PREVENTION OF ADMINISTRATIVE ACCURACY OF MINORS IN RUSSIA AND FOREIGN COUNTRIES

PREVENCIÓN DE EXACTITUD ADMINISTRATIVA DE LOS MENORES EN RUSIA Y PAÍSES EXTRANJEROS



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Resumen
El artículo analiza la experiencia rusa y extranjera relacionada con la prevención de delitos administrativos cometidos por niños menores de 18 años; analizaron la base legal de las actividades de los temas del sistema relacionados con la prevención en algunos países extranjeros y Rusia dentro de la descripción comparativa. Los resultados mostraron que contrarrestar las manifestaciones desviadas en el ambiente adolescente solo puede ser efectivo cuando actúa como un sistema complejo, en el cual, junto con las medidas punitivas, las medidas preventivas también se implementan lo más ampliamente posible.
Palabras clave: prevención, delincuencia administrativa, menores, delito, responsabilidad.

Abstract
The article analyzes the Russian and the foreign experience concerning the prevention of administrative offenses committed children and teenagers/adolescents under 18 years; they analyzed the legal basis for the activities of the system subjects concerning the prevention in some foreign countries and Russia within the comparative description. Results showed that the counteraction to deviant manifestations in the adolescent environment can be effective only when it acts as a complex system, in which, along with punitive measures the preventive measures are also implemented as widely as possible.
Keywords: prevention, administrative delinquency, minors, crime, responsibility.

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INTRODUCTION

At the present stage of society development, the issues of administrative delicts of minor prevention are the most important and urgent tasks of the state in terms of the number of administrative offense reduction committed by minors. According to the data of criminological research, seven crimes could have been prevented out of ten ones in the event of timely and effective prevention (Makhina, 2014; 3).

Today, there is an urgent need to develop and implement effective preventive measures that would preserve and develop valuable experience and take into account the features of state and society modern development (Paul, Brantingham, Frederic and Faust, 2011; 81-89).

METHODS

Various general scientific methods and the methods of cognition were used in the work: analysis and synthesis, systemic, functional, and formal-logical approaches. The use of formal legal and comparative legal methods contributed to the development of conclusions.

DISCUSION AND RESULTS

The practice of foreign countries in the matters of administrative delicts of minor prevention is quite different. For example, in a number of countries (Denmark, Sweden, Great Britain), the prevention of juvenile delinquency and crime has become an integral part of public policy over the past decades (Mikheeva, 2004). During the development of combat forms and methods in respect of offenses committed by minors, the attention is paid not only to the causes and the conditions that contribute to the commission of administrative delicts by adolescents, but also to the offender personality characteristics. The purpose of this “intervention” in adolescent life is (first of all) the prevention of offense and crime repetition by the latter and various restraining actions (rehabilitation, correct psychological approach, etc.) (Biryukova and Varlamova, 2014).

There are juvenile courts in the UK, which are characterized by some features. Thus, the cases involving the juveniles who have committed crimes are subject to consideration separately from the cases of the others and, as a rule, in the morning. Besides, each such case is considered individually and separately from the cases of crime accomplices (if any), and the legal representatives of an adolescent must be present at the court session. There are “probation services” in the juvenile courts, the employee duties of which include the study of young criminal functions, supervision, as well as the further education of a minor (Melnikova and Juvenile justice. 1999; 46-47). However, this system of juvenile justice has spread only in the administrative territory of Great Britain and Northern Ireland; in Scotland, however, the attempts to create such a system (namely, a special juvenile court) were unsuccessful. The concept of "juvenile justice" is not found in the legislation of the country in question (Haghshenas et al, 2015).

In addition to juvenile courts, the United Kingdom differs by the number of adopted legal acts aimed at child right protection, which include the Law on Children and Adolescents; General instructions on children accommodation (Mikheeva, 2004). The rules of foster education for children (The World Declaration on the Survival, Protection and Development of Children,1990) The National Standards of Great Britain on the organization of foster education

(Biryukova and Varlamova, 2014). In Denmark, there is the Law on Children, and the current Law on Parental Responsibility is also interesting.

The general essence of these acts is that upon the receipt of the first application, from the content of which it can be concluded that a child should be helped, the relevant authorities are obliged to respond and “arrange” the fate of the latter for forty weeks, thereby protecting his interests. However, the relevant local authorities are responsible for an independent legal advice obtaining in relation to each case.

Besides, the aforementioned Child Law obliges the official state officials and experts to inform the police and other prevention services about possible or known facts of cruelty towards children by legal representatives or other adults, which was not their responsibility previously ((Marbán & Mulenga, 2019).

The state system of actively working juvenile justice is noteworthy, though not indisputable. It is impossible to deny the fact that England occupies a leading place in the solution of issues relating to the protection of children lives and rights, since the problems in this area were addressed more than 20 years ago. At the same time, the system has drawbacks, for example, it is far from perfect in the issues of children taking from families to protect their interests. Not always the taking of a child from a family has a positive result both for the child and for his family.

The juvenile justice system is sufficiently developed in Sweden, where there is a huge array of legal acts for children, including the prevention of delicts. Sweden is the leader concerning the state regulation of social and proper education issues among minors. Since 1979, Sweden has become the first country which prohibited the physical punishment of children, declaring such a punishment as a crime. At the present stage there is the law “On the Prevention of Violence against Children” in Sweden, according to which the Child Protection Service monitors the physical development and mental health of a minor. In the framework of the duties assigned by this act, employees find out a child’s attitude to the current difficult situation with the obligatory consideration of his personal desire. Besides, the staff of these services clears the following issues: whether the violence was one-time fact or is it systematical in everyday life. In order to ascertain the facts of harm to a child mental health, it is determined whether the child could have witnessed the ill-treatment with other members of his family.

In 1989, Sweden joined the UN Convention on Child Rights and in 1993 a special ombudsman institute was created. The purpose of this institute was to protect the rights of children. Besides, a significant number of human rights organizations operate in Sweden: BRIS (“Children Rights in Society”), Friends, Save the Children, Sweden (The Swedish branch of the organization “Save Children”), in which a teenager (including a child) can apply in case of assistance need, and which are actively engaged in the socialization of adolescents with deviant manifestations in order to prevent the commission of offenses.

The practice of France in the field of child rights and legitimate interest protection deserves some attention. Based on the content of some legislative acts, the primary task of child right protection provision must be implemented by his parents. Thus, the French Civil Code stipulates that ... parental rights belong

to father and mother in order to protect the interests of the child on the matters related to his safety, state of health, and moral education. They have the right and they have the duty to protect a child, monitor him and bring him up. These exclusive rights may not be transferred to the third parties.

CONCLUSION

Exploring the degree of state-legal regulation of prevention issues in foreign countries and in Russia, it is possible to conclude that the prevention of administrative delicts committed by minors is one of the main directions of state policy. The basis for such a conclusion was the system of legislative acts that regulate prevention issues.

A worldwide problem is child alcoholism and drug addiction. In Russia, about 60 thousand children under the age of 18 years were registered by drug treatment centers, also 834 were diagnosed with “drug addiction”, and 318 with “alcoholism” in 2016. More than 55.2 thousand of minors were brought to the territorial bodies of internal affairs because of alcohol and alcohol-containing product drinking; about 2.1 thousand children - for the use of narcotics.

The preventive work, carried out by a large number of prevention subjects both in Russia and abroad, is based on generally accepted norms of international legislation, among which, first of all, are the following ones: The World Declaration on the Survival, Protection and Development of Children; the Universal Declaration of Human Rights; the Declaration of the Child Rights; European Convention on the Exercise of Child Rights; United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules); the Guidelines for Action in Children interests within the Criminal Justice System; United Nations juvenile crime prevention guidelines.

In terms of the legal regulation of the considered issues, some conflict of laws can be traced in Russia. Currently, there is an urgent need for the development and the adoption of regulations governing the prevention and the suppression of administrative offenses committed by minors under the age of 18 years.

Family is the main link that influences the life of a child from his birth. Therefore, in the framework of offense commission prevention by minors, it is necessary to focus on the micro-social environment in which a child lives and is brought up. According to Yu and Mikheeva, the current state of the guardianship institution is not studied sufficiently by legal literature (Mikheeva and Yu, 2004).

The Article 77 of RF Family Code provides that "... the guardianship and the trusteeship body shall appeal to the court within a week for the deprivation of parental rights or for the parental right restriction." There are the proposals to establish a judicial procedure for a child taking under the art. 77 of RF FC, that is, the court must recognize as justified and lawful (or unreasonable) the taking of a child from a family within 48 hours, agreeing with the position of the guardianship and custody agency or declaring its decision unjustified and illegal.

The international judicial practice on the grounds and procedure concerning the taking of children from a family is ambiguous. In this regard, the process of "juvenile justice" institution development, operating in many foreign countries, left a negative mark.

So, the laws that allow you to take children from a family, appeared in Sweden during the twenties of the last century, and by the nineties the system was developed for these laws. According to such laws, the reason of child placement under state care could be the lack of care for them or other domestic circumstances that threaten their development or/and health. It must be said that such a vague wording as “other domestic circumstances” led to the fact that social workers received absolute freedom of their actions, in some cases resembling kidnapping.

It is necessary to note the inadmissibility of a free, extended interpretation of legal norms by social workers. A child after the taking from a family has the right to visit his or her home and to communicate regularly with their recent legal representatives (parents). However, in practice, the officials of guardianship and substitute families limit these rights not only for a child, but also for his parents, excluding even simple communication, including by phone, via Internet and e-mail. It seems that such forms and methods of prevention isolate children from their parents illegally. There is a powerful industry for the destruction of families.

For example, in Denmark short-term institutional accommodation resort immediately after the taking from a family more often than in other Scandinavian countries.This is especially true for the children who need a special care and an approach in upbringing, that is, the children with physical or mental disabilities. At the same time, there is a fairly wide variety of methods for the temporary institutional placement of children, and social service employees, as a rule, solve the problem of a child stay period reduction outside the family. (Tabatabaei et al, 2014).

In Norway, foster families are a priority form of accommodation for children who are seized by prevention subjects. In this country, the share of this form of child accommodation accounts for the maximum percentage among all Scandinavian countries. For example, in 2009, 87% of the total number of taken children was placed in various types of foster families, and only 13% of them were placed in institutions. At the present stage, the situation remains almost unchanged.

It follows from a brief analysis that foreign countries are quite different in this area as compared with RF practice and legislation. If more extreme and severe cases are cited in Russia as the grounds for a child taking from a family, on the contrary, the requirements for the grounds are more specific in the cited foreign countries. The deprivation of parental rights takes place for the smallest offense and the failure to fulfill parental responsibilities.

In our opinion, this particular trend of juvenile justice cannot be applied to Russian children. Foreign practice is positive by the fact that it shows how much attention is paid by the states to the issues we have outlined.

Many foreign countries use various forms and methods in preventive activities, including program regulation. An example of such work can be the so-called “Legal Education Program”, which was developed by law enforcement officers in the state of Florida with a view of application both in public and private schools. The main objective of the Program is to familiarize adolescent students with the norms of criminal law, the rules of responsibility for delict commission; the development of intolerant attitude among children towards the commission of crimes and misconduct; the familiarity of adolescents with the system of values prevailing in society. As the part of the work being carried out, minor

children are shown video clips with the examples of the application of measure application in respect to the offenders; the law-abiding behavior is promoted.

In the USA, for example, there is the program for the prevention of juvenile delinquency, in which adolescents attend correctional institutions. Such events are held for the purpose of psychological impact on adolescents who have not embarked on the criminal path yet, but who have already had deviant behavior.

Analyzing the issue of administrative delict prevention among minors, it is necessary to note the expediency of program-targeted regulation use, as a complex of relations and interaction with a teenager. It is not possible to consolidate the legal provisions regulating preventive activities in legal regulations, since the entities carrying out preventive activities will perceive such provisions as the guidelines for their activities and functioning, which can negatively affect the implementation of prevention “non-legal” forms.

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