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**THE LEGAL-CRIMINAL ANALYSIS OF THE CRIME
OF MASS DISORDERS**

SUMMARY OF THE PHD THESIS

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The abstract and the doctoral thesis can be consulted at the “Tudor Roșca” General Library of the “Ștefan cel Mare” Academy of the Ministry of Internal Affairs, the National Library of the Republic of Moldova, on the website of the Doctoral School of Criminal Sciences and Public Law (<https://www.academy.police.md/scoala-doctorala/sustinere-teze-de-doctorat/teze-de-doctorat>) and on the website of the National Agency for Quality Assurance in Education and Research (www.cnaa.md)

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CONTENTS
ABSTRACT OF THE THESIS

CONCEPTUAL REFERENCES OF RESEARCH.....	4
THE CONTENT OF THE THESIS.....	8
GENERAL CONCLUSIONS AND RECOMMENDATIONS.....	22
BIBLIOGRAPHY.....	27
LIST OF SCIENTIFIC PUBLICATIONS OF THE AUTHOR ON THE TOPIC OF THE THESIS.....	30
ANNOTATION (in Romanian, Russian and English languages).....	33-35

CONCEPTUAL REFERENCES OF RESEARCH

The actuality and importance of the problem. In the current context, marked by intensifying international conflicts and geopolitical tensions between states, the phenomenon of mass disorder acquires heightened significance, as such conflicts may directly or indirectly generate internal destabilizing factors endangering public security. The problem addressed in this study lies at the core of contemporary criminal law concerns, both nationally and internationally, being regarded as one of the most serious forms of disturbance to public security. International perspectives emphasize the necessity of strengthening an effective domestic criminal law framework for the prevention, suppression, and prompt sanctioning of mass disorders, as a means of safeguarding public security, particularly given the vulnerabilities generated by current international conflicts. At the national level, the assurance of public security constitutes a fundamental priority of the Republic of Moldova. Public security, as an essential element of national security, represents an indispensable component for the proper functioning of the rule of law. Destabilization of the social balance poses a serious threat to the economic, political, social, and cultural development of the state. In the presence of deficiencies or dysfunctions across various sectors, criminogenic tendencies emerge, jeopardizing fundamental human rights and freedoms. Consequently, the subject of this research represents a current and significant object of study, both normatively – through its regulation in national and international legal instruments – and doctrinally, by way of a meticulous analysis of the objective and subjective elements of the offence, with particular emphasis on the difficulties of distinguishing it from similar offences.

Description of the situation in the research field. In light of present realities, the socio-legal aspects of the offence of mass disorder clarify matters of high resonance, such as demonstrating the interdependence between public order and public security, defining the concept of “mass disorder,” and interpreting these notions in view of the diversity of theoretical and practical perspectives, both nationally and internationally, alongside new forms of committing the offence. Notable contributions on this issue include the works of: A. Borodac, A. Barbăneagră, S. Brînză, V. Stati, X. Ulianovschi, V. Chirița, V. Cușnir, R. Cojocaru, V. Bujor, O. Rotari, A. Cazaciov, I. Macari, V. Manea, A. Tighineanu, S. Pilat, S. Copețchi, M. Poalelungi (Republic of Moldova); V. Dobrinoiu, N. Conea, M.-V. Grigoriu, T. Toader, O. Loghin, G. Nistoreanu, A. Boroî (Romania); E. Canetti (United States); D. Colomer Bea (Spain); T. Rotsch (Germany); Y. Nabat, G. Le Bon (France); V. T. Akimov, A. M. Bagmet, L. D. Gauhman, L. M. Kolodkin, S. A. Starostin, V. D. Ivanov, P. V. Ivanov, I. I. Kozacenko, Z. A. Neznamova, S. K. Kudașkin, O. V. Șvedova, A. I. Rarog, V. P. Stepalin (Russian Federation), among others.

It is noteworthy that Article 285 of the Criminal Code of the Republic of Moldova has not undergone significant amendments to improve the incrimination of mass disorder. Theoretical debates thus focus primarily on identifying the social and legal essence of the offence, clarifying its objective and subjective elements, and distinguishing it from similar offences, such as violation of the right to freedom of assembly, intentional destruction or damage of property, actions disrupting penitentiary activities, hooliganism, vandalism, or calls for the violent overthrow or alteration of the constitutional order of the Republic of Moldova. Due to the complexity of its constituent elements, mass disorder generates both extensive and restrictive interpretations, creating divergences in legal classification. This highlights the imperative need for a comprehensive and in-depth study of this offence within the framework of criminal law.

Purpose and objectives of the paper. The purpose of this paper is to conduct a comprehensive and substantive analysis of the criminal law issues surrounding the offence of mass disorder, to determine its place within the system of offences against public order and security, and to propose scientific and practical recommendations aimed at improving the legal framework governing its incrimination.

To achieve this purpose, the following objectives were set:

1) to evaluate the incrimination norm under Article 285 of the Criminal Code of the Republic of Moldova, with respect to its preventive effectiveness against emerging manifestations and new factual modalities of mass disorder;

2) to investigate the historical development of the legal framework on mass disorder, and to analyze the criminal law provisions of EU member states and other states regarding liability for mass disorder and related offences;

3) to determine the interdependence between “public order” and “public security” in the legal classification of mass disorder;

4) to elucidate and analyze the objective and subjective elements of the offence;

5) to investigate variable and estimated signs within the composition of the offense provided for in Article 285 of the Criminal Code of the Republic of Moldova;

6) to establish the moment of completion of the offence of mass disorder;

7) to specify the motives and purposes underlying the commission of the offence;

8) to distinguish mass disorder from other similar crimes;

9) to formulate *lege ferenda* recommendations for amending the normative content of Article 285 of the Criminal Code of the Republic of Moldova.

Methodology of scientific research. To achieve the stated purpose

and objectives, the study employed both normative sources (international treaties, national and foreign legislation, Government decisions, Constitutional Court rulings, administrative acts etc.) and doctrinal sources (treatises, monographs, manuals, guides, doctoral theses, scientific articles), all relevant to the analysis of the offence of mass disorder. Complementarily, the theoretical dimension was integrated with practical cases drawn from national jurisprudence.

In developing this research, the following methods were applied: 1) historical method – used to trace the historical development of criminal law norms on mass disorder; 2) comparative method – employed to compare national and international legal norms and to delimit mass disorder from other offences; 3) deductive method – applied to systematize and interpret doctrinal approaches concerning the incrimination of mass disorder; 4) literal interpretation – used to clarify the lexical meaning of terms, expressions, and legal phrases; 5) prospective method – employed to determine the optimal solutions for legal classification of acts under Article 285 of the Criminal Code of the Republic of Moldova; 6) systemic method – used to analyze international and national legal acts relevant to the field; 7) teleological method – applied to study the purposes and objectives of legal regulations on mass disorder; 8) case study method – highlighted in the analysis of practical aspects of mass disorder.

Novelty and scientific originality. The research advances proposals *de lege ferenda* to amend Article 285 of the Criminal Code of the Republic of Moldova, aimed at improving the legal framework on mass disorder, aligning it with the EU *acquis* and Moldova's international obligations, and ensuring the effective application of the incriminating norm.

The originality of the work is reflected in: the definition of “public security” as a social value impaired by mass disorder and its distinction from “public order”, as well as establishing its relationship with the concept of “public order”; demonstrating that the composition of the crime of mass disorder is attributed to the type of crimes with formal composition, as well as establishing the moment of its commission; specifying the motives and purposes of the crime of mass disorder; proposing the criminalization of new modern and complex forms of committing the crime of mass disorder, as well as arguing for the inclusion of a special condition for the exemption of criminal liability of the person in case of active cooperation of the perpetrators with law enforcement authorities; establishing and grading the limits of active participation, criminalized in paragraph (2) of Article 285 of the Criminal Code of the Republic of Moldova, in order to eliminate interpretative signs; establishing the penalty regime for certain proposed factual modalities, proportional to the social danger of the given act; establishing the regime of sanctions for certain proposed factual modalities, proportional to the social danger of the given act; and delimiting criteria between mass disorder and related offences.

Theoretical significance of the work. The research addresses criminal law inconsistencies regarding mass disorder, with conclusions that enrich the theoretical foundations of criminal law, eliminate existing normative gaps, and propose concrete *de lege ferenda* solutions.

The applicative value of the paper. The results are of practical use for legal practitioners: judges, lawyers, prosecutors, investigators - while also serving as a valuable resource for students at all three cycles of higher education and for professionals in initial, continuous, or managerial training in the field of public order and security.

Main Scientific Results for Defense. The work provides a comprehensive criminal law analysis of mass disorder, elucidating its legal nature and precisely identifying its objective and subjective elements. The proposed amendments to the legal framework may enhance judicial practice, ensuring correct and uniform application of Article 285 of the Criminal Code of the Republic of Moldova. Recommendations *de lege ferenda* are advanced as measures to improve the normative content and structure of the incriminating provision.

Implementation of Scientific Results. Most issues addressed were discussed at scientific events and published in recognized journals and conference proceedings. The materials may be used both by practitioners and in the academic process of higher education and professional training, contributing to the improvement of the national legal framework.

Approval of results. The core concepts of the research were debated at national and international scientific conferences and published in various journals, including: Law and Life, Scientific Annals of the "Ștefan cel Mare" Academy of the Ministry of Internal Affairs of the Republic of Moldova, Intellectus (Intellectual Property, Science and Education Journal), and the Journal of Criminology and Criminal Law of the University of Belgrade, Serbia.

Publications on the thesis theme. There were published in 15 scientific papers on the topic of the doctoral thesis.

Keywords: freedom of expression, public security, crowd, offence, mass disorder, organization, leadership, active participation, incitement, violence, resistance.

THE CONTENT OF THE THESIS

Chapter I entitled “**Analysis of scientific materials published on the topic of the doctoral thesis**” comprises three subchapters focused on the study of scientific works concerning the offence of mass disorder, published both nationally and internationally, which enabled an in-depth and comprehensive examination of the offence.

The phenomenon of mass disorder is a subject of major interest in criminal doctrine, encompassing varied and contemporary perspectives on ensuring and maintaining public security. Existing scholarship significantly contributes to outlining and clarifying the normative content of the offence of mass disorder, interpreting its constituent elements, and delimiting it from related offences such as: violation of the right to freedom of assembly; intentional destruction or damage of property; actions that disrupt the activity of penitentiaries; hooliganism; vandalism and public calls for the violent overthrow or alteration of the constitutional order of the Republic of Moldova. Doctrinal contributions play an essential role in developing key theoretical-practical concepts, rigorously examining the offence by identifying interpretative and unclear aspects, advancing reliable solutions to resolve normative dissonances identified in Art. 285 of the Criminal Code of the Republic of Moldova, and justifying imperatives for improving the relevant legal framework.

From a general perspective, V. Cușnir and R. Cojocaru, in “Preventing Actions of Heightened Social Danger to National Security and the Rule of Law - A Major Objective of State Authorities and an Imperative of the Present” note “The condition of security is existential; the development of any community in general, and of any individual in particular, entails this condition, both for the person and for society as a whole”¹.

Analyzing the legal connection between “public order” and “public security” S. Brinză and V. Stati conclude in “Treatise on Criminal Law. Special Part. Vol. II” that “public security and public order are interdependent and closely linked. Public security is the factual state created by legal norms, intended to ensure the community the most favorable living conditions, so that the interests of community members are shielded from any danger. Only in purely theoretical terms can public security be conceived as the foundation of public order. In fact, it is precisely the protective state of society’s continuous development that represents the necessary premise for the regularity of social reality”².

¹ CUȘNIR, Valeriu, COJOCARU, Radion. Prevenirea acțiunilor de pericol social sporit asupra securității naționale și ordinii de drept – obiectiv major al autorităților de stat și imperativ al prezentului. În: *Vectorul european al Republicii Moldova – factor determinant în consolidarea statului de drept* [online]. 2022. p. 8 [citat 13.09.2025]. ISBN 978-5-88554-193-0. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/6-21_2.pdf

² BRÎNZĂ, Sergiu, STATI, Vitalie. *Tratat de drept penal. Partea Specială. Volumul II*. Chișinău: Tipografia Centrală, 2015. p. 517. ISBN 978-9975-53-470-3.

In the same vein, V. Chirița and V. Tihon, in “Correlation of the Concepts: Public Order, Public Security, Rule of Law in the Context of the Legal Classification of the Offence of Hooliganism” emphasize that “the categories under analysis comprise a separate yet interdependent system of social relations, a fact that follows directly from Article 2 of the of the Criminal Code of the Republic of Moldova, ‘Purpose of the Criminal Law’”³.

From these views we infer the broad scope of the special legal object of the offence of mass disorder, demonstrating the part-whole relationship between “public order” and “public security” since by committing mass disorder both public order (in a narrow sense) and public security are infringed, through the creation of a climate of general danger affecting collective safety.

An important work for the topic under study is “Criminal Law. Special Part. Vol. II” by S. Brînză, X. Ulianoschi, V. Stati, I. Țurcanu, and V. Grosu, which concludes collectively that “offences against public security may also have secondary legal objects, such as social relations concerning life and health, possession of property, the environment etc.”⁴. Consequently, the offence of mass disorder can harm both social values relating to public security and other values such as the physical and/or psychological integrity of the person and the integrity of their property.

Conversely, V. Bujor and O. Bejan, in “Elements of the Theory of Private Criminological Security (Teaching Material)” state that “disorder occurs when public order and security are violated, public tranquility is disturbed, and norms of social coexistence are breached etc.”⁵. Thus, the authors nuance a comprehensive view of the concept, which is not limited to physical manifestations of disturbance to public security but also includes subtle forms of violating social norms.

In “Offences of Mass Disorder (Art. 285 of the Criminal Code of the Republic of Moldova): Notion, Analysis, Delimitation from Similar Criminal Acts” S. Copetchi underscores the depth of the legal nature of mass disorder and its adverse effects on the social values protected by criminal law, placing at the forefront the definition of “mass disorder” as “the expression by a group of people of a negative attitude, usually toward organs of state power or toward the actions or omissions of their representatives. Mass disorders involve the commission by a large group of people (a mass, a crowd) of unlawful actions that breach public security

³ CHIRIȚA, Valentin, TIHON, Vitalie. Corelația conceptelor: ordine publică, securitate publică, ordine de drept în contextul încadrării juridice a infracțiunii de huliganism. În: *Intellectus* [online]. 2023, nr. 1, p. 118 [citat 30.04.2025]. ISSN 1810-7087. Disponibil: https://ibn.idsi.md/sites/default/files/j_nr_file/Intellectus_1_2023.pdf

⁴ BRÎNZĂ, Sergiu et al. *Drept penal. Partea specială. Volumul II*. Chișinău: Cartier, 2005. p. 533.

⁵ BUJOR, Valeriu, BEJAN, Octavian. *Elemente de teoria securității criminologice private: (material didactic)*. Chișinău: CEP USM, 2014. p. 17. ISBN 978-9975-71-498-3.

by creating favorable conditions for endangering the life and health of persons, the property of institutions, state or private organizations, public authorities, or the normal activity of the aforementioned entities”⁶.

Eloquent insights are also found in O. Rotari’s “Criminology. Revised and Expanded Edition” which highlights a key distinction between a “crowd” and a “group of persons”: “a crowd is an aggregation of people usually formed by chance, often on the occasion of an event in social life. The crowd differs from a group, which consists of a smaller number of persons (5–10); the group is homogeneous, conscious, and from the outset pursues specific goals. The crowd, by contrast, implies a large number of people, starting from 25 – 50 and up to hundreds or thousands”⁷.

In the same context, S. Brînză and V. Stati, in “Delineating the Offence of Hooliganism from Certain Adjacent Criminal or Non-Criminal Acts” observe that “under no circumstances can hooliganism harm public security. Even when committed by two or more persons, hooliganism does not involve the environment inherent to mass disorders. Mass disorders represent actions by masses of people, used by interested persons as a *sui generis* instrument to achieve their aims, taking into account the psychology of the crowd and channeling its spontaneous conduct in the desired direction. In other words, the scale of what is committed is what distinguishes mass disorders from hooliganism committed by two or more persons. Unlike mass disorders, hooliganism cannot be committed by several dozens, hundreds or even thousands of people. Although mass disorders may develop from an act of hooliganism – an act that gradually attracts more participants – at some point, quantitatively and qualitatively, the line between hooliganism and mass disorder is crossed”⁸.

These views illuminate the quantitative and qualitative dimensions of mass disorder versus hooliganism, underscoring that, although both may involve violent acts, only mass disorders endanger public security through their scale, organization, and manipulation of the crowd. Thus, mass disorder is a more complex offence than hooliganism, which is characterized by a smaller number of persons associating in a violent group.

Important suggestions for this scientific endeavor are found in: “Criminal Liability for Actions that Disrupt the Activity of Penitential-

⁶ COPETCHI, Stanislav. *Infracțiunile de dezordini în masă (art.285 CP RM): Noțiune, analiză, delimitare de fapte penale similare*. În: *Revista Procuraturii Republicii Moldova* [online]. 2020, nr. 6, p. 28 [citat 11.11.2024]. ISSN 2587-3601. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/27-36_6.pdf

⁷ ROTARI, Oxana. *Criminologie. Ediție revăzută și adăugită*. Chișinău: ULIM (Tipografia Foxtrot SRL), 2011. p. 95. ISBN 978-9975-101-57-8.

⁸ BRÎNZĂ, Sergiu, STATI, Vitalie. *Delimitarea infracțiunii de huliganism de unele fapte penale sau nepenale adiacente*. În: *Revista Națională de Drept* [online]. 2008, nr. 8, p. 7 [citat 17.12.2024]. ISSN 1811-0770. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/2-12_0.pdf

ries”⁹(V. Manea); “Vandalism: A Criminal-Law Analysis”¹⁰ (S. Pilat) and “Treatise on Criminal Law. Special Part. Vol. I”¹¹ (S. Brînză, V. Stati), which significantly contributed to highlighting similarities and differences between mass disorder and related offences.

Internationally, significant contributions to the study of mass disorder are identified in Romanian, Russian, Spanish, Italian, German, and French doctrine.

In Russian doctrine, O. V. Șvedova, in “Criminal-Law Characteristics of Mass Disturbances (Art. 212 of the Criminal Code of the Russian Federation)” extensively analyzes the topic, noting that “mass disorders should be understood as the commission by a large number of persons (a crowd) of actions intended to violate the norms of behavior established in society, accompanied by violence against persons, pogroms, arson, destruction or damage of property, armed resistance to a representative of the authorities, the use of weapons, explosive devices, explosive or poisonous substances, or other substances and objects that pose a danger to others”¹².

A significant contribution is offered by V. T. Akimov in “Legal Sciences: The Concept of Mass Disturbances” who outlines several definitions of “mass disorder,” largely emphasizing that “mass disorders are serious violations of public security committed by a large group of people (a crowd), accompanied by violence against persons, damage to property, armed resistance to representatives of the authorities, during which the functioning of law-enforcement bodies is paralyzed”¹³.

These opinions present comprehensive and detailed definitions of the phenomenon, arguing the broad character of the offence, its placement among offences against public security, the collective nature of the act, and the concrete forms in which the accompanying actions of mass disorders manifest.

A resonant contribution supporting the hypothesis that mass dis-

⁹ MANEA, Vladislav. *Răspunderea penală pentru acțiunile care dezorganizează activitatea penitenciarelor: Material didactico-științific*. Chișinău: CEP USM, 2010. 292 p. ISBN 978-9975-70-956-9.

¹⁰ PILAT, Sofia. *Vandalismul: (Analiza juridico-penală)*. Chișinău: Tipografia Academiei „Ștefan cel Mare” a MAI, 2018. 268 p. ISBN 978-9975-121-45-3.

¹¹ BRÎNZĂ, Sergiu, STATI, Vitalie. *Tratat de drept penal. Partea Specială. Volumul I*. Chișinău: Tipografia Centrală, 2015. 1326 p. ISBN 978-9975-53-469-7.

¹² ШВЕДОВА, О. В. *Уголовно-правовая характеристика тема массовых беспорядков (ст. 212 УК РФ): магистерская диссертация*. Красноярск, 2016. с. 89 [citat 20.11.2024]. Disponibil: https://elib.sfu-kras.ru/bitstream/handle/2311/30275/magisterskaya_dissertaciya_shvedovoy_o.v._1.pdf?sequence

¹³ АКИМОВ, В.Т. *Юридические науки понятие массовых беспорядков*. В: *Наука и образование сегодня* [online]. 2019, № 6 (41). Часть 2, с. 93 [citat: 18.09.2025]. ISSN 2541-7789. Disponibil: <https://publikacija.ru/images/PDF/2019/41/Science-and-education-today-6-41-2.pdf>

orders may entail multiple illicit acts (potentially constituting a concurrence of offences) appears in “Investigating Mass Disturbances: Theoretical, Organizational and Methodological-Forensic Foundations (Based on Materials from the Republic of Armenia)” where V. G. Enghibarian states that “the object of mass disorders includes the social relations that develop in the sphere of safeguarding public security. It must be borne in mind that mass disorders are essentially accompanied by the commission of a large number of offences that go beyond the scope of the corpus delicti under investigation. Conversely, the commission of individual offences can often transform into mass disorders”¹⁴.

In Spanish doctrine, D. Colomer Bea, in “Reflections on the Legal Interest Protected in Crimes of Public Disorder” opines that “the impairment of social relations by the commission of mass disorders is embodied in a series of goods and interests that represent its external and material conditions, which primarily include freedom of action, life and physical integrity of individuals, and their property”¹⁵.

Similarly, in French doctrine, “Profiling Demonstrators: Between Safeguarding Public Order and Risks of Political Repression” (Y. Nabat) notes that “the term ‘violence’ is regularly used to denote both the commission of physical violence against persons and the causing of material and psychological harm”¹⁶.

From these Spanish and French perspectives, we infer the multi-dimensional nature of the special legal object of mass disorder: the associated violence manifests not only physically but also psychologically, since mass disorders may directly infringe social values relating to both physical integrity and psychological freedom.

A renowned work specific to the field is G. Le Bon’s “The Crowd: A Study of the Popular Mind” which recognizes two essential elements of mass disorders – the crowd and aggressiveness – while also acknowledging a third element—violence; at times, aggressiveness and violence are perceived as similar elements¹⁷.

¹⁴ ЕНГИБАРЯН, В.Г. *Расследование массовых беспорядков: теоретические, организационные и методико – криминалистические основы (по материалам Республики Армения): диссертация на соискание ученой степени доктора юридических наук*. Москва, 2015. с. 85.

¹⁵ COLOMER BEA, David. Reflexiones en torno al bien jurídico protegido en los delitos de desórdenes públicos. In: *Revista Electrónica de Ciencia Penal y Criminología* [online]. 2017, núm. 19-18, p. 15 [citat: 30.07.2025]. ISSN 1695-0194. Disponibil: <https://revistacriminologia.com/19/recpc19-18.pdf>

¹⁶ NABAT, Yoann. *Ficher les manifestants: entre sauvegarde de l'ordre public et risques de répression politique*. In: *La Revue des droits de l'homme* [online]. 2025, nr. 27, p. 361 [citat: 30.07.2025]. ISSN 2264-119X. Disponibil: <https://journals.openedition.org/revdh/21362>

¹⁷ LE BON, Gustave. *Psihologia multumilor (traducere în limba română: Mariana Tabacu)* [online]. București: ANTET XX PRESS, p. 9 [citat: 11.11.2024]. ISBN 973-99336-2-9. Disponibil: <https://alingavreliuc.wordpress.com/wp-content/uploads/2010/10/gustave-le-bon-psihologia-multumilor.pdf>

In German doctrine, regarding participation in mass disorder, T. Rotsch, in “Participation in ‘Breach of the Public Peace?’” highlights that “the offence is not realized by mere participation, but by committing acts of violence or threats to public security. Criminal liability can be imposed only on the member of the crowd who endangers public security”¹⁸. In line with this view, we consider that mere physical presence in a crowd is insufficient for criminal liability under Art. 285 of the Criminal Code of the Republic of Moldova. The essence of the offence lies in active participation in mass disorder, which must necessarily involve, at that time, the commission of one of the accompanying actions listed in Art. 285(1) of the Criminal Code of the Republic of Moldova.

In Romanian doctrine, with respect to Art. 285(3) of the Criminal Code of the Republic of Moldova, G. Nistoreanu and A. Boroï, in “Criminal Law. Special Part” note that “îndemnul (the call) denotes incitement—arousal of interest—which is less than determination, and is not directed at a specific person but addressed to the public, to disobey laws or commit offences. It may be effected orally, in writing, or by any other means”¹⁹.

In the same context, T. Toader and O. Loghin, in “Romanian Criminal Law. Special Part” argue the necessity of three cumulative conditions: “(1) the existence of a call; (2) the call addressed to the public, if it is addressed to one or more specific persons, the legal requirement is not met; (3) the call must concern non-compliance with laws or the commission of offences, whether specific or in general”²⁰.

By the typicality conditions specified for the act of “calling” under Art. 285(3) of the Criminal Code of the Republic of Moldova, the nature of instigation and the need to meet all three criteria for criminal liability are clarified. This serves as a useful conceptual filter to avoid infringing freedom of expression through an abusive interpretation of “call” and an unjustified expansion of the scope of incrimination.

Considering the surveyed works, it is confirmed that a complex and meticulous doctrinal analysis - both theoretical and practical - substantially contributes to the efficient development and improvement of the legal framework governing the incrimination of mass disorder.

Chapter II entitled “Retrospective analysis of criminalization and comparative law aspects of the crime of mass disorder” comprises

¹⁸ ROTSCH, Thomas. „Beteiligung am” Landfriedensbruch? In: *Zeitschrift für Internationale Strafrechtsdogmatik* [online]. 2015, nr. 12, p. 583 [citat: 29.07.2025]. Disponibil: https://www.zis-online.com/dat/ausgabe/2015_12_ger.pdf

¹⁹ NISTOREANU, Gheorghe, BOROÏ, Alexandru. *Drept penal. Partea specială (Curs universitar)*. București: ALL Beck, 2002. p. 480. ISBN 973-655-182-2.

²⁰ TOADER, Tudorel, LOGHIN, Octavian.. *Drept penal român. Partea specială. Ediția a III-a revăzută și adăugită*. București: Casa de editură și presă „ȘANSA”, 1999. p. 587. ISBN 973-9167-88-8.

es four subchapters and presents an extensive analysis of the historical evolution of the normative framework criminalizing mass disorder. In parallel, a comparative study was conducted based on the criminal legislation of certain European Union member states (Romania, Poland, Germany, France, Finland, Spain, Sweden, Denmark, and Greece), as well as the criminal laws of several non-EU states, including Russia, Georgia, Ukraine, Belarus, Kazakhstan, Azerbaijan, Armenia, Kyrgyzstan, Tajikistan, Turkmenistan, and Uzbekistan.

From the retrospective examination of the mass disorder phenomenon, it follows that in ancient times such events manifested as wars, invasions, revolts, uprisings, and battles that sparked various conflicts between civilizations, under the principle *inter arma silent leges*, yet without directly incriminating mass disorder as a distinct offence.

Following the Union of Bessarabia with Romania in 1918, the applicability of the Romanian Penal Code of 1864 was extended to that territory. That Code contained the first express provisions prescribing imprisonment for disturbing the public peace by a crowd²¹. Composed of a General Part and a Special Part, it introduced for the first time the principles of non-retroactivity of criminal law and equality before the law, and was regarded as the most lenient and tolerant criminal statute of the modern era in the European space²².

During the reference period, a series of special criminal laws were adopted concerning state security and public order and tranquility. Among the most significant was the Law for the Repression of Certain Offences against Public Peace of December 1924 (the “Mârzescu Law”), which criminalized the conclusion of agreements or the establishment of associations, participation in demonstrations aimed at changing the social order or state power, abolishing private property, overthrowing bourgeois power, or the display or wearing in public of certain emblems, badges, flags, or placards²³. Later, in 1933, a new law known as the “Mironescu Law” was adopted, penalizing barricading in public buildings or in public or private industrial and commercial enterprises and refusal to leave such places after warnings by law-enforcement officers, the penalty being correctional imprisonment of up to five years²⁴.

The express incrimination of mass disorders was provided in Arti-

²¹ Codul penal al României din 30 aprilie 1864 [citat 11.10.2024]. Disponibil: <https://lege5.ro/gratuit/g42tamju/codul-penal-din-1864>

²² CHEPESTRU, Ana-Maria. Evoluția cadrului normativ cu privire la dezordinile în masă. În: *Culegerea comunicărilor Conferinței științifice internaționale „Omul, criminologia, știința”, 24 martie 2023* [online]. Chișinău: Institutul de Științe Penale și Criminologie Aplicată, 2023. p. 647 [citat: 08.05.2025]. ISBN 978-9975-3418-5-1. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/culegerea_24.03.23.pdf

²³ ARAMĂ, Elena, COPTILEȚ, Valentina. *Istoria dreptului românesc*. Chișinău: „Cartea Juridică”, 2012. p. 212. ISBN 978-9975-53-129-0.

²⁴ *Ibidem*.

cle 76 of the 1961 Penal Code, which stated: “Organizing mass disorders, accompanied by pogroms, destruction, arson and other similar acts, as well as the direct commission by participants thereof of the aforementioned offences or armed resistance to the authorities, shall be punishable by imprisonment from two to fifteen years”²⁵.

On 18 April 2002, by Law No. 985, a new Criminal Code was adopted, entering into force on 12 June 2003, and it remains applicable to the present day.

In its initial version, Article 285 contained four paragraphs whose contents largely resemble the current wording. However, in the earlier version of Article 285(2) of the Criminal Code of the Republic of Moldova, the aggravating circumstances of the act under paragraph (1) were regulated; following the amendments introduced by Law No. 277/2008 for amending and supplementing the Criminal Code of the Republic of Moldova²⁶, these circumstances became mandatory accompanying actions for the offence’s composition.

The comparative analysis between Moldovan criminal law and the criminal laws of EU member states and certain non-EU states shows that, in some foreign criminal codes (e.g., Poland, Finland, Denmark, Azerbaijan, Tajikistan), the normative modalities of committing mass disorder are regulated either in a combined form – similar to Article 285 of the Criminal Code of the Republic of Moldova or in separate articles, each incriminating a particular illicit action.

Our comparative research further indicates that, among EU member states, the mildest criminal penalty for the offence in question is found in the Romanian Criminal Code, which in Article 371 provides imprisonment from 3 months to 2 years²⁷. Conversely, the harshest penalty is provided in the German Criminal Code, where §125a establishes imprisonment from 6 months to 10 years.²⁸ By contrast, in certain non-EU jurisdictions – the Russian Federation²⁹, the Republic of Belarus³⁰, the

²⁵ *Codul penal al Republicii Moldova din 24.03.1961* [citat: 04.10.2024]. Disponibil: https://bizlex.ru/ro/codul-penal-al-republicii-moldova-din-24-03-1961.html#google_vignette

²⁶ *Legea nr. 277/2008 pentru modificarea și completarea Codului penal al Republicii Moldova* [citat 22.09.2025]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=12129&lang=ro

²⁷ *Codul penal al României din 17 iulie 2009* [citat 18.10.2024]. Disponibil: <https://legislatie.just.ro/Public/DetaliuDocumentAfis/223635>

²⁸ *Codul penal al Germaniei* [citat 18.10.2024]. Disponibil: https://www.gesetze-im-internet.de/englisch_stgb/englisch_stgb.html

²⁹ *Codul penal al Federației Ruse* [citat 06.04.2023]. Disponibil: https://www.consultant.ru/document/cons_doc_LAW_10699/cdfbaa9aeaf8b47695af18e41433e4e3f5f4be5f/

³⁰ *Codul penal al Republicii Belarus* [citat 06.04.2023]. Disponibil: <https://pravo.by/document/?guid=3871&p0=hk9900275>

Republic of Turkmenistan³¹ and the Republic of Uzbekistan³² - the maximum term of imprisonment for mass disorder reaches up to 15 years.

Chapter III, entitled “**Objective constituent elements of the crime of mass disorder**” comprises four subchapters and focuses on a meticulous examination of the objective elements of the acts incriminated by Article 285 of the Criminal Code of the Republic of Moldova, emphasizing the specific features of the legal object, the material object, and the objective side of the offence. Subsequently, based on these objective elements, distinctions are drawn between mass disorder and related criminal offences.

The offence of mass disorder is placed in Chapter XIV, “Offences against Public Security and Public Order” of the Special Part of the Criminal Code of the Republic of Moldova. The generic legal object therefore consists of social relations concerning public security and public order.

The special legal object comprises the social relations and values safeguarding public security. It is complex, encompassing both a primary and a secondary special legal object. The primary object protects social relations pertaining to public security; the secondary object concerns social values such as a person’s physical and/or psychological integrity, health, and the integrity of their property.

Public security represents a set of rules governing social relations with regard to the protection of the fundamental rights and freedoms of an indefinite number of persons by ensuring the enforcement of legal order, including by creating a favorable and peaceful environment for individuals and legal entities, as well as maintaining normal conditions for their activities.

For Article 285 of the Criminal Code of the Republic of Moldova, the material object is the physical body of the person and their immovable or movable property.

The victim may be any person; only where the act is accompanied by violent or armed resistance does the victim acquire a special status—namely, that of a representative of the authorities.

The offence under Article 285 of the Criminal Code of the Republic of Moldova is realized through a harmful act grouped into several categories, and for legal classification it is sufficient to commit at least one alternative normative modality:

1) organizing mass disorders, accompanied by at least one of the following: violence against persons; pogroms; arson; destruction of property; use of a firearm; use of other objects as weapons; violent re-

³¹ *Codul penal al Republicii Turkmenistan* [citat 27.04.2023]. Disponibil: https://continent-online.com/Document/?doc_id=31295286

³² *Codul penal al Republicii Uzbekistan* [citat 27.04.2023]. Disponibil: https://continent-online.com/Document/?doc_id=30421110

sistance to representatives of the authorities; armed resistance to representatives of the authorities;

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

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

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

5) calls for mass disorder;

6) calls for acts of violence against persons³³.

Correlating Article 285(1) of the Criminal Code of the Republic of Moldova with Law No. 130/2012 on the Regime of Weapons and Ammunition for Civilian Use reveals a significant conceptual gap in the phrase “use of a firearm” This wording narrows the scope by excluding weapons in categories C and D (e.g., non-lethal weapons, air guns, bladed weapons, electroshock devices, irritant tear-gas sprays), which likewise can cause bodily injury and harm to health. Such limitation creates a legislative lacuna that may adversely affect legal classification where perpetrators employ these other weapon types during mass disorders. Aligning the terminology of Article 285(1) with the legislation defining civilian weapon categories would strengthen public security, standardize judicial practice, and prevent divergent or arbitrary interpretations.

Similarly, the current wording of Article 285(1) is insufficiently adapted to new forms of endangering public security: the use of explosive devices or other devices with lethal effect during mass disorders may result in death, bodily injury, and material destruction. Failure to regulate this phrase may enable evasion of criminal liability and misapplication of the norm where such devices are used in organizing, leading, or participating in mass disorders.

It is likewise noted that toxic substances can be easily disseminated in public spaces, posing a real and imminent threat to public security. Given present global realities, an effective criminal policy should prevent and combat modern, sophisticated forms of mass disorder. Accordingly, supplementation of Article 285(1) of the Criminal Code of the Republic of Moldova in the above sense is proposed.

Following an in-depth analysis of Article 285(2) of the Criminal Code of the Republic of Moldova, we conclude that any participation in actions such as violence against persons, pogroms, arson, destruction of property, use of a firearm or other objects as weapons, as well as violent or armed resistance to representatives of the authorities, entails criminal liability under that paragraph. Retaining the qualifier “active” in

³³ *Codul penal al Republicii Moldova nr. 985-XV din 18 aprilie 2002* [citat 21.09.2025]. Disponibil: https://www.legis.md/cautare/getResults?doc_id=150640&lang=ro#

this context contravenes the requirements of clarity and foreseeability of criminal law under international standards; the legislator must draft criminal provisions so as to shield individuals from arbitrary accusation, conviction, and punishment³⁴.

A multifaceted analysis of Article 285(3) of the Criminal Code of the Republic of Moldova supports abrogating that paragraph and introducing a new article - Article 285¹ "Incitement to Mass Disorder" - to criminalize instigation by any means to mass disorder accompanied by violence against persons, pogroms, arson, destruction of property, use of explosive devices or other devices with lethal effect, toxic substances, firearms or other objects used as weapons, as well as violent or armed resistance to representatives of the authorities. This would provide a clear and coherent normative configuration, eliminating terminological and conceptual ambiguities in the current wording. The new article would retain the sanctioning regime currently applicable under Article 285(3), thereby ensuring continuity and stability of criminal policy in the field of public security without infringing fundamental rights and freedoms.

We further identify the absence of regulation concerning the preparatory phases of mass disorder, which - given current modalities - may limit the capacity of law-enforcement authorities to combat such acts. We therefore propose supplementing Article 285 by criminalizing, in a new paragraph (3), training, self-training, or receiving training for the purpose of organizing or leading, or participating in, mass disorders set out in paragraph (1). The aim is to enhance criminal-law protection against conduct evidencing a clear intent to engage in acts that directly threaten public security.

At the same time, we propose a conditional ground for release from criminal liability where a person informs the authorities about the conduct of training, self-training, or receipt of training for the purpose of organizing, leading, or participating in mass disorders and contributes to uncovering the offence or exposing other trained persons, instructors, financiers, or organizers of such training, provided their actions do not constitute another offence. This clause offers a non-punishment mechanism in cases of active cooperation with law-enforcement authorities, serving as an important tool for early detection and prevention and for discouraging escalation.

The place of commission is a salient objective element, as mass disorders typically occur in locations with large concentrations of people - squares, stadiums, boulevards, streets - and may affect administrative buildings of state authorities. The time is an additional objective

³⁴ CHEPESTRU, Ana-Maria. Evaluarea standardelor de calitate ale normei incriminatorii prevăzute de art.285 din Codul Penal al Republicii Moldova (dezordini în masă). În: *Legea și viața* [online]. 2022, nr. 05-06 (365-366), p. 125 [citat: 09.05.2025]. ISSN 2587-4365. Disponibil: https://ibn.idsi.md/sites/default/files/imag_file/122-130_4.pdf

element without bearing on legal classification; the offence may occur during protests, public events of a cultural, religious, or sporting nature, and other mass gatherings.

Means and instruments are expressly deduced from Article 285(1) of the Criminal Code of the Republic of Moldova (and likewise apply to paragraph (2)): firearms or other objects used as weapons.

The offence of mass disorder has a formal composition: it is consummated upon commission of any of the factual modalities—organizing or leading mass disorders, or active participation therein - when accompanied by violence against persons, pogroms, arson, destruction of property, use of a firearm or other objects as weapons, and violent or armed resistance to authorities; likewise, it is consummated upon issuing calls for active violent disobedience to authorities' legitimate demands, for mass disorder, or for acts of violence against persons.

In distinguishing Article 285 of the Criminal Code of the Republic of Moldova from offences under Articles 184, 197, 286, 287, 288, and 341 of the Criminal Code of the Republic of Moldova, several share the same generic legal object and the same material object—the person's body and property. Offences under Articles 184, 285, 286, 287, and 341 of the Criminal Code of the Republic of Moldova involve harmful acts with the use or threat of violence (only Article 184(1)(c) specifies the violence as not dangerous to life or health). Article 197 and Article 285 share the action of destruction. Articles 285 and 286 share organization and participation as objective elements. For Articles 285 and 287, the legislator conditions liability on mandatory accompanying actions, without which classification is impossible. Likewise, the offence under Article 341 resembles the harmful act incriminated by Article 285(3), as both involve public instigation to commit harmful acts and publicity of such acts.

Chapter IV entitled “**Subjective constituent elements of the crime of mass disorder**” consists of four subchapters and undertakes a detailed analysis of the subject and subjective side of the offence regulated by Article 285 of the Criminal Code of the Republic of Moldova, focusing on the characteristics of culpability, purposes, and motives. Based on these subjective elements, distinctions are also drawn between mass disorder and related criminal offences.

The offence of mass disorder is committed with guilt in the form of direct intent. In turn, direct intention implies a close connection between the intellectual and volitional factors.

For example, volitional and intellectual aspects must intersect in order to ensure interconnection between them, because only in such circumstances is a criminal act committed with direct intent.

In relation to the offense under investigation, the intellectual factor includes two mental processes, the first being awareness of the harmful nature of mass disorder, and the second being the foreseeabil-

ity of the harmful consequences that may result from committing such acts. The volitional factor, on the other hand, is directly reflected in the perpetrator's desire to cause certain harmful consequences as a result of committing mass disorder.

The intellectual factor is reflected in a clear awareness of the unlawful and socially dangerous nature of the acts committed. Therefore, the perpetrator understands the nature of their actions and the harmful consequences that may arise as a result of the acts committed, such as: disruption of public security, harm to people's health, or destruction of their property, etc. This understanding excludes in any way the possibility for the perpetrator to invoke ignorance of the law, as it implies a complete and anticipatory mental representation of the legal and criminal consequences of his behavior.

Therefore, it is evident that the perpetrator has a clear and unequivocal understanding of the unlawful and harmful nature of his conduct, as evidenced by his actions. His blatantly antisocial and disruptive behavior makes it impossible to invoke ignorance or misunderstanding of the legal and criminal significance of the act committed.

The volitional factor consists in the manifestation of a deliberate will to commit the crime in question. Therefore, the perpetrator not only realizes their actions and foresees their harmful consequences, but also desires them to occur. This attitude expresses a conscious desire to harm social values and relationships concerning public safety, indicating the indisputable existence of direct intent.

According to doctrinal typologies of intent, the act incriminated under Article 285(2) of the Criminal Code of the Republic of Moldova may be committed with spontaneous intent, arising instantly upon deciding to commit the offence. Conversely, the acts provided under paragraphs (1) and (3) are usually committed with premeditated intent, which implies a preparatory stage in which the perpetrator takes decisions, plans the acts, and organizes their conduct.

Motives and purposes are optional elements of the subjective side. Jurisprudence and doctrine confirm that no exhaustive list of motives or purposes can be drawn up. While they do not affect the legal classification of the act, motives and purposes are essential for assessing the perpetrator's psychological profile, for individualizing criminal liability, and for determining punishment. Motives may include revenge, hatred, material interest, or political dissent; however, specific motives of bias are relevant only for offences under Article 184(2)(b¹), Article 197(2)(b), Article 287(2)(e), and Article 288(2)(b) of the Criminal Code of the Republic of Moldova.

The subject of the offence is a natural person who is criminally responsible and has reached the age of 14 years at the time of commission. Considering the proposal to supplement Article 285 with a new para-

graph criminalizing training, self-training, or receiving training for the purpose of organizing, leading, or participating in mass disorders accompanied by the acts listed in paragraph (1), it is proposed that liability for this specific conduct be established from the age of 16 years. This adjustment ensures proportionality, aligning the gravity of the act and its social danger with the necessary level of psychological maturity and discernment. Consequently, it is recommended to amend Article 21(2) of the Criminal Code of the Republic of Moldova to provide that: for acts under Article 285(1) and (2), liability arises from age 14; for the newly proposed Article 285(3), liability arises from age 16.

When compared with Articles 184, 197, 286, 287, 288, and 341 of the Criminal Code of the Republic of Moldova, differences emerge mainly in terms of the type of intent required. While motives may coincide across offences (revenge, hatred, material gain, political dissent), some offences involve a special status of the subject, such as: Article 184(1)(a): a person in a position of responsibility; Article 197(3): a bank administrator; Article 286: a person serving a prison sentence.

These specificities are antithetical to the general subject of the offence under Article of the Criminal Code of the Republic of Moldova, which encompasses any natural person meeting the age requirement.

GENERAL CONCLUSIONS AND RECOMMENDATIONS

The scientific results obtained from the elaboration of this study are: conducting a historical retrospective of the normative provisions regarding the evolution of the offence of mass disorder; a comparative analysis of the criminal legislation of EU Member States and other states with respect to liability for mass disorder and related offences; clarifying and distinguishing the concepts of public order and public security; identifying and characterising the objective and subjective elements of the offence under Article 285 of the Criminal Code of the Republic of Moldova; justifying the age of criminal liability and establishing a proportional sanctioning regime for the newly proposed offence of training, self-training, or receiving training for the purpose of organising, leading, or participating in mass disorder; submitting a set of *lege ferenda* proposals aimed at improving the criminal norm in question, harmonising Article 285 of the Criminal Code of the Republic of Moldova with the EU *acquis* and Moldova's international commitments, and aligning it with the qualitative criteria of criminal law.

Among the most important general conclusions, the following are highlighted:

1. Both jurisprudence and criminal law doctrine unanimously recognize that the offence of mass disorder directly threatens public security. Although the values and social relations concerning public order and public security are interdependent, they nonetheless possess distinctive characteristics. Public security represents a body of rules relating to the protection of the fundamental rights and freedoms of an indeterminate number of persons, through the establishment of a legal order, including the creation of a favorable and peaceful environment for natural and legal persons, as well as the maintenance of normal conditions for their activity.

2. From the perspective of the subjective element, the offence of mass disorder is committed with culpability in the form of direct intent. The intellectual component of this type of intent is reflected in a clear awareness of the illicit and socially dangerous nature of the acts committed. Thus, the perpetrator understands both the nature of his actions and the prejudicial consequences that may result therefrom, such as the serious disturbance of public security, harm to the health of individuals, or the destruction of their property. This awareness unequivocally excludes the possibility of the perpetrator invoking ignorance of the law, as it entails a complete and anticipatory mental representation of the legal-criminal consequences of his conduct.

3. The volitional element consists in the manifestation of a deliberate will to commit the offence in question. Thus, the perpetrator not only realizes his actions and foresees their prejudicial consequences, but

also desires their occurrence. This attitude expresses a conscious determination to harm the values and social relations pertaining to public security, thereby indisputably indicating the existence of direct intent.

4. From the perspective of the typology of intent recognized at the doctrinal level, the conduct incriminated under Article 285 paragraph (2) of the Criminal Code of the Republic of Moldova may be committed with spontaneous intent, which arises instantly at the moment of deciding to perpetrate the offence. By contrast, the acts provided under Article 285 paragraphs (1) and (3) of the Criminal Code are predominantly committed with premeditated intent, which entails a period of time during which the perpetrator undertakes preparatory actions, decides to commit the offence, and analyses the criminal actions he or she intends to carry out.

5. The motives and purposes underlying the offence of mass disorder are not decisive for its legal classification; however, they may be inferred from judicial practice. The motives may include: the tendency to deny and disapprove of aspects promoted by political actors, the desire to reproach the activity of a specific authority,³⁵ the will to express disagreement with certain events or decisions issued by public authorities, the intention to destabilize the public order situation, or to obstruct the proper functioning of certain authorities. The purposes may consist in: destabilizing the governing regime, obstructing the normal functioning of state institutions, creating a state of general insecurity, or undermining essential areas such as the social, political, economic, or cultural spheres.

6. The constituent elements of the offence regulated under Article 285 of the Criminal Code of the Republic of Moldova are of a formal nature, meaning that the crime is consummated from the moment of committing any of the factual modalities, namely: the organization or leadership of mass disorders, or active participation therein, when accompanied by acts such as violence against individuals, pogroms, arson, destruction of property, use of firearms or other objects employed as weapons, and violent or armed resistance to representatives of the authorities, as well as from the moment of issuing calls for violent disobedience to the lawful demands of representatives of the authorities, for mass disorders, or for the commission of acts of violence against individuals.

7. To ensure the accuracy of the legal classification of the offence under Article 285 of the Criminal Code of the Republic of Moldova, it is essential to distinguish it from other similar criminal acts. Such differentiation highlights the exclusive features of mass disorders in comparison with related offences. The delimitation is carried out from the perspec-

³⁵ CHEPESTRU, Ana-Maria, CHIRIȚA, Valentin. Latura subiectivă a infracțiunilor de dezordini în masă. În: *Intellectus* [online]. 2024, nr. 2, p. 159 [citat 08.05.2025]. ISSN 1810-7087. Disponibil: <https://agepi.gov.md/ro/intellectus/intellectus-2-2024>

tive of both objective and subjective elements that differentiate the acts, since the analysed offence may appear similar to other crimes, such as violation of the right to freedom of assembly, intentional destruction or damage to property, actions that disrupt the functioning of penitentiaries, hooliganism, vandalism, or incitement to overthrow or change by violence the constitutional order of the Republic of Moldova.

It is important that within the criminal provision set out in paragraph (1) of Article 285 of the Criminal Code of the Republic of Moldova, the phrase “firearm” be replaced with the term “weapon” since the current wording restricts the scope of applicability of the criminal norm, excluding potential threats to public security such as the use, during mass disorders, of non-lethal weapons, pneumatic weapons, bladed weapons, electroshock devices, irritant-tear gas sprays, and others.

In the same context, we consider it indispensable to supplement the aforementioned paragraph with the phrase “explosive devices or other devices with lethal effect” as contemporary manifestations of collective disorder increasingly involve the use of socially dangerous means. The omission of such a provision may result in evasion of criminal liability and improper application of the criminal norm in cases where perpetrators resort to such devices. Similarly, we support the inclusion of the phrase “toxic substances” which is essential for ensuring legal coverage of another major threat, the manifestation of which during mass disorders creates a real and imminent danger to public security.

9. In the context of mass disorders, any participation in actions such as: the use of violence against individuals, pogroms, arson, destruction of property, the use of firearms or other objects employed as weapons, as well as violent or armed resistance against representatives of the authorities, entails criminal liability under paragraph (2) of Article 285 of the Criminal Code of the Republic of Moldova. Therefore, we consider that retaining the term “active” in the content of this provision contradicts the requirements of clarity and foreseeability of criminal law, as mandated by international standards in criminal matters.

10. It is necessary to criminalize a new factual modality - namely, training, self-training, or receiving training for the purpose of organizing, directing, or participating in mass disorders. This initiative is strictly justified by the absence of legal provisions criminalizing the preparatory stages of mass disorders, given the current realities of committing such offenses, which may otherwise limit the capacity of law enforcement authorities to prevent and suppress them. The proposed criminalization primarily aims to strengthen the criminal protection against actions that represent an evident intention to engage in conduct directly threatening public security.

At the same time, we also support regulating a conditional exemption from criminal liability for a person who has informed the authorities

about undertaking training, self-training, or receiving training for the purpose of organizing, directing, or participating in mass disorders and who has contributed to uncovering the offense committed or to exposing other trained persons, instructors, financiers, or organizers of such training, provided that their actions do not constitute another offense. This clause on exemption from criminal liability provides a mechanism of non-punishment in cases of active cooperation with law enforcement authorities, representing an important instrument for detecting and preventing mass disorders at an early stage and discouraging their escalation.

11. It is essential to criminalize, within a new article, the act of instigation to mass disorders, which would largely supplement the existing factual modality contained in paragraph (3) of Article 285 of the Criminal Code of the Republic of Moldova - calls for violent disobedience of the lawful demands of public authorities, for mass disorders, as well as for acts of violence against persons. This proposal constitutes a necessary measure to clarify and strengthen the normative framework for preventing and combating threats to public security.

It aims to establish a clear and coherent normative configuration of the offense of instigation to mass disorders, eliminating terminological and conceptual ambiguities present in the current wording of paragraph (3) of Article 285 of the Criminal Code. The proposed formulation provides a distinct delineation between the offense of instigation to mass disorders and the offenses criminalized under paragraphs (1) and (2) of Article 285, while also rationalizing the structure of the Special Part of the Criminal Code of the Republic of Moldova, as well as the legal language and terminology employed. At the same time, it ensures the conceptual hierarchy of criminal law norms in relation to the seriousness of the incriminated acts and their social danger.

The results of the research are highlighted by the importance of advancing recommendations in the form of *lege ferenda*, which, in our view, may enhance the normative content and the structure of the criminal law provision under examination.

1. Amendment of the current normative content of Article 285 of the Criminal Code of the Republic of Moldova, by setting it forth in a new wording, as follows:

„Article 285. Mass Disorder

(1) Organisation or leadership of mass disorders accompanied by violence, pogroms, arson, destruction of property, use of explosive or lethal devices, toxic substances, weapons or other objects used as weapons, or violent/armed resistance to authorities,

shall be punishable by imprisonment from 4 to 8 years.

(2) Participation in mass disorders, accompanied by the actions provided for in paragraph (1),

shall be punishable by imprisonment from 3 to 7 years.

(3) Training, self-training or receipt of training, for the purpose of organizing, leading or participating in mass disorders, shall be punishable by imprisonment from 1 to 3 years.

(4) A person who has committed the act provided for in paragraph (3) shall be exempted from criminal liability if he or she has notified the authorities about the conduct of the training, self-training or receipt of training for the purpose of organizing, leading or participating in mass disorders, has contributed to the disclosure of the offence committed or to the exposure of other trained persons, instructors, financiers, or organizers of such trainings, provided that his or her actions do not contain another constituent element of an offence.”.

2. Supplementing the Special Part of the Criminal Code of the Republic of Moldova with a new Article 285¹ “Incitement to Mass Disorders,” with the following content:

“Article 285¹. Incitement to Mass Disorders

Incitement by any means to mass disorders, shall be punishable by a fine ranging from 550 to 850 conventional units, or by unpaid community service from 180 to 240 hours, or by imprisonment for up to 2 years.”.

3. Amendment of the provisions of Article 21 paragraph (2) of the Criminal Code of the Republic of Moldova (in the context of the proposed amendments to Article 285 of the Criminal Code), by substituting the text: “283–286” with the text: “283, 284, 285 paragraphs (1) and (2), 286.”.

Suggestions regarding potential future research directions related to the studied topic: 1) analysis of the criminological aspects of the offense of mass disorders, with particular emphasis on the offender’s personality and crowd psychology; 2) drafting of a methodological guide based on the qualification aspects of the offense of mass disorders; 3) investigation of the examined offense through the lens of forensic methodology.

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PARTICIPATION IN SCIENTIFIC FORUMS

I. International:

1. Conferința internațională științifico-practică „Probleme științifice în domeniul expertizei judiciare psihiatrice-psihologice și modul de utilizare în procesul judiciar” din 14.04.2022.

2. Conferința științifico-practică internațională „Teoria și practica administrării publice” din 20.05.2022.

3. Conferința științifică internațională „Interesul superior al copilului: Abordare socio-culturală, normativă și jurisprudențială” din 30.09.2022 - 01.10.2022.

4. Conferința științifică internațională „Omul, criminologia, știința”, ediția a II-a, dedicată aniversării a 40 de ani de activitate pe făgașul învățământului și științei și 65 de ani de viață ai criminologului Valeriu Bujor, din 24.03.2023.

5. Conferința științifică internațională „Prevenirea și combaterea criminalității: Probleme, soluții și perspective”, ediția a V-a, din 18.05.2023.

6. Conferința științifică internațională „Prevenirea și combaterea criminalității: probleme, soluții și perspective”, ediția a VI-a, din 25.04.2024.

7. Conferința științifică internațională „Perspectivele și problemele integrării în spațiul european al cercetării și educației”, ediția a XI-a, din 06.06.2024.

8. XIV International Scientific Conference „ARCHIBALD REISS DAYS”. Thematic conference proceedings „Investigating and proving contemporary forms of crime: scientific”, Belgrade, november 7-8, 2024.

II. National:

1. Conferința științifico-practică a Ombudsmanului „Instituția carabinierilor între prezent și viitor” din 20.07.2022.

2. Conferința științifică națională cu participare internațională „Protecția drepturilor și libertăților fundamentale ale omului în procesul asigurării ordinii și securității publice” (ediția a III-a) din 07.12.2023.

3. Conferința științifică națională cu participare internațională „Statul de drept și reziliența economică în contextul aderării Republicii Moldova la Uniunea Europeană” din 16.05.2024.

ADNOTARE

Chepestru Ana-Maria. Analiza juridico-penală a infracțiunii de dezordini în masă.

Teză de doctor în drept. Chișinău, 2025

Structura tezei: introducere, patru capitole, concluzii generale și recomandări, bibliografia din 235 titluri, 207 pagini text de bază. Rezultatele obținute sunt publicate în 15 lucrări științifice.

Cuvinte-cheie: libertate de exprimare, securitate publică, mulțime, infracțiune, dezordini în masă, organizare, conducere, participare activă, chemare, violență, opunere de rezistență.

Scopul lucrării: constă în elaborarea unui studiu aprofundat cu referire la problemele de ordin juridico-penal privind infracțiunea de dezordini în masă, determinarea poziției acesteia în sistemul infracțiunilor contra ordinii și securității publice, precum și înaintarea unor recomandări, care au drept scop perfecționarea cadrului normativ de incriminare a faptei date.

Obiectivele cercetării: evaluarea normei de incriminare prevăzută la art. 285 din CP al RM; cercetarea retrospectivă a cadrului normativ de incriminare a faptei de dezordini în masă; studierea comparativă a legislațiilor penale ale altor state; determinarea corelației dintre conceptele „ordine publică” și „securitate publică”; analiza elementelor constitutive obiective și subiective ale infracțiunii supuse studiului; investigarea semnelor variabile și estimative din cadrul componenței de infracțiune prevăzute la art. 285 din CP RM; stabilirea momentului de consumare a infracțiunii analizate; concretizarea motivelor și scopurilor comiterii infracțiunii cercetate; formularea unor recomandări, sub formă de lege ferenda, în scopul modificarea art. 285 din CP al RM.

Noutatea și originalitatea științifică: rezidă în formularea și argumentarea unor propuneri de modificare a art. 285 din CP al RM, sub formă de lege ferenda, menite să perfecționeze cadrul normativ de incriminare a dezordinilor în masă, să-l alinieze la acquis-ul Uniunii Europene și la angajamentele internaționale asumate de Republica Moldova, precum și să asigure o aplicabilitate practică eficace a normei incriminatorii analizate.

Problema științifică soluționată: constă în efectuarea unei analize juridico-penale ample a infracțiunii de dezordini în masă, care asigură elucidarea naturii juridice concrete a acesteia, fapt ce contribuie la identificarea exactă a semnelor obiective și subiective ale componenței de infracțiune, iar propunerile de modificare a cadrului normativ aferent infracțiunii examinate vor perfecționa practica judiciară, sub aspectul aplicării corecte și uniforme a prevederilor art. 285 din CP al RM.

Semnificația teoretică: se reflectă în rezolvarea unor inadvertențe de natură juridico-penală cu privire la infracțiunea de dezordini în masă, iar concluziile realizate pot contribui la completarea fundamentelor teoretice ale dreptului penal, inclusiv excluderea unor lacune normative existente și propunerea unor soluții concrete fiabile, sub formă de lege ferenda.

Valoarea aplicativă a lucrării: va fi apreciată, prin prisma utilității practice, de către reprezentanții autorităților de drept competente în domeniul urmăririi penale. La fel, materialele prezentei teze pot constitui un fundament valoros pentru studenții instruiți în cadrul celor trei cicluri de studii superioare, audienții/angajații desemnați la cursuri de formare inițială, continuă sau managerială pe segmentul ordinii și securității publice și pentru alte categorii de cititori.

Implementarea rezultatelor științifice: se prezintă prin faptul că majoritatea subiectelor abordate în prezenta lucrare au fost supuse dezbaterilor în cadrul diverselor manifestații cu caracter științific și publicate în reviste științifice recunoscute și în materialele conferințelor științifice. Concomitent, materialele prezentei teze pot fi întrebuințate atât de către practicieni în activitatea lor, cât și în procesul de instruire a studenților din învățământul superior, având potențial de a perfecționa cadrul normativ național.

АННОТАЦИЯ

Кепестру Ана-Мария. Уголовно-правовой анализ преступления – массовые беспорядки. Диссертация на соискание научной степени доктора права.

Кишинэу, 2025 год

Структура диссертации: включает введение, четыре главы, общие выводы и рекомендации, библиографию из 235 источников; объём основного текста 207 страницы. Результаты исследования отражены в 15 научных публикациях.

Ключевые слова: вобода выражения мнений, общественная безопасность, толпа, преступление, массовые беспорядки, организация, руководство, активное участие, призыв, насилие, сопротивление.

Цель работы: провести комплексный уголовно-правовой анализ преступления массовых беспорядков, определить его место в системе преступлений против общественного порядка и безопасности и сформулировать рекомендации по совершенствованию нормативной базы их инкриминации.

Цели исследования: оценку нормы инкриминации, закреплённой в ст. 285 УК РМ; исследование эволюции правового регулирования инкриминации; сравнительное изучение уголовного законодательства других государств; определение взаимосвязи понятий «общественный порядок» и «общественная безопасность»; анализ состава преступления; исследование оценочных признаков состава преступления, предусмотренного ст. 285 УК РМ; установление момента окончания преступления; уточнение мотивов и целей его совершения; формулирование рекомендаций в виде *lege ferenda* по внесению изменений в ст. 285 УК РМ.

Научная новизна и оригинальность: обоснованы предложения в виде *lege ferenda* по изменению в ст. 285 УК РМ, направленных на совершенствования регулирования инкриминации массовых беспорядков, его приведение в соответствие с правовой системе Европейского Союза и международными обязательствами Республики Молдова, а также обеспечения эффективного применения данной нормы.

Решенный научный вопрос: заключается в проведении комплексного уголовно-правового анализа преступления массовых беспорядков, что позволило выявить его правовую природу и точно определить объективные и субъективные признаки состава. Внесённые предложения по изменению нормативной базы способствуют совершенствованию судебной практики и обеспечивают единообразное применение ст. 285 УК РМ.

Теоретическая значимость: заключается в устранении уголовно-правовых противоречий, связанных с преступлением массовых беспорядков. Полученные выводы дополняют теоретические основы уголовного права, способствуют ликвидации нормативных пробелов и формулируют конкретные решения в виде *lege ferenda*.

Прикладная ценность работы: определяется возможностью её использования представителями правоохранительных органов, компетентных в сфере уголовного преследования. Материалы диссертации могут служить ценным ресурсом для студентов всех уровней высшего образования, а также для слушателей и сотрудников, проходящих начальную, непрерывную или управленческую подготовку в области общественного порядка и безопасности, и для иных категорий читателей.

Внедрение научных результатов: подтверждается тем, что основные положения диссертации обсуждались на научных мероприятиях и опубликованы в признанных журналах и сборниках конференций. Материалы исследования могут быть использованы как в практической деятельности юристов, так и в образовательном процессе вузов, обладая потенциалом для совершенствования национальной нормативной базы.

ANNOTATION

Chepestru Ana-Maria. The legal-criminal analysis of the crime of mass disorders.
PhD Thesis in Law. Chisinau, 2025

Thesis structure: introduction, four chapters, general conclusions and recommendations, bibliography comprising 235 titles, 207 pages of main text. The obtained results have been published in 15 scientific papers.

Keywords: freedom of expression, public security, crowd, offence, mass disorders, organization, leadership, active participation, incitement, violence, resistance.

The purpose of the research is to present a comprehensive a comprehensive study of the criminal-legal aspects related to the offence of mass disorder, to determine its place within the system of offences against public order and security, and to formulate recommendations aimed at improving the legislative framework governing the incrimination of mass disorder acts.

The objectives of the research: to evaluate the incrimination norm provided for in art. 285 of the Criminal Code of the Republic of Moldova; the retrospective study of the legal framework for the incrimination of mass disorder acts; to conduct a comparative study of the criminal legislation of other states; to determine the interdependence between the concepts of “public order” and “public security”; to analyze the objective and subjective constituent elements of the offence of mass disorder; to investigate variable and estimated signs within the composition of the crime provided for in Article 285 of the Criminal Code of the Republic of Moldova; to establish the moment of completion of the offence of mass disorder; to specify the motives and purposes underlying the commission of this offence; to formulate lege ferenda recommendations aimed at amending art. 285 of the Criminal Code of the Republic of Moldova.

Scientific novelty and originality: lies in the formulation and substantiation of proposals to amend art. 285 of the Criminal Code of the Republic of Moldova (lege ferenda), aimed at improving the normative framework for the incrimination of mass disorders, aligning it with the acquis of the EU and the international commitments undertaken by the Republic of Moldova, as well as ensuring the effective practical applicability of the analyzed incrimination norm.

Solved scientific problem: consists in conducting a comprehensive criminal-legal analysis of the offence of mass disorder, which allows for clarifying its precise legal nature, which contributes to the accurate identification of the objective and subjective elements of the offence, while the proposed amendments to the normative framework governing the examined offence are intended to improve the judicial practice, ensuring the correct and uniform application of the provisions of art. 285 of the Criminal Code of the Republic of Moldova.

Theoretical significance: addresses certain criminal-legal inconsistencies regarding the offence of mass disorder, and the conclusions drawn may contribute to the development of the theoretical foundations of criminal law, including the elimination of existing normative gaps and the proposal of reliable solutions in the form of lege ferenda.

Practical value of the research: will be assessed in terms of its practical usefulness by representatives of competent legal authorities involved in criminal prosecution. Additionally, the materials of this thesis can serve as a valuable foundation for students enrolled in all three cycles of higher education, for attendees/employees participating in initial, continuing, or managerial training courses in public order and security, as well as for other categories of readers.

Implementation of scientific results: demonstrates that most of the topics addressed in this study have been discussed at scientific events and have been published in recognized scientific journals and scientific conference proceedings. Simultaneously, the thesis materials can be utilized by practitioners in their professional activity and in the training of higher education students, having the potential to contribute to the improvement of the national legislative framework.

CHEPESTRU Ana-Maria

**THE LEGAL-CRIMINAL ANALYSIS OF THE CRIME
OF MASS DISORDERS**

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