



## Organizational and Legal Aspects of the Execution of Life and Long-Term Imprisonment

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### Abstract

*Introduction:* the article is devoted to current problems of legal regulation and organization of the execution of life and long-term imprisonment in modern conditions. The *purpose* of the article is to highlight organizational and legal aspects of the execution of life and long-term imprisonment in the context of tightening the state's punitive policy against persons who have committed qualified crimes of a terrorist nature or organized or participated in armed rebellion. The *methodological basis* of the work is formed by general and private scientific (historical-legal, comparative-legal, descriptive, content analysis) methods of legal reality cognition. The *conclusion* is substantiated that nowadays certain humanization of the execution of life and long-term imprisonment is a global phenomenon. In this regard, the article substantiates the position that legal regulation in the considered segment of the state's punitive policy should provide for an appropriate organizational and legal mechanism for the initial review of sentences no later than twenty-five years after their imposition and regular reviews thereafter. At the same time, legislative criteria and conditions related to the review of sentences should be sufficiently clear and definite, and those sentenced to life imprisonment themselves should have the right to know from the very beginning of serving their sentence what they need to do for a possible decision on their release and under what conditions such release is possible. *Scientific and practical significance* of the work consists in substantiating the provisions that improving legal regulation of the organization of the execution of life and long-term imprisonment is possible by applying the following approach: convicts serve their sentences in strict conditions for the first ten years of imprisonment and perhaps in single special institutions, and then, depending on their behavior, they can be transferred to less restrictive conditions and to other institutions, or are left in special institutions in case of malicious violations of the established procedure for serving a sentence. Such an approach will require solving related organizational and legal tasks in the field of developing a network of special institutions, personnel training and providing other resource support for their functioning.

Keywords: legal regulation; organization; life imprisonment; long-term imprisonment; penal system.

5.1.2. Public law (state law) sciences.

5.1.4. Criminal law sciences.

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### *Introduction*

Life imprisonment as a form of punishment has a long history in Russia. The 1903 Criminal Code provided for both indefinite penal servitude and a term of four to fifteen years. Those sentenced to penal servitude were held in special prisons and worked in harsh conditions both inside and outside institutions. At the end of the term of penal servitude, prisoners were transferred to penal settlements in the relevant regions (paragraphs 16 and 17) [1]. The duration of penal servitude was indicated in years and six months. Those sentenced to indefinite penal servitude had the opportunity to be transferred to penal settlements after fifteen years, provided they behaved well. Also, after ten years of living in the penal settlement, they might be released if their behavior remained positive (paragraphs 22 and 23).

During the Soviet period, criminal law did not provide for life imprisonment. This form of punishment originated in 1993 as an alternative to the death penalty. Article 57 of the Criminal Code of the Russian Federation established a provision according to which life imprisonment could be imposed only instead of the death penalty for particularly serious life-threatening crimes. The court could apply such a measure if it considered it possible not to resort to the death penalty. However, due to the moratorium on the use of the death penalty, this rule was not actually used, and life imprisonment began to be considered as a separate type of punishment for particularly serious crimes against life, including murder (Article 105), attempt on the life of a state or public figure (Article 277), attempt on the life of judges and investigators

(Article. 295), assault on law enforcement officers (Article 317), and genocide (Article 357).

### *Legislative amendments for the execution of life and long-term imprisonment*

Nowadays, the use of life imprisonment as an independent form of punishment has been significantly expanded. Sharing views of modern scientists that “the composition of the crime ... is outlined not in a separate paragraph of the article of the Special Part of the Criminal Code of the Russian Federation, but in its part” [2, p. 107], we conclude that this type of punishment can be applied for thirty-one qualified crimes provided for in articles 105, 131, 132, 134, 205, 206, 210, 211, 228, 229, 275, 277, 279, 281, 295, 317, 357, 361 of the Criminal Code of the Russian Federation.

Identification of life imprisonment as a separate type of punishment determines its wider use in real practice. Nowadays, about two thousand people sentenced to life imprisonment are being held in places of detention, who are housed in six institutions for life convicts and one section for those sentenced to life imprisonment in a correctional facility [3].

The expanded application of life imprisonment to protect the interests of individuals, society and the state from the most serious attacks inevitably leads to an increase in the network of correctional institutions of a special regime. It should also be borne in mind that such a need, along with the growing number of particularly serious terrorism-related crimes, war crimes, crimes against the peace and security of mankind [4], is also conditioned by the increased powers of judicial authorities, which can impose this punishment not as an excep-

tion, but in the usual manner [5]. Thus, changes in legislation have created prerequisites for more active use of this type of punishment. Additional places for the detention of convicts taking into account the specifics of their crimes and the level of threat they pose to the society are required.

Currently, the legal framework for the application of life imprisonment is already quite clearly formed, which makes it possible to more effectively combat the most dangerous attacks on human life, public and state security. The tightening of the punitive policy [6] in this direction is a fully justified response of the state to the growing wave of violence and terrorism on the part of not only domestic criminals, but also international criminal and extremist communities. At a time when hundreds and thousands of innocent people are dying, it is inappropriate to talk about liberalizing punitive policies.

It is important to understand that life imprisonment should not be perceived as completely unconditional. Those convicted for such a period still have the opportunity to be released. In almost all developed countries, there is a procedure for parole after serving a certain time of punishment. The length of the mandatory period to be spent in custody varies from country to country significantly.

Moreover, there are various conditions of release: in some countries, these individuals are first transferred to regular places of punishment, where they are held together with other categories of convicts, and then they are released; in others, they are released immediately and placed under control of the police and special behavior control authorities.

According to Part 5 of Article 79 of the Criminal Code of the Russian Federation, a person serving a life sentence may be released on parole if the court finds that he does not need to continue serving this sentence and has actually served at least twenty-five years in prison. Parole is applied only if the convicted person has no serious violations of the established procedure for serving his sentence during the previous three years. A person who has com-

mitted a new grave or especially grave crime while serving a life sentence is not subject to parole.

It should be emphasized that in Russia the practice of parole in relation of this category of convicts is practically not applied. In addition, on January 8, 2025, amendments to the Criminal Code of the Russian Federation came into force concerning the tightening of the punitive policy against persons who have committed qualified terrorism-related crimes or organized armed rebellion. In particular, the amendments introduced by the Federal Law No. 510-FZ of December 28, 2024 "On Amendments to the Criminal Code of the Russian Federation and the Criminal Procedural Code of the Russian Federation" to Part 5 of Article 79 of the Criminal Code of the Russian Federation excluded the possibility of parole for persons sentenced to life imprisonment for crimes under articles 205, 205.1, 205.3, 205.4, 205.5, 279 and 361 of the Criminal Code of the Russian Federation.

Special studies draw attention to the fact that the provisions of Part 5 of Article 79 of the Criminal Code of the Russian Federation on parole are rarely applied to persons sentenced to life imprisonment on other grounds. For example, as V.F. Grushin notes, "in Russia, for reasons that researchers do not understand people who have already served this term are denied parole. This provision actualizes the issue of changing judicial practice on parole" [7, p. 12].

Thus, the process of holding convicted persons in places of deprivation of liberty of this category will continue indefinitely, which will necessitate further development of a network of specialized institutions designed to keep persons sentenced to life imprisonment.

A forecasted increase in the number of people sentenced to life imprisonment requires the penal system to conduct extensive organizational training and significant management changes. If the forecasts come true, the penitentiary department will have to build new special-regime correctional facilities and solve re-

lated problems [8], primarily financial ones. This includes construction of facilities, as well as providing them with necessary infrastructure, in particular, security systems (including video surveillance, fencing, access control), medical care, nutrition, organization of labor activities for convicts (if any), as well as arrangement of staff facilities and organization of their work in compliance with high security requirements. The most important organizational and legal direction for the creation of new special regime institutions will be their high-tech equipment with surveillance, control, protection, security, etc. Digital technologies in the field of artificial intelligence, big data, augmented reality, and robotics (in the future, even in the field of mind control of convicts, for example, through virtual reality implants) [9; 10] are increasingly being introduced into penitentiary practice.

In turn, the construction of a significant number of special-regime correctional facilities will take a lot of time and appropriate resources. Under these conditions, the Federal Penitentiary Service of Russia will face the need to develop a special program for the deployment of a correctional facility data system, ensure necessary financial, logistical and personnel support for its implementation, as well as to make significant changes and additions to existing regulatory legal acts, for example, the Concept for the Development of the Penal System of the Russian Federation for the Period up to 2030, etc.

In addition, it will be required to train qualified personnel: security guards, medical personnel, psychologists, social workers, specialists who are able to effectively work with particularly dangerous criminals serving life sentences [11]. It will be necessary to work out and implement new methods of working with this category of prisoners with regard to the specifics of their psychological state and potential danger. It may require a review of existing organizational regulations and development of new legal norms governing conditions of serving sentences in special-regime correctional facilities.

Geographical location of new correctional facilities should be taken into account. Their construction should be optimal in terms of transport accessibility, safety and minimizing risks to the population of the surrounding areas. Special attention should be paid to the issues of re-socialization of those sentenced to life imprisonment, although the chances of their successful reintegration into society are extremely low. This requires elaboration of special programs aimed at minimizing recidivism risks and supporting social adaptation even in conditions of life imprisonment. All these aspects require effective administrative and managerial activities on the part of the Federal Penitentiary Service of Russia, significant financial, personnel and other resources. It is also important to conduct a comprehensive analysis of the existing practice of working with those sentenced to life imprisonment in other countries and use the best international experience.

#### *Alternative approaches to the execution of life and long-term imprisonment*

Nowadays, there are various alternative approaches to solving this problem related to changing conditions of serving a sentence of life imprisonment. It makes sense to turn to foreign experience, realizing that its mechanical transfer to Russian reality is impossible, but the concept itself deserves attention. We are talking about the phased serving of life sentences in various institutions, where it is expected that the conditions of isolation and restrictions for this group of convicts will gradually be eased. Those sentenced to life imprisonment, as a rule, spend a certain period in specialized institutions (the duration of this period varies), after which they are transferred to ordinary correctional institutions. There they are held together with other convicts, but some legal restrictions may be stricter than those for the majority of prisoners [12].

In this case, the problem of building special institutions for these categories of convicts will not be as acute as it is today. But such a decision requires not only the state's will to change legislation, but also understanding and sup-

port from the society. In conditions of non-application of the death penalty, harsh conditions of serving sentences for persons sentenced to life imprisonment seem to compensate for the population's dissatisfaction with the process of liberalizing the state's punitive policy towards the most dangerous categories of criminals. The intensity of public indignation against terrorists and serial killers is currently exceptionally high, therefore any spontaneous measures to liberalize conditions of their life imprisonment will be negatively perceived by the society.

Therefore, when deciding on the development of a punitive policy in this direction, it is necessary to carry out certain explanatory work: once a person was granted relief of the death penalty, the state and society took care not only of preserving his life, but also of the necessary conditions for its continuation.

Currently, the maintenance of one person serving a life sentence costs the state significantly more than other categories of convicts (primarily due to provision of isolation and security measures). In this regard, we should agree with V.I. Seliverstov that at the present time "the provisions of criminal and penal legislation that express Russia's policy towards convicts serving life imprisonment should not be ignored. The criminal policy towards those sentenced to life imprisonment is expressed not only in increased criminal law restrictions for these persons, but also in the possibility of their parole after 25 years" [13, p. 195]. At the same time, as the practice of correctional facilities where this category of criminals is held shows, not all of them need strict isolation. There are many people who could well continue to serve their sentences in ordinary correctional facilities of strict or special regimes, waiting there for the expiration of a 25-year term when they can be released on parole. This point of view is also supported by the scientific community [14]. For example, E.N. Kazakova believes that "a twenty-five-year term of possible parole established by law should be the maximum, the minimum

term should be lowered to at least seven years" [15, p. 48].

We believe that in modern conditions it is necessary to consider this idea as a working hypothesis, and the details of its implementation can be the subject of constructive discussion. One possible solution may be the following: a convict spends the first ten years in a specialized high-security correctional facility. If no violations of the rules of serving a sentence are recorded during this period, he can be transferred from ordinary conditions of this institution to a correctional facility of strict or special regime for further serving his sentence in ordinary conditions of these institutions. These can be either correctional facilities or institutions specially organized for this category of people, but it is preferable to keep this category of criminals in ordinary territorial correctional facilities.

So, special regime institutions will maintain three groups of convicts: 1) persons who have committed new crimes while serving life imprisonment; 2) violators of discipline; their transfer to ordinary correctional facilities is postponed by virtue of current legislation; 3) newcomers who are waiting for the completion of a 10-year term in order to apply for transfer to a strict or special regime correctional facility.

Given the possibility of transfer, those sentenced to life imprisonment will have an incentive to comply with the law, which will improve the atmosphere in institutions and allow for more effective educational work.

The issue of life imprisonment should be considered taking into account the category of convicts serving 25–30-year imprisonment. These categories of convicts can be considered as a single specific group in terms of the organization of serving and executing sentences [16].

At the same time, when organizing the execution of long-term and life imprisonment, it is possible to apply various approaches. One of them should be considered fully justified, in which all categories of convicts will serve the first ten years of imprisonment in strict condi-



tions and, perhaps, in single special institutions [7]. Then, depending on their behavior, they can be transferred to less restrictive conditions and to other institutions, or continue to be in special institutions in case of malicious violations of the established order of serving their sentence.

This approach is fair and humane both for the society (dangerous criminals are in long-term isolation) and for convicts themselves, who will be able to improve their conditions after the first decade of service. In addition, other control options should be considered in order to make informed decisions. This will facilitate the creation of an effective system of the execution of sentences for those sentenced to long-term or life imprisonment. We find the current state of affairs economically, educationally, and preventatively inappropriate.

#### Results

In conclusion, attention should be drawn to the fact that a certain humanization of the execution of life and long-term imprisonment is a global phenomenon. In particular, the summary of the Department for the Execution of Judgments of the European Court of Human Rights (ECHR) draws attention to the fact that the European Court has noted that, although the European Convention on Human Rights does not prohibit the imposition of a life sentence on persons convicted of especially serious crimes, in

order for the sentence to be compatible with Article 3 of the Convention, it must be reducible de jure and de facto. This means that there must be both a prospect of release for the prisoner and a possibility of review. The basis of such review must extend to assessing whether there are legitimate penological grounds for the continuing incarceration of the prisoner. In this regard, the importance of assessing the progress made by prisoners towards rehabilitation is underlined, since it is here that the emphasis of European penal policy now lies, as reflected in the practice of the contracting states. [17].

We believe that criminal legislation should provide for an effective organizational and legal mechanism for the initial review of sentences of life and long-term imprisonment no later than twenty-five years after their imposition and for regular reviews thereafter. At the same time, legislative criteria and conditions related to the review of sentences should be sufficiently clear and definite, and those sentenced to life imprisonment themselves should know from the very beginning of serving their sentences what they should do for their release and under what conditions such release is possible. Such an approach will require solving related organizational and legal tasks in the field of developing a network of special institutions, personnel training and provision of other resource support for their functioning.

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