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**PREVENTIONS OF CRIMINAL PROCEEDINGS IN THE
CONDITIONS OF DIGITALIZATION**

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Abstract

In modern world, the introduction of information exchange technologies develops rapidly, which significantly outgoes the development of legislation. Therefore, the question of the implementation of these technologies arises in order to strengthen its preventive functions. The purpose of this study is to determine the prevention of criminal proceeding in the context of its digitalization and the introduction of new methods of information exchange within the framework of building an information society, both in the activities of the criminal prosecution bodies in pre-trial proceedings, and in the settlement of criminal cases in courts under the conditions of openness. The first part of the study is devoted to the analysis of the situation that has developed in the field of implementation of preventions of criminal proceeding in the context of digitalization process. The second part of the study is devoted to the influence of the provisions of the criminal procedure legislation on compliance by the courts with the conditions of openness of the trial on the implementation of criminal procedure prevention in the judicial stages of the criminal process, taking into account the development of modern technologies of access to information. In conclusion, the authors sum up that preventions of criminal proceeding create an informational environment in society that prevent commission of crime and are realized through the state policy in mass media, creation of databases to effectively monitor the crime situation in a certain area.

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1. Introduction

The problem of prevention in domestic criminal proceeding many times has been discussed in scientific studies (Sedova & Stepanov, 2020). Preventions have been associated with the investigation bodies activity (Kulakova, 2016), the work of district police officers (Bakkinin, 2020), plea bargain (Grinenko, 2019), principle of transparency implementation (Popov, 2018; Vilkova, 2019) and other aspects of criminal procedure activity. However, today, in the context of the development of technology it is of interest to research the issues of the connection between the digitalization process and implementation of criminal procedure preventions.

2. Problem Statement

At the time of the Criminal Procedure Code of RSFSR in 1960 the prevention of criminal proceeding was defined as one of its tasks (part 2 of article 2), which consisted in the prevention and elimination of crimes. In the Criminal Procedure Code of the Russian Federation such objective is not spelled out, and therefore there are some questions regarding the place of criminal procedure in the system of state institutions designed not only to ensure the detection, suppression and disclosure of committed crimes, but also to actively contribute to their prevention. In this regard, some authors criticize the modern approach to preventive activities of criminal proceeding. At the same time, some of its provisions state that both existing and relatively new criminal procedural institutions still perform preventive functions. In particular, the prevention of criminal proceeding can be observed in the provisions of Part 2 of Article 73 of the Criminal Procedure Code of the Russian Federation. Thus, it seems relevant to define the preventions of modern criminal proceeding, as well as the possibilities of their implementation based on the use of modern technologies in the field of digitalization and informatization.

3. Research Questions

Preventions in criminal proceeding are a multi-fold subject of research, the content of which logically follows from a number of provisions of the current criminal procedural legislation, while preventions are not directly declared, which creates difficulties for their determination. It seems to us that in the present context we can talk, for example, about transparency, the cooperation of the suspect, accused with the preliminary investigation authorities, simplified procedures. They include a shortened inquiry and the termination of a criminal case or criminal prosecution in connection with the appointment of a criminal-legal measure in the form of a court fine, as well as some others. The effectiveness of the functioning of these institutions is closely related to the introduction of modern technologies into criminal proceeding, which allow both intradepartmental interaction within the framework of criminal cases under investigation, and external interaction, based on the principle of transparency, allowing making information accessible to the participants of the criminal process and society. Thus, the subject of research in this work is the criminal procedural means and legal institutions that ensure the

implementation of the prevention of criminal proceedings based on the use of modern technologies in the field of digitalization and informatization.

4. Purpose of the Study

The purpose of this study is to determine the preventions of criminal proceeding, as well as to study the possibilities of their implementation based on the use of modern technologies in the field of digitalization and informatization.

5. Research Methods

A pre-trial cooperation agreement between the suspect or the accused and the preliminary investigation authorities, as a result of which new episodes of criminal activity are revealed, actions of preparation of serious and particularly serious crimes are suppressed, is one of the most effective tools of criminal procedural prevention. Prevention and flexible application of this institution is to the fact that effective assistance from the suspect or accused may lead to the termination of the criminal case due to active repentance (Grinenko, 2019). However, in this situation, the new cause for criminal case termination should be introduced, because a new participant is involved in the sphere of criminal procedural relationships. The rights of this participant are spelled out in article 56.1 of Criminal Procedure Code of the Russian Federation.

The next aspect of preventive criminal procedural activity is connected with the simplified procedures, related to the investigation of minor offences and misdemeanors (shortened inquiry and termination of criminal case or criminal process due to the assignment of criminal law measure in the form of a court fine). They allow individuals, committed minor offences for the first time, to avoid criminal law sanctions, or severe penalty that will subsequently prevent them from returning to crime. These categories of crimes are within the competence of the bodies of inquiry, the most representative among them are the bodies of internal affairs, including police units, in the structure of which there are services whose direct responsibilities include preventive activities. First of all, this applies to district police officers, who, by the nature of their activities, are the closest to the citizens of a certain area.

Among the main areas of their activities are the criminal procedural spheres: prevention, suppression, detection and disclosure of crimes. It is no coincidence, that investigators send such information to the district police officer in case when the subject, responsible for the elimination of the identified causes and conditions that contributed to the commission of the crime, has not been identified. In addition, attention should be paid to such peculiarity of the police unit activity, which has expressed preventive direction as detection of minor offences and misdemeanors against the individuals and social security. It is implemented when the district police officer performs his or her direct functional duties. This refers to such element of crimes as death threat, battery, light bodily injury and hooliganism.

The statistics brilliantly shows the following pattern – in areas, where the district police officers detect more crimes of such types and pass the information about them to the investigation authorities, the number of serious and particularly serious crimes decreases. For example, during 2020 in the Saratov region in the structure of crime, 2/3 of crimes are minor offences and misdemeanors – 70.6 %, serious and

particularly serious crimes – 29.6 %. At the same time, in practice, there is a problem of lack of district police officers (Bakkinin, 2020).

One of the solutions to this problem can be a more active use of computer technologies based on the Internet, communication with the citizens of the service area, which would not be limited only to informing citizens about certain activities by the police department. In particular, it seems relevant to create appropriate sites for feedback from citizens, as well as obtaining procedurally significant information about crimes. The basis for the development of such an information infrastructure could be the widespread application «Ya.Rayon». Information exchange, closer and more efficient contact with the public allow detecting crimes in the shortest possible time, making appropriate procedural decisions, improving the crime situation in a particular territory, without increasing the number of district police officers, and even their physical presence. The search for new forms of the possibility for participation in criminal proceeding, including remote approaches, fully reflects the contemporary level of informatization, when electronic interaction between citizens and the state, represented by law enforcement officials, becomes necessary (Przhilensky, 2019). In this case, the public has real opportunities to influence the timely decision-making on reports of crimes, to file complaints, statements related to criminal activities, and, ultimately, to get access to justice guaranteed by the Constitution of the Russian Federation. This will help a member of the public to understand the influence and relationships between digital technologies and legal relations in the state (Khabrieva & Chernogor, 2018).

Transparency plays an important role in the implementation of criminal procedural preventions as a condition of judicial proceedings. The subjects of prevention at the state level are the court and law enforcement agencies, since their sphere of activity includes the function of preventing, suppressing unlawful behavior, as well as other negative manifestations in society. In this regard, they can apply measures of legal responsibility. The Federal Law of June 23, 2016 N 182-FZ «On the Basics of the Crime Prevention System in the Russian Federation» refers to the subjects of crime prevention government bodies and local governments. At the same time, the list of subjects of crime prevention, contained in Part 1 of Art. 5 of this Law is comprehensive.

One of its aspects is «general transparency», which guarantees the right to anyone, to be present at the trial (Vilkova, 2019). It also assumes free access to information about the trial process, publication for public access. This aspect is especially important for creating conditions that prevent the violation of the law by the court, favors the passing of a lawful, reasonable and fair sentence, guarantees of protection of the rights and legitimate interests of the participants in the process. It is obvious that publicity and openness increase the responsibility of judges considering criminal cases for a complete, comprehensive and objective study of all the circumstances of the case, stimulates the participants in the process to more effectively exercise their procedural rights and obligations.

A public trial in open information space in this case serves as the prevention of procedural violations in the resolution of criminal cases, falsification of evidence, infringement of the rights of participants in criminal proceedings. Moreover, public environment can facilitate more effective judicial investigation by psychologically influencing the testimonials, encouraging them in the face of the public to give more accurate and truthful testimony to the court. The subject of publicity in the considered cases is all information on the case, including the court decisions on it. An open trial should be structured in

such a way that all persons in the information environment of the court session can receive all the information: to listen to the testimony of the accused, witnesses, victims; to know the content of written documents that are announced by the court in cases provided for by the law; to take physical evidence.

The legal phenomenon of transparency is to guarantee the right of every individual to the access to information in the field of criminal proceeding, within the limits that do not contradict confidentiality of the national security information or other information, protected by law. The transparency of legal proceedings contributes to ensuring real public control over the activities of the courts, fulfilling the educational function, increasing the preventive value of trials, and guaranteeing the delivery of a judicial verdict (Popov, 2018). Transparency is considered by many authors (Nechaeva, 2014) as a guarantee of the democracy of legal proceedings. The preventive value of the participation of citizens in court proceedings is a form of public control over the administration of justice, and the direct presence of citizens in court proceedings allows an unofficial form of control (public control) over the officials' activities and bodies involved in the process. The preventive value of the investigated condition of the criminal process is significantly enhanced in the context of «expanded transparency», which can be implemented within the framework of building an information society, which assumes access to information in real time to all interested parties. Transparency in this case can be “active” and “passive”. The first involves systematic informing the population through the media about the most resonant criminal cases, or cases of crimes that pose a particular danger to society, the fight against which is impossible without creating a certain public atmosphere. The second is realized through the placement in open sources of all information about the activities of law enforcement agencies, which citizens can freely obtain through information systems.

Considering the preventive value of criminal proceeding transparency in the context of building an information society, it should be noted that some of its elements have already been implemented both technically and legislatively. For example, informing the public about the investigation process and some offences through mass media makes it possible to speak about coordinated state policy in this direction and achievements of certain results. There are some positive results in the field of courts' information space development, allowing getting information about the trial process, as well as sentencing. However, the question of the possibility of remote access to the records of trial, or their review in real time by interested parties, remains outside the legal field.

Considering the preventive value of the transparency of criminal proceedings in the context of building an information society, it should be noted that some of its elements have already been implemented both technically and legislatively. For example, informing the public through the media about the investigation and consideration of certain elements of crimes in court makes it possible to speak of a coordinated state policy in this direction and the achievement of certain results in it. There are also certain successes in the development of the information space of the courts that makes it possible to obtain information about the course of the consideration of cases, as well as the court decisions made. However, the opportunity of remote access to the records of court sessions, or their viewing in real time by the interested parties, remains outside the legal field. Despite the fact that, in accordance with Russian law, the courts are obliged to create the necessary conditions to ensure openness and transparency of legal proceedings, as well as to exercise the right to receive information about the activities of all interested

citizens without any exceptions, the above mechanisms work only partially, due to lack of the necessary material base and legal support.

6. Findings

Prevention of criminal proceedings is a set of procedural means and institutions that ensure the prevention and suppression of crimes by carrying out activities within the framework of the implementation of criminal procedural functions, including using technologies in the field of digitalization and informatization, such as pre-trial cooperation agreement; shortened inquiry; termination of a criminal case or criminal prosecution in connection with the appointment of a criminal law measure in the form of a court fine; publicity. They can operate most effectively in the context of digitalization, using information systems that ensure electronic interaction between citizens and the state, represented by law enforcement officials.

7. Conclusion

Firstly, the prevention of criminal proceeding creates an information environment in society that prevents the commission of crimes and is implemented through the state policy in the field of digitalization of clerical correspondence, the creation of information bases that allow to effectively control the crime situation in the served area. Secondly, they prevent human rights and freedoms violations during the process of administration of justice, and are implemented using existing technologies in the processing, storage and transmission of information, the creation of a virtual environment that opens access to information about the activities of law enforcement agencies and, primarily, courts. Effective implementation of criminal procedure preventions demands regulatory, as well as organizational and material improvement with the use of technologies that ensure the construction of open information society.

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