

Open Legal Information Space in Russia: Theory and Practice Regionally (on the Example of the Novgorod Region)

Mitina S.I.

Yaroslav-the-Wise Novgorod State University
Veliky Novgorod, Russian Federation
Galina.Antropova@novsu.ru

Isaev I.A.

Kutafin Moscow State Law University (MSAL)
Moscow, Russian Federation
Lab.kigp@msal.ru

Abstract—The article analyzes the problems of formation and development of the legal information space in Russia on the example of the regional experience of the Novgorod Region. Special attention is paid to the analysis of the results of the implementation of the legislation on informational support. The informational support characteristic features of public service are revealed. The authors focus on the problems of involving society in the process of building a national legal system and come to the conclusion that the orientation of the state policy of legal informatization to ensure the interests of subjects who are not endowed with authority should contribute to the formation of an open legal space. The article introduces the materials of the periodical press of the Novgorod Governorate for the first time. Based on the study of publications in the Novgorod Governorate Gazette and Commemorative Books of the Novgorod Governorate of the XIX century, conclusions are drawn about the degree of legal awareness of the population of the Russian province in the context of the Judicial Reform of 1864. The authors describe the historical prerequisites that determined the nature of modern legal informational support processes. Analysis of legislation and law enforcement practice allows us to conclude that the tools of legal informational support are redundant at the present stage, which does not always meet the requirements of relevance and practical significance. The conclusions made by the authors based on the results of the study can be used in law-making and law enforcement practice aimed at improving the efficiency of the work of state bodies in order to ensure the constitutional right of citizens to receive information.

Keywords—legal framework, information, state, civil society, legislation

I. INTRODUCTION

The formation of civil society and the rule of law in Russia are unthinkable without the existence of an open legal information space. To a large extent, the establishment of a dialogue between state bodies and civil society institutions is facilitated by the state's policy in the field of legal informational support, which has received its consolidation in a whole array of normative legal acts, documents, state and presidential programs, and departmental acts. Thus, the Concept of legal informatization of Russia approved by the Decree of the President of the Russian Federation in 1993., defines as one of

its the main goals of legal regulation information and legal support not only for state bodies, but also for individuals. It is precisely the orientation of the state policy of legal informatization to ensure the interests of subjects who are not endowed with authority that should contribute to the formation of an open legal framework, without which the development of civil society institutions is unthinkable.

The need to create an information platform for an open dialogue between society and the state on legal issues is due to the norms of the Constitution of the Russian Federation (Article 29) [5], which provides for the right of citizens to freely receive information that does not constitute a state secret. In turn, the constitutional norm reproduces the generally recognized principles of international law [6].

To date, we can state a fairly high level of regulatory regulation of the process of forming a legal information space accessible to citizens. However, the main body of normative acts is focused on providing legal informatization tools to power subjects. Therefore, the balance of guarantees for the implementation of the constitutional norm in relation to the interests of the state and the interests of society is questionable.

Thus, one of the main tools for creating a single information space is the informatization of law enforcement activities. Its main goals are to provide information and legal resources to all participants in certain legal relations. Since most of the subjects and participants of legal relations are not carriers of power, the question arises about determining the boundaries of providing them with information resources within the framework of law enforcement practice.

The task of forming the legal information space as a part of the modern legal policy of the state is solved on the basis of a clearly defined normative distinction between two spheres: professional law enforcement and general legal implementation. Accordingly, the limits of access to the legal information space are delimited in accordance with the legal status of the subject of legal relations. So the Federal Law of 2011 “On free legal assistance in the Russian Federation”

by state and local authorities. Legal information is reduced to meeting the needs of citizens in state and municipal services and, in part, to general legal education of the population [7]. Legal education is also served by the activity of a specialized Internet portal of legal information, which provides operational data on legal acts issued in the Russian Federation [8]. In addition, the law enforcement practice, which is available to the general public, is reflected in the reports of the heads of law enforcement agencies, reviews of judicial practice posted on the official Internet portals of the judicial authorities.

On the one hand, such an arsenal of means of providing the population with legal information should meet the task of creating an open legal information space necessary for the development of civil society. On the other hand, there is no sense of active involvement of society in the process of building a national legal system. The problem is seen in the narrow focus of segments of the legal information field. There is no direct appeal to the opinion of the public on a particular legal issue. Meanwhile, the goal of building a legal state formulated in the Constitution of the Russian Federation sets the task of forming a high level of legal awareness of the civil collective before society and the state. This means the need to ensure the active involvement of the population in legal practice by expanding the boundaries of the public legal information space.

II. PROBLEM STATEMENT

The problem of correlation between the interests of society and public authorities in the process of forming and using the legal information space is related to the goals of the legislator, who determines the information environment boundaries for certain subjects of legal relations. Today, the issue of the power bureaucracy strategy, which determines the course of development of the state and the legal system, including solving the problem of overcoming certain restrictions in order to achieve the progressive development of society, is debatable in the scientific community [9]. Informatization of public administration is seen by scientists as a manifestation of a new paradigm of the processes of interaction between society and the state. In modern conditions, the state faces the need to form an information policy designed, among other things, to meet the interests of citizens [10]. Thus, the task of combating corruption, which is relevant for civil society, can be solved only with the unhindered implementation of the right of citizens to access information [11]. However, there is a question about the effectiveness of the efforts of the bureaucracy to meet the needs of the population in providing information of a legal nature. Moreover, it is important to understand whether the state is ready to officially expand the boundaries of the legal information space, focusing not only on the task of satisfying citizens with the quality of public and municipal services, but also ensuring freedom of access to a wide range of legal information.

The problem is seen in the combination of the constitutional right of citizens to receive information and the state's interest in protecting it [12].

In fact, this question has been raised by the central authorities throughout the history of the Russian Federation more than once. It was solved quite radically during the Great Reforms of Alexander II in the XIX century. The judicial reform of 1864 put the main task of implementing the principle of openness, transparency of judicial and other legal procedures, although in the scientific literature there is a point

of view that the degree of transparency of law-making and law enforcement practice achieved at that time did not meet the goals of the development of the country's legal system. In particular, only a small part of the decisions of the Senate's cassation departments, circulars, and rulings were subject to publication [13]. Nevertheless, a comparative analysis of historical facts and modern indicators that characterize the openness of the legal information space can allow us to objectively assess the level of availability of legal information today. Regional experience in the dissemination of legal information is particularly important in this regard.

In studies devoted to the analysis of the publicity resource available to the print media in pre-revolutionary Russia, the fact of interest of journalists and the general public to legal topics, from the characteristics of the functioning of state bodies to the description of the state of prisons, is recognized [14].

To resolve the question of the degree of progressive progress of Russian society in ensuring the availability of legal information, in comparison with the XIX century, it is possible by highlighting the most relevant subjects of scientific discussion at the present stage. Thus, the problem of information accessibility of judicial acts is actively debated, for which, according to experts, judges should be directly responsible [15].

Domestic experts also pay attention to the foreign experience of determining the boundaries of freedom of obtaining information and its dissemination. A comparative analysis of historical experience and modern practice is also relevant here. Even in the XVIII-XIX centuries, the transparency of procedural practice was considered by European legal scholars as a product of the natural need of society to obtain legal information [16]. At the same time, the era of digital technologies (XXI century) poses even for the countries of developed democracy the task of clearly defining the boundaries of the independence of the press, access to information in order to prevent illegal actions [17].

At the moment, the most discussed in the scientific literature and topical problems related to the formation of an open legal information space can be considered the definition of the boundaries of transparency of judicial proceedings, investigative practice, and law enforcement in general.

The purpose of this study is to determine the mechanisms of ensuring an open legal information space in Russia, which are determined by historical experience.

III. RESEARCH METHODS

The methodological basis of this study is premised on comparative legal, comparative historical, and systemic methods, as well as an integrated approach to the analysis of the studied legal institutions and the patterns of their development.

The documentary material was studied; the opinions and judgments of experts in the field of theory and history of law were checked, compared and critically evaluated. To identify the historical prerequisites for the formation of an open legal space in Russia, regional experience was studied on the example of the Novgorod Governorate of the XIX century. This made it possible to determine the optimal criteria for assessing the prerequisites for ensuring the implementation of the principle of openness and accessibility of legal information in modern conditions.

Retrospective analysis of the empirical base, including statistical sources (Commemorative Books of the Novgorod Governorate), legislation, materials of mass media of the XIX century (Novgorodskiye Gubernskie Vedomosti/Novgorod Governorate Gazette) and modern times (official websites of state bodies of the Novgorod Region), allows identifying the trends inherent in domestic jurisprudence in determining the boundaries of transparency of legal information.

The synthesis of knowledge about the historical and modern experience of ensuring the legal information availability gives grounds to put forward a number of provisions on methods and means of improving the effectiveness of the mechanism of interaction between society and the state in the progressive development of the domestic legal system.

IV. FINDINGS

Digitalization is currently the main tool for creating a single legal information space on a national scale. This is inevitable in the context of informatization of all spheres of society from politics and law to economics. At the same time, the problem of transferring the dialogue between the authorities and the population to automatic mode is growing.

Assessment of the compliance level of the state authorities intentions in ensuring access of the general population to information on law-making and law enforcement practice with the real state of availability of legal information gives grounds to identify historically determined problems of legal regulation that hinder the formation of the foundations of civil society.

At the regional level, there are programs for the development of information technologies. In 2013, the regional government approved the State Program of the Novgorod Region "Development of innovative and information technologies in the Novgorod region for 2014-2020" [18]. The document states the development of the information society in the Novgorod Region as one of the subprograms. The implementation of the program should lead to a qualitative change in the mechanism of state and municipal administration, the provision of services to citizens and organizations. Today, as part of the digitalization of the municipal sphere, Novgorodians have access to services in the field of social support, education, health care, etc., many of which require legal support. As a result, the question arises about the availability of legal information and the level of development of informatization in the provision of legal services, a significant part of which is associated with the need to directly contact law enforcement agencies.

Official websites of law enforcement agencies, such as the Department of the Ministry of Internal Affairs of the Novgorod Region, contain special sections "For citizens", "Legal information", "Public Services". The range of legal information provided to citizens is quite wide [19]. In addition, law enforcement agencies actively use social media to inform the population. Of course, the arsenal of tools for ensuring dialogue with the population on legal issues is very wide today. However, it is important to understand how the content of the information space provided with modern tools meets the needs of the population.

To compare the level of availability of legal information, we will analyze the content of the main sources of legal information for the population of the Novgorod Governorate in the XIX

century – the Novgorod Governorate Gazette and Commemorative Books of the Novgorod Governorate.

The Statistical Committee of the Novgorod Governorate annually published Commemorative Books, in which, among other information, data on criminal statistics were presented. For example, in the Commemorative Book for 1876, the following information on criminal statistics is provided, accompanied by an analysis of the dynamics by year and type of crimes: "... a comparison of the data shows that in 1874 the number of convicted men under the age of 17 years decreased significantly, namely by 35; the increase in the number of prisoners significantly in age from 51 to 60 years" or "...the number of crimes and offences against the 1873 increased harassment of police and other law – 52; offences against the public improvement, 39; offenses against the rights of nepotism - 64; unauthorized use of another's property by 69; theft and damage of the forest 31. These crimes have decreased most notably: defamation, threats and violence – 230" [20]. The publication of proceedings containing similar statistics was not practiced in the Soviet period, but in the XXI century. It began only in 2012 in connection with the next reform of the Ministry of Internal Affairs.

The publications of the Statistical Committee published information about the personnel of the provincial justice bodies, lists of judicial districts, and schedules of meetings of magistrates.

Information about the material support of judges was publicly available. Since the beginning of the implementation of the Judicial reform in 1864, the official provincial press necessarily published materials explaining the procedure for the introduction of new judicial regulations. Thus, in Issue 49 of the Novgorod Governorate Gazette for 1865, the "Temporary staffs" of the judicial bodies of the districts of the St. Petersburg and Moscow Judicial Chambers were published. Positions were indicated according to the staffing table, as well as the number of officials and annual salaries. For example, senior Chairman of the St. Petersburg trial chamber – 6000 rubles; member of the court – 3500 rubles; Secretary – 1800 rubles; assistant Secretary – 800 rubles; bailiff – 600 rubles; the Prosecutor trial chamber – 5000 rubles; the public Prosecutor – 4000 rubles; Secretary at the Prosecutor – 1500 rubles. [21] the publicity regulation issues of material support of the judiciary in ensuring the participation of the public in the prevention of malfeasance in the justice sector. It is known that before 1864 In Russia, low salaries of officials served as one of the main reasons for bribery, including among judges [22].

Transparency of legal practice became one of the slogans of the Judicial reform of 1864. Governorate Gazette in the first post-reform years regularly published reports from the courtrooms. Open trials allowed the population to satisfy the philistine interest and, at the same time, served as legal education. In some newspaper publications, court procedures are described with the help of educational literature. Special attention was drawn to the work of the jury [23]. Explanations of the procedure for electing jurors and lists of those elected were also regularly published in the press. Especially popular among readers was the section of ads placed on the front page of the newspaper on behalf of judicial and police departments, zemstvo (country council) chiefs, bailiffs. As a rule, was divided on ruble: "stolen things investigation", "wanted" and "the money owner search" Ads attracted the attention of readers

with an almost complete description of the crime or a detailed description of its individual elements [24]. Announcements about the search for criminals were accompanied by a reference to Article 848 of the Statute of Criminal Proceedings, which contained an order to announce announcements in city squares, secular gatherings in villages, as well as to nail them to the doors of police departments and courts.

For comparison, we note that these days such ads are placed on the official websites of law enforcement agencies in the sections "Attention, wanted!". It is obvious that in the XIX century the front page of the main provincial newspaper attracted much more attention than in modern conditions "hidden" ads in the Internet space.

In addition, experts note the current trend of reducing the volume of significant information necessary for further law enforcement practice on the official websites of judicial bodies [25].

The historical and comparative method allows us to identify another advantage of such a means of informing the population of the last century as the central provincial press. Not only the regulations that came into force, but also the explanations of the Ministry of Internal Affairs on their application were subject to mandatory publication. The practice of official interpretation of norms was also actively practiced, the application of which caused difficulties for state bodies and numerous questions from the local population. Such materials were placed on the first pages and came to the reader's attention in the first place, for example: "In one of the governorates, the question arose as to whether, when resolving petitions for exemption from payment of lantern, apartment and underwater duties from buildings rented from the Order of Public Charity, Article 66 of the Charter of Public Charity (Vol.XIII of the Body of Laws) should be applied, according to which all immovable estates in the city belonging to the orders and their institutions are exempt from city duties. ... The Ministry of Internal Affairs has given the local authorities to know that by city duties they should understand, first, the assessment fee and then, in general, all those duties that go to the city treasury, which the city spends on its own needs. Lantern, apartment and underwater fees can in no case be attributed to this type of duty, since the first (lantern) is intended exclusively for reimbursement of the city's lighting costs, and the last two for appeal to the city treasury. ... on this basis, the above article. 66 of the Charter of public charity cannot be applied to such petitions" [26].

It is worth agreeing with the opinion of experts who call the printed publications that have survived to this day an information resource that testifies to the level of development of society [27]. It is obvious that almost two centuries ago, the official provincial press was an active resource for legal education of the population. Moreover, the press maintained a dialogue between authorities of all types and levels on legal issues, which made legal information open to the public.

The century before last cannot "boast" of a variety of tools and resources of informatization, but they were universal and effective. If we turn to the state of the current "tooling", it can cause criticism because of its declarative nature. Thus, official information on the website of the Coordination Council for informatization of the Novgorod Region, designed to ensure the interaction of state authorities and local self-government, as well as public associations in the implementation of the practice

of implementing information technologies, is not posted since 2018.

V. CONCLUSION

A comparative analysis of historical experience and modern practice of ensuring access to legal information for broad segments of the population has revealed a number of problems in the formation of an open legal information space in Russia. First, there is an obvious tendency for the "corporate" interest of state bodies to gradually monopolize the rights to meaningful information. Secondly, the balance of guarantees for the implementation of the constitutional norm providing for the right of citizens to freely receive information is questionable. The task of forming a single legal information space is solved by means of digitalization of public services. This trend is gradually turning the "close" dialogue of the citizen with the authorities into a series of operations within the framework of software. Third, the experience of regional practice suggests the need to review the number and quality of tools, "tools" for informational support of the legal space. The redundancy of bodies and initiatives that do not ultimately find practical application reduces the pace of formation of a single information legal space, takes away material resources.

Historical experience of judiciary reform in 1864 suggests that the legal information space can be created with minimal means, if they are focused on solving problems that are really relevant to society.

Acknowledgments

The research was carried out with the financial support of the RFBR in the framework of the scientific project no. 18-29-16124: "Transformation of law in the context of digital technologies development".

References

- [1] Law of the Russian Federation No. 2124-1 of 27.12.1991 (ed. From 01.03.2020) "Concerning mass media". Retrieved from: http://www.consultant.ru/document/cons_doc_LAW_1511/
- [2] Decree of the President of the Russian Federation No. 966 of June 28, 1993 "The Concept of Legal Informatization of Russia". Retrieved from: <https://base.garant.ru/179311/>
- [3] Federal Law No. 149-FZ of 27.07.2006 On Information, Information Technologies and Information Protection". Retrieved from: <https://base.garant.ru/12148555/>
- [4] Presidential program "Legal informatization of state authorities of the Russian Federation" 1995
- [5] The Constitution of the Russian Federation (adopted by popular vote on December 12, 1993) (as amended). Retrieved from: <https://base.garant.ru/10103000/>
- [6] Universal Declaration of Human Rights. Adopted and proclaimed by the UN General Assembly on December 10, 1948, Article 19, Sbornik dokumentov, M.: Izd. gruppa NORMA-INFRA-M, 1998. pp. 39-44.
- [7] Federal Law No. 324-FZ of 21.11.2011 "Free legal assistance in the Russian Federation". Retrieved from: http://www.consultant.ru/document/cons_doc_LAW_121887/
- [8] Official Internet portal of legal information. Retrieved from: <http://publication.pravo.gov.ru/Help/Index>
- [9] A.V. Starobucev, "Conditions Of Successful Management In Modern Russia", *Politiya*, 2018, vol. 4(91), pp. 70-89. DOI: 10.30570/2078-5089-2018-91-4-70-89
- [10] N.P. Nosova and Ya.S. Budarin, "Formation Of The Legal Model Of Information Security Of Citizens In The Conditions Of The Formation Of A New Paradigm Of Public Administration In The Russian Federation", *Vestnik Tyumenskogo gosudarstvennogo*

- universiteta. Social'no-ekonomicheskie i pravovye issledovaniya. 2018, vol. 4(4), pp. 106-118. DOI: 10.21684/2411-7897-2018-4-4-106-118
- [11] A.V. Putintsev and T.Ch. Sharakshinova, "Mechanisms of Interaction of the State and Civil So-ciety in the Sphere of Anti-corruption Activity in the Light of Implementation of Article 13 of the UN Convention against Corruption in the Russian Legislation", *Journal of Siberian Federal University, Humanities & Social Sciences*, 2016, vol. 2, pp. 510-516. DOI: 10.17516/1997-1370-2016-9-2-510-516.
- [12] Yu.A. Tihomirov, "Legal space: equilibrium and deviations", *Pravo, Zhurnal Vysshej shkoly ekonomiki*, 2017, vol. 4, pp. 4-17. DOI: 10.17323/2072-8166.2017.4.4.17
- [13] K.S. Novikova, "History Of Judicial Practice: From Ancient Russia To The Present", *Rossijskoe gosudarstvovedenie*, 2019, vol. 1, pp. 35-42.
- [14] Yu.B. Kostyakova, "Editorial Article VS Political Commentary: The Formation Of Genres In The Provincial Press (Based On The Materials Of The Newspapers Of The City Of Minusinsk For 1906-1917)", *Voprosy teorii i praktiki zhurnalistiki*, 2020, vol. 9(2), pp. 282-299. DOI: 10.17150/2308-6203.2020.9(2).282-299
- [15] O.V. Dobrovlyanina, "Legal regulation of public judicial proceedings in the Russian criminal trial", *Aktual'nye problemy rossijskogo prava*, 2015, vol. 1(50), pp. 148-154.
- [16] M.S. Kolosovich, "Content And Means Of Ensuring The Transparency Of Legal Proceedings In The Works Of Scientists Of Europe Of The XVIII-XIX Centuries", *Vestnik Nizhegorodskoj akademii MVD Rossii*, 2018, vol. 2(42), pp. 38-43. DOI 10.24411/2078-5356-2018-10005
- [17] K.A. Ivanova and A.A. Stepanov, "Restrictions On Freedom Of Speech In France In The Era Of Digital Technologies", *Pravoprimenenie*, 2019, vol. 3(1), pp. 15-23. DOI 10.24147/2542-1514.2019.3(1).15-23
- [18] Decree of the Government of the Novgorod Region No. 327 of 28.10.2013 "The state program of the Novgorod Region "Development of Innovative and Information Technologies in the Novgorod Region for 2014-2020". Retrieved from: <http://docs.cntd.ru/document/460209193>
- [19] Official website of the Department of the Ministry of Internal Affairs of the Novgorod Region. Retrieved from: https://53.mvd.rf/citizens/Pravovoe_informirovanie
- [20] Commemorative Books of the Novgorod Governorate, 1876, pp. 185-187.
- [21] Novgorod Governorate Gazette, 1865, vol. 49.
- [22] S.I. Mitina, N.A. Sinkevich, V.I. Ogorodnikov, I.Y. Rozhkova and V.V. Lukanin, "Judicial Practice on Official Malfeasance in the Novgorod Province in the 18th Century", *International Journal of Innovative Technology and Exploring Engineering (IJITEE)*, 2019, Vol. 8(12), pp. 4081-4083.
- [23] Novgorod Governorate Gazette, 1868, vol. 3.
- [24] S.I. Mitina, "Publicity As A Principle Of Legal Practice In The Second Half Of The XIX Century (Based On The Materials Of The Novgorod Governorate Gazette And Commemorative Books Of The Novgorod Governorate)", *BENEFICIUM*, 2020, vol. 3(36), pp. 77-85. DOI: [http://doi.org/10.34680/BENEFICIUM.2020.3\(36\).77-85](http://doi.org/10.34680/BENEFICIUM.2020.3(36).77-85).
- [25] T.A. Kalent'eva, "Information Accessibility Of Judicial Acts: Myth Or Reality?", *Vestnik Volzhskogo universiteta imeni V.N.Tatishcheva*, 2018, vol. 2(1), pp. 175-183.
- [26] Novgorod Governorate Gazette, 1865, vol. 45.
- [27] M.S. Maadyr and M.M. Sedip-ool, "Newspaper Fund Of The National Archive Of The Republic Of Tuva", *Novye issledovaniya Tuvy*, 2020, vol. 2, pp. 87-102. DOI: www.doi.org/10.25178/nit.2020.2.6.