 of the Law of the Arkhangelsk region "Obstructing the lawful activity of a member of voluntary peoples' unit on protection the public order" [4]).

However, in case of adoption of a relevant federal law (under paragraph 3 part 1 of article 1.3 of the CAO RF, jurisdiction of the Russian Federation in the field of legislation on administrative offenses includes establishment of administrative responsibility for violations of the rules and norms stipulated by federal laws and other normative legal acts of the Russian Federation), there will be loss of effect of

regional standards, providing for liability for violations of civil rights, protecting public order.

However, in case of adoption the relevant federal law (under paragraph 3 part 1, article 1.3. of the CAO RF establishment of administrative responsibility for violations of the rules and norms stipulated by federal laws and other normative acts of the Russian Federation is included to the jurisdiction of the Russian federation in the field of legislation on administrative offenses), there will be loss of legal force of regional norms providing responsibility for violations the rights of citizens protecting public order.

Thus, with the adoption of the Federal Law on the participation of citizens in the protection of public order will be required amendments and additions to the Criminal Code and the Code on Administrative Offences of the RF ensuring legal guarantees of compliance with legitimate demands of citizens protecting them from illegal encroachments in connection with performance of their public duties to public order protection.

Along with this, it is important to develop social protection measures, the financial and social incentives for citizens.

The need to introduce social protection measures is increased by the high risk of injury. However, the fact that the damage inflicted to health of a citizen in the process of implementation by him social order protection must be confirmed officially, as the consequences of this decision are of the budget and financial nature. Consequently, we should resolve at least two questions. The first relates to the inclusion in the law of blanket standard that establishes the legal basis of the medical examination, and the second is associated with the development of a mechanism to provide guarantees of social security based on the payment of material funds and providing preferential health care. Obviously, all this, depending on the degree and duration of loss of health, can be both temporary and permanent.

Financial and social incentives are aimed at creating and sustaining the interest of citizens to participation in the public order protection – visual evidence of state interest and involvement in supporting the social forms of law enforcement.

In the absence of a special federal law existing laws of the subjects of the Russian Federation in this area determine the following types of incentives: presentation of thank you letters, commendations and valuable gifts, presentation a challenge cup. For employees of enterprises and institutions organizes additional weekends. For active participation in the people's guard are paid quarterly and annual bonuses. For some categories of citizens at the local self-government level,

provides for preferential prices for housing and communal services. For students – free residence in the hostels, the provision of sports gyms, flexible educational process, allowances to scholarships, and in the light of the experience gained while working in student teams of public order protection, after the finishing their educational institution they are provided with employment opportunities in the Internal Affairs bodies to the position of district militia officers. [7]

However, with all the diversity of these measures, in the laws of the subjects of the Russian Federation is not regulated the form of their application. Meanwhile it is of fundamental importance, since the principles of openness and transparency are the basis for the procedure of promotion and are designed not only to promote the very awarded person, but also to popularize the ideas of citizens' participation in public order protection.

Thus, in case of adoption the Federal Law on the participation of citizens in public order protection, it will be necessary to provide a mechanism of financial and social incentives in the form of public action, involving the media.

4. Finally, another task is a resolving the issue of the responsibility of citizens for acts of misconduct in the process of public order protection.

The main problem is the undefined status of such citizens. On the one hand, this are persons implementing law enforcement activities on a voluntary basis, not related to professional business, the principal difference of which is a lack of a rigid legal regulation of mutual rights and obligations between the leadership and performer. On the other hand, the specificity of public order protection involves the application of state coercion measures restricting the rights of man which bring this activity to analogical work of state law enforcement agencies, with most cruel to date measures of control the legality of their activities. An eloquent example is the Federal law "On Police", where one of the chapters meticulously establishes the legal details of the interaction between police officers and citizens (chapters 2, 4, 5 of the law) [3].

In this sense, comparing the current legal status of a citizen and police officer who implement public order protection, we meet a number of inconsistencies, causing an acute feeling of social and legal inequality. For example, for the same violations of citizens' rights one can only lose the right to participate in the protection of public order, other loses the bases of material well-being – a profession. Some risk of being brought to criminal responsibility for excess of necessary defence under part 1 of article 114 of the Criminal Code RF (the maximum term of deprivation – 1 year), the other for abuse of authority under part 2 of article 286 of the Criminal Code RF (the maximum term of deprivation – up to 7 years).

The existence of this problem is once again confirmed by the current regional legislation in the considered field. Most of the laws of the subjects of the Russian Federation on the participation of citizens in the protection of public order do not provide any measure of responsibility of citizens for offenses committed in connection with the protection of public order [6], and those not many laws that establish it, just refer to the current legislation [5].

Thus, the adoption of the Federal Law on the participation of citizens in the protection of public order must be associated with the study of the issue on possible inclusion in the Criminal Code and the Code on Administrative Offenses of the RF corpus delicti which provide for the measures of legal responsibility in respect of citizens who violate the rights of others in connection with the implementation of public order protection.

In summary, it can be concluded that the establishment of a legal model of citizens' participation in the protection of public order – this is not just an unification of legal norms that enshrine the goals, tasks, forms, restriction of such participation, rights, duties, powers, social protection measures and legal guarantees, but a more difficult law-making problem, the successful solution of which is seen in the complex amendments and addenda to federal legislation.

The all foregoing indicates that the adoption of the Federal law on the participation of citizens in public order protection is of remotely-promising nature.

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