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THE OFFENCE OF MASS DISORDER IN THE CRIMINAL LAWS OF SOME EUROPEAN STATES

The legal system of each state consists of a wide range of legal rules. Thus, national security and legal order are a high priority for each nation and manifest themselves distinctly within any state. In the Republic of Moldova, the mentioned social value is protected both: the contravention and by the criminal law. This paper aims to make a study of the crime of mass disorder in the Republic of Moldova in comparison with European countries. The comparative analysis of the crime will contribute to the examination of European legal norms and to the research of the possibility of including some provisions in the legal framework of the Republic of

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Moldova. Similarly, the good practices of European countries will be taken into account through the elements of comparative criminal law.

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1. Introduction

In the context of the accession of the Republic of Moldova to the European Union, it is mentioned that the analysis of the criminal law of the Republic of Moldova by comparing it with the criminal law of the European states will ensure the perception of specific legal norms that refer to public order and security. Namely, the parallelism between two or more criminal laws ensures a prolific analysis of national legal rules, institutions, and legal systems based on comparison methods. Hence, the importance of knowing the comparative criminal law field is highlighted, as it makes it possible to highlight a legal universalism obtained over time and the broad comprehensibility of several foreign legal systems. It is worth noting that the compared criminal law includes a set of information, which needs to be thoroughly processed in the light of the laws of each state separately.

Therefore, taking into account the topic addressed in this study, it is noted that the analysis of the mass disorder offence, in the light of comparative criminal law, will ensure the uniform and correct interpretation of legal norms, the appearance of the main similarities and differences between illegal acts similar to mass disorders incriminated in other states, as well as contributing to the improvement of the criminal legislation of the Republic of Moldova.

The analysis of the criminal legislation of foreign countries allows, firstly, to reveal the particularities of the legislative regulation of the crime component and, secondly, to assess the possibility of borrowing them for criminal domestic legislation. Foreign experience in the regulation of criminal law allows a better understanding of the importance of the social importance of criminal law. Study experience opens up new horizons and requires a better knowledge of their own legislation because the specific features of the law are highlighted in the analysis comparative analysis with other systems (Puica, 2019: 20).

2. Applied methods and materials

In the analysis of the mentioned subject, the comparative analysis method was used as the main research method. This is a universal process, involving the identification of similarities and differences between two or more aspects and the drawing of general conclusions based on them. Other research methods, such as: systematic, logical analysis, logical interpretation, etc. were also used. At the same time, it is communicated that the scientific grounds of the research are the analysis of the studies on the topic included in the manuals, scientific articles, collections of conference materials, etc. Simultaneously, this paper includes extensive investigations of the criminal laws of the states subject to comparative analysis.

3. Results obtained and discussions

Comparative criminal law is a field of the science of criminal law that has the subject of study of the rules and institutions legal systems belonging to different systems of criminal law, in order to understand their meaning and content and the differences between these rules and institutions. From this perspective, we have considered it appropriate to study the scientific approach dedicated to the offence of copyright infringement and related rights through the prism of the elements of comparative criminal law (Cojocaru, Cazacicov, 2015 :19).

Public security is a complicated social category for which no single conception has not yet been developed. Public security means a system of rules that ensures the protection of the most important values of persons, material and spiritual values of society, the authority of official power, as well as the sovereignty and territorial inviolability of the country. Public order is a system of rules of social coexistence, the normal functioning of state or public bodies, as well as social relations between citizens in all areas of social activity, accepted by society (Chirița, 2021: 35).

The notion of national security reflects the qualitative state of society and the state, capable of ensuring safe and stable living conditions and the existence of its citizens, guaranteeing the protection of the rights and freedoms of every member of society, creating the premises and conditions for the stable development of the country. This means ensuring the defence of its values against internal and external dangers, of the basic material, intellectual and moral resources of existence, the order constitutional order and state sovereignty, independence, and

territorial integrity. In a different but similar vein, some authors consider that state security refers to the protection of sovereignty, independence, and integrity territorial, its constitutional system, its economic, technical, scientific, and defensive potential, the legitimate rights and freedoms of the individual against the informative and subversive activity of special services and foreign organizations, against criminal attacks by particular groups or individuals (Rotaru, 2018: 415).

The security of the state and society, as well as the safety of the individual, constitutes fundamental social values, whose existence and unrestricted realisation depend, on the normal course of the activity of the rule of law in the performance of its tasks and functions. The rigorous regulation of social relations, the establishment of the whole of life on the firm foundations of legality, the rule of law and discipline, is a natural, with the enlargement of the European Union and the increasing migration trends, the issue of public order and public safety in Europe is of the utmost topicality, as the following are increasingly evident the concerns of decision-makers and citizens alike, who are finding it increasingly difficult to accept the climate of insecurity. That is why, the focus of state and public authorities' concerns must be, at all times and consistently, public order and the safety of citizens, as major benchmarks that condition the proper functioning of all state institutions (Robea, 2015: 147).

Art. 285 of the Criminal Code of the Republic of Moldova provides for criminal liability for three offenses in the standard version, i.e. for three different offenses. Paragraphs 2 and 3 of art. 285 doesn't contain aggravating circumstances in relation to the rule in para. (1) art.285, but separate offences. This means that all three offenses referred to in this article can enter the competition or, it is not excluded that one and the same person will organize, instigate or even actively participate in mass disorders (Copețchi, 2020: 27).

Thus, in art. 285 para. (1) is incriminated the action of organizing or conducting mass disorders, accompanied by the application of violence against persons, pogroms, fires, destruction of goods, the application of the firearm or other objects used as weapons, as well as the opposition of violent or armed resistance to the representatives of the authorities, which is punishable by imprisonment from 4 to 8 years. Paragraph (2) of the same article regulates the action of active participation in the committing of the actions referred to by paragraph (1), which is punishable by imprisonment from 3 to 7 years, and by paragraph (3) the calls for active violent disobedience to the legitimate requirements of the representatives of the authorities and to mass disturbances, as well as to the committing of acts of violence against persons, which are punishable by a fine in the amount of 550 to 850 conventional units or by unpaid work in the benefit of the community

from 180 to 240 hours, or by imprisonment up to 2 years (Codul penal al Republicii Moldova, 2002).

In light of the above, a broad and customized analysis of the illegal acts similar to the offence of mass disorder, which are incriminated in the criminal laws of foreign states, as follows, will be carried out.

3.1. Romania

The criminal legislation of Romania regulates the protection of social cohabitation regarding public order and peace seriously approached in Title VIII Chapter I of the Special Part of the Criminal Code of Romania of July 17, 2009. Unlike the offense provided by art. 285 of the Criminal Code of the Republic of Moldova, in the Romanian criminal law, art. 371, the disturbance of the order of public peace is criminalized, which is punishable by imprisonment from 3 months to 2 years or by a fine, which constitutes the act of the person who, in public, by violence committed against persons or property, or by threats or serious harm to the dignity of persons, disturbs public order and tranquility (Codul penal al României, 2009). From this is inferred an essential difference both between the titles of the offences and between their objective side, which at first glance may seem similar.

Making a tangent to art. 285 para. (3) of the Criminal Code of the Republic of Moldova, which is materialized by calls for active violent disobedience to the legitimate requirements of the representatives of the authorities and to mass disturbances, as well as to the perpetration of violence against persons, it is noted that the Criminal Code of Romania provides in art. 368 – Public incitement, which represents the act of urging the public, verbally, in writing, or by any other means, to commit offence and shall be punished with imprisonment from 3 months to 3 years or with a fine, without exceeding the punishment provided by law for the offense that was instigated (Codul penal al României, 2009).

Subsidiary, considerable differences are noted regarding the punishments for the alleged facts. A gap is manifested by the fact that the Moldovan legislation clearly and concretely establishes the amount of the fine, but in the Romanian one the amount of the fine remains to be interpretable, according to the inner conviction of the competent organizations. At the same time, there are disproportionalities in the case of the term of the sanction of deprivation of liberty, which varies depending on the illegality committed by the perpetrator.

3.2. Poland

In the Polish Criminal Code, offences against public order are found in Chapter XXXII. Although the chapters of the mentioned code have concrete titles and are structured according to the attention objects, it is noted that the articles do not contain titles. Therefore, it is pointed out that paragraph 1 of art. 254 of the aforementioned Code expressly states that the person who actively participates in a meeting, knowing that the participants commit by common force an attack with violence against a person or an asset is sanctioned with the penalty of imprisonment of up to 3 years. Similarly, paragraph 2 of the same article provides that if the result of the violent attack is the death of a person or serious damage to his/ her health, the participant in the meeting referred to in paragraph 1 shall be punished with the imprisonment of a 3 months to 5 years duration (The criminal code of Poland).

The exposed deed can be easily likened to the action of active participation in committing mass disorders regulated by art. 285 paragraph (2) of the Moldovan Criminal Code. However, the Polish lawgiver provides for the sanctioning of the deed with the sentence of deprivation of liberty up to 3 years, and in case of death or serious damage to the health of the person – with a maximum of 5 years, but the Moldovan one - with imprisonment from 3 to 7 years, setting the term of 7 years as the maximum limit. Hence, it is pointed out that in the Republic of Moldova, active participation in mass disturbances is punished more harshly compared to Poland.

In this respect, it is relevant art. 255 paragraph 2 of the Polish Criminal Code, which states that the person who publicly instigates the commission of an offence, is punished with imprisonment of up to 3 years (Toader, 2018: 3494). This legal norm can be analyzed in conjunction with art. 285 paragraph (3) of the Moldovan Criminal Code. By analogy, calls for active violent disobedience to the legitimate demands of the representatives of the authorities and to mass disturbances, as well as to the perpetration of acts of violence against persons are materialized by addressing calls to the committing of such illegalities.

In the specialized literature, addressing calls for the mass disorder is perceived as a qualified instigation in relation to the illegal acts mentioned in 285 para. (2) of the Moldovan Criminal Code and is assimilated to the offence perpetrator. In this context, addressing calls to commit acts of violence against persons implies the determination of other persons to undertake illegal acts. However, not every type of incitement to violence constitutes the composition of an exposed offence (Brînza, Stati, 2015: 586).

As a result of the research into the composition of the offence, there was found a similarity between the legal norms concerned, a fact existing in the action itself to incite the public to commit clandestine activities, in the case of mass disturbances. At the same time, it is specified on some differences related to the type and term of the sanction in the case of the mentioned deed, in the Republic of Moldova the deed is punished both with a fine and with deprivation of liberty for a period of up to 2 years, and in Poland only with deprivation of liberty for up to 3 years.

3.3. Germany

In the German Criminal Code, the offence addressed is to be found in Section VII “Offences against public policy”, articles 125, 125a, and 126. The classic variant of the offense is regulated by art. 125 “Disturbance of public order”. Thus, paragraph (1) of the aforementioned paragraph stipulates that the person who participates as an author or participant in acts of violence against people or property or in threats of violence against people committed within a group organized in a way that endangers public safety or the person who urges a group of persons to commit such acts shall be punished with imprisonment of up to 3 years or a fine. Paragraph (2) of the same article provides that whereas article 113 provides for a penalty for the actions referred to in para. (1) and (2), the provisions of art. 113 (3) and (4) shall apply having regard to the corresponding modifications in meaning. This shall also apply in the cases provided for by art. 114 if the act exercised by virtue of the work duties is an act within the meaning of the provisions of art. 113 para. (1).

At the same time, it is worth mentioning that art. 125a of the German Criminal Code “Disruption of public order with particularly serious consequences” exposes an aggravating form of the offence concerned supra. Respectively, in the particularly serious cases provided for by art. 125 para. (1), the punishment is imprisonment from 6 months to 10 years. A particularly serious case is usually the case where the perpetrator: 1. carries a firearm, 2. carries another kind of weapon or other dangerous instrument, 3. by an act of violence brings another person in danger of death or serious injury to his health, 4. plunders or causes considerable damage to property that does not belong to him (The criminal code of Germany).

In such circumstances, it is noted that the title of the offense used by the German lawmaker differs from that used in the legislation of the Republic of

Moldova. However, it is inferred that the German legislature provides directly for criminal liability for the perpetrator and the participant in acts of mass violence, but does not regulate criminal liability for the organizer, but directly for the perpetrator. Similarly, the German legislature regulates the liability for the exhortation of a group of persons to commit the disturbance of the peace, and such an action is provided in art. 285 para. (3) of the Criminal Code of the Republic of Moldova in the form of calls for active violent disobedience to the legitimate requirements of the representatives of the authorities and to mass disturbances, as well as to the perpetration of violence against persons.

It is relevant that in Germany an aggravating circumstance is also regulated for disturbances of public peace, for which a much harsher punishment is regulated (up to 10 years in prison) compared to the type of offense, for which a sentence of imprisonment of up to 3 years or a fine is provided. Therefore, it is communicated that in the Republic of Moldova, the criminal liability for committing mass disturbances is much more severe than in Germany, with the period of imprisonment being practically assimilated to the aggravating form of disturbances of public order committed in Germany.

3.4. France

In the French Criminal Code, the punishment for disturbing the peace is found in Title III, Chapter I, Section 3 “About illicit manifestations and the participation in a public event or meeting”, more specifically in art. 431-9 which has no title, which in our opinion makes it difficult to identify the given fact among other similar facts.

According to the mentioned article, it is punished with 6 months imprisonment and a fine of 7 500 euros: 1. the organization of an event on the public road which has not been the subject of a prior declaration under the conditions established by the law; 2. the organization of an event on the public road which has been prohibited under the conditions established by the law; 3. the incomplete or inaccurate declaration likely to deceive on the object or conditions of the planned event. Similarly, the provisions of art. 431-10, according to which the participation in a manifestation or in a public meeting carrying a weapon is punishable by 3 years imprisonment and a fine of 45 000 euros (The criminal code of France).

Therefore, it is mentioned that the composition of the French offence is totally different from the Moldovan one and does not directly punish the actions of participation, organization, the conduct of mass disturbances, nor the call to active violent disobedience to the legitimate demands of the representatives of

authorities and to mass disturbances, as well as to the perpetration of acts of violence against persons. It punishes only the violation of procedural conditions in the process of organizing public manifestations, i.e. the lack of statements on public manifestations.

However, it is appropriate to highlight the art. 421-1 of the French Criminal Code, according to which they constitute acts of terrorism if they are intentionally related to an individual or collective activity aimed at seriously disturbing the public order by intimidation or terror. Simultaneously, art. 421-2-5 of the same Code establishes that directly provoking acts of terrorism or public incitement to such acts is punishable by 5 years imprisonment and a fine of 75 000 euros. The sentences are 7 years in prison and a fine of 100 000 euros if the deeds were committed through the use of an online public communication service. If the acts are committed by the written or audiovisual press or by online public communication, the particular provisions of the laws governing these matters shall apply as regards the determination of the persons responsible (The criminal code of France).

In view of the above, it is inferred that in France, namely, any action aimed at a serious disturbance of public order falls under the incidence of acts of terrorism. By making reference to the criminal legislation of the Republic of Moldova, it is communicated that the terrorist act is incriminated in art. 278 of the Criminal Code of the Republic of Moldova, which materializes through causing an explosion, a fire, or the commission of another act that creates the danger of causing death or injury to the bodily integrity or health, essential damage to property or the environment or other serious consequences, if this act is committed in order to intimidate the population of a state or part of it, to draw the attention of the society to the political, religious or other ideas of the perpetrator or to compel a state, an organization, a legal or natural person to commit or to refrain from any action, as well as the threat to commit such acts for the same purposes and shall be punished with imprisonment from 6 to 12 years (Codul penal al Republicii Moldova , 2002).

It is worth mentioning that in France, the punishment for disturbing the public order is quite severe in terms of the amount of the fine, which is very expensive compared to the Republic of Moldova. In part related to imprisonment, the legislation in France is also much harsher than in the Republic of Moldova.

3.5. Finland

From the earliest notations of the Finnish Criminal Code, an exhaustive list of notions of particular relevance is listed and explained. That is, it highlights the definition of revolts, which occurs when a group clearly intends to use violence

against a person or cause significant damage to a property, and a person actively participating in the group's actions, and in this context, the person does not comply with a legal order issued by a competent official to disperse, the person is convicted of revolt. In Chapter XVII, Section 2 of the said Code is expressly regulated that for the conduct of revolts, persons may be sanctioned with a fine or imprisonment for up to one year. Section 3 of the same Chapter provides for criminal liability for violent rebellion, which occurs when a group commits an offence referred to in Chapter 16, Section 1 and uses violence against a person or causes significant damage to a property, and a person that actively participates in the group's actions is sentenced for violent rebellion to a fine or imprisonment for a maximum of 2 years (The criminal code of Finland).

Just like in the case of art. 285 para. (1) of the Moldovan Criminal Code, the person leading the revolts in Finland, is also criminally liable, except it is based on a separate provision from the basic composition. Therefore, according to Section 4 “Lead a violent uprising”, a person who incites or leads a group referred to in Section 3 is sentenced for leading a violent uprising to a maximum of 4 years in prison.

In the same context, it is communicated that according to the Law on Public Order of the Republic of Finland (512/ 2003), a summary criminal fine may be imposed on persons who infringe public order, which, according to Chapter 2 (A) Section 8 of the Finnish Criminal Code, is a pecuniary penalty consisting of a fixed amount in euro, which is less severe than a fine (Toader, 2018: 1232).

It should be mentioned that the term of revolt used in the Finnish criminal legislation, as a meaning, is closer to the notion of mass disorders used in the criminal legislation of the Republic of Moldova. In this respect, analyzing the ideas of several Moldovan doctrines, it is inferred that the mass disorders depict a social event with a high degree of danger, which affects the normal evolution of the state. The causes of their occurrence may be multiple and of diverse nature, for example, the disagreement of the members of society with the actions and/ or inactions of the state representatives, the manifest and repeated violation of human rights and fundamental freedoms, the claim of necessary social needs on the part of citizens, the existence of unclarified antagonisms, which escalate in time and space, etc.

3.6. Spain

The Criminal Code of the Kingdom of Spain protects social values with regard to public policy in the content of Title XXII, Chapter III. With reference

to the topic addressed, it is communicated that in the nominated state, the punishment for the attack on public peace is found in art. 557 “Public disorder”, which in paragraph 1 provides that persons who, acting in a group and for the purpose of attentive to public silence, shall be punished with the penalty of imprisonment from 6 months to 3 years shall be punished with the penalty of imprisonment, disturbs public order by causing injury to persons, causing damage to property, placing obstacles on public roads or access roads to them, thus endangering the movement on those roads or occupying installations or buildings, without prejudice to appropriate penalties which may be imposed on them, in accordance with other provisions of the Code concerned. Paragraph 2 of the same article states that the penalty higher in degree than those provided for in the preceding paragraph shall be applied to the perpetrators of the acts referred to in that paragraph, when they occurred during the performance of events or performances involving a large number of persons. With the same punishment will be punished persons who, inside the premises where these events take place, disturb the public order by behaviours that cause or are likely to cause a dangerous situation for some of the participants. In these cases, it will also be possible to apply the punishment of the prohibition to participate in events or performances of the same kind for a period of 3 years longer than the duration of the main punishment applied (The criminal code of Spain).

In contingency with what was reported, namely from the content of the offence composition, it is noted that the Spanish lawmaker, just like the Moldovan one, emphasizes the material legal object of the investigated offence, in both cases the priority being the physical body of the person and the movable and/ or immovable property. Another approximation between the offences concerned consists in their very title, in our view they are exposed by paronymy, being differentiated through a single phrase.

However, a difference is noted in the part related to the article structure, where the Criminal Code of the Republic of Moldova includes three standard type variants of the offence of mass disorder, and the Spanish Criminal Code contains in para. 1 the basic composition, and in para. 2, an aggravating circumstance thereof.

Also, it is highlighted that in the Republic of Moldova, the criminal punishment is harsher for the organization, leadership, and active participation in mass disturbances compared to Spain. On the other hand, in the Spanish Criminal Code, for the aggravation of the investigated offense, a complementary punishment is provided, namely the prohibition to participate in events or performances of the same type for a period of 3 years longer than the duration of the main

punishment applied, which is interpreted at the discretion of the bodies with competence in the field of investigating offences.

In connection with the public provocation action, it is noted that the Spanish Criminal Code does not make a materialization regarding the public incitement of persons to mass disorder, but in art. 18, para. (1) shall contain a general explanation indicating that there is incitement to commit an offence directly, by means of printouts, by broadcasting or by any other means that have a similar effect, which facilitates advertising, or in front of a group of persons.

3.7. Sweden

Among the first regulations in the Swedish Criminal Code, the notion of revolt is explained. art. 1 of Chapter 16 of the Swedish Criminal Code provides that if a lot of people disturb public order, manifesting the intention that, by joining forces, to protest against an authority or otherwise to provoke or prevent a certain measure and not to disperse at the order of authority, the instigators and leaders are punished for the revolt with imprisonment up to 4 years, and other participants in the activity of the crowd with a fine or imprisonment of up to 2 years. If the crowd disperses by order of authority, the instigators and leaders shall be punished for mutiny with a fine or imprisonment of up to 2 years. art. 2 of the same chapter stipulates that if a crowd, with the intention mentioned in art. 1, has joined forces against a person or property, is punishable, whether authority was present or not, for violent revolt, instigators and leaders with imprisonment of up to 10 years, and other participants in the activity of the crowd with a fine or imprisonment of up to 4 years (The Swedish Criminal Code).

At the same time, it is mentioned that the Moldovan criminal legislation omits to explain the notion of mass disturbances, while the Swedish legislation, just like the Finnish one, explains an exhaustive list of notions at the beginning of the Criminal Codes, including the term of revolt. This fact ensures the materialization of actions that can be qualified as mass disorders and facilitates the activity of competent bodies in the investigation of such facts.

As in the Republic of Moldova, the same article in Sweden imposes criminal liability on instigators, leaders, and participants in mass disturbances, but through different paragraphs. In the Republic of Moldova, for the leaders of the mass disorders, there is a prison sentence of 8 to 15 years, and for the instigators a fine in the amount of 550 to 850 conventional units or unpaid work for the benefit of the community from 180 to 240 hours, or imprisonment up to 2 years, while in Sweden for these categories of persons - imprisonment up to 4 years. For

active participation in mass disturbances, the Moldovan criminal legislation provides for a prison sentence of 3 to 7 years, while the Swedish one – a fine or imprisonment of up to 2 years. It is relevant to mention that the Swedish Criminal Code does not regulate the minimum and maximum limits of the fine as stipulated in the Moldovan Criminal Code.

Art. 2 of Chapter 16 of the Swedish Criminal Code provides for an aggravating form of revolts, which is punished more severely compared to the classic form of the offence. Basically, it is inferred that in the Republic of Moldova, the punishments for mass disturbances are similar in size to the punishments stipulated for committing revolts in Sweden under aggravating circumstances.

3.8. Denmark

The Danish Criminal Code criminalizes offences against public order and peace in Chapter 15. Thus, in art. 133 para. (1) it is mentioned that the person who urges the crowd to violence or to threaten violence on the person or on the property is punished by a fine or by imprisonment of up to 3 years. Paragraph (2) of the same article provides that with the same punishment shall be sanctioned the persons who, within a crowd, for any purpose pursued that day, act as leaders, as well as any participant who does not comply with the order of the authorities to disperse. Similarly, para. (3) prescribes that if in such a crowd an offense is committed in connection with its purpose, the instigators or the leaders of the crowd are sanctioned with the punishment provided by law for that offense.

It is appropriate to specify an attenuating circumstance of the basic offence, namely art. 134 according to which, the person who participated in such a crowd and who, knowing that a scattering order was legally issued, does not comply, is punished with a fine or imprisonment of up to 3 months.

At the same time, the provisions of art. 134a, according to which the participants in brawls or other serious disturbances of public order, if they acted following an agreement or together, are sanctioned with imprisonment of up to 1 year and 6 months (The criminal code of Denmark).

A unique provision that we have identified in the Denmark criminal law, which we have not observed in the criminal law of any state addressed in this study, is the stipulation of the punishment for the fact that during some meetings, gatherings, marches or other public demonstrations, the person has his/ her face completely or partially covered by a face guard, mask, painting or something similar, so as to prevent his/ her identification. Respectively, for such an act, the person may be punished with a fine or imprisonment of up to 6 months according

to art. 134b of the Denmark Criminal Code. However, para. 3 of that article also provides for an exception to the rule mentioned above, namely that the prohibitions in question do not apply if the objects serve to cover themselves with a view to protecting them against weather or other legitimate purposes.

Just like in the Republic of Moldova, Denmark regulates the imprisonment of organizers, leaders, and direct participants in mass disturbances, and compared to the Republic of Moldova, the punishment is kinder. Similarly, the aggravating and mitigating circumstances of the mass disturbances are regulated in Denmark, while in the Republic of Moldova, criminal liability is provided for the classic type offence, without mitigating and aggravating.

3.9. Greece

In the starting point of the Greek Criminal Code, namely in the notes of the Special Part, the notion of inciting citizens to acts of violence or discord is explained as follows: the person who publicly in any way provokes or incites citizens to acts of violence between them or to mutual discord and thus disturbs the public peace is punished by imprisonment unless a more serious punishment is imposed according to other provisions.

Disturbance of the peace is incriminated in the Special Part, in Chapter VI art. 189. Thus, paragraph 1 states that the act of the person taking part in a public meeting consisting of several natural persons who, in mass, commit acts of violence against persons or things or illegally enter foreign houses, dwellings or other buildings is punishable by imprisonment of up to two years. Paragraph 2 expressly states that the act of instigators and persons who committed acts of violence is punishable by imprisonment for at least three months, and paragraph 3 regulates that these punishments apply unless the act is punished with more severe punishment by other special provisions (Toader, 2018: 2029-2030).

In conjunction with art. 285 of the Criminal Code of the Republic of Moldova, it is specified that the basic component of the given offense is stipulated in paragraph 1. At paragraph 2, an attenuating circumstance is observed for the instigators of such acts, the punishment being much lower than that indicated for the offenders, and paragraph 3 provides only a mention consisting of a determination for information, without incriminating another related deed.

Another correlated deed is found in art. 190 of the code concerned, which outlines that the act of the person who, with the threat that offences or crimes will be committed, causes anxiety or fear to the citizens is punished with imprisonment of up to 2 years. It should be mentioned that the Moldovan criminal legislation

does not include such a regulation but only offers the possibility to legally frame the preparation and attempt of mass disorders. Respectively, to the qualification of such facts, art. 285 of the Criminal Code of the Republic of Moldova will be connected with art. 26 (preparation of the offense) or, as the case may be, with art. 27 (attempted offense) of the same code.

Although, art. 192 of the Greek Criminal Code does not have a concrete title, it states that the act of the person who, in any public way, provokes or incites the citizens to acts of violence between them or to mutual hatred and thus disturbs the public peace, is punishable by imprisonment for up to 2 years, unless the act is punished with more severe punishment by other special provisions. Similarly, it is reported that by analyzing the Greek Criminal Code in conjunction with the Swedish Criminal Code, a similarity can be found, in the sense that the titles of the articles are missing in both codes.

In other news, it is reported that in Greece the punishments for disturbing the public peace are kinder than those stipulated in the Criminal Code of the Republic of Moldova. Similarly, there is a big difference between the offence component of the mass disturbances stated in the Moldovan criminal legislation and the disturbance of the public peace regulated in the Greek one.

4. Conclusions

In the process of examining the subject at hand, we have investigated the criminal legislation of various states. In addition to the criminal legislation investigated in this paper, we have also explored other European criminal legislation and found that in most of them, the offence of mass disorder is found under various titles. For example, “common state disorder” is used in Cyprus, “violation of public order” is used in Estonia and Lithuania, “disturbance of the peace” is used in Germany, “disorderly conduct” is used in Slovakia, etc.

By virtue of the above, it is communicated that only in art. 285 of the Criminal Code of the Republic of Moldova identifies three type variants of the offence of mass disorder, each constituting a separate offence. In the other states, actions that violate public order and security can be combined, as in the Republic of Moldova, but can also be reflected in separate articles, such as, for example, in the case of Romania, which provides for public provocation in a separate article. At the same time, in some states examined in this study, there are mitigating and aggravating circumstances of the mass disturbances, while in the Criminal Code of the Republic of Moldova, such circumstances are not stipulated.

Similarly, using the criterion of likeness, it is found that the title of the offense “Disturbance of public order and peace” exposed in the analyzed foreign criminal laws is identical to the title of the contravention “Disturbance of peace”, stated in art. 357 of the Contravention Code of the Republic of Moldova, however, they cannot be likened in any way in the part related to the degree of prejudice of illicit actions and the measure of attention to the values and social relations protected by the legislation.

Another quite significant epilogue is the fact that neither in the Criminal Code of the Republic of Moldova nor in any other Criminal Code of any foreign state examined in the paper, there are no regulations regarding the type of violence applied in the context of mass disturbances. In this regard, it is communicated that the normative framework of the Republic of Moldova recognizes two types of violence: non-hazardous and dangerous for the life or health of the person.

As non-hazardous violence to the life or health of the person, minor injuries are considered. Violence that is dangerous to the life or health of the person is considered as violence that has resulted in average or slight injury to the integrity of the body or health or which, although it has not caused these consequences, involves at the time of its application, due to the method of operation, a real danger to life and health.

As an alternative, the committing of the actions referred to in art. 285 of the Criminal Code of the Republic of Moldova, involving either non-hazardous violence or dangerous violence for the life and health of the person. But, based on the severity of the bodily injuries, obscurities may occur, and the criminal nature of the harmful act may be overlapped with the contravention and vice versa. This lack of legislation can obviously generate interpretations regarding the type of violence and even errors in the process of the legal classification of the deed. Therefore, there is a risk that the activity of law enforcement bodies with competence in the field of investigating the offence will be difficult and stalled for a long time.

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