Original article
UDC 343.8
doi 10.46741/2686-9764.2025.72.4.008

Prosecutorial Supervision over the Execution of Custodial Sentences: Legal Regulation and Systemic Flaws in Law Enforcement

LYUDMILA A. KOLPAKOVA
North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, kolpackova.liudmila1975@yandex.ru, https://orcid.org/0000-0002-9937-8462

TAT'YANA N. UTOROVA
North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, tatianautorova@yandex.ru, https://orcid.org/0000-0001-9625-7270

Abstract

Introduction: the article presents a scientific study analyzing the state of legality in the execution of imprisonment sentences in terms of prosecutorial supervision. It considers systemic violations in correctional facilities, categorized into several areas: breaches of regime and security requirements threatening institutional order; inefficiencies in operational-regime work and supervision systems; inadequate control over daily routines and inmate conduct; systemic drawbacks in medical, sanitary, and material-living support; and dysfunctions in labor adaptation and occupational safety for convicts. The study provides a scientific rationale for systemic legal conflicts and gaps, including legal uncertainty, clashes between subjective and objective criteria in parole decisions, legal dualism in regulating inmate labor, ineffective mechanisms for holding officials accountable, poor compliance with prosecutorial directives, and gaps in liability for untimely reporting on the use of force by penal system staff. General approaches to optimizing prosecutorial supervision over imprisonment sentences are also considered. The research comprehensively analyzes empirical data from prosecutorial inspections, scientifically substantiates legal conflicts, and develops specific proposals for improving both supervisory practices and the regulatory framework. *Purpose*: to conduct a multifaceted analysis of legality in correctional facilities based on prosecutorial inspection materials, identify and scientifically substantiate systemic problems and legal conflicts, and to develop a comprehensive concept for enhancing both prosecutorial supervision and the regulatory framework. *Methods*: general scientific methods (analysis, synthesis, induction, deduction, systems approach) and specific scientific methods (formal legal, comparative legal, legal modeling, statistical analysis). *Results*: the analysis

of prosecutorial inspections in penitentiary institutions identified key problem areas of legal violations. Organizational and legal proposals are formulated to eliminate or minimize risks and challenges within the penal system. The authors propose optimization paths for prosecutorial supervision, such as a risk-based approach to inspection planning, increased involvement of specialists from other oversight bodies (e.g., Federal Service for Labour and Employment, Federal Service for Surveillance in Healthcare), and enhanced preventive supervision functions. *Conclusions*: legality issues within the penal system are systemic, stemming not only from organizational and financial shortcomings but also from legal regulatory flaws. To fundamentally improve the situation, it is required to use a comprehensive "dual-track" approach and combining legal framework reforms, in particular, addressing identified conflicts and legislative gaps and optimizing prosecutorial supervision incorporating modern, effective, prevention-oriented methods.

Keywords: prosecutorial supervision; penal system; correctional institutions; legality; systemic violations; legal conflicts; parole; labor rights of convicts; risk-based approach; supervision optimization; human rights.

5.1.4. Criminal law sciences.

For citation: Kolpakova L.A., Utorova T.N. Prosecutorial supervision over the execution of custodial sentences: legal regulation and systemic flaws in law enforcement. *Penitentiary Science*, 2025, vol. 19, no. 4 (72), pp. 407–416. doi 10.46741/2686-9764.2025.72.4.008.

Introduction

The performance of the penal system and its legality are key indicators of the development level of the rule-of-law state and its adherence to humanitarian principles. The execution of sentences involving societal isolation occurs within specific closed environments, inherently creating risks of fundamental rights violations for both convicts and staff. In this context, prosecutorial supervision over penal institutions transcends mere control, becoming a crucial safeguard of legality, a tool for preventing systemic failures, as well as a mechanism for protecting individuals from unjustified infringement on their rights.

The study's relevance is substantiated by persistent systemic violations in correctional facilities documented in prosecutorial responses and by profound conflicts and gaps in legislation adversely affecting law enforcement practices.

This study aims to conduct a multifaceted analysis of legality in correctional facilities using a representative dataset from prosecutorial inspections, identify and scientifically substantiate systemic issues and legal conflicts, and subsequently develop a comprehensive concept for improving both prosecutorial supervision and the regulatory framework. General scientific methods (analysis, synthesis, induction, deduction, systems approach) and specific scientific methods (formal legal, comparative legal, legal modeling, statistical analysis) are used.

Research

The specifics of prosecutorial supervision over law enforcement in imprisonment sentences are shaped by: 1) goals and objectives of the Russian Federal Penitentiary Service; 2) the unique nature of the supervisory subject, inmate living conditions and the regime; 3) characteristics of convicts, many of whom,

especially initially, resist the law enforcement system. As S.V. Legostaev notes, some factors externally influence organizational work, while others are internal determinants [1, p. 66]. As punishment execution involves public law relations subject to normative regulation, specific obligations are imposed on responsible institutions and bodies. Their proper fulfillment is essential for effective sentence execution, achievement of punitive and corrective goals, and is fundamentally based on upholding legality and ensuring order. A key priority is to ensure the penal system's safety, encompassing broad requirements (e.g., anti-terrorism, anti-extremism, economic security of penitentiary facilities).

S.S. Epifanov rightly observes that legality and order within the penitentiary system reflect broader societal criminal trends [2, p. 58]. Many inmates exhibit a high propensity for further offenses within the institution. Nevertheless, convicts, regardless of crime severity, retain the right to conditions respecting human dignity and safeguarding life and health. Besides, penitentiary institutions are also obligated to facilitate inmate labor, education, healthcare, and infrastructure development. Effective interaction with investigative bodies, courts, and operational units regarding sentence execution, crime detection, prevention, and suppression is another critical responsibility. These areas often correspond to vulnerabilities identified through prosecutorial supervision, revealing systemic imbalances, law enforcement deficiencies, and regulatory flaws.

1. Comprehensive analysis of legality violations in correctional facilities.

The analysis of supervisory proceedings, prosecutorial responses, and documentation (representations, reports, memoranda) reveals persistent, recurrent violation patterns, indicating systemic failures in the penal system's management and daily operations. Violations cluster into several key problem areas.

1.1. Violations of regime and security requirements as threats to institutional order. This prevalent and critical category directly threatens the life and health of all participants in the imprisonment process. D.N. Zotova emphasizes that a well-structured regime balances punitive measures with humanitarian goals fostering inmate rehabilitation and reducing recidivism [3, pp. 227–236]. O.V. Pronina argues that inmate safety is ensured through mutually reinforcing legal rights and obligations [4, p. 9]. We contend that fulfilling these requirements transforms penitentiaries from mere isolation sites into environments conducive to resocialization.

Inspections frequently identify poor infrastructure conditions, such as broken windows in living/sanitary areas and broken tile fragments in showers. The prosecutors rightly note that they could be used for attacks, self-harm, or suicide. Violations of anti-terrorism security and basic public safety rules are also documented. For instance, one institution's backup generator had fuel leaks and corroded terminals, potentially paralyzing life-support systems during emergencies, risking lives. Such negligence violates articles 12, 13 of the Russian Penal Code, the federal law No. 384-FZ "Technical regulations on building safety", and departmental instructions.

1.2. Ineffectiveness of operational-regime work and supervision systemsб insufficient control over inmate conduct. Critical failures include poor search and inspection organization, as well as malfunctioning control/surveillance equipment. One case involved an inmate with unrestricted internet access, using VKontakte to arrange drug deliveries and share photos from within the facility. Another found inmates playing "Solitaire" on computers intended for social assistance information. Repeated in-

stances of unauthorized storage of personal items and food in production areas violate clause 12.25 of the Internal Regulations. For example, in one of the correctional institutions, brewed black tea, granulated sugar, shaving cream and a shaving machine were found in the back room of a sewing production site.

These issues sometimes stem from internal friction between operational and security departments, a problem noted over a decade ago [5, p. 123–126]. Overlapping responsibilities can foster counterproductive competition and consequently decrease the institution performance.

Non-compliance with articles 82, 83 of the Penal Code of the Russian Federation and poor inmate control are also linked to video surveillance failures. One inspection found five non-functional cameras, missing archives, and a single operator monitoring 159 cameras—an unmanageable workload.

The proliferation of new technologies, such as drones used for smuggling contraband, adds complexity, making anti-drone systems an urgent need [6, p. 132], though implementation efficacy remains questionable.

1.3. Systemic deficiencies in medical-sanitary and material-living support. This remains a highly problematic area, despite some reported improvements. Common violations include breaches of sanitary-epidemiological laws: improper food labeling, damaged hygienic surfaces (floors, walls, ceilings, racks), corroded equipment (e.g., baths in laundry areas), and deformed inventory. These infringe the Sanitary Norma and Rules 2.3/2.4.3590-20, Technical Regulation TS 021/2011 “On food safety”, and ultimately, the constitutional right to health.

In the medical care provision sphere there are certain positive trends, particularly in pharmaceutical supply. However, systemic healthcare issues persist. The federal law No. 323-FZ of November 21, 2011 “On fundamentals of health protection” is frequently violated. A lack of informed voluntary consent for medical intervention and proper documentation is widespread. Prosecutors also note shortages of medical premises, specialized equipment, and medicines within expiry dates. Delays in initial medical screenings for newly arrived convicts, including fluorography and lab tests, are of particular concern [7].

Lengthy, undefined timelines for transferring inmates to municipal healthcare facilities pose another problem. The supervisory case No. 56-2024 involved an oncology patient whose treatment was delayed due to transfer coordination, worsening his health. This highlights a conflict between departmental insularity and the constitutional right to qualified care, though prioritizing inmates over other citizens would be inequitable.

1.4. Dysfunctions in labor adaptation and occupational safety. Two aspects are notable: 1) socio-economic: compensation for damages, court-awarded payments, wage payment, lawful income access, economic activity profitability; 2) legal: achieving correctional goals through labor while fully respecting labor rights.

Low inmate employment persists for years, attributed to poor social/health characteristics, low skills/qualifications, low wages, short sentences hindering training, and job-inmate skill mismatches [8]. The July 2025 inspections revealed low labor efficiency, evidenced not only by poor employment rates but also minimal victim compensation. For example, the correctional facility No. 20 compensated only 3.5 million rubles (13%) of 45 million rubles in writs, while the correctional facility No. 5 compensated 235 thousand rubles (0.4%) of 60 million rubles.

A formalistic approach to occupational safety was also found: incomplete data in briefing logs, under-stocked first-aid kits, missing pro-

tective guards on sewing machines, violating articles 219, 212 of the Labor Code and articles 103, 104 of the Penal Code of the Russian Federation.

Scholars note insufficient harmonization between penal and labor law regarding women and minors. S.A. Smirnova and A.G. Kashibadze highlight that Article 103 of the Penal Code of the Russian Federation lacks special provisions protecting women's rights, e.g., in heavy labor [9, p. 10]. We argue general rules should apply in case of the absence of specific norms, but clarity is needed to prevent misinterpretation.

2. Scientific rationale for systemic legal conflicts and gaps. Empirical data reveal not only law enforcement failures but also systemic regulatory flaws enabling violations.

2.1. Legal uncertainty and subjective-objective criteria conflict in parole. The legislator's failure to define "correction" allows subjective, often unsubstantiated administrative assessments to outweigh objective indicators. The supervisory case No. 234-2024 involved an inmate with five incentives and full damages compensation denied parole due to a negative administration characterization citing "insufficient remorse", based on a single expunged disciplinary sanction from two years prior. This creates a legal conflict between formal legal compliance and unlimited administrative discretion, fostering arbitrariness, undermining penalty fairness, and eroding inmate trust. Conversely, damages compensation alone does not unequivocally indicate rehabilitation. According to the study by M.V. Konoval'chuk and D.G. Baikin, only 16.7% of the convicts compensate voluntarily and consciously [11, p. 28].

To address this, we propose incorporating objective parole criteria into the Penal Code of the Russian Federation: number of incentives/expunged sanctions within 12 months; participation in rehabilitation/resocialization programs; proportion of earnings used for compensation; assessments from independent supervisory commissions. Supervisory focus should shift to rigorous analysis of objective data (documented incentives/sanctions, compensation certificates) to verify administrative claims.

2.2. Legal dualism in regulating inmate labor. Both the Penal Code of the Russian Federation and the Labor Code of the Russian Federation contain relevant norms. The Penal Code of the Russian Federation takes precedence but often issues blanket referrals to general norms. Prosecutors lack clear criteria for assessing labor law compliance. De jure, inmates enjoy equal protection; de facto, the Labor Code of the Russian Federation guarantees (overtime pay, hazardous condition compensation, unpaid work prohibitions, safety standards) are not fully enforced.

Adopting a detailed departmental order integrating and specifying labor rights, duties, and guarantees (safety, standardization, compensation) could eliminate this dualism and uncertainty.

2.3. Ineffective accountability mechanisms and poor compliance with prosecutorial directives. Incomplete or formal compliance with prosecutorial acts indicates weak control and liability mechanisms. One institution received 15 productions in a year; 7 were formally executed, but no official was held liable under Article 17.7 of the Administrative Offenses Code of the Russian Federation. This is partly because the offense composition is ill-suited to rigidly hierarchical state bodies, making intent hard to prove. Contributing factors include system insularity, funding shortfalls, and competing priorities. While some factors are objective, impunity for remediable violations fosters official disregard for law, undermining prosecutorial authority.

2.4. Gaps in liability for untimely reporting on the use of force. Consequences for failing to report force usage to prosecutors within 24 hours are undefined. Violations exist: in 2025, the correction facility No. 4, the medical and preventive institution No. 10, and the pre-trial detention center No. 2 in Vologda Oblast failed to timely report force applications causing inmate abrasions and wounds.

The order of the Ministry of Justice No. 216 of October 30, 2017 "On approval of the Procedure for preparing and sending to the prosecutor by the head of the penitentiary institution (special unit for escorting) materials on the facts of the use of physical force, special means and firearms by employees of the penal system" mandates reporting only for bodily injuries or death. Bodily injuries may lack visible signs but cause significant pain or functional impairment. Replacing it with "trauma" (any anatomical integrity/physiological function disruption from external impact) would be more comprehensive, while eliminating the need to report every non-injurious force application.

Systematizing liability for non-compliance with prosecutorial acts is advisable, potentially by introducing in the Administrative Offenses Code of the Russian Federation a specific violation for officials' repeated (twice or more yearly) non-fulfillment of lawful prosecutor demands.

3. General issues of optimizing prosecutorial supervision over imprisonment sentences.

3.1. Implementing a risk-based approach to inspection planning. Its basis is laid down in the federal law No. 248-FZ of July 31, 2020 "On state control (supervision) and municipal control in the Russian Federation" and the Government decree No. 806 of August 17, 2016 "On the application of a risk-based approach in the organization of certain types of State control (supervision) and amendments to certain acts of the Government of the Russian Federation". Certain areas of control and supervisory activities included in the list fixed by the above-mentioned act of the Government of the Russian Federation also take place during inspections of correctional institutions (sanitary and epidemiological, supervision in the field of protection of the population and territories from natural and man-made emergencies, quality and safety of medical activities, control over compliance with the Russian legislation and other regulatory legal acts on the contract system in the field of procurement of goods and works, services for state and municipal needs). This approach focuses resources on facilities with the worst indicators. D.N. Salimzhanov notes that prosecutorial supervision's complexity necessitates focusing on weak links in rights protection [12]. While the penal system's high-risk nature limits full application compared to civil sectors, a differentiated inspection frequency/depth is feasible. Intensity should depend on a institution type, occupancy, operational environment, staff situation, production facilities, location, compensation rates, regime violations, complaints, registered offenses, response measures, and compliance with prosecutorial acts. We consider these criteria to be critical for determining a risk category or referring the correctional institution to a potential danger class.

Data sources include regional prosecutorial practice reviews and analytical materials identifying trigger points. Comprehensive periodic inspections remain necessary but can be tailored to institutional risk profiles.

The penal system requires its own risk management levers:

1) annual updated supervised object registers with risk categories;

2) systems for collecting/updating objective risk indicators and dynamic institutional profiles;

3) interdepartmental risk maps reflecting the system's broad societal interactions [13].

Risk indicator development depends on compliance with legislation, achieved through procedures and inmate handling rules termed "penitentiary compliance" [14, p. 235]. V.I. Seliverstov identifies system-specific issues, including geographical dispersion, dilapidation, and unsuitability of facilities [15, p. 236]. Solitary confinement, for instance, would reduce security risks compared to barracks systems.

Successful European penitentiary policies are often linked to oversight by the European Court of Human Rights, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment, and the Committee of Ministers of the Council of Europe [16, p. 1, 17]. Russia's withdrawal from these jurisdictions does not diminish its capacity to ensure legality. Moreover, progressive ideas resulting from our country's integration into the international community have been incorporated into current legislation in one way or another, and international principles concerning the rights and legitimate interests of convicts have been adopted in the reform of the penal system. To be fair, it should be noted that the acceptability of some decisions of the European Court of Human Rights is disputed not only by Russian, but also by Western researchers [17; 18]. For example, we are talking about the right to opioid agonist treatment for people in correctional institutions suffering from heroin addiction syndrome, which creates additional medical and ethical problems.

V.A. Utkin emphasizes developing system qualities to effectively address existing and potential risks [19, p. 210]. Prosecutorial supervision identifies where efforts are needed.

3.2. Enhancing use of specialized knowledge during inspections. Expanding involvement of specialists from the Federal Service for Labour and Employment, the Federal Service for Surveillance in Healthcare, the Federal Service for Surveillance on Consumer Rights Protection and Human Wellbeing, and State Construction Supervision for qualified surveys and, when necessary, expert examinations of working conditions, sanitation, and facility safety is crucial.

3.3. Developing the preventive function of supervision. Prosecutors can utilize all available response tools [20, p. 206], particularly warnings about legal violations, which officially mandate changes in the inspected entity's operations. It stems from articles 22, 25.1 of the federal law "On the Prosecutor's Office" and is stated in the ruling of the Supreme Court of the Russian Federation No. 82-KGPR14-2 of June 18, 2014.

A.N. Zherebtsov, Yu.V. Pomogalova, and M.V. Smolyarov note that neither the federal law "On the foundations of the crime prevention system" nor the federal law "On the Prosecutor's Office" grant prosecutors specific preventive powers [21]. Some scholars propose separating preventive and supervisory functions [22, p. 169]. We, however, view prevention as an inherent aspect of supervision. For instance, inspections provide inmates opportunities to personally or anonymously file complaints often uncovering serious violations or impending crimes.

Supervisory-preventive synergy is also evident when prosecutors identify violations of articles 9, 109, 110 of the Penal Code of the Russian Federation, articles 6, 13 of the federal law No. 10-FZ "On probation", and Article 5 of the federal law No. 182-FZ "On the foundations of the system for crime prevention in the Russian Federation" during educational, preventive, and probation work. So, in one of

the correctional facilities in 2025, individual educational plans for four inmates convicted of extremism/terrorism-related crimes lacked corresponding specific measures.

Supervising the legality of coercive measures and disciplinary sanctions has specific preventive value. Unjustified or excessive punishments, or abuse of force, foster inmate resentment and desire for revenge, potentially leading to new crimes, destabilizing actions, or authority challenges, including those aimed at undermining the authority of the administration and disrupting activities of the institution. Thus, prosecutorial prevention of official misconduct concurrently addresses operational tasks of preventing inmate aggression and self-harm, demonstrating double prevention.

Joint seminars and working meetings of directorates of the Federal Penitentiary Service departments, the prosecutor's offices, and other agency representatives are required to analyze typical violations from inspection reports, identify root causes and discuss solutions.

Conclusion

The research concludes that legality problems in the penal system are systemic, stemming not only from organizational, financial, decision-making subjectivity/formalism, but also from deep-seated legal regulatory defects causing uncertainty, conflicts, and arbitrary interpretations. Prosecutorial inspection data show recurring violations across different facility types and regimes. Identified conflicts in parole application, labor regulation dualism, ineffective accountability, and legislative gaps form an interconnected problem set requiring consolidated efforts of the Federal Penitentiary Service of the Russian Federation and the Prosecutor's Office of the Russian Federation. The strategic path forward is dual-track reform: addressing systemic legal conflicts and gaps while optimizing prosecutorial supervision via risk analysis and specialized knowledge. Only this comprehensive approach can transform the penal system into a modern, international standards-compliant institution ensuring both punishment inevitability and strict human rights observance.

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INFORMATION ABOUT THE AUTHOR

LYUDMILA A. KOLPAKOVA – Candidate of Sciences (Law), Associate Professor, associate professor at the Department of Criminal Law Sciences of the North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, kolpackova.liudmila1975@yandex.ru, https://orcid.org/0000-0002-9937-8462

TAT'YANA N. UTOROVA – Candidate of Sciences (Law), Director of the North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, tatianautorova@yandex.ru, https://orcid.org/0000-0001-9625-7270

Received October 21, 2025