Abstract

The purpose of the research was to analyze the Russian criminal legislation in the field of sexually transmitted diseases (STD) prevention in order to define its efficiency. The methods used were a complex of general scientific methods, as well as comparative and historical analysis, means of mass media and legislation. The Russian legislation assigns criminal responsibility for contaminating with a sexually transmitted disease, which underlines ensuring by the state individuals' right for his/her health protection. A crime is considered completed from the moment of actual transfer of the disease to another person. If the guilty had an intention to infect another person with STD, but for the reasons beyond his/her control the intention failed, then this act shall be qualified as a criminal attempt to infect with STD. Russian criminal legislation favours prevention of sexually transmitted diseases dissemination by viewing contamination of another person with a sexually transmitted disease as a qualifying component of other crimes. At the same time, notwithstanding the current valid legislative acts, the wide spread of sexually transmitted diseases does not decrease in Russia. At the moment criminal legislation of the Russian Federation contains norms which have general and case-by-case preventive effect aimed against contamination with sexually transmitted diseases. At the same time the level of efficiency of this influence does not bring desirable effect which creates the scientific-educational basis for the development of new offers on the issue concerned.

Keywords
Criminal legislation; Russia; Sexually transmitted diseases; Contamination; Prevention

Introduction

It will not be an exaggeration to say that a human's health is one of the values which due to their special importance and firmness are being protected not only on behalf of the Healthcare Service [1-6], but also the domestic law, which is proved by provisions of the Article 41 Constitution of the Russian Federation (hereinafter – Constitution of the RF). According to this article, every person with no exclusions has the right to healthcare and medical assistance. At the same time, Part 1 of the Article 14 of the Constitution of the RF confirms the guarantee of the respective citizens' right, which is marked in the free provision of medical aid in state, municipal healthcare enterprises. Various infectious diseases are widely spread in Russia at the moment, and these diseases also cover children [7] and adult population [8-10]. Their development is largely connected with the combination of genetic predisposition [11-13] and negative influence of the environment, which is shown up especially vividly in the background of the process of aging [14]. Large attention is being dedicated in Russia to the search of medical approaches for diseases preventative measures search [15,16], which is not always enough. The need for legislative support for population health protection measures is becoming acute.

Under the current situation it is impossible for the state represented by its bodies and officials not to pay attention to the actual and potential threats for people's health. And their attention is focused not only on non-infectious pathology but also infectious diseases among which large attention is being paid to the sexually transmitted diseases (STDs).

Currently nobody has any doubts about the dangerous nature of STDs. At the moment they have a status of a serious medical, social and psychological problem of the society. Their social meaning is determined by their widespread, heavy consequences for the health of the sick people, danger for the society, influence on reproductive function. In this connection prevention of getting infected with the STDs is reasonably considered one of the tasks of the Russian Federation Healthcare system and requires full support on behalf of the law [17].

The aim of the research is to analyze Russian criminal legislation in the field of sexually transmitted diseases prevention to determine the level of its efficiency.

Literature Overview

Success of any process prevention depends first of all on the preventive measures' efficiency. Prevention of getting infected with STDs is possible through the Russian criminal law for which protection of people's health is the object [18].

In order to provide the fullest evaluation of the criminal-legal prevention of infecting with STDs and also in order to more fully examine the issue under consideration, it is useful to bring to notice the development of criminal responsibility legislation for contamination with the sexually transmitted disease during the soviet period of the Russian state existence [19].

In order to solve the issue of minimizing the cases of sexually transmitted diseases on December 17, 1921, in soviet Moscow was established a State Venerial Institute. Opening of this institute was a consequence of the inception of the state government's understanding of the importance to counteract dissemination of sexually transmitted...
diseases, and the necessity to criminalize such actions as contamination with a sexually transmitted disease in the Soviet Russia.

In the initial Criminal Code of the Russian Soviet Federated Socialist Republic, which was introduced by the resolution of the All-Russian Central Executive Committee as of 01.07.1922, responsibility for "conscious contamination of the other person with a serious venereal disease" was provided for by Article 155. This crime was punished with imprisonment for a term of up to 3 years [20].

Large interest to the issue of sexually transmitted diseases dissemination was recorded in June 1923 when the First all-Russian congress on counteracting the sexually transmitted diseases was held. The persons who were taking part in this congress made an offer to improve legislation in the field of the sexually transmitted diseases counteraction. The respective offer has been reflected in amendments to the Article 155 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1922, which resulted in exclusion of terms "imputed knowledge" and "heavy" from the disposition. The revised variant of disposition came as follows: "Contamination of the other person with a sexually transmitted disease".

Therefore the element of this offence was formed by deliberate and also careless contamination with venereal disease not depending on the way it was done or if it entailed any consequences for health.

On August 6, 1926, the Criminal Code of the Russian Soviet Federated Socialist Republic included the Article 155-a, which was aimed against the persons suffering from venereal diseases and those who lead an unconventional sexual life. The initiator of the respective amendment was the Peoples Commissariat for healthcare of the Russian Soviet Federated Socialist Republic.

By the end of the year 1926 the new Criminal Code of the Russian Soviet Federated Socialist Republic united Articles 155 and 155-a of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1922 into Article 150. This article now consisted of two parts and provided for such an action as "Contamination of the other person with venereal diseases by persons who knew they had such diseases". Sanction of Part 2 of the Article 150 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1926 provided for imprisonment as a punitive measure for the term up to 3 years. Part 2 of the Article 150 settles such act as "Knowing putting another person under threat of contamination with venereal diseases by sexual relations or other actions". This action was punished either by imprisonment or by correctional labour work for the term of up to 6 months [19].

Further changes to the norm which regulate responsibility for contamination with a venereal disease were performed in the USSR after the end of the Second World War which was reflected in the Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic in 1960.

Sanctions under Part 1 of the Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1960 settled the indicators of "contamination of the other person with a venereal disease by a person, who knew they he/she had a venereal disease", and provided for a punishment as imprisonment for the term for up to 3 years or correctional labour works for the term of up to 1 year. Therefore this sanction in its correlation with sanction of Part 1 of the Article 150 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1926 remained unchanged.

Sanction of Part 2 of the Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1960 settled the signs of "Knowing putting another person under threat of contamination with venereal diseases by sexual relations or other actions" which provided for a punishment as imprisonment for the term for up to 2 years or correctional labour works for the term of up to 1 year, or a fine in the amount of up to one hundred rubles. Consequently, this sanction became more strict compared to the sanction of Part 2 of the Article 150 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1926.

Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic as of 1960 also included Part 3, which first provided for the criminal responsibility for qualified types of contaminating the other person with a venereal disease by a person, who knew that he/she had such a disease. Respective qualifying circumstances were referred to both the subject of the crime previously convicted for contamination of the other person with a venereal disease, and to those who suffered from the criminal act (contamination of two or more persons or minors). For such action the sanction provided for a punishment as imprisonment for up to 5 years.

In 10 years the Order of the Presidium of the Supreme Council of the USSR as of 20.10.1971 "On changes and amendments to the Criminal and Criminal Procedural Codes of the Russian Soviet Federated Socialist Republic" has widened elements essential to the offence, set by the Article 115 of the Criminal Code of the Russian Federation as of 1960, and also introduced a new Article 115.1 – "Avoidance of treatment". Avoidance of the sexually transmitted disease treatment was recognized criminal only if it continued after the warning made by the medical bodies. This crime was punished by imprisonment for up to 2 years or correctional labour works for up to 1 year, or a fine up to 100 rubbles.

It is worth noting that amnesty did not apply to the persons who were convicted for crimes provided for under Articles 115 and 115.1 of the Criminal Code of the Russian Soviet Federated Socialist Republic which tells about the strict attitude of the Russian criminal law to the subjects of contamination with venereal diseases [21].

In connection with the often arising issues in the Russian judicial practice on applying legislation on responsibility for contamination with a venereal disease and avoiding treatment of the venereal disease, the Plenum of the supreme court of the USSR on October 8, 1973, has taken a resolution to provide the courts with the following ruling explanations:

1. According to the law, the subject of crime provided for by Part 1 of the Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic (the Article 121 of the Criminal Code of the Russian Federation) and respective Articles of the Criminal Codes of other Union Republics may be a person suffering from a venereal disease and aware of such disease.

2. Other actions provided for by Part 1 of the Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic (Article 121 of the Criminal Code and respective Articles of the Criminal Codes of other Union Republics) may be expressed in violation by the sick person with a venereal disease of hygienic rules of behaviour in the family, in everyday life, at work and so on, which the ill person knowingly puts other persons in danger of contamination with a venereal disease.

3. In dealing with cases on crimes provided for by the Article 115 of the Criminal Code of the FSR (Article 121 of the Criminal Code of the Russian Federation) and the respective Articles of the Criminal Code of other Union republics, the court needs
to determine availability of proof for the fact that the criminal defendant knew about his disease (for instance, warning from the healthcare facility, other data which evidence awareness of the ill person about his/her illness and its contaminative nature).

4. Criminal responsibility of the person suffering from a venereal disease, the crime provided for by Article 115 of the Criminal Code of the Russian Soviet Federated Socialist Republic (Article 121 of the Criminal Code of the Russian Federation) and the respective articles of the Criminal Code of other Union republics, is inclusive not only in the period of illness and its treatment, but also in the period of control observation over the ill person's de-registration by the healthcare facility.

5. Agreement of the injured person to be put under the risk of his/her contamination with a venereal disease is not a basis to release the person who knew he had a venereal disease and put the injured person under risk of contamination from criminal liability.

6. Criminal liability under Article 115.1 of the Criminal Code of the Russian Soviet Federated Socialist Republic and respective articles of the Criminal Codes of other Union republics comes to force in cases where even after it was determined by the healthcare facility that a person has a venereal disease and the warning made by the healthcare facility on the necessity to perform treatment avoids such prescribed treatment course.

Avoidance of sexually transmitted diseases treatment may be expressed both in refusal of the person to take a treatment course in the healthcare facility and in his/her actions which evidence presence of the bad intentions aimed at avoidance of treatment, and not allowing the medical facility to carry out the treatment course (for instance, nonappearance to the treatment with no good reasons, notwithstanding the call from the medical facility, suspension of treatment in connection with drinking of alcohol or using narcotics, violation of the hospital regime, which disrupts medical procedures, nonappearance with no good reasons under the term set by the doctor for control observation, despite the invitation of the medical facility). Cases of self-treatment shall be considered as avoidance of treatment if the accused is warned by the healthcare facility on the need to go through a course of treatment in the medical facility.

When reviewing criminal cases on crimes provided for by Article 121 of the Criminal Code of the Russian Federation the courts shall with due insistence on high standards treat the quality of preliminary investigation with the help of cases to determine persons who were in contact with criminal defendant, sources of his/her contamination and other circumstances, which were the reason for the crime. With regard to persons who were in contact with a person with a venereal disease, though not determined by the healthcare facilities earlier, it is necessary to inform the healthcare facilities in order for them to take medical preventive measures. The courts shall by taking separate definitions pay attention to the respective institutions' managers to the necessity to determine and eliminate the drawbacks found in work of healthcare and other institutions which create conditions for the dissemination of the sexually transmitted diseases [21].

Taking into account the analysis carried out of the development of the Soviet Russia criminal legislation, which regulated criminal liability for contamination with venereal diseases, we come to the conclusion that Soviet criminal legislation which regulated criminal liability for respective actions performance was being changed namely by widening the number of punishments and also toughening their types.

Methods
In order to effectively analyze the role of modern Russian legislation in preventing sexually transmitted diseases, a number of methods have been applied. The bibliographic method of the research allowed analyzing theoretical aspects of different definitions. The analytic method was applied to analyze prevention of sexually transmitted diseases. Evaluation of the situation with venereal diseases present in the territory of Russia has been performed by the comparative analysis method.

In carrying out the research a complex of general scientific methods was used. In order to generalize and interpret information, the methods of comparative and historic analysis were applied. In the process of empiric materials gathering, the analysis of the mass media and legislation was used.

Results and Discussion
In modern Russia, much attention is paid to preventing contamination with venereal diseases, which is confirmed in the norms of the Russian Federation criminal legislation.

Russian criminal law fulfils its tasks by setting general principles of criminal liability and affixing a certain number of acts and specific types of criminal punishment for these actions fulfilment. This is set by the Criminal Code of the Russian Federation, in which Article 121 provides for the criminal liability for contamination with a venereal disease, which in turn is connected with a necessity for the state to ensure the person's right for the protection of his/her health. At the same time the Constitution of the Russian Federation puts the essence, content and application of the laws into dependence on the rights, freedoms of the person and a citizen [21].

According to the commentaries to Article 121 of the Criminal Code of the Russian Federation the following has been determined:

1. The objective side of this crime is characterized both by actions and by omissions of the defendant. Under “contamination with a venereal disease” medical science understands transfer of causative agents of infectious diseases both by sex relations and by domestic and innate way. The way of contamination does not influence its qualification. The necessary characteristic of this crime's objective side is criminal consequences as contamination of the injured person with a venereal disease. It is also necessary to determine the causal connection between the defendant's actions or omissions and contamination of the injured with a venereal disease.

2. On the subjective side contamination provides for direct or indirect and also carelessness expressed as self-reliance. Criminal negligence is excluded as the defendant knows that he/she has a venereal disease.

Criminal intent is present in cases when the defendant knew he/she was ill, foresaw the possibility of somebody's contamination and was willing these consequences to come (the illness to be in place) or consciously let them happen (for instance, by satisfying his/her lust, the defendant carelessly treated the possible contamination of the injured with a venereal disease). This crime is made in criminal self-reliance if the guilty person acknowledging he has venereal diseases anticipated the possibility of contamination of the other person, still was carelessly.
hoping to avoid this consequence (for instance, was counting for preservatives).

The motive of this crime might be sexual debauchery, sexual passion. Sometimes these motives are accompanied with revenge, hatred, antipathy, jealousy, and so on.

3. The Subjects of the crime might be persons who reached 16 years of age, ill with a venereal disease and has knowledge about that.

4. In Part 2 of the Article 121 of the Criminal Code the legislator provides for qualifying indicators of this crime, which is contamination with a venereal disease of two or more people or of a minor person who did not turn 18 years old yet [19].

There is one interesting moment, which is neither of the regulatory-legislative acts but contains information about venereal diseases, which does not give a full list of such diseases. It is also worth noting that in the tenth revision of the international classificatory of illnesses and traumas (МКБ-10), in which large attention is paid to somatic pathology [22], it is not possible to find references to venereal diseases. In this classification it is about sexually transmitted infections. This term can also be found in other regulatory legal acts one of which is Resolution No.715 of the Government of the Russian Federation as of 01.12.2004, which lists diseases of social importance and diseases dangerous for the wider public. Talking about the terminological aspect of the topic under consideration it is worth noting that some scientists perceive categories of “venereal diseases” and “sexually transmitted infections” as synonyms [19].

In the Russian law applying practice contamination with venereal diseases provides exclusively for contamination with syphilis, gonorrhoea, venereal ulcer, granulomatous disease. This provision shows that when a person is contaminated with diseases other than syphilis, gonorrhoea, venereal ulcer, granulomatous disease as a result of rape or other acts of violence of sexual nature, the subject of crime will not be put to a stricter punishment, and to our opinion it favours weakening both specific and general criminal prevention.

In current circumstances it is worth applying the list of diseases included in the respective section of the tenth revision of the international classificatory of illnesses and traumas used in Resolution No. 715 of the Government of the Russian Federation. At the same time the respective list provides for diseases which are transferred not only sexually.

The singularity of the element of offence under consideration is explained with the fact that contamination of the other person with a venereal disease is accepted as a crime even in cases of the injured person gave its agreement to his/her contamination, which is described in Clause 5 of Resolution No. 15 of the Plenum of the USSR supreme court as of 08.10.1973: “On judicial practice in cases on contamination with a venereal disease”. In this case the note to the Article 122 of the Criminal Code of the Russian Federation, “Contamination with HIV infection” sets out that a person who put the other person under threat of contamination with an HIV infection or contamination of the other person with an HIV infection must be released from the criminal responsibility in cases when the other person who was put under the threat of contamination with HIV was timely informed that the first person has a disease and voluntarily agreed to make actions which created a possibility of contamination [23].

This makes it clear that the Russian legislation provides for the cases with the hardest circumstances possible notifying the partner leads to release from criminal liability, and in lighter cases it does not.

It is worth noting that according to the Russian legislation the element of contamination with a venereal disease is material which means that this crime is considered performed from the moment of actual transfer of the disease to the other person. In this situation if the guilty person had an intention to contaminate the other person with a venereal disease but for the circumstances not depending on the guilty person he/she failed doing so, the performed act may be qualified as an attempt to contaminate with a venereal disease. The subject of this crime is a person who knows he/she has a venereal disease.

The analyzed criminal act might be made with both a direct and indirect intention and also for the reason of carelessness. The qualifying circumstance of contamination with a venereal disease is performance of this action in relation to two and more persons or in relation to the minors.

After setting the separate element of crime which provides for criminal liability for contaminating the other person with a venereal disease the modern Russian criminal legislation favours prevention of dissemination of the sexually transmitted diseases by affixing contamination of the other person with a venereal disease as a qualifying indicator of the elements of other crimes.

Therefore Articles 131 and 132 of the Criminal Code of the Russian Federation respectively providing for criminal liability for rape and sexual acts of violence affix the circumstance which increases public danger of the act, namely contamination of the injured with a venereal disease [17].

Notwithstanding all the legal norms, the efficiency of the sexually transmitted diseases contamination inhibition in relation to the modern Russian Federation is not high in the territory of the modern Russia. In the recent time dissemination of venereal diseases has reached the epidemic level. According to the Ministry of Healthcare, over 1 million of cases are being registered in Russia for contamination with sexually transmitted diseases on a yearly basis. According to the official WHO statistic data, around 89 million of new cases of infections sexually transmitted diseases are being transmitted in the industrially developed countries and in Russia on a yearly basis, in Europe 8-10 million, in the United States 4 million. At the same time dissemination of illnesses has a tendency for decrease. The most widespread are trichomoniasis, syphilis and gonorrhoea. In separate regions of Russia 10% increase yearly of the persons contaminated with venereal diseases was noted. The general disease incidence constituted 660 cases for every 100,000 people. During the year 2014, the child disease incidence increased by 1.3, and has reached 19.7 ill people per 100,000 children [17].

Therefore we have discovered that the Russian criminal legislation is aimed at the prevention of contamination with the venereal diseases, which are a great social and psychological problem of the society. Still in the modern conditions its efficiency is not too high which dictates the necessity of its additional amendments.

Conclusion

Having individuals' health as an object of its protection, the criminal law of the Russian Federation affixes the separate element of crime which provides for criminal liability for contamination with a venereal disease, and sets the specific sanction for this action and determines contamination with a venereal disease as a qualifying factor for other crimes elements, which gives the not strong enough restraining effect for the citizens with regard to the prevention of the sexually transmitted
diseases dissemination in Russian, namely connected with limiting the list of illnesses, contamination with which is according to the Article 121 of the Criminal Code of the Russian Federation acknowledged the penal act.

Under the current conditions it is worth applying the list of illnesses named in the respective section of the tenth revision of the International Illnesses Classificatory used in the Resolution No. 718 of the Government of the Russian Federation. At the same time the respective list envisages illnesses which are transferred not only sexually.

References