

# Proceedings Improvement of the Criminal Legal Regulation of the Age of Criminal Responsibility in the Russian Federation

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**Keywords:** The subject of the crime, the age of criminal responsibility, insanity, mental retardation, acceleration, advancing mental development, advancing intellectual development.

**Abstract:** The purpose of this article is to develop proposals for improving the Russian criminal law in the direction of regulating criminal prosecution. An analysis of the Russian criminal law allows us to conclude that it treats persons who have committed social acts as a minor in a very humane manner. The objectives of this study were to conduct a comparative analysis of the age of criminal prosecution in some foreign countries, to study the circumstances that make it possible to reduce and increase this age relative to the actual one due to mental and intellectual development. The research results were obtained through the application of such methods of scientific knowledge as analysis and synthesis, induction, study of scientific literature and expert assessments. In accordance with the requirements of the legislation established by law, in accordance with the requirements of the legislation provided for by the legislation, in accordance with the requirements for criminal liability. In addition, it is recommended to revise the state nature of the response to juvenile delinquents, based on an extremely humane attitude towards them. All of this will ensure greater fairness in the national criminal policy.

## 1 INTRODUCTION

The age of prosecution is one of the important components of such an element of the corpus delicti as its subject.

The subject of the crime is, in fact, the main element of the mechanism for committing a specific criminal act. Through it, all the negative factors that determine the development of crime and criminal behavior of an individual are translated into objective reality, being reflected in it in the form of achieving a criminal result.

That is why the establishment of the achievement of a person who committed a socially dangerous act of this age is important for law enforcement practice in the field of combating crime.

In this connection, the issue of the age of prosecution has been and is being given a lot of attention among the scientific community, and this issue will never lose its relevance for improving the fight against crime.

## 2 MATERIALS AND METHODS

This article is devoted to an attempt to solve the problem of improving the criminal law regulation of the age of criminal responsibility in the Russian Federation in the direction of increasing the effectiveness of combating juvenile delinquency and, in general, all criminality on the territory of our country. The results and conclusions of this study were obtained through the application of such methods of scientific knowledge as analysis and synthesis, induction, study of scientific literature and expert assessments.

## 3 RESULTS AND DISCUSSION

According to Part 1 of Art. 20 of the Criminal Code of the Russian Federation, the general age for bringing to criminal responsibility, and therefore recognizing a person as a criminal later, is when he at the time of committing a socially dangerous act is sixteen years old.

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Part 2 of this article contains a list of crimes or their separate elements, for the commission of which a person may be subjected to a state response at an earlier age, which is fourteen years old.

The lowered age for criminal prosecution for crimes or their individual elements, specified in Part 2 of Art. 20 of the Criminal Code of the Russian Federation, due to the fact that they are committed exclusively intentionally, i.e. purposefully and deliberately, the nature and degree of their social danger are so great and obvious in comparison with other criminal acts that it is already possible to fully realize the harmfulness of the consequences of their commission at an earlier age. The presence of this awareness is confirmed by the results of numerous scientific studies and special examinations.

In addition, for the commission of a number of criminal acts, it is possible to prosecute under the Criminal Code of the Russian Federation only from the age of eighteen due to the specialty of the subject of their commission. For example, when committing attacks on the interests of military service, the commission of malfeasance.

Issues of the age before the state reaches which committed criminal atrocities are justified, that is, the achievement of that state of maturation of the human individual, his intellectual development, life experience, when he is fully capable of realizing his actions, fully aware of their nature and social essence, and foreseeing the consequences of his actions. acts, in other words, to be a fully formed personality from the point of view of the social environment, a lot of scientific works of both domestic and foreign scientists and specialists in various fields of knowledge, including criminal law science, are devoted. But in general, according to the just remark of A. Vasilievsky, whatever the results of the research of the scientific community, the issue of choosing a certain minimum age, before which the state will justify criminal atrocities committed on its territory by malefactors, is exclusively criminal-political. That is why in each country and in each historical period this issue is resolved in its own way, based on the existing ideological, political, social and economic conditions (Vasilievsky, 2000).

For example, in some foreign countries, among which there are quite a few developed states in a civilized, legal and socio-economic respect, the general age after reaching which criminal atrocities committed by a person are not justified by public authorities is much lower than in Russia. In particular, in such foreign countries as Bangladesh, Brunei, Gambia, Egypt, India, Jordan, Qatar, Cyprus, Kuwait, Lebanon, Libya, Malawi, Maldives, Namibia,

Nigeria, Pakistan, Singapore, Syria, Thailand, Tanzania, Uganda, Switzerland is seven years old; Zambia, Indonesia, Kenya, Samoa – eight years; Malta, Philippines, Ethiopia - nine years; Australia, England, Cote d'Ivoire, Nicaragua, New Zealand, Suriname, Tuvalu, Colorado in the USA – ten years; Mauritius, Turkey – eleven years; Brazil, Venezuela, Greece, Israel, Canada, Colombia, Netherlands, Peru, San Marino, Oregon in the USA - twelve years; Algeria, Burundi, Madagascar, Mali, Monaco, Niger, Tunisia, Uzbekistan, France, New York states, New Hampshire, Georgia, Illinois USA – thirteen years; Austria, Azerbaijan, Albania, Armenia, Belarus, Bulgaria, Federation of Bosnia and Herzegovina, Vietnam, Germany, Spain, Kazakhstan, Kyrgyzstan, Lithuania, Macedonia, Moldova, Romania, Slovenia, Tajikistan, Japan, Idaho states, California, New Jersey, Texas, Utah USA - fourteen years; Poland, Slovakia, New Hampshire, Texas USA – fifteen years (Kapinus, 2008; Zhilina, 2019).

Based on the analysis of international legal practice, it can be concluded that the Russian Federation is very humane towards minors who have caused significant, often irreparable harm to law-abiding citizens, which is expressed in a fairly high age limit for bringing them to criminal responsibility (Zhunussov, 2018; Smirnov, 2020).

The development of science in support of a humane attitude towards juvenile criminals has achieved such results, thanks to which the achievement of a certain age by a person in a temporary equivalent has ceased to mean the unambiguity of such an achievement. Currently, a certain number of criteria have been established and recognized, thanks to which the achievement of a person's formal (passport) age can be adjusted downward, and quite significantly.

This is recognized and normatively enshrined in international legal practice. For example, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (the Beijing Rules) recommend that states take into account such significant factors as emotional, spiritual and intellectual maturity when deciding the age of criminal responsibility of minors (Rule 4.1).

Modern Russian studies distinguish the following criteria for «adjusting» the formal (passport) age: biological, social (civil) and psychological (mental) ages of a person, the establishment of which together changes the idea of the level of human development and, accordingly, what age this development is at actually matches.

In particular, it has been scientifically proven that there are a sufficient number of people whose

psychological development lags behind the formal (passport) or biological development. In this case, they talk about the so-called «mental retardation», which was introduced into scientific circulation by G.Ye. Sukhareva (Sukhareva, 1959, 1965).

This delay presupposes such a state of the human body when mental functions (memory, attention, thinking, emotional-volitional sphere) lag behind in their development the accepted psychological norms for a given age.

As the researchers of the considered delay note, a very extensive list of mental disorders falls under it. In this connection, at present there is no single point of view regarding the independence of this diagnosis. To date, there is no clear diagnostic framework for this delay (Stefanaki, 2020).

All this provides quite large opportunities for establishing a delay in psychological development in minors, which ultimately provides almost unlimited arguments for releasing them from criminal liability (Antar, 2019; Tretyakova, 2017).

The fact that in modern classifications of diseases, such as ICD-10 and DSM-V, there is no such «diagnosis» at all, and each country has an individual approach to its establishment, indicates the unlimited possibilities for making a «diagnosis» – mental retardation. Guided by ICD-10, diagnoses ranging from F 83 to F 89 are usually "adjusted" for it, i.e. from mixed specific disorders of psychological development, to unspecified disorders of psychological development, as well as the diagnoses specified in section F 90-F98 «Emotional and behavioral disorders, usually onset in childhood and adolescence» (from hyperkinetic disorders to other emotional and behavioral disorders usually beginning in childhood and adolescence) (Maryniv, 2019).

Being under the influence of active researchers of the problem of mental retardation of minors, the Russian legislator, when developing the Criminal Code of the Russian Federation in its Art. 20 introduced h. 3, according to which, if a minor has reached the age specified in hh. 1 and 2 of this article, but due to a lag in mental development not associated with a mental disorder, during the commission of a socially dangerous act, he could not fully realize the actual nature and social danger of his actions (inaction) or direct them, he is not subject to criminal liability.

This provision refers to the so-called. The «psychological age» («age-related sanity» or «age-related insanity») of the perpetrator, the establishment of which affects the justification of the criminal atrocity committed by him and, as a consequence, the decision on whether or not to prosecute him.

In the legal literature «psychological age» refers to various age periods of mental development, which, in terms of their indicators, may or may not correspond to the chronological age of the age groups identified in science (Borovykh, 1993).

This indicates that their psychological age does not correspond to their actual (formal) age, i.e. psychologically they are much younger than they really are. As a result, it is not difficult for a sufficiently professional defense lawyer to establish a mental retardation in his client with the help of a special examination and to put before the court the question of releasing him from criminal liability (Andal, 2019; Zhunussov, 2018).

Thus, the Russian legislator in the issue of establishing the age of criminal liability adheres exclusively to humanistic positions, regulating in the criminal law only the possibility of reducing this age, which in itself is clearly unfair (Vestov, 2020).

At the same time, we live in a modern world that is changing (renewed) almost daily. Modern scientific and technological progress has become the reason that today's minors, at a much earlier age, begin to fully understand the nature and consequences of a much wider range of acts committed by them or other persons (Khisamova, 2019). Their worldview is much richer, thought processes are much faster. They are much more likely to socialize than minors in the 20th century, and even more so faster than minors in the 19th century. and in earlier periods of development of society and the state.

All this indicates that a certain part of modern minors has accelerated mental (intellectual) development, in other words, the so-called «psychological (intellectual) acceleration», which refers to the psychological (mental) criterion for establishing the age of criminal prosecution.

It must be canceled that the first fixed observations concerning the rate of human development at a young age were made back in the middle of the twentieth century. German scientist E. Koch, who introduced the term «acceleration» into scientific circulation in 1935. Currently, this trend continues.

According to the well-known child psychologist, laureate of the State Prize Viktoria Solomonovna Yurkevich, by the age of four, the child discovers 50 % of those intellectual abilities that are destined to manifest, by six – 70 %, and by eight – 90 % (Yurkevich, 2018).

Modern techniques quite objectively assess the level of both intellectual and creative abilities. People with a level of ability above the norm – about 10 %. This includes simply capable, and talented, and

geniuses – all of them are distinguished by high mental performance. The group with a very high level of giftedness includes about 0.5% (Konopleva, 2021).

If a minor who has committed a socially dangerous act is found to have accelerated mental (intellectual) development, as a result of which he was fully aware of the social danger and the nature of his actions, and also to lead them, this circumstance will clearly indicate that he has reached age criminal prosecution, which will be very fair and correct.

Hence, the issue of ensuring the fairness of the Russian criminal law and the balance of the state's response to the criminal activity of citizens of inclusion in Art. 20 of the Criminal Code of the Russian Federation, part 4, which regulates the conditions for increasing the age at which criminal liability arises.

## 4 CONCLUSIONS

In connection with the foregoing, we consider it appropriate to address the legislator to consider the issue of including in Art. 20 of the Criminal Code of the Russian Federation "The age at which criminal responsibility occurs", the novel of the following content:

4. If a minor has not reached the age provided for in the first or second parts of this article, but due to an advance in mental development during the commission of a socially dangerous act, he could fully realize the actual nature and social danger of his actions (inaction) or lead them, he is subject to criminal responsibility.

In addition, I would like to note that modern minors are far from those representatives of society, on the study of the socio-psychological characteristics of which the fundamental foundations of criminology of juvenile delinquency were formed, which have become stereotypes in the implementation of work to prevent their criminal behavior (Smirnov, 2019).

In this connection, in order to increase the effectiveness of countering the unlawful and criminal activity of minors and crime in general, it is necessary to revise the approach to determining the content of the nature of the state's response to juvenile delinquents, based on an exclusively humane attitude towards them.

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