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НЕКОТОРЫЕ АСПЕКТЫ СОЗДАНИЯ ОРГАНИЗАЦИОННОГО И СТРУКТУРНОГО ОБЕСПЕЧЕНИЯ ПРИОРИТЕТОВ В СФЕРЕ ПРОКУРОРСКОЙ ДЕЯТЕЛЬНОСТИ

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SOME ASPECTS OF CREATING ORGANIZATIONAL AND STRUCTURAL SUPPORT OF PRIORITIES IN THE SPHERE OF PROCURER'S ACTIVITIES

Статья посвящена одной из новейших теорий прокурорской деятельности — теории приоритетов прокурорской деятельности. Данная теория напрямую отвечает положениям Конституции Российской Федерации и Федерального закона от 17.01.1992 № 2202-1 «О прокуратуре Российской Федерации».

На основе анализа существующего структурного построения органов прокуратуры и выполненных организационных решений выделяются подходы к обеспечению приоритизации прокурорской деятельности. Приводятся конкретные примеры реализации приоритетов деятельности органов прокуратуры в Российской Федерации.

Автор статьи приходит к выводу о важности определения и реализации приоритетов прокурорской деятельности в части структурных изменений и организационного распределения имеющихся сил и средств в органах прокуратуры.

Ключевые слова: прокурорская деятельность, приоритеты, организация прокурорской деятельности, структура органов прокуратуры.

The article is devoted to one of the latest theories of procurer's activity — theory of priorities of procurer's activity. This theory responds to provisions of the Constitution of the Russian Federation and the Federal Law № 2202-1 of 17th January 1992 On the Procurer's Service of the Russian Federation.

Based on the analysis of existing structural models of procurer's offices and fulfilled decision-makings there are main approaches to the support of priorities in the sphere of procurer's activities in the Russian Federation.

The author of the article comes to the conclusion on significance of determining and support of priorities in the sphere of procurer's activities, especially structural changes and organisational distribution of forces and facilities in the procurer's offices.

Keywords: procurer's activity, priorities, organization of the procurer's office, structure of the procurer's office.

Russian statehood underwent considerable changes in the last twenty years. These changes took effect on procurer's competences as a system of bodies exercising supervision over the compliance with the Constitution of the Russian Federation and the execution of the laws and performs federal laws (according to the Article 1 of the Federal Law of 17th January 1992 On the Prosecution Service of the Russian Federation) on behalf of the Russian Federation.

But the Russian Prosecution Service has enormous amount of functions in civil, criminal and other legal spheres, that at least necessarily focuses their attention on a narrow set of the most important and urgent tasks. Amongst them there can be new tasks demanding further improvements. It means accomplishing a prioritization of procurer's activities orientation.

Basically a very popular substantive principle of organization of procurer's

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activity demands to mark out a system of precedence that helps organize procurer's activity on optimal level under the particular historical circumstances¹². Both the central types of procurer's activity and special areas of public relations, fields of legislation (i. e. housing, ecological, juvenal etc.) [5] are considered as the object.

Substantive expanding of supervisory and other functions of procurer's activity eventually have led to ambiguous perspective of the main aims and tasks of this activity. The capabilities are "spraying", and, consequently, are causing setting accents amongst the whole diversity of directions of procurer's activity.

According to Article 6, paragraph 2 of the Project of Model Law On Prosecution Service prepared by the Scientific and Methodical Center of the Coordination Board of Prosecutors General, representing member states of the Commonwealth of Independent States – Research Institute of the Academy of the Office of the Prosecutor General of the Russian Federation, advantaged attention is given to strengthening of legality in the spheres of legal relations where unfavorable tendencies have place and where status of legality impact significantly on its general position.

As a variant it is possible to solve the problem of that prioritization by organizational and structural changes in the Prosecution Service of the Russian Federation that will demonstrate one of the methods of the prioritization of procurer's activity in the Russian Federation.

The first method of the solution is establishment of specialized prosecution services for support of legality in the particular spheres of legal relations that have a big importance for the whole society and the State.

Besides a special system of military procurer's office which has been in force earlier, occasionally other procurer's offices

¹ Модельный закон о прокуратуре (проект) подготовлен в соответствии с Концепцией этого закона, одобренной решением Координационного Совета Генеральных прокуроров стран Содружества Независимых Государств (СНГ) и планом модельного законодательства Межпарламентской Ассамблеи СНГ. В этом документе учтены и использованы положения подготовленного в Институте при Генеральной прокуратуре РФ Модельного закона о прокуратуре (1992 г.), результаты законодательства об организации и деятельности органов прокуратуры, а также проводимых научных исследований по данной проблематике в постсоветский период в Российской Федерации и в других странах СНГ [4].

are established, i. e. transport and nature-protecting ones.

One of the results of using a substantive principle was creating Kemerovo Inter-Regional Procurer's Office For Supervision Over the Execution of the Laws in the Coal Extractive Area (which is located in Novokuznetsk, Kemerovo Region, Russia) in 2010. The reason for such structural reaction was high number of serious crashes on coal mines in Kemerovo Region that had caused numerous human victims and significant material damage due to systematic breaking of labor rules, safety measures, and production techniques during coal mining in the region.

Since October 1, 2012 other special procurer's office as a part of Amur Regional Procurer's Office has begun working, Procurer's Office of Cosmodrome 'The Eastern', which was caused by appearing of a new object of procurer's supervision, its construction and operation.

Special procurer's offices as well as some other state institutions are established because administrative-territorial principle does not work as a universal one, it can't help when we speak about topical and specific areas of people's activity. So, military, transport and nature-protecting procurer's offices fulfil their functions in special spheres of legal relations, irrespective of the territorial division of Russia, under the principle technically called productive.

The term 'productive principle' can be used because some commercial and state structures were established according to the specifics of their activity, e.g. a 'linear' principle manages railways, a 'port of registry' principle manages sea and river transport, a non-territorial one manages district, garrison, military groups, etc. to follow the principles of the Military Forces [5]. At the same time special and territorial procurer's offices have different competence and have no conflicts, according to Commandment of the Procurer General of the Russian Federation of 7th May 2008 № 84 On Differentiation of Competence of Territorial, Military and Other Special Procurer's Offices.

The second universal method as a respond to actualized legal relations in procurer's offices is establishment of the structural subdivision in both Procurer General's Office and in territorial procurer's offices of the Russian Federation subjects.

Thus, due to the Commandment of the Procurer General of the Russian Federation of 24th May 2012, the Division for supervision over Observance of Entrepreneur's Rights became a structural element of the General Department for Supervision over Execution of Federal Legislation [3]. It was caused by the necessity of solving such tasks as guaranteeing economic activity, a friendly business and investment climate, an abatement of administrative pressure from the state and municipal structures, observance of legality at conducting check-ups of business entities, opportune prevention and suppression of violation of entrepreneurs' rights. The corresponded aims have led to establishment of departments for supervision over execution of laws of state and society's protection within appropriate divisions: for supervision over execution of legislation and law enforcement, protection of state and society's interests; for supervision over execution laws in the ecological sphere.

Besides national demands, we can look at international tendencies of law enforcement, which try to solve the most significant problems of society and formation of legislation.

In accordance with Article 36 of the United Nations Convention Against Corruption (that entered in force on 14th of December 2005) the attention was drawn to the complex character of corruption in the spheres of budget, antimonopoly legislation, legislation of usage of state property, legislation of state purchases, a counteraction to crimes related to legalization of criminal (or illegal) income and others. In August 2007 the Department for Supervision over Legislation on Counteraction to Corruption was established in Procurer General's Office. Similar departments appeared in procurer's offices of the Russian Federation subjects. The Federal Law of the 25th December 2008 № 273 On the Counteraction to Corruption, National Strategy of Counteraction to Corruption, approved by the President of the Russian Federation on the 13th April 2010, allow prosecution service to realize a complex of measures in that sphere and to fulfil some recommendations of the Council of Europe Anti-Corruption Group (GRECO), a structure of the Council of Europe that is aimed at improving the capacity of states to fight corruption domestically as well as at international level. All these measures are

able to raise a protection level of citizens and to improve national legislation in this sphere.

In spite of the flexible method of organization of procurer's activity, it should be mentioned that besides some temporary (urgent) problems of the state and society there are some permanent objects of supervisory and other functional procurer's activity.

These permanent priorities are first and foremost supervision over the observance of human rights and freedoms (chapter 2 of the Federal Law of 17th January 1992 On the Prosecution Service of the Russian Federation), with a special attention to juvenal rights protection, socially low-protected groups of people (i. e. disabled, retired people, etc.).

Traditionally the most important direction of the procurer's activity is fight against crime. In order to appropriate support the activity of procurer's service and law enforcement structures in this sphere of legal relations, in July 2011 Department of Legal Statistics in Procurer General's Office of the Russian Federation was established. Procurer General of the Russian Federation Yury Chaika marked priority tasks in the sphere of realization of the procurer's capacity of the state common statistical account of claims and messages of crimes, criminal situation, crime detection, modes and results of investigatory and procurer's activity, also establishment of a single procedure of forming and submission of the reporting [2].

One more method of solving the priority tasks by prosecution service in proper time is establishing temporal working groups on support of legality in the actualized spheres. This method is not related to any structural changes of procurer's offices or increasing of staff. At the same time it allows to engage the most experienced and qualified procurers.

Although even these organizational and structural methods of prioritization demand permanent control account for principles of dynamism and adequacy [1]. We suppose that initiative for support of priorities of procurer's activity can be provided by General Department of Organization and Inspection of the Procurer General's Office of the Russian Federation and by the appropriate structural elements of the prosecution service of the Russian Federation subjects.



Appearance of the new and essential modification of the public relations, forming of the legal relations, and legislative changes will always demand full setting of the priorities of procurer's activity for sup-

porting the rule of law, unity and improvement of legality, protection of human rights and freedoms, law-protected interests of the state and society.

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