

PREVENTION OF THE SPREAD OF INFECTIOUS DISEASES AS A GUARANTEE OF CONSTITUTIONAL RIGHTS TO HEALTH PROTECTION AND MEDICAL CARE IN RUSSIA

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The subject of the research is public relations in the sphere of health protection rights, medical care and ensuring sanitary and epidemiological well-being proceedings (in the context of infection safety). The purpose of the research is formulating recommendations for a conceptual solution of the contradictions that have arisen between the public relations that are developing during the period of COVID-19 counteraction and the current regulatory framework.

Research methods: formal-legal, comparative-legal, general philosophical methods (synthesis, analysis, induction, deduction, etc.).

The aim. The article examines the contradictions between the current system of responding to the occurring emergency situations and the established acting procedure and legislative regulation of public relations associated with the COVID-19 spreading counteraction. A proposition has been formulated on the appropriateness of using a specific concept of infectious safety, which correlates but does not duplicate the existing emergency response system.

The main results. It is proposed to call this system a "system for preventing the spread of infectious diseases". Its elements (stages of preventing the spread of infectious diseases) are introduced. It is noted that this system is integrated into the already existing, but unspecified in a sufficient number of legal acts of biological safety statutory regulation. As elements (stages) of the prevention the spread of infectious diseases system it is proposed to consider the prevention of infectious diseases, the elimination of the infectious threat, the restoration of public relations to the state that was in effect at the time of activation the elimination of the infectious threat phase. The content of each stage is reviewed in detail considering new social relations circumstances that are not recognized in the existing emergency prevention system and are not directly affected by it. The abstracts of foreign authors were used, who also note similar problems in public relations of foreign countries (in particular, the United States) in connection with countering the COVID-19 pandemic.

Conclusions. Conceptual conjectures were formulated to resolve the accumulated contradictions between the public relations developing in connection with the COVID-19 pandemic and the existing statutory and administrative institutions in the Russian Federation for the prevention of emergency situations. It is significant to mention that the research is not a comprehensive review on the problem of preventing the spread of infectious diseases, but it provides an additional view on potential ways of solving it. The concept of the prevention the spread of infectious diseases is also opened towards improvement and refinement in future considering new incoming information and legislative innovations.

1. Introduction

Faced with the COVID-19 pandemic, the domestic state system has been seriously tested. At the same time, it seems that many administrative and rule-making problems could have been avoided if the framework and algorithms of necessary actions for the current critical situation had been determined in advance [1, p. 234].

The subject of the study is public relations in the field of rights to health care, medical care and measures to ensure sanitary and epidemiological well-being (in the context of infectious safety). The purpose of the study is to formulate proposals for a conceptual solution to the contradictions that have arisen between the social relations that have developed during the period of countering COVID-19 and the current regulatory framework.

Formally, a state of emergency was not declared on the territory of the Russian Federation, however, in fact, the conditions of the pandemic turned out to be the most difficult and dangerous compared to other anthropogenic challenges, with which the state system of the Russian Federation faced earlier.

The problem under consideration is of a complex interdisciplinary nature; therefore, its solution requires the adoption of several organizational and legal measures in various areas of regulation, including the economic, political, and social spheres [2, p. 35].

One of the basic requirements that directly affects the quality of law enforcement, and, accordingly, the degree of protection of rights, is terminological certainty. Paula Trzaskawka and Joanna Kic-Drgas note that the COVID-19 pandemic served as a catalyst for the development of communications, identified terminological inaccuracies, changed the specifics of the use of existing terms, and contributed to the emergence of a large number of neologisms [3, p. 21].

In this regard, we note that one of these problems is, in our opinion, confusion or identification, as well as a superficial understanding in the rule-making and scientific literature of the category "prevention" in various contexts, which in the field of infectious security has led to confusion

and duplication of functions of state bodies or gaps in state regulation.

We believe that their differentiation and filling with various theoretical content will help to improve the quality of rule-making and the effectiveness of law enforcement.

Starostin S.A. notes that the lack of precise and reasonable concepts in many areas of public administration brings confusion and confusion to the activities of public authorities [4, p. 76]. The need for a clear terminological designation of new and existing legal (and not only) categories is supported by Koretseky D.A. [5]. The importance of the precise use of legal categories and their unambiguous enforcement in a pandemic is also emphasized by Konev S.I. [6, p. 226].

It is worth mentioning that the category "prevention" within the framework of the subject of research, we use abstractly from the usual criminal law and administrative law sciences "prevention and prevention of offenses (crimes)" [7, 8, 9] and put into them, first of all, the issues of delineation of competencies between state bodies, the federal center and subjects, municipalities, as well as the sequence and list of actions of the relevant bodies.

At the same time, we are in solidarity with the position of Kozhukhovskiy E.S., who noted that from the point of view of the semantic component, the most general category in comparison with "warning", "prevention", is the category of "prevention", and "prevention" is part of it [10, p. 55].

Decree of the President of the Russian Federation of March 11, 2019 No. 97 "On the Fundamentals of the State Policy of the Russian Federation in the field of ensuring chemical and biological safety for the period up to 2025 and beyond" uses the category "prevention" in the context of protection against biological threats (see. paragraph 2 of section I General provisions)¹, and "prevention" is a special narrow activity, part of the

¹ On the Fundamentals of the State Policy of the Russian Federation in the field of ensuring chemical and biological safety for the period up to 2025 and beyond. Decree of the President of the Russian Federation of March 11, 2019 No. 97.

general "prevention". Similarly, these categories are applied in the Federal Law of December 30, 2020 No. 492-FL "On Biological Safety in the Russian Federation"²(hereinafter - Law No. 492-FL). The distinction between the categories of "prevention" and "prevention" in Law No. 492-FL can be traced in paragraph 4 of Article 9, in which they are used consistently in the sense of various processes: "prevention and prevention of hazardous man-made activities, including the possible uncontrolled use of genetic materials and technology synthetic biology.

However, even in the above-mentioned acts there is no clear terminological and procedural distinction between the categories under consideration, and only from the context and in comparison can one assume that they mean different activities and functions.

We will use these categories in the context of building a system for protecting the population and the state from the spread of infectious diseases (hereinafter referred to as protection against infectious diseases). At the same time, we believe that protection against infectious diseases can be considered one of the elements of the overall system of biological safety in the understanding of Onishchenko G.G., Popova A.Yu., Toporkova V.P. and others. These authors understand biological safety as "the protection of the population (individual, society, state) from direct and / or indirect through the environment (production, socio-economic, geopolitical spheres, ecological system) the harmful effects of hazardous biological factors" [11, With. 7].

So, we consider it appropriate to consider the prevention of infectious diseases as the main generic category, covering the entire process of protection against infectious diseases.

It is the category of "prevention" that includes all stages of protection against infectious diseases and can be fixed as a specific function of a state body, and split into narrow sequential phases - categories of protection against infectious diseases. The "stages" of the development of a negative phenomenon are also noted in relation to

the development of any other emergency situations [12, p. 45].

Each element of the system of protection against infectious diseases should be fully included in the overall structure of the system and based on internal necessary and sufficient relationships that reflect objective social relations arising in connection with countering infectious threats, including taking into account the specifics that arise at various territorial and departmental levels. [2 and others].

2. Prevention of infectious diseases

The first element of the concept of protection against infectious diseases, we believe it is appropriate to consider the prevention of infectious diseases (hereinafter referred to as prevention). It is aimed at creating sufficient epidemiological resources for the population, which would make it possible to reduce the number of infectious threats in advance and increase the population's protection from them. Under the infectious threat (danger), we mean, by analogy with a biological threat in the terminology of Law No. 492-FL, the presence of potentially dangerous infectious objects, as well as the presence of internal (located on the territory of the Russian Federation) and external (located outside the territory of the Russian Federation) dangerous infectious factors that can lead to the emergence and (or) spread of diseases with the development of epidemics, epizootics, epiphytoses, mass poisonings, exceeding the acceptable level of infectious risk. Interpretations of biological risk, acceptable biological risk, biological protection, etc. in the terminology of Law No. 492 - FL, we believe, in this context are also universal and applicable in relation to infectious risk, acceptable infectious risk, infectious protection, infectious safety, dangerous infectious factors.

We believe it is advisable to include in prevention the monitoring of the state of dangerous infectious factors and the active actions of state bodies to prevent their development into infectious risks and infectious threats, carried out on a regular, ongoing basis.

In this context, I would like to express special support for the position of Gutarev S.V. [13], who systematized in his work the possible needs for special software and information support for

² On biological safety in the Russian Federation Federal Law No. 492-FL of December 30, 2020.

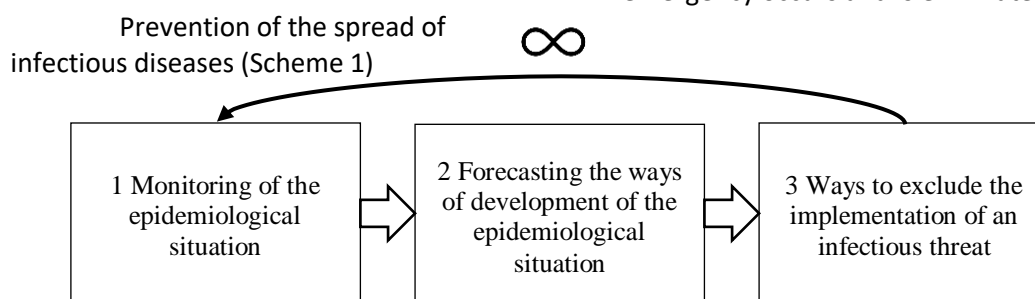
decision-making in an emergency.

Active actions of state bodies in the framework of prevention should include the expansion of social programs, programs to promote a healthy lifestyle, and increase the availability of medical care.

It is important to note that the active actions of state bodies to prevent infectious threats should be directly based on the results of monitoring the state of infectious threats, and the monitoring itself should dynamically consider changes in the specifics of active actions to prevent infectious threats. The need for regular adjustment of measures taken to combat, for example, coronavirus based on data obtained as part of monitoring the epidemiological situation, is also supported by Varlamova N.V. [14, p. 24].

It is important to note that all the elements of the prevention of infectious diseases that we are considering are constantly in interaction and can be active. Their differentiation is necessary for a clear separation of the functions of state bodies and planning of well-coordinated work in the event of an infectious threat.

Thus, the prevention of the spread of infectious diseases consists in monitoring the epidemiological situation, predicting the development of the epidemiological situation based on monitoring, taking measures by the authorized bodies aimed at reducing infectious risks and eliminating the likelihood of the emergence and implementation of an infectious threat. These stages are implemented on an ongoing basis, adjusting the new interaction based on the incoming objective information (Scheme 1).



In the current terminology of the Federal Law of December 21, 1994 No. 68-FL "On the protection of the population and territories from

natural and man-made emergencies" (hereinafter - Law No. 68 - FL)³ prevention is carried out as a priority in the conditions of the daily activity regime (point "a" of part 6 of article 4.1). However, we note that today the legislation in the field of protecting the population and territories from natural and man-made emergencies does not actually apply to infectious safety or is interpreted rather politically and opportunistically [15]. In this regard, the analogy with the daily mode of operation is not direct.

It is at the prevention stage that the bulk of work should be carried out aimed at identifying infectious risks and infectious threats (hazards), as well as formulating acceptable levels of infectious risks and response plans. These plans should be aimed at minimizing the risks of transition in the special conditions of the pandemic to "manual control" in the terminology of M.A. Gromov [16, p. 38]. We also agree with Khalil D.D., who notes the importance of the initiatives of the business community during the period of countering the new coronavirus infection [17].

3 Eliminate the infectious threat

The second element (stage) of the infectious disease prevention system is the elimination of an infectious threat (hereinafter referred to as the elimination of IS).

By approximate analogy with the regimes under Law No. 68 - FL, the stage of eliminating the IU is equal to the stage of an emergency. In accordance with subparagraph "c" of part 6 of article 4.1 of Law No. 68-FL, the transition of the functioning of the governing bodies and forces of the unified state system for preventing and eliminating emergencies into an emergency mode is carried out when an emergency occurs and is eliminated.

³ On the protection of the population and territories from emergency situations of natural and man-made character Federal Law No. 68-FL of December 21, 1994.

As Ilyichev I.E. notes, the existing system of classification of emergency situations in the Russian Federation, approved by the Decree of the Government of the Russian Federation dated May 21, 2007 No. 304 "On the classification of emergency situations of natural and man-made nature"⁴ "does not give an idea of the spectrum of causes and conditions for the occurrence of emergency situations, the variety of their forms..." [18, p. 8]. We believe that it would be expedient, in case of finalizing legislation in the field of emergency situations, to provide for a special classification with appropriate response measures for infectious threats.

At the stage of elimination of IU, the main goal should be achieved - infectious safety should return within the limits of acceptable infectious risk - the level of infectious risk at which conditions are provided for protecting the population and protecting the environment from the effects of dangerous infectious factors, including through the implementation of the state of its functions coercion and violence (with its inherent risks) [19, p. 6]. For example, it is important to determine the features of the work of the departments of the Ministry of Internal Affairs in terms of protecting public order [20, p.19].

As Pekshev A.V. notes, the COVID-19 pandemic has shown the previously underestimated importance of having a well-developed system of both vertical and horizontal feedback in government agencies and other organizations involved in the fight against the pandemic [21, p. 76].

The use of modern state information systems and other information systems is becoming highly relevant. So, for example, Shakhnazarov B.A. [22, c. 80] notes a significant increase in the interest of media corporations in the use of artificial intelligence technologies in biotechnologies, including the example of deciphering the genomes of COVID-19 strains. We believe that this approach is extremely promising in terms of the overall increase in the duration and

quality of life. The relevance of the use of modern technologies in the context of medicine is also confirmed by the developments of the Alliance for legal developments in the field of the genome "LeGenDA"⁵. At the same time, it is important to keep in mind the risks posed by the use of artificial intelligence in the study of personal data of individuals and correlate them with the expected positive effects for the whole society [23, p. 747]. Additionally, it is worth noting the high importance of digitalization of the law enforcement sphere, in particular, legal proceedings [24].

We emphasize that it is incorrect to refer to its "novelty", "unpredictability", etc. in the conditions of activation of an infectious threat (danger), etc. The mechanism of the emergence and spread of infectious diseases by mankind is well studied, and there is also a wide experience in their prevention. The textbook example was the cessation of the spread of smallpox in Moscow in 1959 [25, p. 136].

We believe that the existing civil defense system was not fully prepared for the conditions of counteracting the spread of an infectious disease. Separate quasi-state formations had to be formed "on the go" [26, p. 173; 27, p. 25]. We believe that the unified state system for the prevention and elimination of emergency situations needs to be improved [25, p. 140].

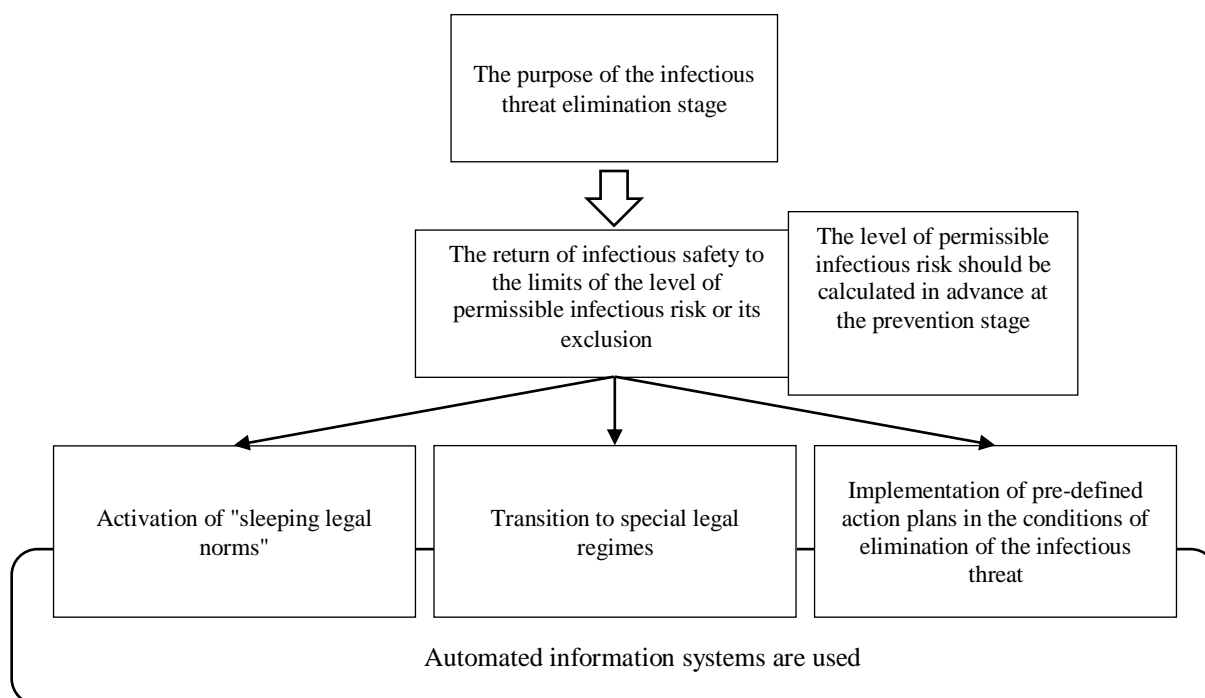
It is worth noting that problems in the distribution of powers between state bodies in the context of a pandemic are also noted in the United States, however, the emphasis is placed on politically incorrect steps, and the responsibility lies with the federal government [28, p. 673].

Thus, the elimination of IA is the second most active stage in the prevention of infectious diseases, which is based on the developments in prevention and the end of which will be either the complete elimination of the infectious threat (danger) or its reduction to the level of acceptable infectious risk (Scheme 2).

Elimination of the infectious threat (Scheme 2)

⁴On the classification of emergency situations of natural and man-made nature Decree of the Government of the Russian Federation dated May 21, 2007 No. 304.

⁵ Electronic resource:
URL:<https://www.legendateam.com/> (accessed 25.01.2022).



4 Restoring public relations

The third and final element of the infectious disease prevention system is the restoration of social relations to the state that was in effect at the time of activation of the IU elimination stage (hereinafter referred to as the restoration stage).

The recovery stage is associated with the prevention stage, however, unlike prevention, the recovery stage does not monitor the future infectious threat, but monitors the state of public relations after the cessation of the infectious threat that has already arisen and eliminated. The purpose of the restoration stage is to compensate for the damage caused by the threat, restore violated rights, and switch to the "everyday" mode of operation of the authorities.

The end of the recovery phase is associated with the end of the entire cycle of counteracting a specific infectious threat.

At the recovery stage, we believe that a versatile discussion of the problems that have arisen, a comparison of positions is becoming more relevant. Patrycja Dąbrowska-Kłosińska notes that in order to increase confidence in existing medical and management structures in a pandemic, it is advisable to use the method of public debate with the participation of members of the public, experts

and any interested parties [29, p. 1037].

At the same time, even considering the admission of free discussions about the means of combating infectious threats, the issue of choosing means of counteracting persons who, in principle, deny infectious threats for one reason or another, remains relevant. It seems that this contradiction between the liberal values of the rights of an individual (including the right to freedom of speech) and the interests of society should be comprehensively comprehended in the near future.

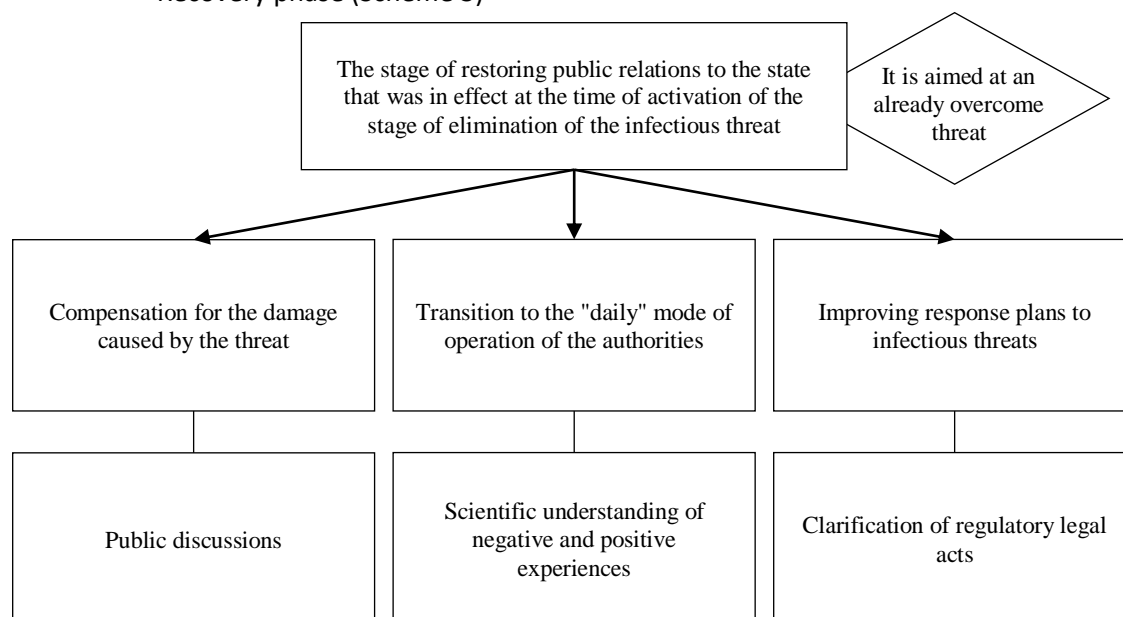
The denial of infectious threats becomes much more dangerous when it is implemented at the government level. James G. Hodge, Jr. et al. note that the governments of individual states in the United States have actually canceled any generally recognized anti-epidemiological measures, thereby exposing the unprotected population to even greater risks of infection [30, p. 677]. The authors believe that the current situation is unacceptable and, in particular, they propose in such situations to coordinate the actions of authorities from a single (federal) center in a consistent and uniform way.

In turn, within the framework of the discussion on mandatory vaccination, the widespread thesis that mandatory vaccination is possible only if there are "reliable scientific data

confirming the absolute safety and efficacy of the vaccine” [31, p.7] remains unanswered. We believe that in emergency conditions for the elimination of IUs, it is advisable to have regulatory algorithms for accelerating and simplifying procedures that provide for exceptions in clinical trials of vaccines. And in this case, at the recovery stage, it is necessary to analyze the mistakes made and refine these algorithms in order to effectively eliminate future infectious threats (Scheme 3).

the prevention of infectious diseases also increases the guarantees of the high quality of medical care and, accordingly, is a guarantee of the constitutional right to health care and medical care.

Recovery phase (Scheme 3)



5 Conclusion

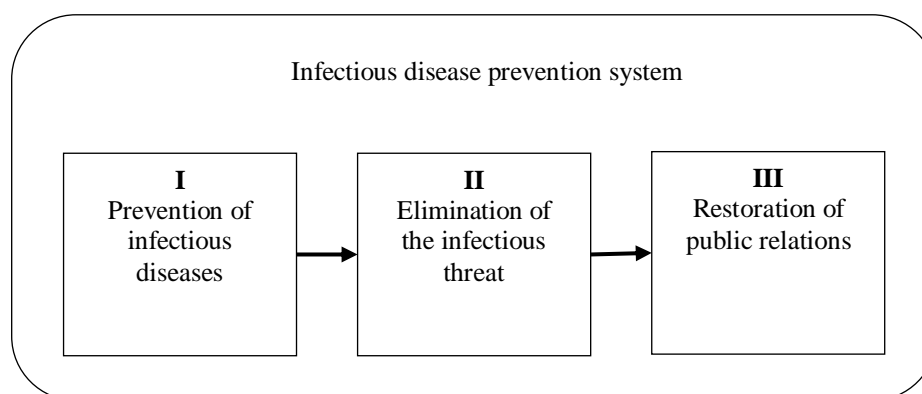
The implementation of the system for the prevention of infectious diseases is aimed at ensuring the implementation of the constitutional rights of the population and at developing the stability of the constitutional and legal status of state bodies, including by clearly delineating their powers and fixing the scope of responsibility in pre-foreseen and planned circumstances.

We believe that if the Russian Federation has a functioning system for the prevention of infectious diseases until the threat of the spread of COVID-19 infection arises, most of the costs, including the “polyphony of state decision-making centers” [21, p. 82] could have been avoided. The main goal of creating and operating such a system is to protect human life, reduce or eliminate the number of human victims. A functioning system for

Thus, in the current circumstances, it is expedient to develop and implement a system for the prevention of infectious diseases in the Russian Federation. As part of this system, it is possible to consider three main elements (stages), reflecting the totality of specific goals at each moment of counteracting an infectious threat (danger) (Scheme 4).

the guarantees of the constitutional rights of the population to health care and medical care in the Russian Federation. The concept of a system for the prevention of infectious diseases develops the provisions of Law No. 68-FL and Law No. 492-FL and is focused on inclusion in the overall system for ensuring the national security of the Russian Federation.

Infectious Disease Prevention System (Scheme 4)



The first element is the prevention of infectious diseases, which includes monitoring the state of the epidemiological situation and active actions of state bodies to prevent the development of infectious risks and infectious threats in it.

The second stage is the elimination of the infectious threat. The most active stage at which the goal is to reduce the infectious threat (danger) to an acceptable infectious risk or its complete elimination.

The third stage is the restoration of public relations to the state that was in effect at the time of the activation of the stage of elimination of the IU. At this stage, the damage caused is compensated, an analysis of positive and negative practices is carried out, and legislation is improved. The stage is aimed at comprehending the experience of countering an already prevented infectious threat (danger).

The listed stages are interconnected and separated in order to form a theoretical model, a concept within which it is possible to distribute the powers of state bodies and formulate consistent science-based plans for responding to infectious threats (hazards).

The main goal of developing a system for the prevention of infectious diseases is to increase

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