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THE NEW REALITIES OF PARTICIPATION OF LAW ENFORCEMENT
PUBLIC ASSOCIATIONS AND CITIZENS IN PUBLIC ORDER
PROTECTION

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The article deals with the is-
sues of participation of law enforce-
ment public associations and citizens
in the protection of public order in
connection with the adoption of the
Federal Law "On the Participation of
Citizens in Public Order Protection",
identifies the problems of legal reg-
ulation in the considered sphere of
public relations.

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The fight against breaches of public order has historically existed not only as a sole function of law enforcement bodies, but also as a result of the activities of citizens determined by their spirit, awareness of themselves as a self-organized community.

As a result of the reform of the Ministry of Internal Affairs of Russia, which ended in the year 2011, the number of staff, including those performing functions of public order protection, has been seriously reduced (as a result of the reform of the Ministry of Internal Affairs of Russia and the renaming of the militia into the police there were reduced approximately 22% of employees who have not passed recertification).

Nowadays, there is a pressing question: is it possible to replace a police officer by a citizen performing functions of public order protection, and what powers will he have?

In our view, the answer must be clearly negative. Public order protection should be performed by professionals that have an adequate level of training.

At the same time, it should be noted that without public support and wide involvement of citizens, as well as their associations, in the protection of public order the achievement of the desired goal seems very problematic.

Today reliance on public trust and support of citizens presupposes the recognition and assessment of public opinion on police activities in general, including concerning the protection of public order. In this connection, the direct involvement of citizens and public associations in the implementation of law-enforcement functions, of course, is critical for increasing the level of credibility to the police activity.

Participation of law enforcement public associations and citizens in public order protection involves providing assistance by citizens to internal affairs bodies (police) and other law enforcement agencies in order to protect the life, health, honor and dignity of an individual, property, interests of the society and the state against criminal and other unlawful infringements committed in public places.

The current legislation contains a number of constraints associated with the participation of citizens in the protection of public order, they are:

a) citizens must not impersonate employees of internal affairs agencies (police) and other law enforcement agencies, as well as to exercise activity referred by the legislation of the Russian Federation to the exclusive competence of these bodies;

b) citizens must not engage in activities for the protection of public order, which obviously involve threat to their life and health.

Activity of citizens and public associations in the field of public order protection had been significantly reduced by 1989. By this time, the traditional Soviet organizational forms of public participation in the fight against offences had become ineffective due to the social and economic changes in society. Since the early 90's, there were also noted negative trends in the field: transfer to commercial entities the premises of public order protection posts, privatization and closure of large enterprises, lack of funding and others. Despite this, some forms of participation of citizens in the protection of public order remained, and some were converted in accordance with the requirement of modern times.

Until recently, the participation of citizens in public order protection in the Russian Federation has been regulated by a large number of disparate normative acts. So, only at the regional level, there were more than 60 normative legal acts at various levels [1; 5; 6; 7]. Due to the absence of a universal mechanism of legal regulation there was variety of forms for the participation of citizens and their associations in ensuring public order: voluntary Cossack squad (Astrakhan); squads of public security under patrol-guard service (Irkutsk); municipal voluntary people's squads for public order protection (Irkutsk); youth squads (Severodvinsk); "Municipal Law Enforcement Squad" (Severodvinsk); students' squad for public order protection (Tomsk); self-defense groups, operational youth squads, operational squads of hostels (Altai Republic); students' squad (Novosibirsk, Omsk); voluntary people's squad (Moscow, Dubna), etc.

Nowadays, there is a unified Federal normative legal act governing the involvement of citizens and law enforcement public associations in law enforcement activities [2]. In addition, in the constituent entities of the Russian Federation adopt normative legal acts regulating the corresponding public relations [4].

There are various forms of joint activity of the police and citizens, members of the public, aimed at the protecting of public order, in the Russian Federation today. These include voluntary people's and Cossack squads, operational squads and police assistance squads, including youth ones, freelance units of road patrol service, etc. For example, there are public order protection squads, specialized squads of people's guard (for assistance to road traffic police), Cossack squads ("the Cossacks Police"), student squads of public order protection in Sverdlovsk, Tyumen, Kurgan, Kirov regions; in Kostroma, Arkhangelsk and Penza regions – public councils, voluntary people's squads, youth operational (searching) detachments, freelance police employees; in Samara, Tomsk, Belgorod, Voronezh and Pskov regions – voluntary people's squads, students' operational detachments, 24-hour patrol groups at mass public places, public points for public order protection, councils (groups) for crime

prevention; in Krasnoyarsk Territory, Novosibirsk, Tula and Ulyanovsk regions – voluntary youth squads. With their help, tens of thousands of crimes are solved, hundreds of thousands of administrative offences are revealed each year [9, 350].

Actually, law enforcement public associations have been long operating in many regions of the country. Totally in the territory of the Russian Federation there are more than 34 thousand law enforcement public associations, which have more than 363 thousand people, including nearly 46 thousand people in the 872 Cossack squads.

According to statistics, in 2013 people's guard and other associations of law enforcement orientation helped to arrest almost 357 thousand offenders, solve more than 32 thousand crimes, reveal some 460 thousand administrative offences [8].

The Federal Law No. 44-FL from April 2, 2014 "On the Participation of Citizens in Public Order Protection" does not provide a clear list of forms of activity in the field of protection of public order, but the analysis of its provisions allows the following forms:

- 1) citizens' participation in the protection of public order;
- 2) citizens' participation in the search for missing persons;
- 3) participation in the activity of law enforcement public associations, the purpose of which is the protection of public order;
- 3) activity of people's squads;
- 5) freelance police officer activity.

Some of these forms require mandatory registration, for example, a people's squad must be registered in the Register of people's squads and public associations of law enforcement orientation in a particular constituent entity of the Russian Federation.

Public order protection activity includes, firstly, informing the police and other law enforcement agencies about crimes and threats to public order; secondly, participation in the protection of public order at the invitation of internal affairs bodies and other law enforcement agencies; thirdly, participation in the protection of public order during mass events at the invitation of the organizers, in cases of emergency; fourthly, participation in the prevention and suppression of offences; fifthly, the dissemination of legal knowledge, clarification of standards of conduct in public places; sixthly, participation in the work of coordination, consultative, expert and advisory bodies for the protection of public order, created in law enforcement agencies, at their invitation.

In a number of foreign countries citizens are given a wider range of powers in maintaining law and order. So, in the Republic of Belarus, in accordance with

the Law “On Citizens’ Participation in the Protection of the Rule of Law” and “Exemplary Provision on a Voluntary Squad”, approved by the Decree of the Council of Ministers, voluntary squads take part in the protection and defense of the state border. Another approach is used in the legislation of the Kyrgyz Republic. Besides the directions of activities of law enforcement public associations contained in the Russian legislation, we can note the following: traffic safety; public control over the observance of legality by law-enforcement bodies, including human rights in places of detention; prevention of drug and alcohol abuse, abandonment and neglect of minors; environmental protection, land use and wildlife, environmental and fire safety; protection of monuments of history and culture.

The novelty of the Russian legislation is the provision of such an independent direction as citizens’ participation in the search for missing persons. The implementation of this activity has become widespread in the last time and, of course, was in need of legislative regulation.

In addition, the position of the legislator that has provided possibility of administrative responsibility for actions aimed at hindering the legitimate activities of people’s guard or freelance police officer seems to be correct [3].

However, there is a number of problems, which have not been solved yet. First of all, it is the use by citizens involved in public order protection of physical force and special means. Thus, under article 19 of the Federal Law “On the Participation of Citizens in Public Order Protection” people’s guard in the participation in public order protection may use physical force only:

- 1) to eliminate the danger directly threatening them or other persons;
- 2) in self-defense;
- 3) in case of emergence, within the limits defined by the legislation of the Russian Federation.

In all other cases it is prohibited to use physical force to prevent offences. A citizen in the implementation of these activities does not have any special powers.

The above stated allows us to make a conclusion that nowadays in the Russian Federation, both at the federal level and at the level of the subjects, there are processes of formation of a legislation governing the participation of law enforcement public associations and citizens in the protection of public order. Analysis of the effective normative legal acts leads to the conclusion about the need to improve them. In particular, it is necessary to provide for the possibility of use of special means of individual protection; regulate the prohibition of disclosure of information that is an official secret and which has become known to a citizen in connection with his implementation of law enforcement activity.

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