

# NOTAS HISTÓRICAS Y GEOGRÁFICAS

## **Artículos**

**HISTORY OF BAR FORMATION AND DEVELOPMENT IN USSR (1917-1991)**

HISTORIA DE LA FORMACIÓN Y EL DESARROLLO DE LOS COLEGIOS EN LA URSS  
(1917-1991)

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### Abstract

The purpose of the article is to study the historical stages in the establishment and development of the Bar in the Soviet Union.

Eight historical periods of judicial administration development were substantiated that allow one to trace the problems during the formation and institutional development of the institution of the Bar that has been associated with the organizational court management up to the 1990s, as well as the evolution of the institution of the Bar. The leading method consists in studying the historiographic periodization of the Bar development and is determined by milestones in the formation and development of the judiciary as a whole and changes in the legislation that regulates the judicial system and judicial proceedings. The enhancement of legitimacy is the most important function of the state that creates the corresponding structures and law enforcement bodies.

**Keywords:** judicial reform, barristers, state, advocacy.

### Resumen

El objetivo del artículo es estudiar las etapas históricas del establecimiento y desarrollo del Colegio de Abogados en la Unión Soviética. Se sustanciaron ocho periodos históricos de desarrollo de la administración judicial que permiten rastrear los problemas durante la formación y desarrollo institucional de la institución del Colegio de Abogados que se ha asociado a la gestión organizativa del tribunal hasta la década de 1990, así como la evolución de la institución. El método líder consiste en estudiar la periodización historiográfica del desarrollo de la Abogacía y está determinado por hitos en la formación y desarrollo del poder judicial en su conjunto y cambios en la legislación que regula el sistema judicial y los procesos judiciales. El fortalecimiento de la legitimidad es la función más importante del estado que crea las estructuras y los cuerpos policiales correspondientes.

**Palabras Clave:** reforma judicial, abogados, estado, defensa

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## 1. INTRODUCTION

The article deals with the issues of historical understanding of the place and role that the institution of Bar holds in the system of protecting the violated human and civil rights and freedoms (on the example of the Western European Bar institution, American Bar institution and Bar institution in the USSR/ Russian Federation).

The history of the Bar goes back centuries. The Bar, which arose in ancient times, is evidence of a highly organized social society in which laws play an exceptional role.

The constitutional and legal status of the Western European Bar institution, international legal regulation of the Bar and the right to receive legal assistance were considered in the works of E. Benedict<sup>1</sup>, I. Bentham<sup>2</sup>, G.J. Berman<sup>3</sup>, P. Vinogradoff<sup>4</sup>, A. Dodek<sup>5</sup>, S. Cooper<sup>6</sup>, A. Mengel<sup>7</sup>, S. Wolf<sup>8</sup>, and others. W. Bryson<sup>9</sup> and R. Walker<sup>10</sup> dedicated their works to the American and English judicial system and the Bar. The essence of the Bar and the advocacy as an institution designed to represent the interests of individuals and private capital was hushed up for a long time in the USSR for political reasons. The lawyer was obliged to "serve socialist justice and the concept of strengthening socialist legality", which turned him into a person in the service of the state and performing certain political functions<sup>11</sup>.

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<sup>1</sup> Benedict, E, The Bar of our time (St. Petersburg: printing house A.G. Rosen, 1910).

<sup>2</sup> Bentham, I., About the judicial system (St. Petersburg: Typography of the Governing Senate, 1860).

<sup>3</sup> Berman, G.J., Western tradition of law: the era of formation (Moscow: Publishing house of Moscow State University, 1998).

<sup>4</sup> Vinogradoff, P., Outlines of historical jurisprudence (Oxford: Oxford University Press, 1923), 744.

<sup>5</sup> Dodek, A., Le privilège du secret professionnel entre l'avocat et son client Défis pour le XXI<sup>e</sup> siècle (Ottawa: Université d'Ottawa, 2011), 10.

<sup>6</sup> Cooper, Sandler, Kaufman & Shime LLP, "Toronto Criminal Law Firm "The Lawyer's Duty of Confidentiality" , (july 2009), [www.criminal-lawyers.ca](http://www.criminal-lawyers.ca) (as of September 10, 2020).

<sup>7</sup> Aria Mengel, Rechtsanwalte in Frankreich (Bonn, 2004), 161–62.

<sup>8</sup> Stefan Wolf, Rechtsanwalte in der Schweiz (Bonn, 2004), 45.

<sup>9</sup> Bryson, W., American Judiciary ( Moscow: Progress, 1992).

<sup>10</sup> Walker, R., English judicial system (Moscow: Legal literature, 1980).

<sup>11</sup> Huskey, E., Russian lawyers and the Soviet state. The origins and development of the Soviet Bar from 1917 to 1939 (Moscow: IGIP RAN, 1993), 45.

Today, in connection with the tendency towards the construction of legal states in the world, the concept of the Bar, its social status are changing in different countries, complex processes of understanding its role are taking place in the legal community itself<sup>12</sup>.

There are currently about 5 million lawyers in the world. This includes approximately 1 million lawyers from the United States, 500-600 thousand lawyers from the European Community, 500 thousand lawyers from India, 350 thousand lawyers from Brazil, and about 2.5 million lawyers from the rest of the world. In general, including Japan, it is possible to say that the more developed a country is, the more lawyers work in it. In recent years, the number of representatives of this profession has significantly increased in the western hemisphere. And if in 1970 only a few law firms had 100 or more lawyers on their staff, now there are about 1,500 megafirms in the world<sup>13</sup>.

The prominent researchers of the early Soviet times include M.M. Isaev<sup>14</sup>, N.V. Krylenko<sup>15</sup>, Ya.N. Brandenburgskii<sup>16</sup>, A.Ya. Vyshinskii<sup>17</sup> and V.I. Yakhontov<sup>18</sup>. Subsequently, A.M. Levin and V.L. Rossels<sup>19</sup> made an impact on studying and improving the institution of judicial protection. During the 1940-60s, K.N. Apraksin<sup>20</sup>, G.A. Ginzburg, A.G. Polyak<sup>21</sup>, P.A. Ognev<sup>22</sup>, V.A. Samsonov<sup>23</sup> and others were studying and developing the foundations of the Bar.

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<sup>12</sup> Zuethem, J., *Rechtsanwälte in den Niederlanden* (Bonn, 2004).

<sup>13</sup> Myllerat, R., "Law and practice", *Juriste International* 2008 (Aug 2008).

<sup>14</sup> Isaev, M.M., *Underground attorneys* (Moscow: Law and Life, 1924).

<sup>15</sup> Krylenko, N.V. and Yakhontov, V.I., *Articles on revolutionary legitimacy* (Moscow: Cooperative publ. society of foreign workers in the USSR, 1926).

<sup>16</sup> Brandenburgskii, Ya.N., "Revolutionary legitimacy, prosecutors and defense attorneys", *Sovetskoe pravo* 2 (1922): 3-16.

<sup>17</sup> Vyshinskii, A.Ya., *Revolutionary legitimacy and the goals of Soviet defense* (Moscow: Redaktsionno-izdatel'skiy sektor Mosoblispolkoma, 1934).

<sup>18</sup> Krylenko, N.V. and Yakhontov, V.I., *Articles on revolutionary legitimacy*.

<sup>19</sup> Levin, A.M., Ognev, P.A. and Rossels, V.L., *Defender in the Soviet court. A guide for defenders*, ed. L.N. Smirnov (Moscow: Gosyurizdat, 1960), 334.

<sup>20</sup> Apraksin, K.N., *Soviet lawyers' speeches on civil and criminal cases* (Moscow: Yurid. lit., 1981), 192.

<sup>21</sup> Ginzburg, G.A., Polyak, A.G. and Samsonov, V.A., *The Soviet attorney* (Moscow: Yuridicheskaya literatura, 1968), 199.

<sup>22</sup> Levin, A.M., Ognev, P.A. and Rossels, V.L., *Defender in the Soviet court*.

<sup>23</sup> Ginzburg G.A., Polyak, A.G. and Samsonov V.A., *The Soviet attorney*.

On 24 Nov. 1917, the Socialist revolution passed the Decree №1 "On court" that abolished all judiciary institutions of the Russian bourgeois state along with barristers and private attorneys. Soviet courts were created by the same Decree. Any untarnished individual of either gender who enjoyed civil rights could become a defender or a prosecutor. The matter of judiciary defense was solved in this manner and there was no specialized organization for defense.

The Decree №1 "On court" passed on 22 Nov. 1917 abolished the Bar. However, at the local level, lawyers refused to acknowledge the abolition and for some time continued to work based on the principles set for barristers and their assistants by the 1864 Judicial regulations. According to the Decree "On court", "all untarnished individuals of either gender who enjoyed civil rights" were allowed to perform the functions of defense in criminal cases and representation in civil cases until the entire judicial procedure is reformed (Art. 3). However, the Decree did not provide for the specific form of judicial defense. The search for the most appropriate form for the new Soviet court had continued for the first five years of the Soviet state<sup>24</sup>.

The Decree №2 "On court" dated 7 Mar. 1918 allowed a defender from the people present at the hearing to take part in the pleadings and entrusted the defense to the bar association. According to the Decree, there were no eligibility criteria to become part of the association, however, the Councils of workers', soldiers', peasants' and Cossack deputies not only elected members of the association but also could challenge the members which made it possible to prevent the people who were hostile towards the Soviet state from taking part in the defense. Apart from the prosecutor and the defender from the bar association, the Decree permitted a prosecutor and a defender from the courtroom to take part in the pleadings<sup>25</sup>.

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<sup>24</sup> Kucherena, A.G., *The role of the Bar in the development of civil society in Russia: a monograph* (Moscow: Penates-Penaty, 2002), 39-40.

<sup>25</sup> Serykh ,A.B., Grudtsina, L.Y., Votinov, A.A., Abramova, N.G., Gaidamashko, I.V. and Morkovkin, D.E., "Algorithm of teacher projecting and training activity in the process of student social-right culture formation", *Astra Salvensis* 52(6) (2018): 329-46.

On 29 Oct. 1924, the Central Executive Committee of the United Soviet Socialist Republic (USSR) adopted the Fundamental principles of court organization of the Soviet Union and Union Republics. According to Art. 17 of the Principles, bar associations were established based on independent reinforcement under the control of the governorate (regional) executive committees based on a special provision, the general principles of which are set by the all-union legislation. However, there had been no all-federative regulation on the bar association at the time, and the association's activities were regulated by the republican legislation. The Provision on court organization in the Russian Soviet Federative Socialist Republic (RSFSR) passed on 19 Nov. 1926 that confirmed the previously set status of bar associations specified that the associations operated under the direct supervision of regional, governorate and district courts. Moreover, even though the new Provision contained the rule that specified that the number of association members was not limited, in actual practice, events unfolded differently as determined by life itself. On 29 Jun. 1928, the collegium of the People's Commissariat for Justice of the RSFSR allowed governorate and district courts that had bar associations to limit the number of association members based on the population of the corresponding territory and the number of court cases. After the Provision on court organization in the RSFSR, similar provisions were passed in other Union Republics that largely repeated the all-federal Provision and departed from the legislation only on certain matters of association organization.

On 27 Feb. 1932, the collegium of the People's Commissariat for Justice passed the Provision on collective defenders that stipulated the new organization of the bar association. Defender collectives were created in districts and cities and operated under the guidance of the Presidium of regional bar associations and regional courts executed general management and monitoring. These collectives carried out judicial and consulting work, legal propaganda and were meant to increase the level of political and professional knowledge among the population. All requests to provide legal assistance were accepted only through the collective and the assistance fee was deposited to the collective. The Provision confirmed an important condition that ensured the right to defense – the right of every defendant to choose a defense attorney from the members of the association.

Starting from 1936, the situation began to change. Although attorneys were still considered the necessary evil, it was understood that defendants were essential and thus, it was decided to get the bar association under tighter control. To this end, in November, the Department of legal defense was founded at the People's Commissariat for Justice of the USSR. That time marked the start of the active campaign to increase the number of attorneys, primarily from among workers. On 16 Aug. 1939, the USSR Council of Ministers approved the Provision on the bar association. By that time, there were 8,000 attorneys in associations for a population of 191 million people. The Provision stipulated the organization of the bar association in the form of regional, krai and republic associations. The structure of the bar association had remained this way up to the adoption of the Federal Law No. 63-FZ "On Advocate's Activity and the Bar in the Russian Federation" on 31 May 2002. The general management of the lawyers' activities was assigned to the Union-republic People's Commissariat for Justice of the USSR that had some rights in this area including the right to challenge (effectively, the Council of Ministers of the USSR managed the lawyers). The elected Presidium directly controlled the association. The 1962 Provision on the bar association contained the first attempt to grant the association its former independence after the abolition of the association in 1917.

## 2. Methods

The methodological framework of the existing need to study the historical stages of the formation and development of the Soviet Bar includes various research methods. In particular, when studying the system of regulating the activities of the defender associations, the method of comparative study and the statistical method were used. When studying the issues of determining the place and role (social significance and legal status) of the institution of the bar association and lawyers, we used the methods of deduction and analysis. The induction method was used to study the regulation of the activities of legal consultations and bar associations. With the help of generalization and understanding of the general characteristics of these organizational and legal forms, we drew more general systemic conclusions about the direction of development of the Soviet Bar until 1991.



### 3. Results

The chronology of the formation and development of the judicial administration of the Soviet period, as one can see from research, covers the period from October 1917 through the mid-1990s. The model of judicial administration, its former internal culture inherited by the Russian judicial community from the Soviet period, continued and continues to exert significant influence on the mechanisms of functioning of the judicial system and manifest in the behavior stereotypes of judges and heads of courts.

One should not forget that the judiciary was part of the law enforcement system that implemented state policy. There is no doubt that the traditions of the Soviet era will still have a significant impact on the state of the Russian judicial system and its modern development<sup>26</sup>. Therefore, historiographic periodization is determined not only by milestones in the formation and development of judicial administration but also by the changes in the legislation regulating the judicial system and legal proceedings. In view of this, we distinguish the following eight periods of judicial administration development that allow one to trace the problems of the formation and institutional development of judicial administration that had been associated with the organizational management of the courts until the 1990s, as well as the process of its historical evolution into an independent intra-system department in the structures of modern judicial bodies:

*a) the first period – from February to October 1917 (the rule of the Provisional Government).* The fall of the monarchy led to a de facto change in the form of the state and raised the issue of reforming both the judicial system and the judicial administration. It should be noted that in many studies of the Soviet period the legislative activity of the Provisional Government, including the organization of judicial reform, was covered in a somewhat biased or fragmentary manner.

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<sup>26</sup> Zulfugarzade, T.E., Kochneva, L.V., Aleksandrova, N.S., Shulga, T.I., Grudtsina, L.Y. and Nikolaeva, Y.V., “Humanitarian component of professional training as factor of increasing student cultural level”, *Espacios* 39(17) (2018): 23-36.

Meanwhile, this problem is of considerable interest from the perspective of the historical experience of organizing the judicial system, judicial proceedings and judicial administration;

*b) the second period – from October 1917 to 1924 (the Lenin period).* This period is characterized by the implementation of the concept of the Soviet court and judicial administration formulated by V.I. Ulyanov (Lenin) in the early years of Soviet power. The October Socialist Revolution of 1917 led to radical changes in the structure of the Russian state. The judicial system of the czarist rule reformed by the Provisional Government ceased to exist, in its place emerged a new Soviet judicial system that was fundamentally different from the previously existing system of judicial bodies. From the first days of the establishment of Soviet power, the idea of a relatively rapid upbuilding of communism and the dissolution of state and law disappeared. The founder of the Soviet state understood clearly that the proletarian state needed a court as an integral element of single and indivisible state power to settle all kinds of conflicts arising in practice. The assignment of the terminological title "Judicial Power" to Chapter 7 of the Constitution of the Russian Federation showed the importance of the role assigned to the courts. This marked the beginning of the growth of the authority of the courts as government bodies, meant the recognition of the need for those powers that the judicial authorities were meant to exercise independently. The judicial system wherein all courts exercise judicial power was formed from three independent branches of the judiciary, including courts of general jurisdiction, statutory and constitutional courts of federal subjects of the Russian Federation, the Constitutional Court of the Russian Federation and commercial courts;

*c) the third period – from 1924 to 1953 (the Stalin period).* This period is characterized by strict state and party control of the courts and judicial authorities, provision of the courts with direct instructions and guidelines. The main feature of the development of the judicial system and judicial administration is the complete dependence on the socio-political system, subordination to the ideological factor. In 1929 and 1931, extrajudicial (pseudo-judicial) bodies were created at the Joint State Political Directorate (JSPD) under the People's Commissariat of Interior Affairs: the JSPD Special Council, and then "troikas" and "dvoikas" with the powers of the Special Council;

*d) the fourth period – from 1953 to 1964 (the period of decentralization of judicial power and administration).* In the USSR, a gradual dismantling of the Stalinist model of judicial administration is taking place, some independence is given to courts, judicial administration is mainly concentrated in higher judicial bodies. Nevertheless, the selection and placement of personnel in judiciary bodies and other fundamentally important issues of organizing court activities at all levels continue to be carried out through the prism of the personnel policy of the Communist Party. Thus, the inseparability of the judicial system and judicial administration from the communist ideology is also preserved;

*e) the fifth period – from 1964 to 1977 (the revival of the Stalinist administrative command system).* During this historiographic period, judicial administration was again centralized and concentrated mainly in the USSR Ministry of Justice and the Union republics' ministries of justice. At the beginning of the period under study, serious steps were taken to uplift the economy, but all these undertakings were faced with the fact that the formation of new economic relations took place in conditions of dogmatism and bureaucracy, deformation of the structure of production when real incentives were replaced by an equalizing approach, the gradual centralization of resources, incentive funds and tightening pricing policy. In other words, the country again began to slide towards administrative command methods of management and a departmental approach, which led to stagnation and slowdown in the country's development<sup>27</sup>;

*f) the sixth period – from 1977 to 1985 (the pre-Perestroika period).* During the period under investigation, measures were taken in the USSR that were outwardly progressive. In particular, this refers to the adoption of the new Constitution of the USSR in 1977, which for the first time in the Soviet constitutional legislation provided for the right of citizens to appeal against the actions of any officials in court. According to the new USSR Constitution, a law on the Supreme Court of the USSR was adopted in November 1979. By the Decree of the Presidium of the Supreme Soviet of the USSR dated 12 Aug. 1971 "On Amendments and Additions to the Legislation of the USSR in

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<sup>27</sup> Grudtsina, L.Y., Ivanova, S.A., Korotkova, M.V. and Shevchenko, L.I., "The information in civil society", International Journal of Civil Engineering and Technology 9 (August 2018): 1652-63.

Connection with the Formation of the Union-Republic Ministry of Justice of the USSR", the USSR Ministry of Justice the was again entrusted with the organizational management of the judicial bodies of the Union republics and military tribunals<sup>28</sup>. In view of this, the collegia of the Ministry of Justice of the USSR, the ministries of justice of the union and autonomous republics and their local institutions were empowered to hear the reports of the chairmen of the courts on the court work organization;

*g) the seventh period – from 1985 to 1991 (the period of Gorbachev's Perestroika) is characterized by the adoption of legislative acts of the USSR and decisions of the supreme bodies of the Communist Party of the Soviet Union (CPSU), aimed at ensuring the autonomy and independence of judges, on the one hand, and on the other, the inseparability of the judicial system from the communist ideology is again shown. A vivid example of this is the Resolution of the Central Committee of the CPSU "On the further strengthening of socialist legitimacy and law and order, strengthening the protection of the rights and legitimate interests of citizens" dated 20 Nov. 1986, which indicated the impermissibility of interference in the investigation and trial of specific cases. At the same time, the Resolution drew the attention of party committees to the need to "strengthen the political management of law enforcement agencies (including the courts), exercise control over the agencies' activities". This phenomenon was accurately described by V.M. Savitsky, "This internally contradictory and practically impossible requirement – to lead and control without interfering – reflected the traditional style of the CPSU's attitude to the court and law enforcement agencies: to keep the court and the agencies on a tight leash, at the same time, for the sake of basic decency, creating in the eyes of the public the appearance of their autonomy and independence"<sup>29</sup>. Nevertheless, it was during this period that the 1989 USSR Law "On the Status of Judges in the USSR" was first adopted, which laid the foundation for the creation of the first corporate bodies of internal self-government (conferences and qualification collegiums of judges) in the court environment. In the same historical period, there was a change in the style, forms and methods of judicial administration.*

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<sup>28</sup> Yaraya, T.A., Masalimova, A.R., Vasbieva, D.G. and Grudtsina, L.Y., "The development of a training model for the formation of positive attitudes in teachers towards the inclusion of learners with special educational needs into the educational environment", *South African Journal of Education* 38 (2018): 1-9.

<sup>29</sup> Savitskii, V.M., *The single judge in the USSR* (Moscow: Izd-vo IGI AN SSSR, 1978), 61-71.

The country began "The progressive process of freeing people from personal dependence, oppression and suppression which is simultaneously the progress in legal (and state-legal) forms of expression, existence and protection of this developing freedom. This statement fully affected the community of judges"<sup>30</sup>;

*h) the eighth period – from 1991 to 1998 (the period of reform)* was characterized by the beginning of judicial reform, the evolution of judicial administration into an intra-system judicial administration with a plurality of its subjects. This allows one to assess the modern judiciary as a complex social phenomenon that requires efficient management of its constituent institutions. In the judicial system, parallel with the established procedure for hearing cases, there are organizational and managerial relations, the legal nature of which remains poorly researched.

#### 4. Discussion

The significant impact on studying the Soviet Bar was made by Professor A.D. Boikov<sup>31</sup>, Professor Yu.I. Stetsovskii<sup>32</sup>, Candidate of Juridical Sciences I.Yu. Sukharev<sup>33</sup> and American Professor E. Huskey<sup>34</sup> who thoroughly studied various aspects of organization and work of the Bar, its role and place in the state and society.

According to Yu. F. Lubshev, a historical review of the basic principles of the Bar allows considering it not only in statics but also in dynamics. The past of the Bar reveals many important properties of its current position. Using the concrete historical approach to this social phenomenon, one can objectively understand the essence of the Bar in all its completeness and complexity. Therefore, knowledge of its history is a reliable way of understanding the modern Bar<sup>35</sup>.

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<sup>30</sup> Grudtsina, L.Y., Ivanova, S.A., Korotkova, M.V. and Shevchenko, L.I., "The information in civil society".

<sup>31</sup> Boikov, D., The third power in Russia. Book two. The continuation of reforms (Moscow: Yurlitinform, 2002).

<sup>32</sup> Stetsovskii, Yu.I., The lawyer in the criminal process (Moscow: Legal literature, 1972), 160.

<sup>33</sup> Sukharev, Yu.I., "Will the Bar in Russia be strong and independent?", Pravo 4 (1997): 44-5.

<sup>34</sup> Huskey, E., Russian lawyers and the Soviet state.

<sup>35</sup> Lubshev, Yu. F., The Bar in Russia: Textbook, 2nd ed. (Moscow: Profobrazovanie, 2002), 66.

The Bar, like any other social institution, cannot appear immediately and, moreover, in a completely organized form. Its emergence and legal consolidation are stipulated by the gradually increasing objective needs in it. It should be noted that there is an erroneous but deep-rooted opinion that, in comparison with a number of Western countries, such as England, France, and some others, the Bar in Russia has emerged relatively recently – during the implementation of the Judicial Reform of 1864. In fact, the Judicial Reform of 1864 laid the foundations for the sworn advocacy being a competent and self-governing organization of lawyers. In other words, a profession was formed that was characterized by both Western and traditionally Russian features. Here it is possible to agree with the opinion of D. V. Anufriev who believes that the study of the history of the Bar should begin not from the moment of legislative consolidation of “the Bar” in the normative legal acts, but from the period when its main functions (legal representation) were just emerging, being implemented in other forms<sup>36</sup>. When reviewing the period of the Russian Bar development before the Judicial Reform of 1864, the words of Ye. V. Vaskovsky should initially be cited, who, speaking of legal representation as an institution, noted that “similar to all other social institutions, the Bar institution did not appear immediately in a completely organized form, but emerged first in the form of an insignificant embryo, which, under favorable conditions, could develop and flourish, and under unfavorable conditions, could fade and remain in obscurity”<sup>37</sup>. The activities of the lawyers revealed many problematic and painful issues for the Bar itself. The need to reform this institution was obvious<sup>38</sup>. However, the changes took place after the fall of the autocracy. So, in accordance with the Decree of the Council of People's Commissars "On the Court" No. 1 of November 24, 1917, in addition to the sworn advocacy, the institute of the prosecutor's office, departments of criminal investigation and, in general, practically the entire judicial system were abolished<sup>39</sup>.

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<sup>36</sup> Anufriev, D. V., “Advocacy in the Russian Federation: from clumsy work to an integral institution of a democratic state”. Internet project “Advocacy in Russia”, <http://www.advokatus.ru> (as of September 15, 2020)

<sup>37</sup> Vaskovsky, Ye. V., “Essay on the general history of the Bar”, vol. 1, In Organization of the Bar (St. Petersburg: P.P. Soykin's printing house, 1893a), 25-39.

<sup>38</sup> Vaskovsky, Ye. V., The future of the Bar in Russia (St. Petersburg: Martynov, 1893b).

<sup>39</sup> Decree of the Council of People's Commissars "On the Court" (Moscow: State Publishing House of Political Literature, November 24, 1917), No. 4, Art. 50. Code of justice (Moscow: State Publishing House of Political Literature).

And if the majority of legal institutions were to be quickly reorganized on a revolutionary basis, then the replacement for the sworn advocacy was not provided by the legislation. Any *non-impugned* citizen of either gender endowed with civil rights was allowed to act as a representative in the court. In other words, the Bar again became a free profession, which pushed it back in terms of its organizational status to pre-reform (1864) times<sup>40</sup>. In appendix to his book "Criminal court in Russia", published in 1918, N. Davydov quite rightly called such a measure superradical and, moreover, unprepared<sup>41</sup>. The period from November 1917 to May 1922 could be conditionally called the transitional period for the Bar<sup>42</sup>.

The study has established the basic form of organization of the Bar that remained unchanged throughout almost the entire period. The Bar association was organized on the scale of the republic without regional division, krai, region, Moscow and Leningrad. Only in the 1980s, it became possible to create associations without regard to territories. The main link of the Bar association through which legal assistance was provided was legal consultation, to which a specific lawyer was assigned. The February Revolution of 1917 in Russia gave rise to hope for the democratization of Russian society and the Bar association. The Declaration of the Provisional Government on the government's composition and goals dated 3 Mar. 1917 stated, "The Provisional Committee of the members of the State Duma, with the assistance and sympathy of the capital's troops and the population, has now reached such a degree of success over the dark forces of the old regime that the success allows the Committee to proceed with a more durable executive power structure". This Declaration proclaimed a complete and immediate amnesty for all political and religious cases, freedom of speech, press, unions, assembly and strikes, the abolition of all class, confessional and national restrictions.

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<sup>40</sup> Gavrilov, S. N., *The Bar in the Russian Federation: Textbook* (Moscow: Jurisprudentsia, 2000).

<sup>41</sup> Davydov, N., *Criminal court in Russia* (Moscow: Gran', 1918).

<sup>42</sup> It should be noted that many outstanding revolutionaries thoroughly knew the intricacies of the legal profession, since they practiced as lawyers under the old regime. P. Krasikov, N. Krestinsky, P. Stuchka, D. Kursky, and V. I. Lenin himself were the members of the Bar before the revolution. Lenin, after receiving his law degree in St. Petersburg in 1891 at the age of 21, worked without much enthusiasm as a legal assistant in the provincial city of Samara for a year and a half. He led only 10 cases of minor crimes, and in all cases his clients were convicted.

The Great October Socialist Revolution of 1917 and the subsequent dictatorship of the proletariat led to the destruction of the so-called "bourgeois" Bar and its best traditions. Many lawyers were physically destroyed as representatives of a class hostile to the proletariat, others ended up in concentration camps, others who remained out of prison were deprived of the right to appear in courts, and only a few managed to emigrate abroad. The number of lawyers in Russia decreased from 13,000 (in 1917) to 650 (in 1921).

After the Kosygin reforms, due to the increased demand for legal services in the economic sphere, the number of legal advisers working in Soviet enterprises increased significantly. The lawyers, who mainly provided services in the field of the application of economic law (although civil cases usually continued to be heard without the lawyers' participation), such an "invasion" into their domain caused concern. Then, on 23 Dec. 1970 the Central Committee of the CPSU and the Council of Ministers of the SSR issued a joint resolution "On improving legal work in the national economy", which provided for measures for the work of lawyers at the enterprises where there were no permanent legal advisers. Thus, a gap in the legal service was closed. Later, on 8 Dec. 1972, the USSR Ministry of Justice approved a standard contract "On the provision of legal services at enterprises, institutes and other organizations (except for the collective farm) by legal consultations at the bar associations". Exactly one year later, a standard contract was approved that allowed lawyers to provide legal services to collective farms<sup>43</sup>.

In the late 1970s, there was a further development of the issues of legal justification of the Bar as an institution. In Art. 161 of the 1977 USSR Constitution, the Bar was officially recognized as a constitutional body for the first time, and from that moment on it became more and more a "state affair" rather than remained a semi-autonomous and independent profession. At the same time, on 30 Nov. 1979, the All-Union Law and the RSFSR Law "On the Bar" were adopted, and on 20 Nov. 1980 the Regulation on the Bar in the RSFSR was passed.

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<sup>43</sup> Yaraya, T.A., Masalimova, A.R., Vasbieva, D.G. and Grudtsina, L.Y., "The development of a training model for the formation of positive attitudes in teachers towards the inclusion of learners with special educational needs into the educational environment".



These documents clearly defined the new rights and obligations of lawyers, although they did not make fundamental changes to the structure. On the one hand, these documents increased the legitimacy of the Bar, but on the other hand, the laws confirmed the Bar's dependence on the Ministry of Justice of the USSR (RSFSR). Bar associations were viewed as "public organizations" but could be formed only with the approval of local government bodies and the republican Ministry of Justice.

Concluding the review of the Soviet era, it should be noted that for decades the state kept the number of lawyers at a low level (at the rate of 1 lawyer per 13 thousand people), monitored the activities of lawyers by recording cases and monitoring their behavior in the courtroom. In addition to their direct purpose – to provide legal assistance to citizens and organizations – lawyers had to deliver public lectures on socialist legitimacy since their duties included the dissemination of legal knowledge<sup>44</sup>.

## 5. CONCLUSION

Many forms and methods of judicial administration (organizational management of courts), used by the justice institutions, higher courts, collegial judicial bodies, are in demand in modern intra-system management. This once again testifies to the fact that the formation of modern intrasystem judicial administration is rooted in the history of Russia, absorbing everything useful that was in previous historical periods. Thus, there is a return to general democratic values, the modern management theory is enriched.

Properly organized intra-system management in the structures of the judiciary is a powerful tool for both ensuring uniformity of law enforcement practice, eliminating legal uncertainty and forming a judiciary with a common culture, high moral qualities and abilities, as well as appropriate training and qualifications in the field of law.

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<sup>44</sup> Gofshstein, M., "Overview of motions and statements of the RSFSR attorneys," *Sovetskaya yustitsiya* 21 (1989): 31.

## 6. RECOMMENDATIONS

The Law on the Bar that came into force on 1 Jul. 2002 replaced the 1980 Regulation on the Bar in the RSFSR. According to the Law on the Bar, "advocacy is qualified legal assistance provided on a professional basis by persons who have received the status of a lawyer under the procedure prescribed by this Federal Law, to private and legal persons to protect their rights, freedoms and interests, as well as to ensure access to justice" (Part 1 of Art. 1). The Bar (Art. 3) is understood as the professional community of lawyers, which, as an institution of civil society, is not included in the system of state authorities and local self-government bodies, operates based on the principles of legality, independence, self-government, corporate nature and the principle of equal rights for lawyers<sup>45</sup>.

The legislation on the lawyer activity and the Bar is based on the Constitution of the Russian Federation and consists of the Law on the Bar, other federal laws adopted under federal laws, regulatory legal acts of the Government of the Russian Federation and federal executive authorities regulating these activities, as well as those adopted within the powers established by the Law on the Bar, laws and other regulatory legal acts of the federal subjects of the Russian Federation.

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<sup>45</sup> Serykh, A.B., Grudtsina, L.Y., Votinov, A.A., Abramova, N.G., Gaidamashko, I.V. and Morkovkin, D.E., "Algorithm of teacher projecting and training activity in the process of student social-right culture formation".

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