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**PROBLEMS WITH ORGANIZATIONAL-LEGAL SUPPORT OF  
MEDICO-SOCIAL EXPERTISE**

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***Abstract***

In the framework of this study, the main scientific schools and their doctrines aimed at identifying and solving the main problems of organizational and legal support of medico – social expertise in the Russian Federation are characterized in the context of increasing the level of objectivity of the evaluation of life activity restrictions of persons with disabilities and appointed (recommended) measures to overcome difficulties. Based on the analysis of the works of a number of scientific groups considering current legislation, the article argues that one of the main directions of improving the efficiency and quality of organizational and legal support of medico- social expertise in the Russian Federation is to strengthen public control. It is obvious that such control can increase the level of objectivity of the assessment of restrictions of life activity of disabled people, the main appointed (recommended) measures for their overcoming, and also other assessments in case of increase of "transparency" of carrying out expertise, and measures previous to it and, the main thing - the subsequent actions. For this purpose, it is proposed to amend paragraph 18 of article 5.1 ("Federal Register of Disabled Persons") of the Law on social protection of disabled persons, to specify (in terms of listing the type of diseases) some subordinate normative legal acts.

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## **1. Introduction**

At the modern stage of development of our country the problem of finding a balance in many areas of legal regulation is being actualized. Thus, on the one hand, the complication of the international and economic situation cannot but entail adequate response measures adopted by the state, including those related to budget economy, limitation of a number of social projects and programs. However, this does not exclude the need for strict compliance with article 7 of the Constitution of the Russian Federation, proclaiming our country as a legal state, the obligations to protect persons in need of social protection, including persons with disabilities.

## **2. Problem Statement**

In the Message of the President of the Russian Federation to the Federal Assembly on March 1, 2018, it was noted that in the prospects of the country's development "a lot will depend...on the willingness to respond to the needs of residents of different generations...of disabled people" (The Message of the President of the Russian Federation to the Federal Assembly, 2018).

The main problematic aspect at the present time is the issues of legislative consolidation of medical and social expertise based on the principles of objectivity, quality, accessibility, timeliness. Persons with disabilities may be classified as incapacitated on the ground of medical and social expert research (Grishaev, 2017). Based on the study of the basic doctrinal approaches to the organizational and legal support of medical and social expertise in the Russian Federation, we prove a number of opinions and practical recommendations, the essence of which is to justify the need to change a number of aspects in the legal regulation of the status of this type of expert research.

First of all, we should note that there are numerous comments to the legislation, which determines the purposes (and in fact – the essence) of the expert action under review. We are talking about the doctrinal positions expressed by scientists during the analysis of the Federal law of 21.11.2011 "On the basis of health protection of citizens in the Russian Federation", fixing: "medical and social expertise is carried out to determine the needs of the person under examination in social protection measures."

## **3. Research Questions**

Consider the basic doctrinal approaches in the legal literature concerning the conduct of medical and social expertise.

Giving comments on legal rule for the conduct of medical and social expertise, researchers, including lecturers of the Omsk Law Academy, Voronezh Branch of the Federal State Budgetary Educational Institution of Higher Education of Presidential Academy of National Economy and Public Administration (RANEPA) under the President of the Russian Federation, practicing lawyers note, that this kind of expertise (medical and social nature) is aimed at identifying the needs in social protection measures, including rehabilitation of the person under examination by Federal institutions of medical and social examination based on the assessment of life limitations caused by persistent disorders of the body functions (Belyaninova, Guseva, Zakharova, Savina, Sokolova, & Hlistun, 2016).

#### **4. Purpose of the Study**

Many studies are also devoted to the analysis of public policy towards people with disabilities (Barbu, 2017). There are many foreign authors who have dedicated their work to the rehabilitation of disabled people.

According to scientist's opinion," it is required to have two obligatory conditions: a citizen of the Russian Federation must have a persistent disorder of body functions...the second condition is the presence of restrictions for life activity" (Leshchenkov, 2017, p.44). This conclusion is reached, in particular, by persons carrying out scientific research at the Institute of Legislation and Comparative Law. It should be noted that in the Center for Public Law Research of the Institute of Legislation and Comparative Law under the Government of the Russian Federation is actively carried out work on research concerning social rights of citizens, including in the field of organizational and legal support of medico-social expertise in the Russian Federation (Andrichenko, 2016).

In the frames of this article it is difficult to enumerate all existing scientific school and their doctrines aimed at identifying and solving the main problems of organizational and legal support of medico – social expertise in the Russian Federation in the context of increasing the level of objectivity of the evaluation of life activity restrictions of persons with disabilities and appointed (recommended) measures to overcome difficulties.

We will highlight and briefly describe some of the relevant doctrines, enumerate a number of theses developed by representatives of academic groups.

#### **5. Research Methods**

The methods of this study are analysis, synthesis, induction, deduction, regulatory, comparative and others. The authors of the article propose to compare different doctrinal approaches to the legal regulation of medical and social expertise and generalize them to develop an understanding of the priorities for the development of legislation in this area.

#### **6. Findings**

Federal State Budgetary Institution "St. Petersburg Scientific and Practical Center of Medico-Social Expertise, Prosthetics and Rehabilitation of the Disabled Persons named after G. A. Albrecht" of the Ministry of Labour and Social Protection of the Russian Federation examine the legislation of the Russian Federation concerning the implementation at the present stage of the Convention on the rights of persons with disabilities provisions. At the same time, they focus on such areas in the field of education as "accessibility of schools", on overcoming "relational barriers", which, according to these researchers, "is very important from a psychological point of view..." (Shestakov, Svintsov, Raduto, & Chernyakina, 2016, p.44).

##### **6.1. Analysis of regulatory issues in scientific literature**

At the Department of Medico-Social Examination, Rehabilitation of Federal State Budgetary Institution DPO "St. Petersburg Institute of Improvement of skills of doctors-experts" of the Ministry of Labor of Russia (Sevastyanov, Korobov Vladimirova Istratova etc.) also work to identify and resolve the

main problems of organizational and legal provision of medico – social expertise in the Russian Federation, aimed in particular at increasing the level of objectivity of the evaluation of life activity restrictions of the disabled persons. It is important to note that this scientific center conducts individual expert surveys for these purposes (Sevastianov, Korobov, Vladimirova, & Istratova, 2016).

At the Department of Health Care Organization and Public Health of the Faculty of Advanced Training and Professional Retraining of Specialists of the Rostov State Medical University, the so-called "conflict problems" are intensively studied in relation to the sphere of social relations analyzed by us (Shishov, 2018).

In Accordance with the opinion of representatives of abovementioned group of scientists "the first legal conflict occurs while studying the List of diseases and the comparison of the formulations of diseases with the approved rules of medical diagnoses....The List of diseases does not contain the relevant codes of International Classification of Diseases -10 (ICD-10), and the wording indicated therein is vague (for example: chronic rheumatic and other heart diseases), which negatively affects the uniform understanding of its provisions" (Shishov , 2018, p.15).

We can't help but pay attention to this fact: it is necessary to make analysis of existing normative legal acts, in which, indeed, the list of diseases, the indications for carrying out or defining the results of medico – social expertise is not concrete. One of our goals is to justify of the inexpediency of such approach, which in the fullest extent is specific for departmental rulemaking. The author of this article is convinced that one of the main directions of improving the efficiency and quality of organizational and legal support of medical and social expertise in the Russian Federation. Public control can increase the level of objectivity of the assessment of the limitations of life activity of disabled persons, the main assigned (recommended) measures to overcome them, as well as other assessments in the case of increasing the "transparency" of the expertise, as well as the previous and, most importantly, follow-up measures. To do this, first of all, it is necessary to specify the relevant subordinate regulatory legal acts.

In this regard, as noted by representatives of the Department of Health Care Organization and Public Health of the Faculty of Advanced Training and Professional Retraining of Specialists of the Rostov State Medical University and, in particular, M. A. Shishov, the List of diseases includes references to such complications of diseases as the progression of insufficiency: respiratory, liver, chronic arterial and others. At the same time, there are currently no legal acts providing for the classification of the abovementioned types of disorders of organs and systems, as well as rules for their definition. In addition, the List of diseases in some cases as an obligatory condition includes the requirements of the presence of: significant restriction of life activity and the need for long-term treatment in a specialized medical hospital. At the same time, assessment of the existence of life activity limitations due to the requirements of art. 7, 8 of the Federal Law of 24.11.1995 No. 181-FL "On social protection of disabled persons in the Russian Federation" is the competence of the structures implementing medico- social examinations carried out exclusively by Federal Institutions of Medical and Social Expertise. In addition, the List of diseases does not contain explanations on the basis of what criteria treatment should be defined as the "long-term" (Shishov, 2018).

## **6.2. Problems of Medico- Social Examination of Persons, Undergo Execution of Criminal Punishment**

We also believe it is necessary to pay attention to the aspect of research, which is often ignored in the legal literature and is insufficiently covered by the institutions of state control, public control. It is a question of medico-social expertise of persons against whom criminal prosecution is carried out (and, we note, it can be stopped on rehabilitating grounds), or these persons already undergo execution of criminal punishment.

This problem (in terms of the peculiarities of medico- social support and welfare, including the carrying out of relevant expert assessments of prisoners with disabilities) examined at the Department of State and Legal Disciplines of Federal State Educational Institution of Higher Professional Education "Kuzbass Institute of Federal Service of Execution of Punishment (FSIN) of Russia" (Novokuznetsk) (Zaborovskaya, 2018).

The Research Center of FSIN of Russia is actively involved in this process, where, among other things, direct social work is carried out with convicts with disabilities who are serving sentences in correctional institutions (Danilin, Davydova, & Dikopoltseva, 2017).

## **6.3. Study of Certain Aspects of Disability. Study of the problems of protecting the rights of persons with disabilities and their rehabilitation in scientific literature**

The scientific group of the Department of Labor, Environmental Law and Civil Procedure of the Altai State University carries out the study of the status, including Federal Institutions of Medical and Social Expertise (Kovalenko, 2017).

Nizhny Novgorod Branch of the Russian Academy of National Economy and State Service Under the President of the Russian Federation actively publishes scientific papers aimed at improvement of legal regulation of social services for citizens in the constituent entities of the Russian Federation (Averyanova, 2017).

The scientific group of the Department of Civil Law and Procedure of Syktyvkar State University named after Pitirim Sorokin on the basis of systematic reviews of the Russian legislation on discrimination in the field of work and employment of persons with disabilities forms the conclusions regarding the improvement of the process of production of medical and social expertise (Kurova, 2017).

Scientific interest is the international experience in the regulation of this sphere of relations. For example, the legal regulation of labor and quotas for persons with disabilities in Germany is carried out mainly by the Law on Persons with Severe Disability (das Schwerbehindertengesetz) and the Social Code (das Sozialgesetzbuch) (Schmidt, 2014).

It is worth noting the scientific work of N. Lyutov, devoted to the study of discrimination in the sphere of labor in relation to persons with disabilities. The author concludes that there are no provisions in the legislation of the Russian Federation regarding the priority of inclusive measures that would facilitate the integration of persons with disabilities into work and social activities (Lyutov, 2016).

The research interests also include the problems of employment opportunities for persons with disabilities and support for employment of this category of population, problems of poverty among people with disabilities, despite legislative changes carried out in recent years.

The research institute of the Academy of the General Prosecutor's Office are exploring new forms of protection by the prosecutor of the rights of persons with disabilities, including the process of preparing and implementing the analyzed expert studies (Igonina, 2017).

It is worth noting that many authors have devoted their scientific work to the study of legal documents and basic laws that are relevant to the social protection of disabled people of working age, as well as to the formation of state policy in relation to this category of population. Modern foreign studies in this area are devoted, including issues of social support and rehabilitation of persons with disabilities (McColl, 2017).

An analysis of social services for persons with disabilities in the Russian Federation was conducted by Bashkireva et al. (2014). Researchers conclude that one of the new approaches to solving problems is to optimize the institutional structure of social services, reorganize the capacity of hospital beds, reconstruct existing buildings and build new ones.

#### **6.4. The international legal framework for the protection of persons with disabilities**

The Research Institute of the Academy of the General Prosecutor's Office is studying new forms of protection of the rights of persons with disabilities by the Prosecutor, including the process of preparation and promotion of the analyzed expert studies (Igonina, 2017).

It is interesting and perspective to study the international legal basis for the protection of social rights of persons with disabilities, which takes place in many research groups, including, for example, the Department of Constitutional and Municipal Law of the International Law Institute as well as the study of the problems of correlation of medical and social research and adaptation of persons with disabilities in the workplace (for example, the Department of constitutional, administrative law and legal support of the state service of Vyatka State University) (Kirillovykh, 2016) etc.

Foreign authors also evaluate the importance of the UN Convention on the Rights of Persons with Disabilities for legal reform. So, Cun (2014) notes that the main idea of the Convention is that a person with a disability should be considered as a "subject" who deserves equal respect and human rights.

#### **6.5. Problems of establishing of disability in scientific literature**

To the designated area of public relations are addressed as scientists, forming, for example, approaches to understanding the nature and objectives of medical and social expertise, conducted to "determine the needs of the person under examination in social protection measures, including rehabilitation by Federal institutions of medical and social expertise on the basis of assessing the limitations of life activity, caused by a persistent disorder (Mironova, 2018) and also practitioners (e.g., heads of agencies of Pension Fund of Russia, judges in cases of recognition illegal the decisions of medico-social expertise concerning the refusal to establish disability or wrong determination of that disability group) (Steinle, 2017) etc.

Thus, Chirkov (2018) studies legal facts related to the recognition of a citizen as a disabled person and the establishment of a disability group, which are carried out by the competent Federal institutions of medical and social expertise. As not without reason the abovementioned researcher notes, "in connection with creation and putting into service of the Federal State Information System" the Federal Register of

disabled people "is supposed to be used at determination of pensions and the data containing in the called system that considerably optimizes these procedures".

It is possible to agree with this statement in general; so, the Regulation of the Government of the Russian Federation of 16.07.2016 No. 674 establishes that "the data which are subject to inclusion in the register according to part four of article 5.1 of the Federal Law "On social protection of disabled people in the Russian Federation", are represented by social Insurance Fund of the Russian Federation...and also Federal institutions of medical and social examination and other organizations participating in providing the state services to disabled people".

## 7. Conclusion

Thus, there are a large number of scientific studies devoted to various aspects of medico-social expertise, including analysis of the current legislation of the Russian Federation, issues of organizational and legal support of expertise, the procedure for disability establishing, the protection of the rights of convicted persons with disabilities, and the strengthening of public control in this area. Based on the study, the following proposals should be formulated for improving the current regulatory framework.

It seems to us that paragraph 18 of article 5.1 ("Federal Register of Disabled Persons") of the Law on social protection of disabled persons, taking into account the increasing level of efficiency of state and social control, should be written in the following wording:

"18) other data defined by the Federal Executive authority performing functions on development and implementation of the state policy and normative legal regulation in the field of social protection of the population, including data about the body which carried out medical and social expertise with indication of the specific diseases which caused recognition of the person the disabled person, establishment of restrictions of its activity and recommended measures for overcoming difficulties.

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