

PROHIBITION OF GENDER TRANSITION PROPAGANDA IN RUSSIAN LEGISLATION: CORE PROVISIONS AND PROBLEMS OF LAW ENFORCEMENT**

Galina N. Komkova, Ekaterina N. Toguzaeva

Saratov State University, Saratov, Russia

Article info

Received –

2025 January 10

Accepted –

2025 March 20

Available online –

2025 June 20

Keywords

Prohibition, gender transition propaganda, criteria of prohibited information, legal offense, legal qualification

The subject. Russian state regulation now extends to citizens' lifestyles as a means of safeguarding traditional values.

The purpose of the article is to analyze the legal framework surrounding the ban on gender transition propaganda in Russia and identifies shortcomings in this legal regulation.

The study is based on normative legal acts of the Russian Federation and research papers on this topic by both Russian and foreign scholars. The research methodology includes general and field-specific methods. The authors explored the issues associated with legal formalization of the ban on gender transition propaganda by applying general research methods (comparative legal research), field-specific methods (descriptive analysis, methods of comparative law), and general theoretical analysis methods (comparison, synthesis).

Main results. The research highlights that the concept of "gender transition" is vaguely defined in current Russian legislation, resulting in a lack of uniform interpretation and arbitrary enforcement of the norms prohibiting gender transition propaganda.

Conclusions. The study emphasizes the need to establish criteria for gender transition to regulate the qualification of offenses related to gender transition propaganda. It also recommends amending the current norm in order to define criteria for classifying information as gender transition propaganda. To ensure uniformity in law enforcement practices, it is necessary to establish criteria for classifying information that "could prompt children to desire gender transition". Currently, any information could potentially be perceived as belonging to this category (even kindergarten matinees where male educators dress up in female images, and vice versa, etc.). Information that encourages gender transition could include information about the benefits and painlessness of hormone therapy for gender transition, the advantages of surgical interventions for gender transition, the positive effects following gender transition, explicit calls for gender transition, etc. In the absence of clear criteria, there are concerns that decisions by law enforcement agencies to impose fines or restrict information on particular resources could be based solely based on the subjective views of individual officials regarding the legal category "gender transition." This could lead to potential violations of citizens' rights.

Authors' contribution: Komkova G.N. – concept and design of the study, analysis of the specifics of the legal regulation of the prohibition of propaganda of gender transitioning, implementation of the final version of the article; Toguzaeva E.N. – collection and processing of materials on the legal regulation of the prohibition of propaganda of gender transitioning, analysis of law enforcement practice

Conflict of interest: The authors declare the absence of obvious and potential conflicts of interest related to the publication of this article.

** The research was funded by a grant from the Russian Science Foundation, Project No. 24-28-00386 "Propaganda in Russian Law: Transformational and Institutional Changes", <https://rscf.ru/project/24-28-00386/>.

1. Introduction

Following the adoption of amendments to the Constitution of the Russian Federation in 2020, issues related to the spiritual and moral state of Russian society have become a priority. The adopted state policy, reinforced by Presidential Executive Order No. 809, November 9, 2022, focuses on preserving and strengthening traditional Russian spiritual and moral values. This policy now considers the lifestyle of Russians as an object of legal protection. The Presidential Executive Order characterizes the spread of an immoral lifestyle as a threat posed by destructive ideologies. It also highlights associated risks, including the weakening of family, friendly and other social ties; the devaluation of work and mutual assistance; and the rise of permissiveness, violence, and other negative behaviors¹.

Lifestyle has previously been the subject of scientific law research, more often as an object of criminological [1] and theoretical legal studies [2], but after 2022 the lifestyle of Russians has become a subject of new constitutional and legal conceptualization. Recent scientific studies have begun to consider an individual's lifestyle a constitutional and legal value. Notably, an individual's lifestyle affects social and cultural values of society and the state [3, c.53; 4]. Constitutionally significant aspects of a lifestyle include characteristics that reflect people's spiritual and moral values, as well as their identity and dignity [4, c.14].

The National Security Strategy of the Russian Federation, established by Presidential Executive Order No. 400, February 7, 2021, outlines state objectives to preserve the traditional way of life for our society. These objectives include maintaining the traditional institution of the family, strengthening family relations, and promoting large families.

Lifestyle is a complex concept. Sociologists

and political scientists believe that it encompasses various aspects of human life and activity. Essentially, lifestyle is defined by how people live, the activities they engaged in, and the types of interpersonal interactions that constitute their daily lives [5, c.77]. The ability of individuals to express their identity through gender markers is a valid research interest, particularly in the context of protecting traditional values associated with an individual's lifestyle[6-8]. An important conceptual change in the protection of national interests was the prohibition of gender transition, followed by the prohibition of gender transition propaganda in Russian legislation, which again attracted the attention of researchers in the field of law to the category of "public morality" [9-11].

This research does not aim to analyze the structure of the ban on gender transition. This issue continues to provoke scientific discussions because the viewpoints of medical professionals do not always align directly with what the legal norm currently reflects. However, the opinions of both lawyers and medical professionals on the prohibition of gender transition propaganda are unanimous: this type of propaganda is certainly inherently destructive. It poses a risk of encroaching on traditional values, particularly affecting the institution of marriage and family, which occupy a special place in the framework of traditional values. These institutions are being undermined by imposed transformations and permissiveness [12-14]. This situation has prompted a well-founded call from Russian society for detailed legal regulation in this area. However, to ensure that the prohibition of gender transition propaganda is effective and to avoid mistakes in its qualification, it is crucial to carefully consider its legal structure.

2. Discussion. Risks of legal regulation

Federal Law No. 479-FZ, December 5, 2022, establishes administrative liability for gender transition propaganda. Besides, there is an additional measure that provides for an extrajudicial procedure to add information promoting non-heterosexual relationships and/or sexual orientations, pedophilia, and gender transition in the unified register of prohibited information in

1 On approving the Fundamentals of State Policy to Preserve and Strengthen Traditional Russian Spiritual and Moral Values: Executive Order No. 809 of the President of the Russian Federation, November 9, 2022. In: Collection of the Legislation of the Russian Federation. 2022. No. 46. Art. 7977.

order to block it.

However, the legislator did not define gender transition propaganda as a separate liable offense, unlike the prohibition of pedophilia propaganda, which is regulated under Article 6.21.1 of the Administrative Code of the Russian Federation. Instead, a legislative decision was made to regulate the prohibition of gender transition propaganda within the same norm as the prohibition of propaganda related to non-heterosexual relationships and/or sexual orientations. And in 2024, a prohibition on promoting the refusal to have children was added to it. Apparently, the logical connections between these actions, which form the objective elements of the offense, are often interdependent. Nevertheless, we venture to express an opinion that this decision cannot be effective because combining these types of propaganda does not facilitate the accurate qualification of a criminal offense. Moreover, it can lead to confusion among law enforcement officers regarding the objective elements of the offense and introduce vagueness and ambiguity, contributing to a lack of uniformity in law enforcement practices. For example, we believe that the expression of support for non-heterosexual relationships by an individual should not be conflated with advocacy for gender transition. It is obvious that the amalgamation of these categories in Article 6.21 of the Administrative Code of the Russian Federation is unlikely to motivate law enforcement officers to clarify the objective elements of the offense. Furthermore, it does not aid in differentiating the liabilities of individuals involved in propaganda related to non-heterosexual relationships and those involved in gender transition propaganda.

The validity of these criticisms is demonstrated by the law enforcement practices observed during the short period of time since the law came into effect. For example, under Part 3 of Article 6.21 of the Administrative Code of the Russian Federation, which prohibits the dissemination of propaganda related to non-heterosexual relationships and gender transition on the Internet, it remains mostly unclear which specific actions constitute propaganda of non-heterosexual relationships and which actions encompass

propaganda of gender transition (a male beauty blogger wearing makeup and women's clothes is demonstrating cosmetic products on one of social media networks; a man acting as a woman posted his naked photo on social networks; a resident of Novokuznetsk kept a blog highlighting the lives of same-sex couples, illustrated with their photos, slogans, and graphic images promoting non-heterosexual relationships). It is also challenging to identify actions unrelated to Internet use that could be considered propaganda. For instance, a positive description of same-sex relationships in a print circulation or a street performance by a resident of Primorsky Krai wearing a wig and a dress might be interpreted as propaganda, even though they do not occur online. These instances clearly exemplify criminal offenses classified as violations of the prohibition of non-heterosexual relationships propaganda. However, it is unclear whether they can also be classified as offenses violating the prohibition of gender transition propaganda.

3. Variability of the technical and legal design of prohibition of gender transition propaganda.

Under Article 6.21 of the Administrative Code of the Russian Federation, gender transition propaganda can be expressed through the dissemination of information or the execution of public actions aimed at:

- Promoting the attractiveness of gender transition,
- Imposing information about gender transition that stimulates interest in gender transition.

In addition, promotion of the idea that heterosexual, non-heterosexual relationships and/or sexual orientations hold equal social value can be considered an integral feature of the dissemination of information promoting gender transition, when assessing the specifics of the offense.

Apparently, propaganda actions should always be designed with a specific goal: not merely to convey information to the recipient, but to impose and to shape an idea. This distinction is what sets the provisions of Article 6.21 apart from those of Article 6.21.2 of the Administrative Code of the Russian Federation. The latter regulates administrative liability for dissemination information related to non-heterosexual relationships and/or

sexual orientations among minors. This includes descriptions and images of non-heterosexual relationships and/or sexual orientations, as well as information that could prompt minors to desire gender transition.

Article 6.21 of the Administrative Code of the Russian Federation stipulates increased administrative liability for the same actions when committed among minors, as well as for actions using mass media or information and telecommunication networks (including the Internet). The same increased liability applies to foreign citizens or stateless persons who commit these actions; such individuals can be expelled from the Russian Federation for these offenses. The law grants police and officials from Roskomnadzor the authority to issue administrative offense citations in this category of cases.

Amendments have been made to several laws, including Federal Law No. 436-FZ, December 29, 2010, "On Protection of Children from Information Harmful to their Health and Development"², where information that can prompt children to desire gender transition was included in the information prohibited for distribution among children; Article 5 of Federal Law No. 38-FZ, March 13, 2006, "On Advertising"³ to indicate that advertising should not contain information promoting or demonstrating non-heterosexual relationships and/or sexual orientations, pedophilia, and gender transition; Federal Law No. 124-FZ, July 24, 1998, "On Basic Guarantees of Children's Rights in the Russian Federation"⁴, and other acts.

Evidently, the legislator has established a single norm that addresses both the prohibition of

gender transition propaganda and the prohibition of propaganda related to non-heterosexual relationships and/or sexual orientations. This approach suggests a possible interdependence between these actions. The prohibition of propaganda related to non-heterosexual relationships among minors has been established in Russian legislation for several years. It even became the subject of scrutiny by the Constitutional Court of the Russian Federation, which upheld this normative provision. The Court recognized that the law aligns with the Constitution of the Russian Federation because it aims to protect such constitutionally significant values such as family and childhood, and to prevent harm to the health of minors⁵. The prohibition of gender transition propaganda, however, can be considered a novelty of modern Russian legislation.

Despite this extensive legislative activity, it remains challenging to obtain unambiguous answers to quite logical questions that still arise due to existing legal vagueness and the lack of established law enforcement practices. These questions include:

1) Can information that justifies the possibility of a person changing their gender be considered propaganda if it includes arguments about medical advancements and the opportunities that modern surgery offers?

2) How does propaganda, expressed through the dissemination of information on gender transition, differ from merely disseminating this type of information?

3) Would magazine images of male models wearing makeup or male singers performing with stage makeup be considered gender transition propaganda?

4) Can a social network post containing a photo of an individual, accompanied by text stating this individual has changed their gender, be considered propaganda if the person abstains from expressing their opinion on the event?

5) Can a public speech on the possibility of gender transition in foreign countries, with the

² Federal Law No. 436-FZ, December 29, 2010 "On Protection of Children from Information Harmful to their Health and Development". In: Collection of the Legislation of the Russian Federation. 2011. No. 1. Art. 48.

³ Federal Law No. 38-FZ, March 13, 2006 "On Advertising" In: Collection of the Legislation of the Russian Federation. 2006. No. 12. Art. 1232.

⁴ Federal Law No. 124-FZ, July 24, 1998, "On Basic Guarantees of Children's Rights in the Russian Federation". In: Collection of the Legislation of the Russian Federation. 1998. No. 31. Art. 3802.

⁵ The decision of the Constitutional Court of the Russian Federation of February 5, 2015 "On Approval of the Review of the Practice of the Constitutional Court of the Russian Federation for the Third and Fourth Quarters of 2014" In: Social World. 2015. No. 9, 01.

caveat that it is prohibited in the Russian Federation, be considered propaganda?

6) Can the distribution of printed publications containing positive descriptions of relationships between non-heterosexual characters be considered gender transition propaganda?

These are just a few examples of questions that are likely to receive affirmative answers under current Russian legislation.

According to the statistics from the Ministry of Internal Affairs, which were provided in the explanatory memorandum to the draft of Federal Law No. 369814-8 'On Amendments to the Federal Law "On Acts of Civil Status" and the Federal Law "On the Basics of Public Health Protection in the Russian Federation",' a total of 2,990 people applied for the replacement of their passports due to gender reassignment from 2016 to 2022. The annual breakdown is as follows: 142 in 2016, 131 in 2017, 370 in 2018, 429 in 2019, 428 in 2020, 554 in 2021, and 996 in 2022⁶. There are also opinions suggesting that the increase in passport replacements due to gender reassignment is linked to individuals attempting to abuse their rights or evade duties, such as escaping criminal liability or avoid military service⁷. However, changing one's gender marker does not necessarily exempt a person from military service. If an individual with a military specialty changes their gender marker from male to female in their documents, they can still be drafted as a woman with a military specialty during mobilization.

We believe that not all technical and legal frameworks of the prohibition of gender transition propaganda are correctly constructed. For example, the effectiveness of the technical and

legal measures specified in Part 1 of Article 14 of Federal Law No. 124-FZ, July 24, 1998, "On Basic Guarantees of Children's Rights in the Russian Federation"⁸ is questionable. The law mandates that state authorities of the Russian Federation take measures to protect children from information, propaganda, and agitation that could harm their health, moral, and spiritual development. This includes protecting against national, class, and social intolerance; advertisements of alcoholic beverages, tobacco products, and nicotine-containing products or devices for the consumption of nicotine-containing products; propaganda of social, racial, national, and religious inequality; pornographic content of a sexual nature; information promoting or demonstrating non-heterosexual relationships and/or sexual orientations; information promoting pedophilia; information promoting the refusal to have children; information that could prompt children to desire gender transition; and the distribution of printed materials, audio, and video products that promote violence and cruelty, drug addiction, substance abuse, and antisocial behavior. Obviously, the following provisions require further clarification in this context:

- Information promoting or demonstrating non-heterosexual relationships and/or sexual orientations,
- Information promoting pedophilia,
- Information that could prompt children to desire gender transition.

In the legal provisions related to propaganda, we consider it crucial to focus on such aspects as the purposefulness of actions, the public nature of these actions, the intent to "work for an audience," the potential to promote an immoral lifestyle, and the deliberate awareness of the illegality of propaganda actions. Without these distinctions, the differences between mere information and propaganda become blurred. These distinctions were emphasized by the Constitutional Court of the Russian Federation back in 2014 when it reviewed the constitutionality of Part 1 of Article 6.21 of the Administrative Code of the Russian

⁶ Draft of Federal Law No. 369814-8 'On Amendments to the Federal Law "On Acts of Civil Status" and the Federal Law "On the Basics of Public Health Protection in the Russian Federation"' (as amended by the State Duma of the Federal Assembly of the Russian Federation, text as of May 30, 2023) / The text of the document is provided in accordance with the publication on the website <https://sozd.duma.gov.ru/> as of May 30, 2023

⁷ Bastrykin called transgenders "on paper" scammers - The Rossiyskaya Gazeta (rg.ru) Available at: <https://rg.ru/2023/05/11/bastrykin-nazval-moshennikami-transgenderov-na-bumage.html?ysclid=lycigacnhk21097> Law Enforcement Review 2025, vol. 9, no. 2, pp. 29–39

⁸ Federal Law No. 124-FZ, July 24, 1998, "On Basic Guarantees of Children's Rights in the Russian Federation" In: Collection of the Legislation of the Russian Federation. 1998. No. 31. Art. 3802.

Federation, following a complaint filed by citizens N. A. Alekseev, Y. N. Yevtushenko and D. A. Isakov⁹. The Constitutional Court of the Russian Federation adjudicated this complaint and clarified that minors can be informed about these issues by specialists – such as teachers, doctors, and psychologists – provided that the information is devoid of propaganda characteristics. Specifically, the information must not be aimed at forming preferences related to the choice of non-heterosexual types of sexual identity. It should also offer an individualized approach that takes into account the peculiarities of mental and physiological development of children according to their age and the nature of the specific issue being covered. Thus, the information presented in a neutral (educational, fictional, historical) context is not prohibited. The purpose of an action, its focus on propaganda, and the deliberate awareness of its illegality are significant factors in determining the illegality of such acts.

4. Stages of gender transition and their significance for legal qualification under Article 6.21 of the Administrative Code of the Russian Federation.

It is also crucial to consider the medical aspects of the issue at hand. The ban on gender transition propaganda needs to be examined from a medical perspective for accurate legal qualification. While we will not dwell on the reasons for gender transition, as they have been extensively studied in numerous medical research papers by both Russian[15-16] and foreign authors, it is important to highlight some key findings. For example, foreign studies have often focused on the link between congenital adrenal hyperplasia and a whole range of diseases characterized by enzymatic activity, which are cited as medical indications for gender-affirming surgery [17]. There are also studies that explore disorders of sexual development during the embryonic period, where male characteristics of an embryo are inactive and may linger at an indifferent stage of development

and become phenotypically female[18]. Additionally, there has been research on the specifics of medical care for individuals with severe forms of gender dysphoria, including the availability and transparency of information related to this type of dysphoria [19], as well as to congenital gender defects [20].

For legal qualification, it is essential to determine whether stages of gender transition are important:

- Legal transition, which involves changing necessary identity documents.
- Medical transition, which includes undergoing medical examinations and body modifications such as gender surgery and hormone therapy, with or without surgery to alter a person's sexual characteristics to match their identified gender.
- Social transition, which encompasses dealing with social pressure, socializing in a new gender, and the gender in which the public perceives an individual.

Roskomnadzor has made efforts to clarify the prohibition of gender transition propaganda. On September 1, 2023, an order from Roskomnadzor came into effect, in which the agency attempted to more precisely formulate the criteria for evaluating information whose dissemination is prohibited in the Russian Federation. This order outlined the criteria for evaluating information that promotes non-heterosexual relationships and/or sexual orientations, pedophilia, and gender transition. Although a sufficient number of criteria have been established for identifying information that promotes non-heterosexual relationships and/or sexual orientations, the criteria for identifying information that promotes gender transition are detailed in Paragraphs 3.7 and 3.8 as follows:

“3.7. The presence of information aimed at forming a positive attitude towards gender transition, including information that provides justification or arguments for the possibility to changing one's gender and renouncing their biological gender identity.

3.8. The presence of information about the advantages of gender transition¹⁰.”

⁹ Resolution of the Constitutional Court of the Russian Federation No. 24-P of 23 September 2014 In: Bulletin of the Constitutional Court of the Russian Federation. 2014. No. 6.

¹⁰ Roskomnadzor Order No. 25, February 27, 2023 (as amended on August 11, 2023) “On approval of Criteria for Evaluating Materials and/or Information Necessary for the Federal Service for Supervision of Communications, Law Enforcement Review 2025, vol. 9, no. 2, pp. 29–39

We believe that, considering the amendments to the Federal Law “On the Basics of Public Health Protection in the Russian Federation,” gender transition propaganda specifically refers to information about medical transition, including special hormone therapy and surgical interventions. Article 45.1 – “Prohibition of Gender Transition” – of this Federal Law states: “It is prohibited to carry out medical interventions, including the use of drugs for gender transition, including the formation of primary human and/or secondary sexual characteristics of the other gender”¹¹. Thus, the literal interpretation of this norm suggests that gender transition propaganda should be considered solely in a medical context. This interpretation excludes social transition, leading us to conclude that the actions of a man who changes into a woman’s dress and walks down the street do not constitute a criminal offense qualified as gender transition propaganda. This highlights the necessity to take into account the time, place, the offender’s motives, the audience that was influenced, and the consequences of such actions when determining their illegality.

Considering Article 45.1 of the Federal Law “On the Basics of Public Health Protection in the Russian Federation,” the question arises whether gender transition propaganda includes information

about an individual’s self-awareness of belonging to the opposite gender because being transgender does not necessary involve medical interventions to change one’s gender. According to Article 45.1, the illegal aspects of gender transition are specifically linked to medical interventions. Therefore, if no medical interventions are involved, it may not be appropriate to consider administrative liability for gender transition propaganda under this provision.

5. Conclusions.

- The legal category “gender transition” is of key importance not only for implementing Article 6.21 of the Administrative Code of the Russian Federation in the context of guarantees to protect traditional family values and preserve the traditional way of life for Russian society, but also in other legal contexts. For example, gender transition as a legal fact is significant for invalidating a marriage after a gender reassignment. In one case, at the request of the prosecutor acting in the interests of the Russian Federation and an indefinite circle of persons, the Central District Court of Tyumen invalidated a marriage where one spouse had undergone a gender change¹². Furthermore, in legal studies on the consequences of gender transition in the Russian Federation [21], there is often debate about the need to discuss the possibility of deprivation of parental rights if one of the parents changed their gender identity. This debate suggests that Child Protective Services are required to initiate such proceedings because having a minor reside with a transgender parent is perceived as potentially having a long-term negative influence on the child due to gender transition propaganda. In addition, although Article 141 of the Family Code of the Russian Federation has not been amended to include gender transition as a reason for dissolving adoption, the provisions of Part 2 of Article 141 of the Family Code of the Russian Federation allow the court to dissolve adoption on other grounds that consider the best interests of the child and take into account the child’s opinion.

- To ensure uniformity in law enforcement practices, it is necessary to establish criteria for

Information Technology and Mass Communications to Make Decisions that are the Grounds for Including Domain Names and/or Site Page Indexes in the Information and Telecommunications Network “Internet,” as well as Network Addresses that Allow Identification of Sites in the Information and Telecommunications Network “Internet,” into a Single Automated Information System “Unified Register of Domain Names, Site Page Indexes in the Information and Telecommunications Network “Internet” and Network Addresses that Allow Identification of Sites in the Information and Telecommunications Network “Internet” Containing Information, the Distribution of which is Prohibited in the Russian Federation” (available at: Official Internet Portal of Legal Information <http://pravo.gov.ru>, 04/17/2023).

¹¹ Federal Law No. 323-FZ, November 21, 2011 (as amended on December 25, 2023) “On the Basics of Protecting the Health of Citizens in the Russian Federation” (with amendments and additions, effective from January 5, 2024) In: Collection of the Legislation of the Russian Federation. 2011. No. 48. Art. 6724.

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¹² The court annulled the marriage after one spouse had changed their gender (pravo.ru). Available at: <https://pravo.ru/news/245637/?ysclid=lybhuzu8ah744483449>

classifying information that “could prompt children to desire gender transition.” Currently, any information could potentially be perceived as belonging to this category (even kindergarten matinees where male educators dress up in female images, and vice versa, etc.). In our opinion, information that encourages gender transition could include information about the benefits and painlessness of hormone therapy for gender transition, the advantages of surgical interventions for gender transition, the positive effects following gender transition, explicit calls

for gender transition, etc. In the absence of clear criteria, there are concerns that decisions by law enforcement agencies to impose fines or restrict information on particular resources could be based solely based on the subjective views of individual officials regarding the legal category “gender transition.” This could lead to potential violations of citizens’ rights.

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INFORMATION ABOUT AUTHORS

Galina N. Komkova – Doctor of Law, Professor, Honoured Lawyer of the Russian Federation; Head, Department of Constitutional and Municipal Law *Saratov State University*
83, Astrakhanskaya ul., Saratov, 410012, Russia E-mail: komkova_galina@mail.ru
ORCID: 0000-0002-2572-2443
RSCI SPIN-code: 6705-4035

Ekaterina N. Toguzaeva – PhD in Law, Associate Professor; Head, Department of Civil Law and Procedure *Saratov State University*
83, Astrakhanskaya ul., Saratov, 410012, Russia E-mail: belana1@yandex.ru
ORCID: 0000-0003-4462-677X
RSCI SPIN-code: 9873-7234

BIBLIOGRAPHIC DESCRIPTION

Komkova G.N., Toguzaeva E.N. Prohibition of gender transition propaganda in Russian legislation: core provisions and problems of law enforcement. *Pravoprimerenie = Law Enforcement Review*, 2025, vol. 9, no. 2, pp. 29–39. DOI: 10.52468/2542-1514.2025.9(2).29-39. (In Russ.).

