Research article
UDC 340.5
doi: 10.46741/2686-9764.2022.58.2.001

Is There Any Reason to Single Out Penitentiary Law in the System of Russian Law?

ARTEM M. BOBROV
Perm Institute of the Federal Penitentiary Service of Russia, Perm, Russia
Perm State National Research University, Perm, Russia
prepodobnih@mail.ru, https://orcid.org/0000-0001-8904-5181

NATALIA A. MEL'NIKOVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, melnatale@mail.ru, https://orcid.org/0000-0002-3697-4769

Abstract

Introduction. Public relations are partly regulated by law, defined as rules of conduct, generally binding, formally defined, accepted in accordance with the established procedure, and guaranteed by the state. The system of Russian law includes a set of independent branches of law. The internal structure of the system of law has its own regularities, its development is conditioned by objective necessity, changes in legislation and social relations themselves, that is, the subject of regulation. The article considers existence and changes in the Russian system of law in connection with active identification of new branches of law in it by "progressive" researchers. The views available in science on the possibility or impossibility of recognizing penitentiary law as a branch are analyzed, and the etymological meaning of the term "penitentiary" for Russian reality is revealed. It is noted that initially there were prison studies, which gradually transformed into the science of penitentiary law. The *purpose* of the article is to define the content of penitentiary law as one of the directions of scientific research and refute the idea that penitentiary law belongs to the branch of Russian law. The *methodological basis* is formed by general scientific and private scientific (logical-legal, comparative, system-structural, content analysis) methods of cognition of legal reality. *Conclusions:* the article authors come to the conclusion that penitentiary law, as an independent branch, complex branch or sub-branch of penal law, has not been formed, and the attempts to substantiate it are artificial and theoretically untenable. It is necessary to focus legal scholars' efforts on the problems existing

within traditional and established branches of law, and not on artificial replication of new ones. At the same time, in the system of scientific knowledge, penitentiary science is certainly present as a field of study of issues related to the organization and functioning of the Russian penal system of representatives of various branches of law (penal, criminal, administrative, civil law, etc.).

Keywords: branch of law; system of law; administrative law; penitentiary law; penitentiary science; subject and method of legal regulation; penitentiary norms; penitentiary relations; penitential; correctional.

12.00.01 – Theory and history of the law and state; history of the law and state studies.

5.1.1. Theoretical and historical legal sciences.

12.00.14 – Administrative law, administrative process.

5.1.2. Public legal (state legal) sciences.

For citation: Bobrov A.M., Mel'nikova N.A. Is there any reason to single out penitentiary law in the system of Russian law? *Penitentiary Science,* 2022, vol. 16, no. 2 (58), pp. 118–126. doi: 10.46741/2686-9764.2022.58.2.001.

Law is a fundamental and living social phenomenon of objective reality, immanently reflecting state and social reality. Representing an orderly system, it is designed to regulate social relations that develop in various spheres of public life. In the course of historical development of law, its classical branches have been gradually formed: criminal law, administrative law, and civil law. At the same time, the subject of regulating law branches can objectively change; in particular, this applies to the subject of administrative law due to the breadth and diversity of administrative legal relations, increasing role of the protective, human rights function of the branch, and development of administrative justice [13, p. 53; 15, pp. 61–66].

At the same time, it should be noted that formation of the system of law and singling out of its new branches undoubtedly influenced and, obviously, will further influence development of the legal system. As you know, the system of law and the legislative system are not identical concepts. The same can be said about the branch of law and the science of law. However, some authors, unfortunately, do not distinguish between them, thus coming to the erroneous conclusion about formation and existence of new branches of law. For example, this is exactly what happened in one of the last works of K.K. Korablin and A.B. Ostapenko "Development of conceptual foundations of the science of penitentiary (prison) law – prison studies – as an independent branch of Russian criminal law (the second half of the 19th – beginning of the 20th century)" [8, p. 484]. These authors identified the science of penitentiary (prison) law with the branch of law; so, already in the second half of the 19th century it was considered nothing else than an independent branch of Russian criminal law.

In terms of pedagogy, G.F. Shershenevich believe that the huge, ever-increasing material of law does not allow simultaneous study of it without dividing it into parts [31, pp. 513–514]. Over the past decades, all possible branches of law have been designed: advertising law, sports law, transport law, investment law, urban planning law, service law, personnel law, disciplinary law, educational law, digital law, energy law, consumer law, medical law, anti-corruption law, natural resource law, nuclear law, juvenile law, tort law, anti-criminal law, evidentiary law, bioethical law and even law to treat animals, etc. This list can be continued. The analysis of publications in the legal literature over the past two decades alone makes it possible to name more than a hundred new branches of law. Given a huge number of legal institutions in the system of law, it can be concluded that the number of new branches singled out on their basis will only increase in works of "progressive" scientists. What will

remain inside the classical branches of law and how will this contribute to understanding of the system of law as a whole?

Identification of the so-called "militarized" branches of law, such as penitentiary law [5; 23; 33], military law [14; 24], migration law [3; 25; 27], police law [2; 9; 32] is no exception for domestic jurisprudence. At the same time, it is clear that all these names refer meaningfully to the sphere of public administration in the administrative and political sphere, traditionally considered in a special part of administrative law. In addition, in accordance with the previously valid passport of the specialty 12.00.14 – Administrative law, administrative process – these issues are the area of administrative and legal regulation, within which the activities to protect security of the individual, state and society are studied. At present, it is administrative law that mostly divided into new branches or sub-branches. We believe that none of the branches of law cited as an example is today either a branch or even a subbranch of law; moreover, in fact, it is largely pseudoscientific in nature. When training a future professional lawyer, one should always remember about responsibility to society and the state, because a bad lawyer, entangled in the "web" of industry knowledge, is no better than a bad surgeon, amputating or, conversely, sewing the wrong part of the human body. We share the position of the well-known theorist of the state and law N.I. Matuzov that legal nihilism and legal idealism are two sides of the same coin [10, p. 4]. Moreover, the latter is its naive side, without overcoming which the idea of a rule-of-law state is not feasible.

Within the framework of this work, we would like to focus only on the issue of possible distinguishing of "penitentiary law" in the Russian system of law. It is necessary to defend the "honor" of classical branches of law in a reasoned manner. Therefore, in this paper we will consider the etymology of the word "penitentiary", as well as refer to the classical criteria for distinguishing a branch of law – the subject and method of legal regulation.

Formation of a new branch is usually associated with a certain science. Initially, the issues of execution of punishments related to isolation from society were considered within the framework of "prison science", hereinafter referred to as "penitentiary science". According to the pre-revolutionary and Soviet lawyer S.V. Pozdnyshev, penitentiary science is an achievement of modern times [19, p. 7]. The English philanthropist John Howard can rightfully be considered its founder. An invaluable contribution to the development of new science was also made by the English utilitarian philosopher Jeremy Bentham (1748–1832) [34] and one of the followers of the Religious Society of Friends, whose representatives were also called Quakers (from English *quake* – to tremble) William Penny (1644–1718) [35]. According to Quakers, founders of the Philadelphia prison system, the crime is apostasy, and therefore the criminal must be corrected religiously by solitary confinement in prison, called "penitentiary" (from Latin *poenitentiarius* – penitential, correctional) or house of repentance, alone with God and the Bible [19, pp. 7–10]. According to R.A. Romashov, in the context of this understanding, the federal service of punishment execution is translated as "federal penitentiary service" [12, p. 22]. At the same time, as T.N. Demko rightly points out, the term "penitentiary", having become familiar with the execution of criminal punishment, etymologically and by application in the past has other semantic accents [7, p. 135].

In pre-revolutionary Russia, as well as abroad, initially the science of execution of sentences in the form of imprisonment was called "prison studies". Sergei V. Poznyshev used a term "penitentiary science" in his work "Fundamentals of penitentiary science" at the beginning of the 20th century [19, p. 10]. At the same time, there is not a word about "penitentiary law" there. Nothing is said about such a branch of law in a later period. The term "penitentiary science" was initially replaced by the term "science of correctional labor law", and already in modern Russia – by "criminal correctional law". Moreover, the Soviet system for punishment execution, opposed to the bourgeois system, in every possible way avoided using, wherever it was, the concept of "penitentiary". Interest in penitentiary science and penitentiary law reappears in the works of modern legal theorists-representatives of departmental science, as well as criminal and penal law.

Among the most significant and voluminous works at the beginning of the 21st century, the Encyclopedia of penitentiary law is "the first scientific reference publication in domestic and world practice", prepared by 119 authors under the general editorship of R.A. Romashov, substantiating existence of penitentiary law [33, p. 14].

What is penitentiary law in the works of modern authors? It seems that the most appropriate definition of penitentiary law is proposed by R.B. Golovkin. In his opinion, "penitentiary law is a system of legal norms regulating penitentiary relations" [5, p. 25]. However, he does not disclose what penitentiary norms and relations are. In his interpretation, everything is reduced to studying specifics of the impact of penitentiary law on public relations and considering certain aspects of the theory and practice of this process. It is not clear, whether he recognizes penitentiary law as an independent branch of law or its sub-branch, as well as what place this phenomenon occupies in the system of Russian law.

Reflecting on penitentiary law, another well-known representative of the science of penal law V.A. Utkin reduces everything only to discussing concepts of penitentiary institutions, traditionally considered as places of deprivation of liberty (primarily prisons), and the penitentiary system as a system of institutions executing criminal penalties in the form of deprivation of liberty [29, pp. 62–63]. He regards penitentiary law a complex branch of legal knowledge, but *not a branch of law* (emphasis added) and actually identifies it with law of deprivation of liberty. In another work, V.A. Utkin, highlighting socio-political periods of development of the national science of penal law, identifies penitentiary law with penal and correctional labor law [28, p. 70]. R.A. Romashov, for example, does not agree with this approach. In his opinion, the "normative community of penitentiary law, along with norms and institutions of penal law, includes norms of criminal, criminal procedural, constitutional, administrative, civil, labor law and other branches" [20, p. 215]. Here, as can be seen, unfortunately, the trend traditional for Russia has again prevailed: replacement of one name with another (usually borrowed from Western European languages) is considered a means capable of changing the meaningful nature of the concept [23, p. 69].

At the same time, it is worth noting that constitutional law, for example, is included in the normative community of any branches of law, and the legal branches themselves in their "pure form" have never existed and will not exist.

According to S.M. Oganesyan, penitentiary law is a complex branch of Russian law [18, p. 11]. In turn, R.A. Romashov refers penitentiary law to an inter-sectoral normative community [9, p. 41], while not using the concept of complex branch of law. In his opinion, "penitentiary law, in the most general sense of this concept, is a regulatory and protective system that unites legal norms and institutions, which enshrine the rules of possible, proper, unacceptable behavior of subjects of penitentiary relations (penitentiary legal norms), defines fundamental principles and mechanisms for their implementation, establishes incentives for positive behavior and negative responsibility for committing offenses" [22, p. 204].

It should be said that Russian legislation does not have such concepts as "penitentiary law", "penitentiary system", etc. So, identification of penitentiary law as a separate branch is clearly hasty and caused not otherwise than by personal ambitions of some authors, artificially eroding the established and time-tested system of Russian law. To be fair, it should be said that in the Concept for development of the penal system of the Russian Federation for the period up to 2030, approved by the Decree of the Government of the Russian Federation No. 1138-r of April 4, 2021, the term "penitentiary" is used six times. Basically, this term is applied in relation to activities of penitentiary services and penitentiary systems of foreign countries, as well as to international cooperation in the penitentiary sphere. It is obvious that here the meaning of the term "penitentiary" is unambiguous and does not imply other semantic options, otherwise than service for the execution of criminal penalties [7, p. 137].

There is also no academic discipline called "penitentiary law" in departmental educational institutions of the Russian penitentiary system. There was also no such specialty in the new nomenclature of scientific special-

ties for which academic degrees are awarded [16].

The attempt to consider penitentiary law as a sub-branch of penal law should be considered unambiguously erroneous in theoretical terms [4; 24; 26]. The same can be said about the position of Y.A. Golovastova, who believes that in the future, taking into account development of the structure of the branch under study, we can talk about existence of two more sub-branches of penal law: "alternative penitentiary law" and "alternative penal law" [4, p. 87]. It is impossible to agree with these statements. Penal law, in itself, is a relatively small branch of law in terms of volume, which is not independent.

Theoretically, the problem of distinguishing penitentiary law is inextricably linked with the definition of elements of the system of law in general. As is known, the division of law into branches is traditionally based on such objective criteria as a subject and method of legal regulation. According to S.S. Alekseev, a branch of law is characterized by legal originality (a special method of regulation), a specific subject of regulation and structural features [1, p. 131]. Division of law into branches, based on criteria, such as a subject and method of legal regulation, is the most coherent and logical for constructing a system of law. The rejection of this model requires serious reasons and weighty arguments. We share the stance of A.A. Grishkovets that "along with these quite objective criteria, subjective criteria for the formation of branches of law are also known, which, especially recently, are used by modern authors to justify their proposed new branches of law (for example, presence of a codified normative legal act, liability, subjects of law, etc.)" [6, p. 55]. This entails unjustified allocation of a great number of new branches of law. The subject of legal regulation is the primary criterion to single out a branch of law. It is public relations, which, due to their specifics, form special communication systems between legal norms [17, p. 136].

According to R.A. Romashov, the subject of penitentiary law is complex in nature, it unites institutions and relations regulated by norms of various legal branches [9, p. 145]: penitentiary institutions (material and procedural) and penitentiary relations (public and private) or public relations in the field of penitentiary life [4, pp. 48–49].

There arises the question about the specifics and uniqueness of the subject of penitentiary law singled out by some scientists? It seems that there is no specifics in this case. Regulated by norms of law, the relevant public relations relate mainly to constitutional, administrative, criminal, and civil law. Of course, in many ways they are intertwined, but at the same time they remain within their respective established branches.

According to Y.A. Golovastova, the subject of legal regulation of penitentiary law, as a sub-branch of penal law, includes a set of public relations, "which regulate part of the subject of penal law, namely: execution and serving of criminal penalties related to isolation from society; application of means of correction to convicts who are isolated from society; ensuring vital activity of convicts who are isolated from society". The author argues that the "subject of penitentiary law is part of the direction of public relations regulating exclusively execution of criminal penalties related to isolation from society, and outside of it there are norms of penal law regulating execution of criminal penalties not related to isolation from society, and other measures of a criminal-legal nature" [4, pp. 87–90]. This understanding of the subject is extremely week. Currently, these relations are included in the subject of penal law, which is "not overloaded" in comparison with many other established branches of law.

In the fair opinion of S.S. Alekseev, the concept of "subject of legal regulation" covers system-forming factors in a generalized, summary form. With a more detailed analysis of the structure of law, it turns out to be necessary to take a differentiated approach to the circumstances included in the subject of regulation, highlighting, in particular, the content and nature of behavior, position of subjects, objects, conditions for the emergence and functioning of relations, etc. [1, p. 135].

A special method of legal regulation is the second objective criterion for distinguishing a branch of law in the system of law. An independent subject of the branch will form only the kind of public relations that requires a

unique method of regulation. In order to recognize the totality of legal norms as a branch of law, such a qualitatively specific type of public relations is necessary, which in these conditions objectively requires a legal regulatory framework, and above all regulation by means of a special method [1, p. 133]. In penitentiary law, R.A. Romashov considers methods of legal regulation as such: a set of methods used in other branches of law, both imperative (methods of criminal prosecution and justice, authoritative administration, material and procedural legal restriction, etc.) and dispositive (legal support and protection of the rights and legitimate interests of convicts, contractual regulation in the field of educational relations, resocialization and adaptation after release from prison, etc.) [11, p. 48]. Without dwelling on names of the methods, we should note that there is no uniqueness in this criterion either. Having analyzed various points of view on singling out penitentiary law, we come to an unambiguous conclusion that such a branch of law does not exist and cannot exist, since there are no penitentiary relations. At one time, the classic of the theory of law S.S. Alekseev made a correct note that the "really existing types of public relations do not allow the use of various methods, they objectively require only a precisely defined legal method" [1, p. 136].

Conclusions

Thus, there is every reason to unequivocally believe that penitentiary law singled out by some scientists has neither its own subject nor a method of regulation. All proposals for its separation in one form or another in the system of law are reduced to a comprehensive understanding of their content, which simultaneously has both public-legal and private-legal components. This approach, which is very doubtful in terms of its theoretical validity, not only fails to promote development of legal science, but on the contrary, hinders it seriously, since there is no clearly defined the nature of the phenomenon under study. What is more, R.A. Romashov is clearly inconsistent in defining penitentiary law. In one case, penitentiary law, in his opinion, is a regulatory and protective system that unites legal norms and institutions, which enshrine rules of possible, proper, unacceptable behavior of subjects of penitentiary relations (penitentiary legal norms), defines fundamental principles and mechanisms for their implementation, establishes incentives for positive behavior and *negative responsibility for crime commission* (emphasis added) [33, p. 28]. In another case, R.A. Romashov states that "only positive (in terms of legal assessment) forms of communication should be considered as penitentiary legal relations. Illegal relations expressed in offenses are considered as legal facts that cause emergence of protective legal relations in the field of legal responsibility" [23, p. 73]. Distinguishing between penitentiary legal relations and offenses in the penitentiary sphere, R.A. Romashov uses the term "protection-oriented penitentiary legal relations", which result from the fact of a penitentiary offense [21, pp. 47–54]. So, it remains unclear whether the relations arising in the penal enforcement system in connection with illegal acts are penitentiary or they are not included in the subject of penitentiary law?

In conclusion, we would like to note the following. Law is not only a property of the world community, dynamically developing together with the state, but also a fairly conservative social phenomenon. It should not be modified only for the sake of someone's political, ideological, departmental, theoretical and any other dubious, especially pseudoscientific ambitions. Law is a guarantee of civilized relations between people. Without disparaging the cited above authors' contribution to the development of penitentiary science, we believe that neither at present nor in the long term there is any reason to single out "penitentiary law" either as a new branch or even as a sub-branch of law. Inconsistency of this theoretical construction is also confirmed by the fact that representatives of academic and university science of the theory of law and the state do not support the "departmental" concept; moreover, they do not even find it necessary to pay at least minimal attention to it. It seems that it may be possible to consider penitentiary law in the system of law within the framework of public administration in the administrative and political sphere, which is included in a special part of administrative law. It seems reasonable to concentrate

scientific thought, including “departmental” thought, not on endless expansion of branches of law, but on problems existing in classical branches of law. For example, administrative law remains the most unsystematic branch of Russian law, in which even many issues of the general part remain poorly developed. For example, this is the case with administrative legal relations, which remain largely unexplored at the doctrinal level. Within the framework of penal law, it is also important to develop the main provisions related to execution of criminal penalties, but not to replace or mix penal legal relations with administrative legal relations.

REFERENCES

1. Alekseev S.S. Problems of the theory of law: course of lectures. In: *Sobranie sochinenii. V 10 tomakh [+ Spravochnyi tom]. Tom 3* [Collected works. In 10 volumes [+ Reference volume]. Volume 3]. Moscow: Statut, 2010. 781 p. (In Russ.). ISBN 978-5-8354-0672-2.
2. Bel’skii K.S. *Politseiskoe pravo: lektsion. kurs* [Police law: course of lectures]. Moscow: Delo i Servis, 2004. 814 p. ISBN 5-8018-0239-8.
3. Vokuev M.R. *Migratsionnoe pravo sovremennoi Rossii: teoretiko-pravovoi analiz: avtoref. dis. …kand. yurid. nauk* [Migration law of modern Russia: theoretical and legal analysis: Candidate of Sciences (Law) dissertation abstract]. Rostov on Don, 2006. 28 p.
4. Golovastova Yu.A. Penitentiary law as a sub-branch of the criminal-executive law. *Probely v rossiiskom zakonodatel’stve=Gaps in Russian Legislation,* 2018, no. 2, pp. 87–90. (In Russ.).
5. Golovkin R.B. Penitentiary law: some aspects of the theory and practice of its operation. *Rossiiskaya penitentsiarnaya sistema: aktual’nye pravovye i prakticheskie voprosy=Russian Penitentiary System: Current Legal and Practical Issues,* 2014, 1, pp. 25–32. (In Russ.).
6. Grishkovets A.A. On the issue of the so-called “administrative-tort law”. *Vestnik Vserossiiskogo instituta povysheniya kvalifikatsii sotrudnikov Ministerstva vnutrennikh del Rossiiskoi Federatsii=Bulletin of the All-Russian Institute for Advanced Studies of the Ministry of Internal Affairs of Russia,* 2020, no. 1 (53), pp. 54–61. (In Russ.).
7. Demko T.N. Medieval penitentiales and penitentiary service: intersection of meanings. *Prikladnaya yuridicheskaya psikhologiya=Applied Legal Psychology,* 2018, no. 1 (42), pp. 135–144. (In Russ.).
8. Korablin K.K., Ostapenko A.B. Developing the conceptual foundations for the science of penitentiary (prison) law - prison studies - as an independent branch of russian criminal law (second half of the XIX - beginning of the XX century). *Vserossiiskii kriminologicheskii zhurnal=Russian Journal of Criminology,* 2021, vol. 15, no. 4, pp. 484–494. (In Russ.).
9. Matveev S.P. *Politseiskoe pravo: uchebnik dlya vuzov* [Police law: textbook for universities]. Moscow: Yurait, 2021. 269 p. ISBN: 5-5341-4343-6.
10. Matuzov N.I. Legal nihilism and legal idealism as two sides of the “same coin”. *Pravovedenie=Legal Science,* 1994, no. 2, pp. 3–16. (In Russ.).
11. Shestun A.G., Bazunov V.V., Belyakov A.Yu. *Mezhdunarodnye standarty i resheniya Evropeiskogo suda po pravam cheloveka v sisteme penitentsiarnogo prava Rossii* [International standards and decisions of the European Court of Human Rights in the system of penitentiary law of Russia]. Ed. by A.A. Votinova, E.A. Timofeeva. Samara, 2015. 285 p. ISBN 978-5-91612-118-6.
12. Kirillovskaya N.N. *Mezhdunarodnye standarty obrashcheniya s zaklyuchen-nymi pri ispolnenii ugolovnykh nakazanii: monografiya* [International standards for treatment of prisoners when executing criminal penalties: monograph]. Ed. by R.A. Romashov. Vologda: VIPE FSIN Rossii, 2020. 186 s. ISBN 978-5-94991-537-0.
13. Mel’nikova N.A., Zhitkov A.A. Prospects for the development of administrative justice in the Russian Federation. *Vestnik Permskogo instituta FSIN Rossii=Bulletin of the Perm*

Institute of the Federal Penitentiary Service of Russia, 2017, no. 2 (25), pp. 51–57. (In Russ.).
14. Migachev Yu.I., Tikhomirov S.V. *Voennoe pravo: uchebnik* [Military law: textbook]. Moscow: Yurlitinform, 2005. 462 p. ISBN 5-93295-123-0.
15. Nagornykh R.V. Transformation of the subject of administrative law in the conditions of the formation of administrative constitutionalism in modern Russia. In: *Nauchnye trudy. Rossiiskaya akademiya yuridicheskikh nauk* [Scientific Works. Russian Academy of Legal Sciences]. Moscow: Yurist, 2020. Pp. 61–66. (In Russ.).
16. *Ob utverzhdenii nomenklatury nauchnykh spetsial'nostei, po kotorym prisuzhdayutsya uchenye stepeni, i vnesenii izmeneniya v polozhenie o sovete po zashchite dissertatsii na soiskanie uchenoi stepeni kandidata nauk, na soiskanie uchenoi stepeni doktora nauk, utverzhdennoe prikazom Ministerstva obrazova-niya i nauki Rossiiskoi Federatsii ot 10.11.2017 № 1093: prikaz Minobrnauki Rossii ot 24.02.2021 № 118* [On approval of the nomenclature of scientific specialties for which academic degrees are awarded, and amendments to the Regulations on the Council for the defense of dissertations for the degree of Candidate of Sciences, for the degree of Doctor of Sciences, approved by Order of the Ministry of Education and Science of the Russian Federation of November 10, 2017 No. 1093: order of the Ministry of Education of the Russian Federation of February 24, 2021 No. 118]. Available at: http://pravo.gov.ru (accessed December 12, 2021).
17. *Obshchaya teoriya prava i gosudarstva: uchebnik* [General theory of law and state: textbook]. Ed. by V.V. Lazarev. Moscow: Yurist, 1994. 360 p.
18. Oganesyan S.M. *Penitentsiarnaya sistema gosudarstva: istoriko-teoreticheskii i pravovoi analiz: dis.... d-ra. yurid. nauk* [The penitentiary system of the state: historical, theoretical and legal analysis: Doctor of Sciences (Law) dissertation]. Saint Petersburg, 2005. 554 p.
19. Pozdnyshev S.V. *Osnovy penitentsiarnoi nauki* [Fundamentals of penitentiary science]. Moscow: Yuridicheskoe izdatel'stvo Narkomyusta, 1923. 342 p.
20. Romashov R.A. Incentive sanctions in the norms of penitentiary law. *Izvestiya vysshikh uchebnykh zavedenii. Pravovedenie=News of Higher Educational Institutions. Jurisprudence,* 2014, no. 4 (315), pp. 213–224. (In Russ.).
21. Romashov R.A. Theory of penitentiary legal relations. *Vestnik Samarskogo yuridicheskogo instituta=Bulletin of the Samara Law Institute,* 2015, no. 4 (18), pp. 47–54. (In Russ.).
22. Romashov R. A., Tonkov E. N. *Tyur'ma kak "Grad zemnoi"* [Prison as an "earthly city"]. Saint Petersburg: Aleteiya, 2014. 656 p. ISBN 978-5-90670-534-1.
23. Romashov R.A. Penal and penitentiary law: theoretical aspects of understanding and correlation. *Vestnik Samarskogo yuridicheskogo instituta=Bulletin of the Samara Law Institute*, 2015, no. 3. (17), pp. 69–73. (In Russ.).
24. Savenkov A.N., Kudashkin A.V. Military Law: statement of the problem and solutions. *Gosudarstvo i pravo=State and Law,* 2021, no. 4, pp. 7–34. (In Russ.).
25. Spitsnadel V.B. *Genezis ugolovno-ispolnitel'nogo prava v kontekste stanovleniya i evolyutsii penitentsiarnoi sistemy Rossii: avtoref. dis. ... d-ra. yurid. nauk* [Genesis of penal law in the context of the formation and evolution of the Russian penitentiary system: Doctor of Sciences (Law) dissertation abstract]. Saint Petersburg, 2004. 50 p.
26. Stepanov A.V. Migrational law as a new structural formation in the system of law in the Russian Federation: pro et contra (analysis of viewpoints). *Administrativnoe pravo i protsess=Administrative Law and Procedure,* 2014, no. 11, pp. 32–35. (In Russ.).
27. Struchkov N.A. *Kurs ispravitel'no-trudovogo prava: Problemy obshch. chasti* [Course of correctional labor law: problems of general parts]. Moscow: Yuridicheskaya literatura, 1984. 240 p.
28. Utkin V.A. Russian science of penal law: a historical essay. *Ugolovnaya yustitsiya=Russian Journal of Criminal Law,* 2017, no. 9, pp. 69–77. (In Russ.).
29. Utkin V.A. Penitentiary law as "the right for deprivation of liberty". In: *Aktual'nye problemy teorii bor'by s prestupnost'yu i pravoprimenitel'noi praktiki : sbornik nauchnykh*

trudov [Actual problems of the theory of combating crime and law enforcement practice: inter-university collection of scientific works]. Krasnoyarsk, 1998. Pp. 62–63. (In Russ.).
30. Khabrieva T.Ya. *Migratsionnoe pravo: sravnitel'no-pravovoe issledovanie: monografiya* [Migration law: comparative legal research: monograph]. Moscow: IZiSP, 2019. 400 p. ISBN 978-5-9516-0858-1.
31. Shershenevich G.F. *Obshchaya teoriya prava. V 4 tomakh. Tom 1* [General theory of law. In 4 volumes. Volume 1]. Moscow: Izdanie Brat'ev Bashmakovykh, 1910. 805 p.
32. Shpilevskii M.M. *Politseiskoe pravo kak samostoyatel'naya otrasl' pravovedeniya* [Police law as an independent branch of jurisprudence]. Odessa: tipografiya Ul'rikha i Shul'tse, 1875. 196 p.
33. *Entsiklopediya penitentsiarnogo prava* [Encyclopedia of penitentiary law]. Ed. by R. A. Romashov. Samara: Samarskii yuridicheskii institut FSIN Rossii, 2013. 688 p. ISBN 978-5-91612-057-8.
34. Bentham J. *Theorie des peines et des recompenses. Tome 2* [Theory of penalties and rewards. Volume 2], 1811. 368 p. (In French).
34. Penn W. *A collection of the works of William Penn. Volume 2.* London: J. Sowle, 1726. P. 783.

INFORMATION ABOUT THE AUTHORS

Artem M. Bobrov – Candidate of Sciences (Law), Associate Professor, Head of the Department of State and Legal Disciplines of the Perm Institute of the Federal Penitentiary Service of Russia, Perm, Russia, associate professor of the Department of Administrative and Constitutional Law of the Perm State National Research University, Perm, Russia, prepodobnih@mail.ru, https://orcid.org/0000-0001-8904-5181
Natalia A. Mel'nikova – Candidate of Sciences (Law), Associate Professor, associate professor of the Department of Administrative and Legal Disciplines of the Faculty of Law of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, melnatale@mail.ru, https://orcid.org/0000-0002-3697-4769

Received Junuary 27, 2022