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CONTENT

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On Minimization of Duties Extrinsic to the Police Activities in the Russian Empire

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Abstract

Purpose: to describe duties extrinsic to the police of Tsarist Russia and indicate bodies with the appropriate competence. The *subject* of the study is the subsection "Burdening of police officials with extraneous duties" of the "Brief explanatory note to the conclusion of the interdepartmental Commission, under the leadership of Senator A.A. Makarov, on the police transformation in the Empire" (1911). The police reorganization idea was the theoretical and legal basis of the modernization program of Russia proposed by P.A. Stolypin. Being Chairman of the Council of Ministers and Minister of Internal Affairs (1906–1911), he formed a Commission consisting of 19 highly professional officials holding various senior positions in the Russian state and able to single out legislative norms regulating activities of the police to one degree or another from various branches of law. The need to reform the police, focused on strengthening a solid legal structure within the country, was dictated by the need to bring its service into full compliance with the changed conditions (public order after the revolutionary events of 1905–1906). Having studied archival documents (not all of which are widely available), the authors came to the conclusion that the proposals and recommendations of the Commission members related not only to activities of the police, but also to some executive authorities, to which certain police functions had to be transferred. The task of the research was to determine duties that were

extrinsic to the police, causes of their appearance as police officers' functions, and the degree of influence on the fulfillment of its main purpose – ensuring safety in society. During the research, a set of *methods* (comparative legal, analysis, generalization, comparative historical) was used to make conclusions. The research *results* are of great theoretical importance. The authors describe three lists of responsibilities extrinsic to activities of the police inhered in public and estate institutions, depending on their purpose; intended for transfer to the executive bodies of other departments already existing and specially created for this purpose. The analysis of historical experience in improving functional organization of the executive power system in the context of a crisis of state power has also applied significance. The article presents the circumstances that have served as the basis for the reorganization of the police, which differ in their content from other previously expressed author's positions.

Keywords: Russian Empire; late Imperial period; police authorities; functional responsibilities.

5.1.1. Theoretical and historical sciences.

5.1.2. Public law (state law) sciences.

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Introduction

Activities of the police of the Russian Empire were regularly reformed. Major transformations were carried out by Emperor Alexander II in 1862 [1]. They pursued the goals of optimizing the management of police activities and excluding the performance of functions extrinsic to it. Attempts to establish grounds for effective separation of various types of government activities affected the limits of police power. However, as noted by contemporaries, researchers of that period and more than 40 years later, the reduction in the range of cases and subjects not under the jurisdiction of the police did not lead to a decrease in the number of cases requiring its participation. Many tasks were fulfilled by the police in 1906.

At the end of 1906, an interdepartmental Commission began working to develop a project for the transformation of the police of the Russian Empire. It was created on the initiative of the great Russian reformer Petr A. Stolypin [2–6], who during the specified period of time held the position of Chairman of the Council of Ministers and Minister of Internal Affairs. The Commission was headed by the Minister of Internal Affairs A.A. Makarov.

Based on the archival documents, not all of which are publicly available, we analyzed certain researches and identified circumstances that served as the basis for the police reorganization, which differed in their content from other author's positions. Thus, in our opinion, the need to change the police service was associated with:

– the new head of the ministry, P.A. Stolypin, who was directly involved in restoring order during the revolutionary events of 1905–1906 on the territory of the Saratov Province, as its governor. He formulated the stance to the police activities in extreme situations. At the same time, he understood perfectly well that to save Russia, among other things, new police were required, capable to clearly, rigidly, and legally ensure internal order, security, and suppress criminal acts;

– outdated provisions of the Statute on the Prevention and Suppression of Crimes, which determined the procedure for police officers. The Statute contained legal provisions of the Council Code of 1649 and norms from subsequent royal and senate decrees. The crimes,

which, in accordance with the Statute, were supposed to be prevented and suppressed by the local authorities and the police, were close to the illegal acts cited by the Cathedral Code;

– the rise of revolutionary sentiments in society, widespread terrorism, which set the task of creating a new police apparatus.

The research

The final draft of the police transformation developed by the Commission [7, pp. 5–9; 8] consisted of three independent parts: 1) Findings of the Commission, including legislative proposals on the police transformation in the Empire; 2) the draft Establishment of the police; 3) the draft Statute of the police. The members of the Commission worked out a "Brief explanatory note to the conclusion of the interdepartmental Commission, under the leadership of Senator A.A. Makarov, on the police transformation in the Empire".

Studying the police activities and preparing proposals (recommendations) for its transformation, the Commission members drew attention to one of the most important conditions that negatively affected its organization and efficiency, unsettled the entire management of units, reduced their performance in extreme situations – the workload of the police with duties extrinsic to it. This was clearly manifested during the revolutionary events of 1905–1906: "In these difficult times, proper and expedient organization of police activities acquires special meaning and price, and all shortcomings in police activities, the order and means of the execution of their service duties become more vivid and definite. We cannot but admit that the experience of the post-war years has turned out to be especially instructive in this regard" [7, p. 5].

These facts were not new, they had already been discussed several times, and proposals to minimize unnecessary police functions had been made. The Russian Emperor Nicholas II also drew attention to this when he got acquainted with the reports of the governors, which contained "data that testified about the unbearable and excessive burden imposed on the police" [7, p. 76].

The burdening of police officers with numerous duties distracting them from their direct activities was also noted by the Special Meeting chaired by Count A.P. Ignat'ev. The abundance of this diverse work, unrelated to ensuring protection of public order and tranquility of citizens, created conditions under which the police performed their direct duties only, so to speak, "by the way". And this "by the way" was mainly the current clerical work. What is more, the police work was not specified. All complex and diverse police duties were assigned to the same employees, who had to be competent in search, investigative, household, paper and office work, as well as legislation. "It is not surprising that the current police personnel are unable to meet such diverse requirements and perform their duties mediocre, for which they could not have either sufficient knowledge or proper experience" [7, p.77].

There were other opinions among the Commission members. Thus, Senator A.A. Glishchinskii expressed the point of view that with a sufficient increase in the number of police and proper improvement of the financial situation of police officers, they will be able to perform all their duties without much difficulty. "It would be necessary, therefore, to remove from the latter only those which execution is generally recognized as untimely or superfluous" [7, p. 81].

Having analyzed the contents of the Brief explanatory note and especially Section VI "Burdening of police officials with extraneous duties", the authors tried to group the reasons and conditions that led to the presence of duties extrinsic to their purpose:

1. Absence, due to various circumstances, of a specially and timely created mechanism for the execution of sectoral orders by officials, and not by police officers.

2. Non-fulfillment of official duties by authorized persons of state authorities, public and estate institutions.

3. Confusion of the concepts of administrative and executive power and the concept of police power in the legislation of the 17th and 18th centuries. As a result, most of the orders, requirements and official actions established by law were executed not by officials specially authorized for that, but by the police. As the state and public life became more complicated and cultural needs increased, new responsibilities were assigned to the police.

Thus, it gradually became the executive body of all departments and institutions.

4. Expanding the scope of police activities not only through the provisions of laws, but also through official practice, supported by instructions, circulars and other separate orders. "With the passage of time, the gradual growth of police officers' duties, having a relationship very remote to the police department, has taken on dimensions positively threatening and unbearable" [7, p. 79].

A special sub-Commission was created to establish the laws in force and the regulations concerning all duties performed by police officers and their distribution by type and nature. It was headed by the former Director of the Police Department M.I. Trusevich. The sub-Commission members compiled a basic list of police duties. Gradually, it was supplemented with information provided by individual departments, as well as data contained in various instructions. The list formed in this way was discussed in county and provincial cities at special interdepartmental meetings, with the participation of employees, whose composition was determined by the order of governors and mayors. During the discussions, it was proposed to exclude duties that, by their nature and purpose, did not correspond to the direct purpose of the police.

As a result, the Commission members worked out three lists, which included the duties that

– the police should not perform (their implementation was recognized unnecessary or unenforceable) (1);

– should be addressed to public and estate institutions by affiliation (2);

– should be transferred to the executive bodies of other departments that currently exist and new ones that were specially created for this (3). Such duties included collection of penalties, service of subpoenas and other documents, execution of various orders, and presence at the drafting of various acts.

The Commission members pointed out that in a significant number of cases the law stipulated the performance of a certain official action by the police not independently, but jointly with other authorized executive bodies. It was assumed that the release of police officers from such duties would not complicate the work of employees of another department and would not entail spending treasury funds. In addition, such an approach would allow, on the one hand, to save time and labor of police officers, enhancing performance of other powers. On the other hand, it would increase employees' responsibility, integrity, interest and correctness of the performance of a specific function.

The Commission also found that the police fulfilled a significant number of assignments, because special executive bodies had not been formed in a timely manner. Formal performance of these duties undermined realization of the legitimate rights of citizens. The responsibility for proper management of any activity lies with the appropriate department. According to the Commission members, "if appropriate executive bodies are required, then they should be created and introduced according to the volume of available means, but should not be limited to formal establishment of necessary official duties, without caring about who will perform them and how" [7, p. 81].

With this approach, assigning responsibilities to the police should not be a rule, but an exception dictated by professional necessity in the following cases: 1) monitoring of correct production of any actions established by special requirements of the law; 2) collection of various fees, duties and payments; 3) delivery and transfer of various acts and documents.

1. It was assumed that the supervision over production of certain actions would be selective. So, if direct duties of the police included monitoring of the execution of resolutions aimed at ensuring state security, tranquility, and protection of property from fires, then optional were the provisions of laws, charters providing for free passage along the street, placement of appropriate signs on houses with the designation of devices and fire equipment itself, and prohibition on bonfires in unsupervised areas. They were the subject of police surveillance, since they ensured the safety of life, health, property, and state and public peace in general. Therefore, after receiving a report about someone committing an illegal act, the police had to intervene and take legal measures to restore the violated rights and punish perpetrators. In

other words, the police were obliged to ensure that no one did what was prohibited by law or mandatory regulation. "To take a direct and active part in observing that individuals and public officials do exactly what they should, according to the law or a mandatory decree, to achieve or order material or other well-being, is not, as mentioned above, the duty of the police at all" [7, p. 82]. At the same time, it was assumed that executive bodies, both governmental, public and estate, had to fulfil this function. Interference in their activities was completely undesirable neither for the police nor for ordinary people, since otherwise it could lead to the spread of an unfriendly opinion among the population about the very nature and significance of police activity.

2. Collection of various fees, duties and payments, according to the Commission members, was purely fiscal in nature, accompanied by correspondence, reporting, requiring considerable time and labor. In addition, the number of penalties increased annually. So, it was required to introduce special positions of provincial and county collectors at the local state chambers of the Ministry of Finance. They had to collect fees, duties and fines, instead of police officers (Table 1). As for such activities in relation to city and county public institutions, this was the duty of collectors – members of city and county councils appointed by the chairmen of the boards (Table 2).

Table 1

Police duty list, the performance of which should be transferred to city and county officials and their assistants (by departments)
Office of His Imperial Majesty on the Acceptance of Petitions
1. Requesting various documents, subscriptions, etc. from applicants.
2. Announcement of the decisions.
3. Service of: 1) sealed envelopes and 2) advertisements.
Department of Orthodox Confession
4. Summoning witnesses at the request of spiritual investigators in cases of clergy misconduct.
5. Presentation to the parties and witnesses of various kinds of demands, announcements, summonses, extracts from cases, decisions and similar documents.
6. Service of metric certificates and various kinds of announcements.
Department of Foreign Confessions
7. Service of summonses, decisions, announcements and copies of various papers according to the requirements of the consistories.
8. Delivery of: 1) metric extracts; 2) metric books to the Mohammedan parishes and collection of money for them and 3) various kinds of circulars to mullahs and announcements of the mufti and spiritual assemblies.
9. Issuance of: 1) money for divorce cases; 2) benefits for Mohammedan clergy and 3) monetary allowance to Roman Catholic clergy.
Ministries of Finance, Trade and Industry
10. Distribution of: 1) all kinds of announcements, notices and invitations of factory inspections to industrial establishments of and 2) all kinds of announcements, notices and invitations of mining supervision to mining plants.
11. Return of inspection documents not accepted by customs to applicants.
12. Delivery of certificates to merchants stating that they do not trade tobacco products purchased abroad for their own use.
13. Service of: 1) reward money for the detention of contraband and 2) legitimation tickets withdrawn by customs.
14. Delivery of: 1) announcements of the Noble Bank on the sale of estates; 2) treasury subpoenas on the maturity of payments on bills; 3) notices of state savings banks to depositors; 4) payslips to pensioners and 5) other announcements within the powers of the financial department.
15. Service of: 1) coupon books of denatured alcohol and other documents and 2) announcements of excise duty managers.
16. Summoning different persons at the request of the excise department.
17. Presentation of notices of the excise office on the imposition of fines for patent-free trade.
18. Delivery of statements issued by departments of factory and mining cases and payment certificates.
19. Announcement of decisions and notifications to petitioners in cases of permission to install steam boilers.
20. Transfer of money to workers for the injuries they have received.

Main Department of Land Management and Agriculture

21. Delivery of fief forest plan copies to forest owners.
22. Delivery of announcements on the submission to the Department of Agriculture and State Property of documents for the right of entry into state forests.
23. Announcement of resolutions of forest protection committees.
24. Notification of adjacent owners about the decision of the Provincial Government on the delimitation of common county houses.
25. Delivery of: 1) forestry plans and county house drawings to the owners of estates; 2) announcements about the transfer of peasants' allotments in private ownership; 3) announcements about the imposition of fines; 4) various kinds of announcements; and 5) salaries to the watchmen of land plots.
26. Issuance of: 1) clearing tickets; 2) money as a reward for afforestation and 3) permits for the maintenance of greyhounds and hounds.
27. Presentation of protocols drawn up by the officials of the forestry department to persons accused of logging, grazing, etc.

Ministry of Justice

28. Delivery of summonses and other court papers in civil cases.
29. Delivery of summonses to witnesses, experts and jurors in criminal cases.
30. Delivery of: 1) subpoenas of commercial courts; 2) subpoenas of the land survey office; 3) announcements of competition departments and responses to the requests of the latter and 4) all kinds of announcements.
31. Issuance of: 1) summonses and announcements of parish courts outside their location and 2) money and documents to individuals sent from judicial institutions or from bailiffs and collected by them on writ of execution.
32. Announcement of non-removal from the place of residence to jurors.
33. Summoning the parties and witnesses to the world mediator for dispute resolution and to the county meeting.

Ministry of Railways

34. Delivery of various kinds of documents, announcements and money according to the requirements of the department of the Ministry of Railways.
35. Presentation of settlement notebooks to contractors of the Ministry of Railways.

Military and Naval Affairs Department

36. Summoning for auctions, deliveries, etc.
37. Delivery of summonses of military and naval vessels, with the exception of summonses to the accused.
38. Delivery of: 1) documents, money and ammunition items to officers having lower military ranks; 2) orders and insignia to officers having lower military ranks; 3) certificates of military presence; 4) summonses to persons subject to military service; 5) various kinds of documents (according to the quartermaster department) and 6) various kinds of announcements.

Ministry of Public Education

39. Delivery of various kinds of documents, announcements and summonses by the department of the Ministry of Public Education.

Appanage Department

40. Delivery of announcements and subpoenas of the specific department.

Table 2

Police duty list, the performance of which should be transferred to tax collectors and their assistants (by departments)

Department of Orthodox Confession

1. Collection of the stamp duty in cases produced in institutions of the spiritual department.
2. Collection of: 1) claim fees in cases of divorce; 2) investigative costs and 3) rental money on behalf of the management of estates of foreign spiritual institutions.

Department of Foreign Confessions

3. Collection of gifts to the preacher.
4. Collection of monetary penalties from preachers according to the decisions of the consistory.
5. Collection of penalties for non-appearance from persons summoned to the consistory.
6. Collection of overdue church fees.
7. Collection of church fees on behalf of the trustees of the Armenian-Gregorian churches in Saint Petersburg and Moscow.
8. Collection of gifts in favor of the clergy and church acolytes of the Armenian-Gregorian Church.
9. Collection of monetary penalties and clerical duties according to the resolutions of the provincial majlises and spiritual boards of the Shiite doctrine.
10. Collection of: 1) the stamp duty; 2) spiritual capital in favor of the Roman Catholic Church and 3) parish duties.

Ministry of Finance

11. Distribution of salary sheets.
12. In cases of recovery of arrears.
13. Distribution of salary sheets according to the layouts of the immovable property tax.
14. Collection of arrears: seizure of income from immovable property; sale of movable property; and inventory of immovable property.
15. Distribution of salary sheets for additional trade tax.
16. Sending notifications of the layout presence for additional trade tax.
17. Collection of arrears: forcing defaulters to pay the arrears; inventory and sale of the goods of defaulters.
18. Execution of decisions of state chambers and provincial presences in cases of commercial tax, except for the decisions already mentioned on the recovery of arrears.
19. Delivery of notices of the city's apartment tax presence and collection of arrears on the said tax.
20. Delivery of definitions of the provincial apartment tax presence on the addition and installment of tax.
21. Collection of fines or stamp tax arrears.
22. Delivery of the decisions of the Treasury Chamber on the imposition of a fine.
23. Handing over to the heirs of the calculations of the Treasury Chamber on the amount of inheritance duties and collection of these duties according to the instructions of the Treasury Chamber or according to judicial rulings.
24. Collection of hereditary, serfdom, judicial and boundary duties.
25. Recovery of undisputed arrears in the payment of the associated collection of oil entering oil pipelines and pumped through them.
26. Imposition of sequestration on estates in the Baltic and western provinces, on which the arrears of the fee for the use of the Jesuit estate consist.
27. Collection of fines imposed by arbitrators.
28. Collection of fees for overdue passports.
29. Presentation of orders and medals and collection of fees for them.
30. Collection of: 1) fines for unfair disputes on claims; 2) fine for disputes about forgery; 3) according to the requirements of peasant and noble banks; 4) overdue loans of savings and loan associations; 5) 300-ruble fines from the family of a Jew for evading military service; 6) flour collection from mills; 7) a ten-percent fee for judicial institutions; 8) a breakthrough collection and tax according to the requirements of the state chambers; 9) various kinds of fees for loans and arrears; 10) loans from walkers and migrants; 11) fines for late passports; 12) fines imposed administratively; 13) a fine for crossing the border; 14) excessively issued money from the treasury; 15) military tax; 16) overdue loans issued by small credit institutions.
31. Collection of arrears from peasants, outside their registration.
32. Drawing up acts of insolvency for the payment of arrears of all kinds of duties and fees.
33. Adoption of household acts set out on plain paper or on stamp paper of improper dignity and paid for by the stamp duty after their Commission.
34. Making an inscription about the time of presentation of a household act, set out on plain paper or on a stamp of improper dignity and paid after its Commission, as well as repayment of the presented stamp marks.
35. Attestation of the time when stamp duty payment marks were attached to household acts set out on a plain paper or a stamp paper of improper dignity and paid after their Commission.
36. Collection of the assay duty and additional fees not paid within three months by owners of correctional institutions.
37. Collection: by the excise office: 1) of various kinds of fines; 2) of a patent fee; 3) stamp taxes and 4) government losses.
38. Issuance of: 1) monetary remuneration for the discovery of excise violations; 2) the confiscated wine and beer back; 3) the pledge back to the clerks of wine shops dismissed from service and 4) money and coupons for appropriations.
39. Collection of stamp and other various fees by the customs department.

Ministries of Finance, Trade and Industry

40. Collection of: 1) fees from steam boilers; 2) arrears and fees from factory enterprises; 3) the stamp tax; 4) fines on factory and mining cases and 5) the peasant duty.

Main Department of Land Management and Agriculture

41. Production of undisputed penalties.
42. Collection of fines imposed by the decisions of the forester.
43. Collection of fines imposed by the resolutions of the head of the Department of Agriculture and State Property.

Ministries of Finance, Trade and Industry

40. Collection of: 1) fees from steam boilers; 2) arrears and fees from factory enterprises; 3) the stamp tax; 4) fines on factory and mining cases and 5) the peasant duty.

Main Department of Land Management and Agriculture

41. Production of undisputed penalties.

42. Collection of fines imposed by the decisions of the forester.

43. Collection of fines imposed by the resolutions of the head of the Department of Agriculture and State Property.

44. Collection of loanable funds on a land-reclamation loan.

45. Collection of mileage allowance for the surveyor to get to the place of boundary work.

46. Acceptance of duties for the maintenance of greyhounds and hounds.

47. Delivery of salary sheets and collection of interest and arrears according to the statement of Department of the Caspian-Volga fisheries and sealings.

48. Collection of: 1) fines for felling forests; 2) fines for grazing cattle; 3) fines for unauthorized sowing of plants; 4) fines for illegal possession of land; 5) in execution of a judgement received from the forester; 6) forest duties; 7) rental money for state-owned tax articles; 8) chinsha; 9) loans for seeding and 10) all kinds of funds at the request of the forest department.

Ministry of Justice

49. Collection of money for the Commission of data on land acquired by peasants and for payment to a notary according to the data already committed.

50. Collection of penalty money from buyers of estates at public auctions.

51. Collection of: 1) court costs; 2) clerical duties; 3) fines for failure to appear in court and for violation of the order; 4) sheet levy; 5) bill levy; 6) money for run-through to bailiffs and witnesses; 7) feed money and for clothes; 8) stage costs and 9) the stamp duty.

52. Extermination of: 1) liens on civil cases and 2) liens on contracts.

53. Summoning for payment of various fines.

Ministry of Railways

54. Collection of penalties for traveling by train without tickets.

55. Collection of: 1) fines for violation of the rules of navigation on rivers and canals; 2) payment for insurance of steamships; 3) fines for damage to cargo and 4) excess money in the service.

56. Collection of shipping fees.

Military and Naval Affairs Department

57. Collection of: 1) money for orders; 2) excess money in the maintenance of officers; 3) excess money from lower rank officers; 4) fines for the loss of state-owned items and ammunition items; 5) arrears for land leased by the engineering department; 6) court costs by decisions of military courts and 7) the stamp duty.

58. Issuance of: money on behalf of the Alexander Committee for the Wounded; 2) allowances for widows of officers; 3) pay sheets for military officers receiving a three-ruble allowance and 4) allowances for various persons.

59. Satisfaction with money for the supply of horse carts for lower rank officers.

Ministry of Foreign Affairs

60. Recovery of benefits issued by consuls.

Appanage Department

61. Collection of various sums of money at the request of the Appanage Department.

3. Delivery and transfer of various acts and documents in a significant amount could be entrusted to postal institutions, which should be located nationwide. When the delivery of these objects by mail is impossible or involves a special additional procedure (accompanied by preparation of special certificates), this should be carried out by specially authorized officials. It was proposed to establish two categories of employees: the highest – corresponding to bailiffs, and the lowest – corresponding to judicial deliverymen. They could be on the staff of provincial governments subordinate to the Ministry of Internal Affairs. Besides, public administrations were to introduce positions of deliverymen at city and county councils to delivery their announcements, summonses and documents, thereby freeing police officers from these unnecessary duties.

The discussion of such an approach with the participation of officials of the concerned departments was positively approved. However, representatives of the Ministry of Justice and the Ministry of Finance doubted the creation of new executive bodies to perform the duties removed from the police. The solution to this problem was directly dependent on the staff-

ing and financial capabilities. It was stated that "the Ministry of Finance was designing a new system of taxation, was reorganizing the tax inspection, and proposed to introduce income and other taxes. All this would require the efforts of the executive bodies..." [7, p. 84]. At the same time, some people advanced a traditional argument that the police had now got used to these duties, while new bodies would have to acquire service experience. The Commission members argued more persuasively claiming that it was difficult and unusual for the police to collect the currently existing fees, while their increase would complicate production and lead to the deterioration of activities in this direction. Specially created bodies would have to follow the rules established for this purpose. Postponing the improvement of police activity for an indefinite time (until the completion of financial reforms) was undesirable and impossible.

Adhering to the initial proposals, the Commission adjusted the three specified lists of responsibilities. As a result, these duties were shifted from the police to employees of departmental bodies only in 50 provinces governed by the General Provincial Institution1 [9], including in the Stavropol province.

According to the third list, police duties were transferred to existing or newly created bodies. For this reason, it was decided to divide such responsibilities into two groups.

The first included duties that were common enforcement procedures (announcement, delivery, mailing) and were performed by city and county deliverymen and their assistants. According to the Commission members, such officials could be on the staff of provincial boards and city administrations and act on the basis of a mandate issued by the Minister of Internal Affairs. Since the determination of the number of these officials and the regulations for their activities went beyond the powers of the Commission, the Ministry of Internal Affairs (within the time specified by the Council of Ministers) was proposed to prepare a draft law on the establishment of positions of city and county deliverymen and their assistants at the provincial boards and city administrations that fixed their staffing. With such a legislative decision, the Minister of Internal Affairs, by means of a mandate, would define the order of their activities and distribution between provinces. It was proposed that the governor would make a decision on the place of residence within the province.

The second group of official actions (their execution was supposed to be transferred to city and county deliverymen and their assistants, tax collectors and their assistants) included duties that were mainly fiscal in nature and consisted in the collection of various kinds of taxes, duties, fees, arrears, and penalties. The Commission considered it possible to assign the fulfillment of these duties to collectors and their assistants. The Ministry of Finance (in a similar manner) was asked to prepare a draft law on the establishment of positions (staffing) of a tax collector and assistants at the state chambers. In this case, these officials were to perform the duties of police officers provided for by the Regulations on Penalties for Undisputed Cases of the Treasury [10]. The Minister of Finance was to be granted the right to establish, by means of a mandate, the order of activity of subordinate officials, their distribution between provinces and townships, and within provinces – between cities and counties, and to decide on the determination of their place of residence in agreement with the governor.

The Commission members drew attention to another area of uncharacteristic of the police, in particular the duties that relate to the rules of the Charter of the spiritual consistories and other resolutions and orders issued by the Holy Synod and affecting the relationship between the police and bodies of the Department of Orthodox Confession. For the interests of the church administration to be respected during the transfer of police functions, it was suggested that the "Prosecutor General of the Holy Synod" would work out and submit appropriate instructions for discussion by the Holy Synod.

The Commission considered it expedient to entrust the Ministry of Justice with the preparation of draft laws to amend the existing civil laws and judicial statutes, and the Military and Maritime Ministers with the development of amendments to the regulations on military judicial and naval judicial units.

The Commission considered it justified to establish a rule that in 49 provinces governed

[1] 49 provinces of European Russia were governed by the General Provincial Institution the outlying provinces were governed by special institutions.

by the General Provincial Institution, in Stavropol Province, 7 town governor's offices and the city of Kronstadt, the performance of police duties related to public and estate institutions was assigned to noble, petty-bourgeois, peasant and other estate institutions.

Conclusion

The study and comprehension of the Brief explanatory note, legislative acts, as well as initiatives of the great Russian reformer P.A. Stolypin on the reconstruction of Russia, studies containing assessments of his reforms, materials revealing certain areas of activity of the police of tsarist Russia related to the subject of the article helped us to draw the following conclusions.

1. The work of the Commission formed by Chairman of the Council of Ministers, Minister of Internal Affairs of the Russian Empire P.A. Stolypin to develop legislative proposals for the transformation of the police in the Russian Empire was highly professional. The activities of its 19 members can be described as conscientious, thorough, creative, and practically significant. It seems that the Commission sincerely hoped to reorganize the police and free them from extrinsic functions that could not meet the changed conditions and needs of the time, in particular, to ensure proper law and order in the state and peaceful existence of its citizens (the main responsibility of the Government). By modernizing the police, the Commission members hoped that it would deter terrorism and revolutionary movement of the people.

2. The Commission took pains to elaborate legislative proposals for releasing the police from performing extraneous duties. The Commission members relied on practice, analyzed management activities and the foreign policing experience. At the same time, they discussed their proposals and recommendations at provincial meetings with representatives of provinces, cities, and counties. The fact that the approach to solving the issue of removing duties extrinsic to the police was thoroughly developed is proved by the wording of legislative drafts for other departments.

3. The Commission began its work with the formation of three lists of the duties that the police should not perform (their implementation was recognized unnecessary or unenforceable); should be addressed to public and estate institutions by affiliation; should be transferred to the executive bodies of other departments (currently existing and new specially created for this purpose).

4. In the course of subsequent work, the Commission repeatedly corrected them and concretized them taking into account the opinions of representatives of other departments. So, there were two groups of duties extrinsic to the police: 1) when transferring which (157 duties) it was not required to create new executive bodies and 2) when there was a need to perform duties (117) by newly established bodies.

5. The Commission's proposals were aimed at two independent circumstances important for state activity. On the one hand, the transfer of functions extrinsic to the police helped intensify activities to ensure public peace and, on the other hand, expanded the subject matter of the city and county public administration bodies. Such a measure, according to the Commission members, was supposed to strengthen their independence and authority. At the same time, it was stated that such a transition of responsibilities, especially at first, would be associated with practical difficulties and material costs of the treasury. However, this should not hinder the implementation of the proposed measures, since without them it would be impossible to improve the police activity.

6. Another major state problem was raised in the Brief explanatory note, related to the transfer of police powers to those bodies to which they were inherently assigned. It was pointed out that the population, represented by representatives of county and city self-government, should take decisive measures aimed at improving their well-being and living conditions. At the same time, they should not rely only on the state assistance and comprehensive police surveillance. Only in this case there can be true progress and lasting improvement of social and living conditions. "Likewise, it is not possible to overthrow the origination of the so-called police state in legislation and the very life, if the adoption of measures to improve people's well-being and decency depends on the police, and they are also entrusted with the duty to observe all innumerable mandatory regulations that are

created for the maintenance of these or other cultural benefits" [7, p. 91].

7. When making proposals for reforming the police, the Commission members dealt with the issues affecting relations between the police and bodies of the Department of Orthodox Confession with extreme caution and respect, believing that this issue should be resolved in a timely manner so that the interests of the church administration would not be violated by the release of the police from duties and their transfer to newly established and already existing bodies. In this regard, it was suggested that the Chief Prosecutor of the Holy Synod, in accordance with the established procedure, should prepare proposals for the discussion by the Holy Synod on changing the resolutions that determined the previous order of police activity in this area.

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Ways to Improve the Application of Early Release from Serving a Sentence

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Abstract

Introduction: the article discusses and analyzes ways to improve the complex institution of long-term release from serving a sentence as an important means to promote law-abiding behavior of convicts. A large number of petitions for the application of such types of release from further serving of punishment as parole and commutation indicates their practical significance. The relevance of the topic under study is determined by the Concept for the development of the penal system of the Russian Federation up to 2030, one of the directions of which is to improve the penal policy in order to humanize it, including through the use of various means of incentive influence. *Purpose:* to substantiate the need for the development of a comprehensive institution of release from serving a sentence, as well as to formulate specific proposals for improving the use of various types of release from serving a sentence and to argue their expediency. *Methods:* statistical, comparative legal, method of interpretation of legal norms, theoretical methods of formal and dialectical logic. Results: it seems that the institution of early release from serving a sentence occupies a special place in the system of mechanisms for achieving the goals of correcting convicts and preventing them from committing new crimes and contains significant potential, the implementation of which will improve and boost effectiveness of the execution of criminal penalties. The analysis of the current regulation of this institution has revealed a number of problems and difficulties in law enforcement in terms of the use of various types of early release from serving a sentence. Their resolution is an important task of the science of criminal and penal law and contributes to further humanization of the modern penal policy of Russia. *Conclusions:* as a result of the conducted research, the need for the development of a comprehensive institution of release from serving a sentence is substantiated and ways of improving it through amendments to criminal and penal legislation are proposed.

Keywords: institution of release from serving a sentence, parole; commutation; control over parolees; convicts serving imprisonment; convicts serving restriction of liberty.

5.1.4. Criminal law sciences.

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Introduction

The Concept for the development of the penal system of the Russian Federation up to 2030 stipulates strengthening the rule of law and order in penal institutions and improving the procedure for individual prevention of offenses among convicts, which implies the effective use of means of positive stimulation of law-abiding behavior of convicts, in order to ensure safe activities of the penal system. Early release from further serving of punishment is one of the means of promoting positive behavior of convicts.

It is important to note that the concept "release from punishment" includes the following legal consequences: 1) non-appointment of punishment to the convicted person; 2) appointment of punishment to the convicted person, but release from his actual serving; 3) release from further serving of punishment after partial serving of the appointed penalty [1, p. 20]. So, according to these criteria, various types of release from punishment can be classified: release from sentencing; release from actual serving of punishment; and release from further serving of punishment.

Release from further serving of punishment is an institution implementing the principle of humanism and, as a rule, aimed at improving the legal status of convicts, which stimulates their law-abiding behavior [2, p. 309]. This institution is of great social importance, since it gives the opportunity to adjust the amount of criminal repression applied to a convicted person, depending on the achievement of punishment goals or other circumstances [3, p. 5]. The specifics of criminal legal encouragement lies in the state's approving assessment of positive post-criminal behavior [4, p. 11, 16]. Due to the fact that the norms on release from further serving of punishment are also included in the penal and criminal procedure law, this institution has an intersectoral and complex character.

The article discusses ways to improve the application of early release from serving a sentence, as well as the feasibility of optimizing the implementation of other means to encourage law-abiding behavior of convicts serving restriction of liberty as the main punishment.

Parole: statistical aspect and grounds for application

Parole is one of the types of a complex institution of release from further serving of punishment. Parole is the main incentive for convicts' correction and a means of preventing offenses and crimes in places of deprivation of liberty. It is obvious that parole is a complex intersectoral incentive institution of criminal, criminal procedure and penal law, regulating convicts' legitimate interests for early release from further serving of punishment and aimed at positively stimulating their law-abiding behavior. Issues of its practical implementation and improvement are widely discussed by representatives of not only domestic doctrines of criminal and penal law, but also foreign researchers [5; 6].

According to judicial statistics presented by the Supreme Court of the Russian Federation, in 2016, 122,552 petitions for parole were submitted to the court, with 55,217 (45%) being approved and 52,580 (42%) being rejected. The rest were returned, including due to the fact that they were filed in violation of the mandatory terms of serving the sentence required to submit these materials to the court. In 2021, 69,302 petitions for parole were filed, while the courts granted 29,759 (42.9%) and rejected 26,312 (37.9%) petitions; in 2022, 65,911 petitions for parole were filed, of which 27,002 (40%) were satisfied, and 25,472 (38%) – rejected [7]. Thus, the number of persons released on parole has decreased by 48.9% for the period under consideration, which may be due to the reduction in the prison population, widespread imposition of criminal penalties alternative to imprisonment, and greater demand for the institution of commutation.

Courts address the problem of granting parole to convicts, to whom the unserved part of imprisonment has been commuted to forced labor. In 2020, judicial practice developed an ambiguous approach to understanding Part 3 of Article 79 of the Criminal Code of the Russian Federation in relation to this category of convicts. Some courts determined that these convicts had the right to parole after actually serving a certain part of the entire sentence imposed by the court verdict, and not a new punishment. Other courts considered that the terms for parole had to be counted from the moment the punishment had been replaced with forced labor, i.e. the terms were calculated from the remaining term of the new punishment, and not the punishment imposed by the court verdict. To ensure the unity of judicial practice, paragraph 4.1. of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009 introduced by the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 32 of October 28, 2021, states that criminal legislation does not prohibit

parole for convicts serving forced labor, in case it was appointed in accordance with Article 80 of the Criminal Code of the Russian Federation. In this case, the terms established in Article 79 of the Criminal Code of the Russian Federation, upon the actual serving of which conditional early release from serving a sentence is possible, are calculated from the moment of serving forced labor in accordance with Article 80 of the Criminal Code of the Russian Federation, and not the punishment imposed by the court verdict.

It is worth mentioning that the Definition of the Constitutional Court of the Russian Federation No. 2099-O of September 28, 2021 "On refusal to accept for consideration the complaint of citizen Il'ya N. Erekhinskii for violation of his constitutional rights by paragraph "v" of Part 3 of Article 79 and Part 2 of Article 80 of the Criminal Code of the Russian Federation" clarifies the following: having a fairly wide discretion in establishing both conditional and unconditional types of release from punishment, the federal legislator, within the framework of the discretion granted to it, has introduced such regulation, in which the release of a positively characterized convict from further serving of his/her sentence by replacing the remaining part with a milder type of punishment cancels the unserved part of the previous penalty. It is further stated that with the adoption of the resolution on commutation in accordance with Article 80 of the Criminal Code of the Russian Federation, serving of the sentence imposed by the court verdict is terminated, and the punishment chosen as a replacement is subject to execution. Thus, the Constitutional Court of the Russian Federation indicates that the application of the specified substitution of punishment cancels the previously served term, which gave the right to parole.

But at present, this provision of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009 does not comply with the norm of Part 3.2 of the Criminal Code of the Russian Federation, introduced by Federal Law No. 200-FZ of June 28, 2022, in which it is noted that the term of punishment, after the actual serving of which parole can be applied to a convict whose unserved part of the penalty has been commuted, is calculated from the beginning of the term of the sentence imposed by the court verdict. It seems that in this case, these changes improve the legal status of convicts and in accordance with Part 1 of Article 10 of the Criminal Code of the Russian Federation are retroactive.

However, after the introduction of Part 3.2. of Article 79 of the Criminal Code of the Russian Federation there may arise certain difficulties, since the term of punishment, after the actual serving of which parole can be applied, will be applied only if terms of the unserved part of imprisonment will be equal to terms of the substitute punishment in the form of forced labor (according to the law, determination of these terms depends on judicial discretion). Currently, such equality of the terms of the substituted and the substitute punishment does not follow from the law.

In addition, for convicts to whom forced labor has been applied in accordance with Article 80 of the Criminal Code of the Russian Federation, the term of application of parole becomes due earlier than the term of application of the incentive institution of punishment substitution. This is due to the fact that the term of punishment for the occurrence of this substitution of punishment is calculated from the moment of serving forced labor.

If the legislator, in order to stimulate convicts' law-abiding behavior and successful adaptation in society after being released from serving a sentence, introduces the norm regarding "preferential" calculation of the beginning of parole, then why there is no similar mechanism for calculating the beginning of commutation. At the same time, taking into account the principle of consistent and gradual application of incentive measures, a possible term of punishment commutation becomes due earlier than the beginning of parole.

In this regard, in our opinion, it is also necessary to add a provision to Article 80 of the Criminal Code of the Russian Federation similar to the norm of Part 3.2. of Article 79 of the Criminal Code of the Russian Federation in order to establish the same terms of the beginning of parole and punishment substitution for this category of convicts. In this case, a convict serving a forced labor is denied parole, he/she may apply to the court with a petition to replace the unserved part of the penalty with a milder type of punishment in accordance with Part 11 of Article 175 of the Penal Code of the Russian Federation.

It is known that the material basis for the application of norms of the institution of parole is the court's recognition that a convicted person does not need to serve the whole sentence imposed by the court for his/her correction, and has also compensated for the damage (fully or partially) caused by the crime. It seems appropriate that

even after parole the released person compensates for the damage or otherwise makes up losses caused to the victim. Therefore, it is reasonable to fix the provision in the law that if a convicted person has not compensated for the damage or has not otherwise made up losses for the real harm caused to a victim, then the court imposes such an obligation on the convict. It should be noted that such a norm is fixed in Part 2 of Article 76 of the Criminal Code of the Republic of Armenia. Thus, the court in this case will be obliged to assign such a function to the released person. In addition, it would be reasonable for the court to impose an obligation to find a job on the convicted person, taking into account the possibility of applying Part 5 of Article 73 of the Criminal Code of the Russian Federation.

Control over behavior of a parolee

In accordance with Part 6 of Article 79 of the Criminal Code of the Russian Federation, control over behavior of a person released on parole is carried out by an authorized specialized state body. By Decree of the President of the Russian Federation No. 119 of March 2, 2021 "On amendments to the Regulations on the Federal Penitentiary Service, approved by Decree of the President of the Russian Federation No. 1,314 of October 13, 2004", the function of monitoring parolees was transferred to criminal executive inspections. Nevertheless, after this function was transferred, there appeared problems to apply legal norms concerning the control of parolees. The Federal Penitentiary Service, in order to organize the performance of the assigned function and successfully prevent recidivism, sent an instruction to territorial bodies of the Federal Penitentiary Service for criminal executive inspections No. iskh-011-18643 of March 23, 2021 "Procedure for monitoring behavior of persons released on parole from serving their sentences". Nevertheless, this instruction of the Federal Penitentiary Service does not have the force of law and does not regulate the responsibility of a parolee for violating the duties imposed by the court and violating the requirements specified in the law.

In this regard, it seems appropriate to fix a concept of "malicious evasion from fulfilling the duties assigned to a parolee by the court" in the Penal Code of the Russian Federation. Therefore, Section VIII of the Penal Code of the Russian Federation should be presented in the following wording: "Control over conditionally convicted persons and persons released on parole from serving a sentence", and also supplement this section of the Penal Code of the Russian Federation with Chapter 24.1 "Control over persons released on parole from serving a sentence" stipulating that malicious evasion of the duties imposed by the court on a parolee, which are provided for by Part 7 of Article 79 of the Criminal Code of the Russian Federation, is a repeated failure to fulfill such duties after a specialized state body controlling behavior of a convicted person has issued a written warning about the possibility of canceling parole.

In addition, according to L.I. Razbirina, adjudgement into the wanted list and detention of a parolee who has fled from his/her place of residence and whose whereabouts are unknown should be regulated [8, p. 56]. In this regard, we consider it possible to amend Article 18.1 of the Penal Code of the Russian Federation "Adjudgement into the wanted list and conduct of law enforcement intelligence operations when executing punishments not related to the isolation of convicts from society" by adding parolees to the above list.

Parole for convicts sentenced to life imprisonment

In accordance with Part 5 of Article 79 of the Criminal Code of the Russian Federation, parole is also applied to persons serving a life sentence only after they have served at least 25 years of imprisonment, in the absence of malicious violations of the established procedure for serving a sentence during 3 years previous to parole and the absence of a new grave or especially grave crime committed while serving a life sentence. Although legislation provides for the possibility of parole for persons serving life imprisonment, in reality none of them has been released on parole yet.

After serving such a long sentence, those sentenced to life imprisonment experience apathy and a sharp decrease in aspirations and interests, which leads to their passive attitude to correction. Taking into account their age, they may experience difficulties in social adaptation to the conditions of life in freedom. It seems interesting that in foreign countries, small mandatory deadlines are fixed in legislation for the beginning of parole for those sentenced to life imprisonment [9]. According to K.A. Sych, one of the factors in the formation of prospective motivation of those sentenced to life imprisonment is providing them with the opportunity to transfer to semi-open conditions after serving at least 15 years of life imprisonment, and providing the possibility of parole after serving at

least 20 years of life imprisonment [10, p. 35]. E.N. Kazakova believes that it is enough for this category of convicts to serve no more than 15 years of imprisonment to be granted parole [11, p. 43]. V.A. Utkin and A.P. Detkov note the unjustifiability of non-application of commutation to persons serving life imprisonment [12, p. 68].

Besides, it is worth mentioning that, according to Part 4 of Article 58 of the Criminal Code of the Republic of Belarus, a person sentenced to life imprisonment, or a person to whom the death penalty has been commuted to life imprisonment, after serving twenty years of imprisonment can be granted the substitution of further serving of life imprisonment by imprisonment for a certain term, but not more than five years. Convict's behavior, his health condition or age are taken into account.

In this regard, it is important to fix a provision in penal legislation that a person sentenced to life imprisonment, after serving 15 years of the sentence, may be transferred from a correctional facility for convicts serving life imprisonment to an isolated area functioning as a strict regime correctional facility at the same facility, and then after five years – from an isolated area functioning as a strict regime correctional facility at the same facility to an isolated area functioning as a panel settlement. So, parole, in our opinion, should be applied only to those convicts of this category who have been transferred to a panel settlement and served at least five years of imprisonment there. In addition, it is advisable to provide the possibility of applying the substitution of punishment in the form of deprivation of liberty with a milder type of punishment in the form of forced labor for a period of five years, but only after they have served at least three years of imprisonment in an isolated area functioning as a panel settlement. Thus, social adaptation to the conditions of life in society will be carried out in relation to those sentenced to life imprisonment through the consistent and gradual application of incentive norms and institutions, which will contribute to the effective corrective effect and prevention of crimes, as well as offenses on their part after parole from serving their sentence.

It also seems necessary to regulate the implementation of electronic supervision of persons released on parole, especially in relation to those sentenced to life imprisonment. Therefore, in order to reduce recidivism rates among this category of citizens, it seems sensible to specify in Part 2 of Article 79 of the Criminal Code of the Russian Federation that the court is entitled to impose on a parolee the fulfillment of obligations to comply with the conditions of monitoring him/her with the help of electronic and other technical means of supervision and control during the remaining unserved part of the sentence for a period of 2 months to one year inclusive [13, p. 282].

Commutation: statistical aspect

Commutation is one of the important incentive institutions that promote law-abiding behavior of convicts. This institution objectively helps convicts in social adaptation to the conditions of life in society and performs an important task of restoring and maintaining socially useful ties. Moreover, this substitution of punishment is quite popular in practice. In 2016, 41,183 petitions were sent to the court to replace the unserved part of the sentence of imprisonment with a milder type of punishment, of which 13,411 petitions (32% of the total number of petitions) were satisfied by the courts, while 19,441 (47%) – rejected. Accordingly, in 2021, 62,997 petitions were filed, of which 21,487 petitions (34.1%) were satisfied by the courts, while 25,646 (40.7%) – rejected. And in 2022, 59,111 petitions were sent to replace the unserved part of the sentence in the form of imprisonment with a milder type of punishment (except forced labor), of which 18,873 (31%) petitions were satisfied by the courts and 25,646 (40.7%) – rejected. At the same time, in 2022, respectively, 5,053 petitions were sent to the courts to replace the unserved part of the penalty with a milder type of punishment in the form of forced labor, of which 2,332 (46%) petitions were satisfied and 1,314 (26%) – rejected. Thus, the number of persons to whom commutation has been applied has increased by 58% over seven years, which is probably due to the fact that many convicts apply to the court with a petition for release in accordance with Article 80 of the Criminal Code of the Russian Federation, since the formal basis for possible replacement of the unserved sentence with a milder type of punishment in the form of forced labor, according to Part 2 of Article 80 of the Criminal Code of the Russian Federation, becomes due earlier than the term of possible parole.

Conditional nature of applying commutation

In accordance with the current legislative regulation, the replacement of the unserved part of the penalty with a milder type of punishment has an unconditional, final character. However, it should be noted that some scientists point to the

need to introduce a conditional nature of the application of punishment substitution [14].

According to Part 3 of Article 80 of the Criminal Code of the Russian Federation and paragraph 4 of the Resolution of the Plenum of the Supreme Court No. 8 of April 21, 2009 (as amended October 28, 2021) "On judicial practice of conditional early release from serving a sentence, replacement of the unserved part of the punishment with a milder type of punishment" when determining the term or amount of the substitute punishment, the court takes into account that it cannot be greater than the maximum the term or amount of punishment provided for by the General Part of the Criminal Code of the Russian Federation for this type of punishment (with the exception of forced labor) and the upper limit of the substitute punishment should be established taking into account the provisions of Part 1 of Article 71 of the Criminal Code of the Russian Federation. Accordingly, the court may replace the unserved part of the sentence according to the ratio of terms at its discretion. At the same time, as a rule, the courts replace the unserved part of the punishment at the rate of one day for one day. So, in case the unserved part of the penalty is substituted for a convict with a milder type of punishment in the form of 2 years of correctional labor and he/she maliciously evades serving the sentence, then, in accordance with Part 4 of Article 50 of the Criminal Code of the Russian Federation, the punishment in the form of correctional labor is replaced with a more severe type of punishment, for example, in the form of imprisonment at the rate of one day of imprisonment for three days of correctional labor. Thus, 2 years of correctional labor for the convicted person will be replaced by 8 months of imprisonment, which leads to the fact that he finds himself in a "preferential" position due to this recalculation of the sentence.

It is obvious that such a decision does not promote law-abiding behavior of convicts. In this regard, it is proposed to introduce a conditional nature of applying commutation. With such legal regulation, in case a convicted person maliciously evades serving a substitute sentence (for example, in the form of correctional labor), the court, on the recommendation of the body executing punishment, may decide to cancel the specified substitution of punishment and the execution of the remaining part of the sentence not served by the court verdict.

For example, two years of imprisonment were replaced by two years of correctional labor for a convicted person in accordance with Article 80 of the Criminal Code of the Russian Federation. He served one year of correctional labor, and then began to maliciously evade serving the sentence. In case of conditional application of replacement of the unserved part of the sentence with a milder type of punishment, one year of correctional labor served by the convicted person must be transferred to imprisonment at the rate of one day of imprisonment for three days of correctional labor, i.e. one year of correctional labor served by the convicted person will be equal to four months of imprisonment. Then it is necessary to deduct received four months from two years of imprisonment, which were replaced by two years of correctional labor. Thus, the convicted person will have to serve one year and eight months of imprisonment.

It seems that this model of legal regulation corresponds to the principle of justice and will help prevent the commission of malicious violations by convicts who, after applying Article 80 of the Criminal Code of the Russian Federation against them, maliciously evade serving a substitute sentence.

Commutation in relation to minors

It should be noted that Article 93 of the Criminal Code of the Russian Federation stipulates a conditional early release from serving a sentence for minors sentenced to imprisonment. Nevertheless, there is no separate provision for replacing the unserved part of the penalty with a milder type of punishment for this category of convicts in criminal legislation.

Sub-paragraph 2 of paragraph 41 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 1 of February 1, 2011 "On judicial practice of the application of legislation regulating the specifics of criminal liability and punishment of minors" states that the provisions of Article 80 of the Criminal Code of the Russian Federation may be applied to persons under the age of 18. It seems more reasonable to include in the Criminal Code of the Russian Federation a separate article regulating commutation in relation to minors, which will correspond to Part 1 of Article 93 of the Criminal Code of the Russian Federation. This article will stipulate that if a minor has committed crimes of small and medium gravity or a serious crime, commutation can be applied to him/her after serving at least one-third of the

sentence, a particularly serious crime – after serving at least half of the sentence (on parole – at least two-thirds of the term punishments). Such a formal basis for punishment substitution will correspond to the legitimate and justified application of this incentive institution and contribute to improving effectiveness of correctional impact on these convicts.

Positive stimulation of law-abiding behavior of convicts serving sentences in the form of restriction of freedom

An important feature of penal legislation is the existence of norms providing for incentive measures applied to convicts serving restriction of liberty. According to the statistics of the Federal Penitentiary Service, in 2018, only 515 persons sentenced to restriction of freedom were given incentives, which is 1.34% of the total number of persons sentenced to restriction of freedom registered with criminal executive inspections. Similar figures were recorded in 2019: 549 convicts (1.41%); in 2020 – 601 convicts (1.56%); and in 2021 – 590 (1.6 %) [7].

At the same time, according to the statistics of the Federal Penitentiary Service, in 2018, 23,541 persons sentenced to restriction of liberty violated the order and conditions of serving a sentence, which is 61.35% of the total number of convicts in this category; in 2019 – 24,825 convicts (64.04%); in 2020 – 24,343 convicts (63.13%); and in 2021 – 24,014 convicts (64.95%). In addition, in 2018, 22,412 persons sentenced to restriction of liberty had a warning or an official warning; in 2019 – 23,536 convicts, in 2020 – 23,143 convicts, in 2021 – 22,795 convicts [7]. Thus, there is an imbalance in the application of measures of incentives and penalties to this category of convicts. In this regard, it may be necessary to determine the ratio of the volume of incentives and penalties applied to these convicts, which will contribute to increasing effectiveness of correctional impact on them.

Besides, in order to promote law-abiding behavior of convicts serving sentences in the form of restriction of liberty as the main punishment and to increase the amount of incentive measures applied to them, it is rational to provide for them the possibility of conditional early release from serving their sentence. On the basis of Part 1 of Article 74 of the Criminal Code of the Russian Federation, the court is entitled to apply to a conditionally convicted person an incentive norm in the form of cancellation of a suspended sentence and removal from a criminal record, but there are no such incentives for early release for convicts serving restriction of liberty. Meanwhile, conditionally convicted people and those sentenced to restriction of liberty are almost in the same conditions. The legal restrictions and obligations fixed in Part 5 of Article 73 of the Criminal Code of the Russian Federation in relation to a conditionally convicted person and in Part 1 of Article 53 of the Criminal Code in relation to those sentenced to restriction of liberty are similar in their nature and scope [15, p. 45].

In this context, the research conducted by foreign specialists is of interest. Thus, a correlation was established between convicts' behavior and the presence of a powerful and significant incentive in the form of parole. When such stimuli are absent or eliminated, the desire for correction decreases and the level of deviant behavior increases [16].

In addition, penal legislation contains a principle of rational application of measures of coercion, means of correction of convicts and stimulation of their law-abiding behavior. According to the conducted research, more than half of the employees of criminal executive inspections (67%) support the idea of applying parole to convicts serving restriction of freedom as the main type of punishment [9, p. 206]. It is also important to note that in the Republic of Belarus, the institution of conditional early release is applied to persons serving sentences in the form of deprivation of the right to hold certain positions or engage in certain activities, forced labor, restrictions on military service, restrictions on freedom or imprisonment [17, p. 203].

It would be logical to apply parole to convicts serving restriction of liberty as the main type of punishment after they have actually served at least half of the sentence imposed by the court, and to minors – at least one third of the punishment period, due to their individual psychological characteristics of personality development.

By the way, in accordance with criminal legislation of the Republic of Belarus and the Republic of Uzbekistan, the replacement of the unserved part of the penalty with a milder type of punishment is applied to those sentenced to restriction of liberty. In order to positively stimulate law-abiding behavior of convicts serving restriction of liberty and increase the volume of incentive measures applied to them, it also seems appropriate to fix the possibility of applying commutation to this category of convicts in domestic criminal legislation.

Conclusions

Thus, it should be concluded that the improvement of criminal and penal legislation in the field of legal regulation of parole and commutation, as well as positive stimulation of law-abiding behavior of persons serving sentences in the form of restriction of liberty, will enhance effectiveness of correctional impact on convicts and prevent crimes and offenses on their part. Based on our research, we can identify the following ways to improve the application of early release from serving a sentence:

– to fix in Article 80 of the Criminal Code of the Russian Federation a provision similar to the norm of Part 3.2. of Article 79 of the Criminal Code of the Russian Federation for establishing the same terms for the beginning of parole and commutation. In this case, a person sentenced to forced labor, if he/she is refused parole, may apply to the court with a petition to replace the unserved part of the penalty with a milder type of punishment in accordance with Part 11 of Article 175 of the Criminal Code of the Russian Federation;

– to provide in the law that if a convicted person released on parole has not compensated for the damage or has not otherwise made amends for the real harm caused to the victim, then the court imposes such an obligation on this convicted person;

– it seems appropriate to fix the concept "malicious evasion from fulfilling the duties assigned to a parolee by the court" in the Penal Code of the Russian Federation. Therefore, Section VIII of the Criminal Code of the Russian Federation should be presented in the following wording: "Control over conditionally convicted persons and persons released on parole from serving a sentence", and also supplement this section of Chapter 24.1 "Control over persons released on parole from serving a sentence". In this chapter, it is necessary to regulate that malicious evasion from fulfilling the duties assigned by the court to a parolee, which are provided for in Part 7 of Article 79 of the Criminal Code of the Russian Federation, is a repeated failure to fulfill such duties after a specialized state body controlling behavior of a convicted person issues a written warning about the possibility of canceling parole;

– in order to resolve the issue of adjudgement into the wanted list and detention of a parolee, who has disappeared from his/her place of residence and whose whereabouts are unknown, we consider it possible to amend Article 18.1 of the Penal Code of the Russian Federation "Adjudgement into the wanted list and conduct of law enforcement intelligence operations when executing punishments not related to the isolation of convicts from society" by adding parolees to the above list;

– for successful social adaptation of those sentenced to life imprisonment to living conditions in the society, it seems justified to provide a mechanism based on the consistent and gradual application of incentive norms and institutions. Thus, it is proposed that a person sentenced to life imprisonment, after serving 15 years of the sentence, may be transferred from a correctional facility for convicts serving life imprisonment to an isolated area functioning as a strict regime correctional facility at the same facility, and then after five years – from an isolated area functioning as a strict regime correctional facility at the same facility to an isolated area functioning as a panel settlement. We believe it reasonable to substitute the penalty in the form of imprisonment with a milder form of punishment in the form of forced labor for a five-year period, but only after a convict has been held in the isolated area functioning as a panel settlement for at least three years. Accordingly, parole, in our opinion, should be applied only to those convicts of this category who have been transferred to the isolated area functioning as a panel settlement and served at least five years of imprisonment there;

– in order to reduce the level of recidivism among parolees, it seems appropriate to indicate in Part 2 of Article 79 of the Criminal Code of the Russian Federation that the court has the right to assign to a parolee the fulfillment of obligations to comply with the conditions of monitoring him/her with the help of electronic and other technical means of supervision and control during the remaining unserved part of the sentence for a period of two months to one year inclusive;

– it is proposed to introduce a conditional nature of the application of the replacement of the unserved part of the penalty with a milder type of punishment. With such legal regulation, in case of malicious evasion of the convicted person from serving a substitute sentence (for example, in the form of correctional labor) the court, on the recommendation of the body executing the penalty, may decide to cancel the specified substitution of punishment and impose the execution of the unserved part of the sentence imposed by the court with credit for time served according to the norms stipulated by Part 1 of Article 71 of the Criminal Code of the Russian Federation;

– to include in the Criminal Code of the Russian Federation a separate article regulating commutation in relation to minors. This article should stipulate that when committing crimes of small and medium gravity or a serious crime, the replacement of the unserved part of the penalty with a milder type of punishment should be applied after the convicted person has served at least one third of the sentence, when committing a particularly serious crime – after serving at least half of the sentence (on parole – at least two three thirds of the sentence);

– in order to positively stimulate law-abiding behavior of convicts sentenced to restriction of freedom and increase the scope of application of incentive measures to them, it seems advisable to provide the possibility of applying parole and commutation to these convicts in domestic criminal legislation.

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Role of Civil Society Institutions in Promoting Law-Abiding Behavior of Female Convicts Serving a Sentence of Imprisonment: Existential, Psychological and Penitentiary Aspects

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Abstract

Introduction: understanding the role and importance of civil society institutions in solving one of the significant problems of resocialization, social adaptation of convicts, prevention of new crimes makes it expedient to develop new approaches to its study, in particular, requires research in the context of existential and psychological problems of world perception and attitude to living the period of serving a sentence as a segment of the life path of female convicts serving criminal sentences in places of deprivation of liberty. *Purpose:* to study key life options (variants of life) of female convicts serving a criminal sentence in the form of imprisonment on the example of the correctional facility for women in Krasnodar Krai, where, in cooperation with the Directorate of the Federal Penitentiary Service in Krasnodar Krai and financial support of the Presidential Grant Foundation, the Social Innovation Support Fund "Vol'noe Delo" and the Kuban Governor Grant, a project of the Krasnodar Regional Charitable Public Organization "Healthy Generation" is being implemented with the participation of teachers and psychologists. Methods: theoretical analysis, comparative analysis, psychological testing, statistical method; methodology "Relevant variant of life" (A.G. Shisheva). *Results:* the methodological principle of complexity allows to conduct a study of such a social phenomenon as resocialization from the standpoint of cybernetics, when the processes of learning, upbringing and development are considered as a special type of cognitive activity management (formation of a subjective model of the relevant life option by female convicts-project participants; active life position with a focus on solving individual life tasks and achieving success in the future; willingness to use time rationally and in accordance with planned goals to get possible personal benefits), which helps identify the specifics of direct relationship and feedback in social processes and study the means to improve management efficiency, including in the law enforcement sphere. *Conclusion:* guidelines for penal policy humanization should be based on interdisciplinary approaches to solving problems of resocialization of convicts; variants of life chosen by the project participants as "real" or "ideal" are socially approved in modern socio-economic realities and are meaningfully

implemented by the majority; the project participants construct their own lifestyle, which can be implemented within the framework of social rules and demonstrates their aspiration to restore social functions and integration into society.

Keywords: security of society and the state; life option; existential psychology; life personality type; ideas about the world; meaning of existence; personality of the convict; resocialization.

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Introduction

The goals of Russian penal legislation are to correct a convicted person and prevent commission of new crimes. One of the current trends in achieving the goals set by the Russian state is the expansion and inclusion of new areas of social functions, which implies the improvement of legal regulation and consideration of positive domestic and foreign experience. The state fulfils the tasks aimed at maximizing the use and development of the constructive potential of both an individual and civil society institutions in solving socially significant problems of resocialization of certain categories of citizens. The institution of resocialization as a socio-legal phenomenon contributes to the achievement of goals and objectives of the penal policy and acts as an important element of the social function of the state. One of the most important conditions for effective resocialization of persons released from correctional institutions is the creation of necessary social, economic, psychological, medical and legal conditions that allow them to lead a law-abiding lifestyle, which ultimately significantly affects recidivism rates. The process of resocialization is rather time-consuming and consists of certain stages (stage of execution of punishment, period of primary resocialization after punishment, lengthy process of integration into society). The Federal Law “On Probation” defines penitentiary probation as one of the types of probation applied to convicts in correctional institutions as a set of measures aimed at correcting convicts, as well as preparing for the stage of release.

Penitentiary probation is implemented by various entities. The list of subjects of penitentiary probation is defined by law, according to the content of the Federal Law “On the Fundamentals of the Crime Prevention System in the Russian Federation” can be correlated with subjects endowed with the competence of crime prevention. These are executive authorities, institutions of the penal system, state authorities of the subjects of the Russian Federation, and local self-government bodies.

The Penal Code of the Russian Federation determines public influence and assistance to convicts released from serving their sentences as the main means of correction. A special role in resocialization of convicts, in respect of whom probation is applied, is assigned to socially oriented non-profit organizations and public associations providing social, pedagogical, legal and other services aimed at helping citizens who have served criminal sentences in places of deprivation of liberty to return to a law-abiding lifestyle.

It is well known that certain categories of convicts have their own specifics of serving a criminal sentence. Thus, Article 100 of the Penal Code of the Russian Federation provides for the presence of children’s homes in correctional institutions in which women with children serve their sentences. This entails the need to create conditions for normal living and development of children, as well as to select and implement a special complex of psychocorrective measures. In this regard, the experience of resocialization of persons being released and having been released from correctional facilities located on the territory of

Krasnodar Krai is of great interest. In the Correctional Facility No. 3 in the village Dvubratskii of Krasnodar Krai, a complex multi-level process of directed measures to restore convicts' rights, status, legal capacity in their own and everyone's eyes defined as a resocialization effect has been carried out on a permanent basis since 2014. It is financially supported by the Presidential Grant Foundation, the Social Innovation Support Fund "Vol'noe Delo" and the Kuban Governor Grant. Teachers and psychologists participate in the project; the Directorate of the Federal Penitentiary Service in Krasnodar Krai takes part in its coordination. The impact includes aspects of professional development: female convicts have the opportunity to undergo training in such areas as: "Fundamentals of entrepreneurship", "Landscape design", "PC User"; correctional impact: Mother's Day holidays are organized for them, Christmas meetings with the priest of the Russian Orthodox Church, conversations "Spiritual path and development of women, values of family and motherhood"; identification of unformed, undeveloped abilities and their restoration: master classes on newborn care and on the development of personal abilities are held; prevention: formation and development of anti-criminal motives of law-abiding behavior and change of social attitudes.

Resocialization is based on a complex set of psychological, pedagogical, economic, legal and organizational measures aimed at forming an individual's ability and readiness to become a full member of society. The process of resocialization of female convicts has a number of significant features, so in the context of existential and psychological issues, their worldview and attitude to living the period of serving a sentence as a segment of their life path requires study. Researchers note that the awareness of the crime committed, the punishment imposed and the length of the life period in isolation from society causes deep personal experiences and actualizes problems of being in conditions of unfreedom, for the resolution of which it is important for a person to fill his/her past, present and future life with the meaning [1; 2]. Personal crisis as a result of awareness of what is happening at this stage of life entails two possible alternatives: positive resolution and a qualitatively new level of personality functioning, or its further destruction, often manifested in forms of antisocial and delinquent behavior. Therefore, as the scientists emphasize, correctional work should begin from the moment convicts arrive at a correctional facility [3–5], while correction measures should take into account the psychological and spiritual dimension of the individual [6].

Presence of children is a significant deterrent to crime commission. Therefore, the Krasnodar Regional Charitable Public Organization "Healthy Generation" systematically conducts training seminars for female convicts aimed at promoting respect for motherhood, developing communication skills with the baby, and fostering a sense of responsibility, for example, "Motivation of convicted mothers to law-abiding behavior. Formation of generally accepted values", "Effective methods and a tolerant approach for successful resocialization of convicted mothers", "Observance of the rights of convicted women with young children".

Women differ from men in their great emotional instability, emotional dependence on the current situation, and increased anxiety in isolated conditions. The above-mentioned circumstances determine the relevance of the study of those social values, the possession of which primarily prevents the return of former female convicts to illegal behavior.

The purpose of the article is to consider key types or life options (variants of life) of female convicts serving a criminal sentence in the form of imprisonment in the correctional facility for women in Krasnodar Krai, participating in the resocialization project as a socially significant initiative of the Krasnodar Regional Charitable Public Organization "Healthy Generation".

Within the framework of this research, statements of women analyzing a current variant of their own life, including real life "here and now", as well as ideas about ideal and unacceptable life options. The analysis of women' dialogue with their own self is of a practical value for both the respondents themselves and the entire system of their psychological support. Self-reflection helps the respondents understand themselves and their own lives and initiates the search for answers to life questions that are significant for the individual. Understanding and typologization of life attitudes of convicts focused on

correction make it possible to effectively select and use psychotechnical tools for complex resocialization measures.

When constructing methodological foundations of the study, we relied on the ideas of K.A. Abul'khanova, L.I. Antsiferova, and A.A. Kronik about understanding a life path and choosing life strategies [7–9], D.A. Leont'ev about creative life and a role of personal values in the organization of human life [10], C. Buhler about a life path of the individual [11], R. May and J.F.T. Bugental about existential psychotherapy [12; 13], V. Frankl and A. Lengle about life meanings and work with personal and existential crises [14–17]. The conceptual basis of the research is V.N. Druzhinin's beliefs about life options of modern people, consciously chosen by them or set by society and its social institutions [18].

Life options are "social inventions", or life models that exist independently of a person, in which he/she is included in a certain period of time, depending on specific conditions and life circumstances. A variant of life can be considered as a type of a person's attitude to life, since each option corresponds to a person's specific ideas about the world, him/herself and others, and the meaning of being. A person in his/her individual-typological diversity, choosing a life option, is included in a certain lifestyle set by society. Living the chosen lifestyle affects personal identity, over time modifies and "typifies" the psychological appearance of a person. In the social world, a person inevitably chooses one or another life option, and the belief system adopted by him/her becomes the basis of his/her worldview [18; 19]. In his work V.N. Druzhinin describes eight variants of modern life: "Life begins tomorrow" ("Life as a preface"), "Life as a creative activity", "Life as an achievement" ("Chasing the horizon"), "Life as a dream", "Life according to the rules", "Life as a waste of time", "Life against life", "Existential constructor" ("Life as a creative activity subject"). We will consider the following [18; 20].

"Life begins tomorrow" is a life option in which a person often acts as a dreamer, has a good sense of time perspective and many plans for the future, but does not embody them in real life; the preparatory phase of his/her life path is dragging out. It is characterized by a constant postponement of the implementation of important tasks and the fulfillment of life obligations; a lot of plans and ambitious ideas in combination with inaction often lead to feelings of frustration and boredom.

"Life as a creative activity" is a life option, a creative person leads. It often represents a rebellion against an established life option, covering up the person's inner rejection of life realities and desire to avoid bitter disappointments in life. Often, a person chooses self-improvement, personal growth, self-change in the value system as priority life goals.

"Life as an achievement" is a variant of life in which a person acts as man of action. The main psychological feature of this life option is the devaluation of the present and fetishization of the future. A person, showing will, character, determination and loyalty to the cause, is inclined to sacrifice the present for the nearest predictable future, and strives for self-development of personal qualities that are "sold" on the social market, provide material earnings and ensure achievement of goals.

"Life as a dream" is a life option, characterized by person's escape from life realities into the illusory world of experiences. V.N. Druzhinin describes this state as a kind of "psychological suspended animation" [18]. This variant of life is often accompanied by the use of psychotropic substances, with the help of which the effect of derealization is achieved.

"Life according to the rules" is a variant of life, characterized by a high normative regulation of the life activity of an individual, orientation to a set of rules that prescribe a socially desirable order for the implementation of a person's life path. According to V.N. Druzhinin, life according to the rules is convenient because it saves a person from a difficult burden of choice: after all, everything is already prescribed [18].

"Life as a waste of time" is a life option in the structure of which the main occupation of a person is aimless pastime and a significant part of life is taken away by activities aimed at wasting time. The time free from making money is mostly wasted.

"Life against life" is a life option in which the main driving force is the struggle for survival. A person is on the "warpath" against everyone; it can be a struggle for social benefits, strategies of competition or fierce rivalry.

"Existential constructor" ("Life as a creative activity subject") is a life option of a person with an active life position, who has no illusions about his/her own capabilities and human nature as a whole. An individual strives to solve existential questions of the meaning of human existence, good and evil, strength and weakness, freedom and necessity, evolution of social systems. Man, his life and development is the highest value [18; 20].

V.N. Druzhinin recognizes the possibility of changing one option to another during a person's life, which correlates with other authors' views that the life path can be the subject of the construction of both personality and social institutions [11; 18; 21; 22].

In general, the subjective experience of punishment, the attitude to life, to oneself and other people, the choice of value orientations and the relevant life option by convicts largely depends on their social characteristics, penitentiary and criminal experience, attitude to the sentence, and real living conditions in a particular institution. At the same time, inner feelings and the desire for a socially approved lifestyle of female convicts participating in innovative projects for the resocialization of those released from correctional institutions can become a psychological potential for rethinking life attitudes, values, and life paths. A. L ngle writes that a person suffers existentially if he/she is disoriented in life, unable to see the broader context of what is happening, and possessed by feelings of failure and senseless fatality; however, even being constrained by circumstances, everyone is endowed with inner freedom [23].

Psychological practices in the programs for resocialization of convicts, including psychodiagnostics and psychocorrection, should be focused on providing psychological support in positive self-change of personality. At the same time, as D.A. Leont'ev rightly notes, not everything can be diagnosed by an algorithm in psychodiagnostics [10], since entrenched personality traits and properties that are reproduced in any conditions can be evaluated according to a formally fixed scheme; complex elements of the inner world can only be interpreted, since they set inexhaustible meanings. In the study, we focus primarily on the selection and use of such psychological tools, which, on the one hand, can be measured, and on the other, will allow female convicts, based on the reflection of beliefs, feelings and values in the present, to analyze different life models, to make sure that their life position is correct or to reconsider it. The importance of the forensic measurement of convicts' behavior in places of deprivation of liberty is undeniable [24], at the same time, psychological tools complement a set of methods to work with convicts and allow them to directly initiate personal changes contributing to their optimal integration into society. F.E. Vasilyuk, revealing the essence of psychotechnics, mentions that it "brings to the fore the category of consciousness and therefore becomes phenomenological and dialogical, that is, understanding psychology, capable of professionally treating the subject of research not only as an "object", but also as a living being" [25, p. 224].

Procedure and methods of empirical research

The design of the empirical study is descriptive; it is aimed at determining subjective models of the current life option of female convicts participating in social adaptation programs. Empirical tasks were consistently solved in the study: first, current life options of convicted women were identified on the basis of self-statements; second, the choices of life options of young and mature female convicts were compared; third, the results of diagnostics of young female convicts with the results of the survey of female university students and graduates were compared; and fourth, key subjective models of the current version of the life of convicted women were identified.

The empirical study covered 98 respondents, including 48 women aged 20–56 who participated in the one-and-a-half-year project "Resocialization of convicted women with young children" supported by the Presidential grant for the development of civil society realized by the Krasnodar Regional Charitable Public Organization "Healthy Generation", and 50 female students and graduates of higher educational institutions aged 20–30. To solve empirical tasks of the study, two age groups of female convicts were identified: from 20 to 30 years (21 people) and from 31 to 56 years (27 people).

When forming samplings, we took into account both the main purpose and empirical objectives of the study and the conceptual idea that life options are existential convictions of the individual, which may be the result of a conscious choice or a consequence of actual circumstances of life: this is a general ideological position of the individual and a vision of his/her own life, which can undergo changes in accordance with the main stages of the life path. We proceeded from the assumption that the choice of a life option is associated with external social circumstances and experience of interaction with reality in general; due to a combination of personal characteristics and many other factors, such as education, profession, family status, having children and others, a person can be included in any of the life options, representing a certain life type.

The sample of female convicts included participants of the resocialization project "Resocialization of female convicts with young children" as convicts with highly positive characteristics on the part of prison staff; therefore, we consider it quite acceptable to compare their choices of life options with those of female university students and graduates representing respondents with law-abiding and socially approved behavior. At the same time, the sample of female convicts was divided by age criterion, since the semantic content of the life path at each age stage may be different.

The method "Relevant variant of life" (A.G. Shisheva) was used as a diagnostic tool [19; 20] based on V.N. Druzhinin's ideas about typological features of a person's life views, or variants of life: "Life as a preface" (LP), "Life as a creative activity" (LCA), "Life as an achievement" (LA), "Life as a dream" (LD), "Life according to the rules" (LR), "Life as a waste of time" (LWT), "Life against life" (LL), and "Existential constructor" (EC).

The diagnostic procedure included familiarizing respondents with the descriptive content of eight cards (according to the highlighted life options) and making three choices: a "real" variant of life (corresponding to the situation "here and now"), an "ideal" variant of life (the most attractive model), a "rejected" variant of life (the denied model). When interviewing female convicts, the contents of two of the eight cards were adapted to the contingent. To process the results, including calculating the frequency of occurrence and valid percentage, the IBM SS Statistics 22.0 software package was used.

Results and their discussion

Table 1 shows the distribution of female convicts according to their choice of "variants of life. In general, convicted women most often choose "Life according to the rules" (39.6%), "Life as a preface" (20.8%) and "Existential constructor" (14.6%) as a "real" variant of life. At the same time, these results are distributed by age categories as follows: 38.1% of the respondents aged 20 to 30 years and 40.7% of the respondents aged 31 to 56 years choose "Life according to the rules"; 14.3% and 25.9%, respectively, – "Life as a preface"; 23.8% and 7.4% – "Existential constructor". Among the age group from 31 to 56 years, 11.1% of convicts are focused on the option "Life as an achievement", young respondents do not consider this option as "real", corresponding to life "here and now".

Table 1

Distribution of female convicts by choice of life option, %

Variant of life	"Real" variant of life			"Ideal" variant of life			"Rejected" variant of life		
	Age of 20 – 30 years	Age of 31 – 56 years	Total sample	Age of 20 – 30 years	Age of 31 – 56 years	Total sample	Age of 20 – 30 years	Age of 31 – 56 years	Total sample
LP	14.3	25.9	20.8	9.5	11.1	10.4	-	-	-
LD	9.5	7.4	8.3	-	3.7	2.1	14.3	22.2	18.8
LR	38.1	40.7	39.6	19.0	18.5	18.8	4.8	-	2.1
LL	4.8	7.4	6.3	-	7.4	4.2	47.6	33.3	39.6
EC	23.8	7.4	14.6	4.8	11.1	8.3	-	-	-
LA	-	11.1	6.3	57.1	48.1	52.1	4.8	-	2.1
LCA	4.8	-	2.1	9.5	-	4.2	-	-	-
LWT	4.8	-	2.1	-	-	-	28.6	44.4	37.5

The results of the study show that female convicts who evaluate the subjective model of the world as "Life according to the rules" perceive their current life as normative, orderly and standardized. Such a scenario of life, being predictable and corresponding to the schedule set from outside, to some extent frees a person from worries about the future and gives a sense of foreseeable tomorrow. At the same time, personal orientations to the performance of an actual social role expected by others entail mental problems associated with the loss of personal autonomy and individuality.

The variant "Life as a preface" is interpreted as a model in which a person considers his/her current life as preparation for the future. Women tend to dream, expect the best in their lives, and make plans for the future. Interestingly, this option is more often chosen by elderly convicted women. Probably, the disappointment and hardships of everyday life distort the real perception of the present, forming the hope that the current life situation will pass faster and an optimistic conviction of the appearance of valuable and desirable things in the future life.

It is noteworthy that the convicts choose the "Existential constructor", particularly the respondents aged 20–30 years, as a "real" option. These convicts are characterized by an active life position, an attitude to their own life as a subject of creative activity without illusions about their capabilities. The respondents are concerned about the meaning of life, life values, good and evil, freedom and responsibility, they act and make decisions, coordinating their own beliefs, desires and capacities.

Some elderly convicts consider the option "Life as an achievement" as "real". It indicates both the summing up of intermediate results of their own life and the focus on achievements and victories, the willingness to sacrifice the present for the sake of the future, for example, to work hard, as well as the faith in the upcoming successes and results. At the same time, the respondents assess the present as a difficult period, since it does not give a sense of fullness of life, and the life goals achieved are subjectively devalued and replaced by others.

As an "ideal" option, "Life as an achievement" is preferred by the majority of the respondents in the total sample (52.1%), while both young (57.1%) and older respondents (48.1%) are focused on it. The ideal life models for the respondents are also options "Life according to the rules" (18.8% of the respondents in the total sample) and "Life as a preface" (10.4%). "Life as an achievement" is the most approved and idealized model of life in modern culture, therefore, its attractiveness for female convicts is obvious, whose desire to be socially successful and active is largely frustrated. It is noteworthy that a person who interprets his/her life in terms of success or failure, victory or defeat is inclined to believe that the results of his/her activities and life depend on him/herself, and not on external circumstances; thus, female convicts, choosing this life option, rely on inner resources when overcoming difficulties and perceive the social world dichotomically: useful and useless people, opportunities and obstacles, successes and failures. The focus on the variant "Life according to the rules" indicates the respondents' desire for stability and constancy, while the option "Life as a preface" chosen as an "ideal" model indicates a tendency to postpone "for later" and, accordingly, an extended "preparatory" stage of life.

Among "rejected" variants are "Life against life" (39.6%), "Life as a waste of time" (37.5%), and "Life as a dream" (18.8%). By age, the results are grouped as follows: "Life against life" is chosen by 47.6% of young respondents and 33.3% of the respondents aged over 30, "Life as a waste of time" – by 28.6% and 44%, respectively, and "Life as a dream" – by 14.3% and 22.2%%, respectively.

The conscious denial of the option "Life against life" characterizes female convicts as avoiding emotional states of aggression and hatred, refusing attitudes aimed at destroying themselves and others in the world and tough confrontation with others. The rejection of the variant "Life as a waste of time" indicates women's acceptance of the value of life time, their activity and focus on achieving specific life goals. The rejection of the option "Life as a dream", which implies a passive lifestyle and the desire to escape from reality into the illusory world without problems, difficulties and

worries, also testifies to the vital activity and initiative of the respondents.

Figures 1–3 illustrate results of the comparative analysis of choices of the current life option by young female convicts and female university students and graduates.

Figure 1 shows that for female students and graduates the "real" variant of life is "Life as a preface" (42.0%), while for female convicts of the same age it is "Life according to the rules" (38.1%) and "Existential constructor" (23.8%). Thus, it is less common for young female convicts to perceive their life as a kind of preparatory stage for real life, they are focused on following externally set rules of behavior "here and now" and assess themselves, their own capabilities and human nature as a whole adequately.

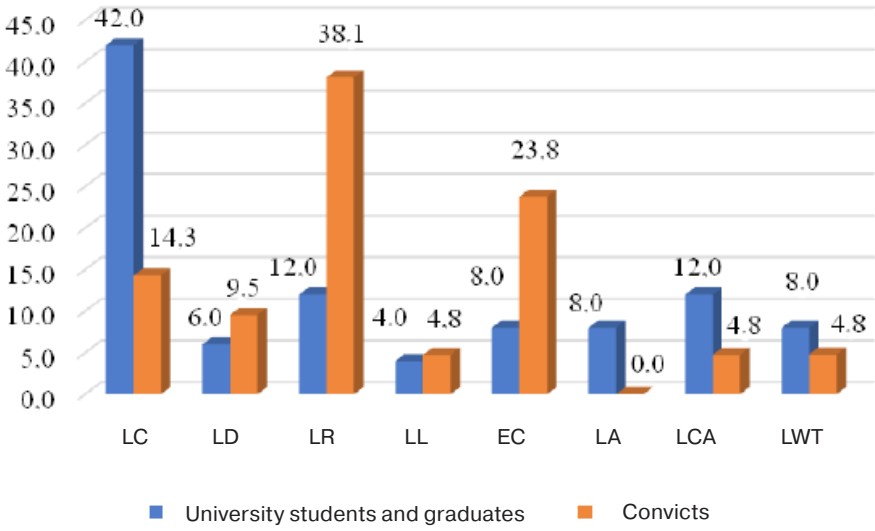

Figure 1. Distribution of a "real" variant of life among young respondents (%)

Female convicts' aspirations for an ideal model of life correlate with those of university students and graduates, with "Life as an achievement" (female students 42%, female convicts 57.1%), "Life according to the rules" (20% and 19%, respectively), "Life as a preface" (14% and 9.5%), and "Life as a creative activity" (12% and 9.5%). The respondents' social values and ideas about an ideal life and its perfect living, regardless of their social and legal status, largely coincide; their goals and values are success, material security and

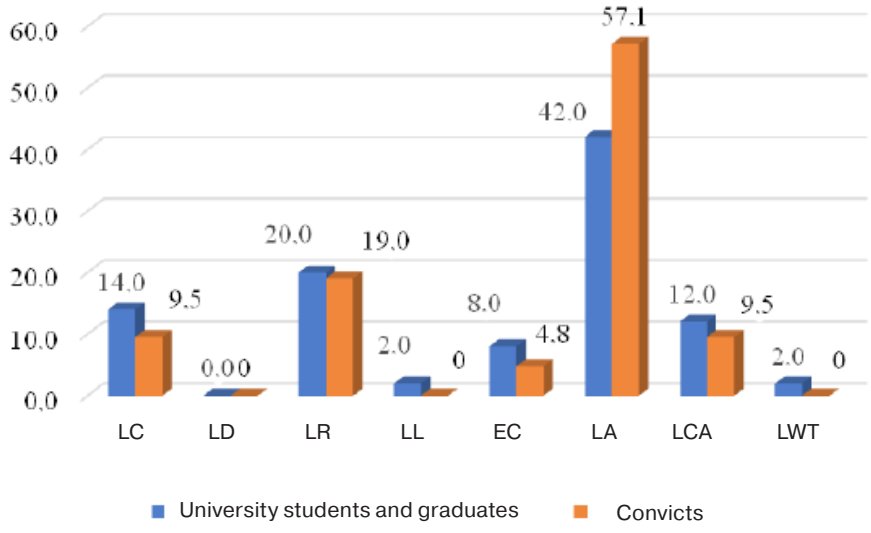

Figure 2. Distribution of an "ideal" variant of life among young respondents (%)

prestige, as well as the opportunity to realize themselves in the future or experiment with their life in the present moment.

Figure 3 shows the distribution of respondents according to the choice of the "rejected" life option. It is worth mentioning that the following variants of life are rejected: "Life against life" (47.6% of young female convicts and 28% of female university students and graduates), "Life as a waste of time" (28% and 28.6%, respectively) and "Life as a dream" (4% and 14.3%, respectively). In comparison with female students, young female convicts more often consider the model of struggle and aggression, as well as the option of leaving into the world of illusions, as unacceptable, perhaps due to the obvious asociality of such forms of behavior, a high level of self-control, as well as realism and practicality of their views and attitudes.

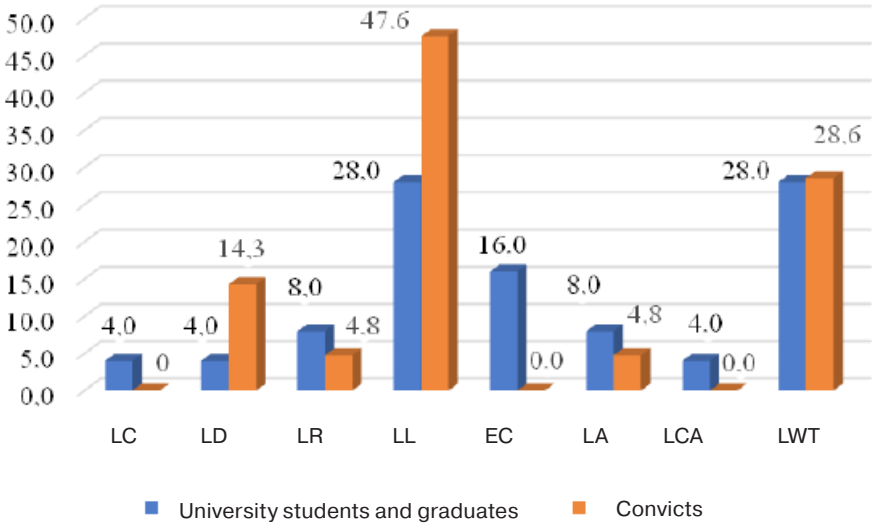

Figure 3. Distribution of a "rejected" variant of life among young respondents (%)

In general, the empirical analysis of the choices of actual life options by female convicts made it possible to identify the most common combinations of "real" / "ideal"/ "rejected" options:

1. "Life according to the rules" / "Life as an achievement", "Life as a preface" / "Life against life";
2. "Life as a preface" / "Life as an achievement', "Life according to the rules" / "Life against life" or "Life as a waste of time";
3. "Existential constructor" / "Life as an achievement" / "Life against life", "Life as a waste of time", "Life as a dream".

The first model is observed among the respondents who in real life are focused on following external rules, and have clear internal principles and attitudes that allow them to overcome difficulties, optimize relationships with others, and live in accordance with externally set requirements. When making plans for the future, the respondents dream about success or the opportunity to prepare themselves for a correct and stable life, consciously denying confrontation and confrontation as ways to achieve individual results.

Within the framework of the second model, the respondents perceive the real period of life as stretched in time, as some preparation for a more valuable and important stage that will come later or after, when it will be possible to improve social status, achieve the desired or be like everyone else, and live according to generally accepted norms. In addition to aggressive forms of defending their interests, these respondents also reject a waste of time and meaningless activities in life, since it is obvious that preparing for the implementation of their plans and concrete successes in life require initiative and energy.

The third model is characteristic of the respondents who are currently thinking about the meaning of human existence, issues of life and death, fate and life path, accepting themselves and other people with all their positive and negative qualities. At the same time, these convicts also strive for self-actualization and achievements in the future; their attitudes to positive

aspiration and activity are evidenced by the rejection of life associated with a tough struggle or waste of life time, passivity and idleness.

Thus, the results of the empirical study show an active life position of the surveyed female convicts participating in the resocialization project, their focus on solving individual life tasks and achieving success in the future, their willingness to use time, extracting possible personal benefits, rationally and in accordance with planned goals in the future.

Conclusion

First, guidelines for the humanization of the modern Russian penal system should be based on a comprehensive approach to solving the key task – resocialization of convicts, being released and had been released from correctional facilities. We assign a significant role to the dissemination of practices for the introduction of special programs implemented within the framework of the activities of public organizations, civil society institutions aimed at correcting and motivating law-abiding behavior of this category of persons. A promising direction is to increase the efficiency of resocialization of convicts and achieve the necessary ratio between the final results of certain actions with the effects and costs associated with this activity. In this context, we consider it expedient to use the potential of unique psychotechnics that allow revealing the ideological position of the convict and the semantic content of his/her life path. The results of the conducted research can be useful in assessing the experience of implementing programs for resocialization of persons released from penitentiary institutions.

Second, the study of key subjective life models of female convicts serving a criminal sentence in the form of imprisonment in one of the correctional facilities of Krasnodar Krai, participants in social adaptation programs, allows us to talk about their activity, focus on future achievements, practicality and rationality in life planning. “Life according to the rules”, “Life as a preface” and ‘Life as an achievement” chosen by female convicts as “real” or “ideal” variants of life are socially approved in modern socio-economic realities and are meaningfully implemented by most people. The choice of the life option “Existential constructor” characterizes the personality of female convicts as mature, with altruistic values.

Third, the analysis of the psychological approach to the life of the female convicts participating in the project shows the choice and construction of their own lifestyle approved in society, which can be implemented within the framework of social rules and demonstrates their aspiration to restore social functions and integration into society.

And, finally, practice irrefutably proves that the participation of public organizations makes a significant contribution to the prevention of recidivism, has a positive impact on the effectiveness of combating crime, significantly expanding its capabilities, contributing to the implementation of the principle of rational use of means of correcting convicts and stimulating their law-abiding behavior, combining punishment with corrective action. The development of penal legislation defining the powers of public institutions in the correction of offenders reflects the increasing social significance of one of the main areas of the fight against crime – crime prevention. In order to increase the educational and preventive impact it seems expedient to consolidate in the penal legislation the powers of public institutions for the correction and reeducation of persons and strengthen the stimulating moments of this activity.

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Prohibition of War Propaganda in International and Russian Law

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Abstract

Introduction: the article examines the content of the international prohibition of propaganda for war, the procedure for fixing the prohibition in Russian law, as well as the imperfection of criminal legislation, including liability for public calls to unleash a war of aggression. *Purpose:* to analyze history of the formation of the international prohibition of war propaganda and its content, compare it with the regulation of this prohibition in Russian law, especially in criminal legislation, and suggest ways to improve the latter. *Methods:* historical and systematic methods, as well as comparative legal and formal legal methods, were used to solve the tasks. *Results:* the article shows the work of international conferences on the unification of criminal law, launched in the first half of the 20th century, and the activity of the League of Nations that adopted an important international document in the field of prohibition of propaganda for war in peacetime in 1936, namely, the International Convention Concerning the Use of Broadcasting in the Cause of Peace. After the establishment of the United Nations, the prohibition of war propaganda was finally fixed in the International Covenant on Civil and Political Rights of 1966, developed by the Human Rights Committee. The analysis of Russian legislation shows that such a prohibition is contained in various branches of law, for example, in constitutional law. Moreover, Article 354 of the Criminal Code contains crime elements of public calls for unleashing a war of aggression. *Conclusion:* despite this prohibition is present in various branches of Russian law, we have identified the imperfection of this criminal law ban. The domestic legislator has formulated crime elements of public calls for unleashing a war of aggression too narrowly; the author of the article suggests ways to eliminate this shortcoming through additional criminalization of propaganda for aggression against states.

Keywords: a war of aggression; propaganda for war; propaganda for aggression; public calls; unleashing a war of aggression; criminal liability; crime elements.

5.1.4. Criminal law sciences.

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Introduction

The prohibition of encroachments on international peace and security is enshrined both in numerous documents issued by United Nations (UN) bodies and in domestic regulations. According to paragraph 2 of Article 15 of the Foreign Policy Concept of the Russian Federation, approved by the President on March 3, 2023, maintaining strategic stability and strengthening international peace and security are recognized

as the national interests of the Russian Federation. At the same time, international peace may be threatened not only by interstate aggression, but also by the propaganda for such aggression.

The public danger of war propaganda is not in doubt. According to A.N. Trainin, a Soviet expert in the field of international criminal law, propaganda for war is part of military-technical training and its purpose is to convince its own people of the need for this war [1, p. 5, 7].

The entire international community established the prohibition of propaganda for aggression at the international level in the second half of the 20th century. However, the question arises, whether such regulation can be considered sufficient and effective. With the emergence and development of international criminal law and the adoption of the Rome Statute of 1998, it became possible to provide for criminal liability for propaganda for aggression. However, to date, such a crime is not provided for in the Rome Statute. At the same time, national jurisdictions of most states prohibit propaganda for aggression or war in various branches of law, including criminal law.

It is important to note that different terminology is used to denote the content of the prohibition under study. Thus, in the process of drafting various international resolutions and treaties before the adoption of the UN Charter in 1945, both terms "war" and "aggression" were used to establish a ban on the use of force. It is worth noting that the term "war" was contained in the Preamble of the Covenant of the League of Nations. At the same time, there was no definition of this term, and based on the context of the document, it could be concluded that we are talking about a war of aggression, and not of defense, for example. Therefore, when mentioning this term in the article, it will be about a war of aggression.

The UN Charter provides for the prohibition of the use of force or the threat of such use, but it does not contain terms "aggression" or "war". The United Nations General Assembly Resolution 3314 (XXIX) adopted on December 12, 1974 (hereinafter – the 1974 Resolution), which became another document prohibiting the use of force, defines aggression as the use of armed force by a State against the sovereignty, territorial integrity or political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, and types of acts of aggression. This indicates that the international community has refused to use the term "war" in favor of the broader concept of "aggression".

However, since the prohibition of propaganda for "war" has been finally established at the international level, despite the fact that the concept "act of aggression" is still used to define the term "war", the corresponding terminology will be used in the article to describe the history of the formation of this prohibition.

To prohibit propaganda for aggression and criminalize these actions in Russian legislation, the terms "war" and "war of aggression" are used, which are not different in their content. Besides, the Russian legal doctrine uses the term "aggression". At the same time, it should be understood that the terms "war" and "aggression" are not identical, although there is no unity of opinion on this issue in the legal doctrine.

It is interesting, however, that, for example, the expression "war propaganda" is used in constitutional law of Russia, in contrast to criminal law, which prescribes liability for public calls to unleash a war of aggression. This discrepancy of interest because Soviet criminal legislation used the term "propaganda for war".

In this regard, it is important to analyze the formation of an international prohibition of war propaganda and domestic legislation that prohibits war propaganda and criminalizes public calls for a war of aggression.

The core

Prohibition of war propaganda in international law.

The process of establishing a prohibition of war propaganda at the international level can be divided into periods before and after 1945.

The need to prohibit war propaganda had been recognized by the international community since the middle of the 19th century. During this period, the first international conferences and congresses were focused on preserving peace; therefore, activities of these organizations were mainly aimed at establishing a legal prohibition to resort to a war of aggression. The issue of prohibiting propaganda for war at the international level was addressed only in the 20th century. At that time, it was considered at various international conferences and congresses, including by the League of Nations, the first international organization established in 1919 and aimed to develop cooperation between peoples and ensure international peace and security.

The need to establish criminal liability for war propaganda and work out draft resolutions that would provide for such liability was discussed at several international conferences and congresses held in the first half of the 20th century. They were devoted to the unification of criminal legislation (the so-called unification conferences), promoting the idea "to include similar, if not identical, definitions into codes of the

member states in such a way that it would be possible to provide for similar punishments as easily as possible and ensure the effectiveness of international prosecution" [2, p. 63]. At the first Conference on the Unification of Criminal Law, held in Warsaw (Poland) in 1927, S. Rappaport, at that time a judge of the Supreme Court of Poland, suggested developing a draft criminal law that would include "incitement to a war of aggression" in the list of crimes against the general rule of law of all nations (i.e. crimes juris gentium, among which was, for example, piracy). S. Rappaport noted that it had already been included in the draft Criminal Code of Poland (paragraphs "b" of articles 8 and 108) [3, p. 60]. Participants of the next unification conference, held in Brussels (Belgium) in 1930, adopted a resolution declaring "propaganda for public calls for war" [1, p. 18] punishable.

As for activities of the League of Nations in this direction, the International Convention Concerning the Use of Broadcasting in the Cause of Peace, the first multilateral legal act prohibiting propaganda in peacetime, was adopted on September 23, 1936 [4, p. 343]. Article 2 imposes on the Contracting Parties the obligation to ensure that the transmissions of stations located on their territories do not constitute incitement to war against another Contracting Party or actions that may lead to it [war]. It is required to immediately stop any transmissions that may damage good international understanding as a result of communications whose inaccuracy is known or should be known to the persons responsible for the transmission. At the same time, the Convention does not contain measures to ensure the fulfillment of the obligations imposed on States. The legal doctrine notes that the purpose of this Convention was to stop the aggression of Italy and Germany, whose radio stations inspired the population with the idea of the superiority of the Aryan race, but "it did not achieve its noble goals" [5, p. 219].

In the 20th century, many states concluded bilateral agreements prohibiting propaganda against each other. Thus, on April 22, 1926, the Treaty of Friendship and Security was concluded between Persia and Turkey, Article 5 of which prohibited the presence of individuals or organizations that spread propaganda or try to take other military actions against the other side.

After the Second World War, the ideas of prohibiting war propaganda became clearly outlined. Although there were various international conferences and organizations (for example, the World Peace Movement, first convened in 1946, contributed to the anti-war movement in many states), the function of developing international documents that would contain a prohibition of propaganda for war was transferred to the UN.

An important document of that period is Resolution 110 (II) "Measures to be taken against propaganda and the inciters of a new war.", adopted at the 108th plenary session of the UN General Assembly in 1947 (hereinafter – Resolution 110 (II)), which condemned "all forms of propaganda, in whatsoever country conducted, which is designed or likely to provoke or encourage any threat to the peace, breach of the peace or act of aggression» (paragraph 1) and urged all UN members to adopt laws criminalizing propaganda (paragraph 2).

In contrast to the resolutions adopted at the unification conferences, the concept of propaganda is interpreted more broadly. Propaganda with the purpose of public calls had been prohibited up to 1947; then liability for any propaganda, regardless of its form, the sole purpose of which is a threat to the peace, was established.

After the adoption of Resolution 110 (II), two UN bodies were instructed to develop an international multilateral act that would contain a list of all rights and freedoms. These were the UN Economic and Social Council, the main UN body that, among other things, was engaged in making recommendations on respect for and observance of rights and fundamental freedoms and their promotion, and the Committee on Human Rights (since 2006 replaced by the UN Human Rights Council), which was established in 1946 to monitor the implementation of the international document being developed. The International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of December 16, 1966 (hereinafter – the ICCPR), fixed the prohibition of war propaganda. Article 20 (1) of the ICCPR stipulates that "any propaganda for war shall be prohibited by law".

The final version of this article is the result of many-year discussion of the international community.

It is worth noting that the prohibition of war propaganda was initially considered only as a restriction of the right to freedom of speech, the press and freedom of expression. Thus, the UN Human Rights Committee at its second session on December 2, 1947 considered the need to include provisions on freedom of expression and freedom of information in the Universal Declaration of Human Rights, for which the UN Human Rights Committee requested the opinion of members of the Sub-Commission on Freedom of Information and of the Press and the International Conference on Freedom of Information.

At the same time, the Commission on Human Rights at its second meeting, held in December 2–17, 1947, asked to take into account "two resolutions of the UN General Assembly on this issue (Resolution 110 (II) and Resolution A/C.3/180/Rev.1 "False and distorted reports") when developing recommendations (emphasis added).

By 1948, a number of options proposed by delegations at the third meeting of the Human Rights Committee (May 24–June 18, 1948) already included a prohibition of war propaganda in the article enshrining the right to freedom of speech, the press or freedom of expression. The only difference was its wording. The delegation from the USSR, for example, proposed the following variant: "In accordance with the principles of democracy and in the interests of strengthening international cooperation and world peace, everyone should be guaranteed by law the right to freedom of expression, and, in particular, the right to freedom of speech and press, freedom of assembly and freedom of artistic representation. The use of freedom of speech and freedom of the press for the propaganda of fascism and aggression or the incitement of war between nations is prohibited".

France preferred not to explicitly prohibit propaganda for war, but to fix a separate paragraph with a general wording restricting the right to freedom of speech, expression and the press: "3. The freedoms specified in the previous paragraphs can only be subject to such restrictions, penalties or liability as are provided by law to protect public order, national security, morality, respect for the law and reputation or the rights of other people". The French version turned out to be more preferable for delegations at that time.

As M. Kearney, a lecturer in law at the University of Sussex, notes, only at the Sixth session of the Commission on Human Rights, held on April 28, 1950, the representative from Great Britain proposed to distinguish between the prohibition of propaganda for war and provisions relating to the right to freedom of expression, fixing them in different articles [6, p. 553].

The final version of Article 20 (1) of the ICCPR was approved by delegations in 1961 at the 16th session of the UN General Assembly. At the same time, the fact of the adoption of the ICCPR after the adoption of the UN Charter, but before the 1974 Resolution, may explain the terminology used: prohibition of propaganda for war, not aggression. Despite the fact that the draft was adopted, some UN member states did not find it important to consolidate the prohibition of war propaganda in the ICCPR. Thus, the delegation from Ecuador, according to Resolution A/C.3/SR.1084 of October 26, 1961, recognizing the public danger of military propaganda, nevertheless considered that "the cause of wars is not propaganda, but a conflict of interests", and military propaganda "or what is recognized as such" was carried out by the states themselves.

A group of Scandinavian countries also voted against the final version of Article 20 (1) of the ICCPR, justifying this with contradictory formulations and difficulties of law enforcement – "what can be recognized in one country as military propaganda can be approved and recognized as one of the means of positive policy in another". The absence of a definition of war propaganda was also referred to by the delegation from Australia. In addition to the above reason, Australia also noted that the prohibition of propaganda is not exactly the right of individuals, which should be enshrined in the ICCPR. In addition, the prohibition of propaganda "opened the way for severe restrictions on the right to freedom of speech".

As a result, such states as, for example, Australia, Italy, France, the United Kingdom, the United States, as well as Scandinavian countries voted against the draft Article 20 (1) of the ICCPR. Nevertheless, the majority of states backed it and Article 20 (1) was enshrined in the ICCPR in its modern version.

In the process of drafting the International Covenant on Civil and Political Rights, delegations did define the term "propaganda". As noted in the Commentary to the ICCPR, "the concept of propaganda is not provided in this document, due to the absence of any well-established interpretation of this term in various national legal systems» [7, p. 581].

According to the General Comment No. 11 on Article 20, developed by the UN Human Rights Committee for the purpose of interpreting the ICCPR, "propaganda for war" should be understood as all forms of propaganda threatening or resulting in an act of aggression or breach of the peace contrary to the Charter of the United Nations" [8]. The Center for Civil and Political Rights, an international non-governmental organization specializing in human rights, adds in the Guide to the International Covenant on Civil and Political Rights that any war propaganda includes intentional and purposeful influence on people to create or strengthen the desire to go to war, for example, through the dissemination or exaggeration of facts" [9, p. 37]. In this case, the provisions of Article 20 (1) of the ICCPR, as follows from the General Comment No. 11 on Article 20, does not prohibit the assertion of

the sovereign right to self-defense or the right of peoples to self-determination and independence in accordance with the UN Charter [8].

The foreign doctrine notes that the concepts "propaganda" and "war" can be attributed to problematic in terms of their definition [10, p. 272]. According to A. Richter, professor at the Central European University of Budapest, "the breadth of the concept does not necessarily entail a nebula" and the General Assembly has already given a fairly clear definition of war propaganda in its Resolution 110 (II) of November 3, 1947 [11, p. 113].

Thus, along with the recognition of the need to prohibit the use of force to resolve interethnic disputes, the international community has also recognized the public danger of war propaganda, which necessarily accompanies any war. Unification conferences and the League of Nations paved the way for further work of the UN Human Rights Committee, which adopted the ICCPR and fixed the prohibition of propaganda for war in Article 20 (1).

Prohibition of propaganda for war in Russian law

The Constitution of the Russian Federation includes a provision on one of the fundamental human rights, namely freedom of thought and speech. According to Article 29 of the Constitution, everyone is guaranteed freedom of thought and speech. At the same time, the Constitution provides for the restriction of this right, preventing propaganda or agitation that incites social, racial, national or religious hatred and enmity, as well as propaganda for social, racial, national, religious or linguistic superiority.

Despite the fact that the Constitution itself does not contain the prohibition of war propaganda, it is fixed in other normative legal acts of the Russian Federation. For example, the Federal Constitutional Law "On the referendum of the Russian Federation" No. 5-FKZ of June 28, 2004 allows campaigning on referendum issues (Article 60), but prohibits abuse of freedom of the media (Article 68). So, campaign materials of the initiative group to hold a referendum, initiative campaign groups, as well as speeches of initiative group members at meetings, rallies, and in the media, should not be aimed at propaganda of war. A similar prohibition is contained in other normative acts, for example, in Article 31 of the Fundamentals of Legislation on Culture No. 3612-1 of October 9, 1992. ("state authorities and management bodies, local self-government bodies do not interfere in creative activities of citizens and their associations, state and non-state cultural organizations, except in cases when such activities lead to propaganda for war") or Part 6 of Article 10 of the Federal Law "On Information, Information Technologies and Information Protection" No. 149-FZ of July 27, 2006 ("it is prohibited to disseminate information that is aimed at propaganda for war").

Unlike the above laws, the Criminal Code criminalizes not propaganda for war, but public calls for unleashing a war of aggression. It is worth noting that such regulation is a break with the Soviet tradition.

The Soviet delegation, which took an active part in the ICCPR elaboration, introduced crime elements of war propaganda into the Criminal Code of the RSFSR in 1960 by the 1962 Law of the RSFSR. It is worth mentioning that even before the adoption of the ICCPR, on March 12, 1951 the Supreme Soviet of the USSR adopted the Law on the Protection of the Peace stipulating that propaganda for war is the gravest crime against humanity, since it undermines the peace and creates the threat of a new war.

According to Article 71 of the 1960 Criminal Code, propaganda for war, in whatever form it was conducted, was punishable by imprisonment from three to eight years. War propaganda was clarified in the Soviet doctrine as the dissemination of views and ideas about the need to unleash war 1) against the USSR and other socialist countries; 2) between these countries; 3) wars of socialist countries against other countries – imperialist or third world countries, as well as 4) wars between imperialist states or third world countries [12, p. 159]. Since the 1960 Criminal Code did not limit forms of propaganda dissemination, the main emphasis was placed on its content: regardless of the form of dissemination, "if the content of views, ideas are aimed at the incitement of a new war, and therefore against the peaceful coexistence of states", they form an objective side of the crime – propaganda for war [13, p. 192].

Thus, Soviet criminal legislation criminalized a wide range of actions covered by the concept "propaganda for war".

At the same time, the current Criminal Code of the Russia contains only crime elements of public calls for a war of aggression, punishable by a fine or imprisonment (Part 1 of Article 354) and, additionally, deprivation of the right to hold certain positions or engage in certain activities for the same actions committed using the media or by a person holding a public position of the Russian Federation or the state position of the subject of the Russian Federation (Part 2 of Arti. 354).

The generic object of public calls for unleashing a war of aggression is the peace and security of mankind, while the immediate ob-

ject is the peace and peaceful coexistence of the state.

The objective side of crime elements of Part 1 of Article 354 of the Criminal Code consists in public calls to unleash a war of aggression.

The content of the concept "calls" is not disclosed in criminal law. Most Russian lawyers claim that they are certain statements [14, p. 54] or appeals [15, p. 599]. Some researchers consider only proclamations and slogans, i.e. appeals to other persons in an imperative form, thereby excluding appeals that show the desirability of action [16, p. 92]. As V.V. Kabolov rightly notes that calls are ambiguous in their content and functional plasticity and "can range from an invitation overflowing with pathos to fellow citizens to express their ideological agreement and unity with someone to a categorical, uncompromising and therefore threatening requirement to strictly pursue a specific goal" [17, p. 118]. And since "the call to any aggression is devoid of sentimental shades", the call fixed in Article 354 of the Criminal Code can be attributed to the second proposed category [17, p. 118].

Publicity is a mandatory feature of this crime element (both in Part 1 and Part 2 of Article 354 of the Criminal Code of the Russian Federation). At the same time, this concept is not disclosed in the article. Due to the lack of practice, the courts also did not clarify the meaning of this term. However, the content of the term "publicity" was developed for other crime elements provided for in the Criminal Code.

So, in 2020, articles 207.1 and 207.2 of the Criminal Code of the Russian Federation were adopted, which provide for liability for public dissemination under the guise of credible statements of deliberately false information about circumstances that pose a threat to the life and safety of citizens, and (or) about measures taken to ensure safety of the population and territories, techniques and methods of protection from these circumstances (Article 207.1 of the Criminal Code of the Russian Federation) and public dissemination of deliberately false socially significant information under the guise of credible statements, which inadvertently caused harm to human health, death of a person or other grave consequences (Article 207.2 of the Criminal Code of the Russian Federation). The Presidium of the Supreme Court, in its Review of certain issues of judicial practice related to the application of legislation and measures to counter the spread of a new coronavirus infection (COVID-19) on the territory of the Russian Federation, recognized such dissemination of false information about the circumstances provided for in Articles 207.1 and 207 of the Criminal Code of the Russian Federation offered the following clarification of public information: "it is addressed to a group or an unlimited number of people and is expressed in any form accessible to them (e.g. orally, in writing, using technical means)" In addition, to establish a publicity element, one should take into account the place, method, situation and other circumstances of information dissemination. Data may be considered as disseminated publicly when spread via mass media, information and telecommunication networks (including various messengers); in mass mailing of electronic messages to mobile subscribers; by speaking at a meeting, rally, distribution of leaflets, posters, etc. A similar explanation about the content of the term "publicity" was also proposed by the Plenum of the Supreme Court. So, the Resolution of the Plenum of the Supreme Court No. 14 of June 1, 2023 "On some issues of judicial practice in criminal cases of crimes provided for in Articles 317, 318, 319 of the Criminal Code of the Russian Federation" states that the issue of publicity of offensive actions against a representative of the authorities in the performance of his/her official duties or in connection with their execution should be resolved "taking into account the place, method, situation and other circumstances of the case (for example, uttering or otherwise expressing an insult in the presence of the victim and (or) other people, including in public places, during mass events, posting offensive information in the media, on the Internet on websites, forums or blogs open to a wide range of people, mass mailing of electronic messages" (paragraph 18).

Thus, illegal actions are deemed as public if they are carried out in the presence of two or more persons (in this case, the audience can be either personified or not personified [18, p. 822] and determined by the place (rallies or meetings) or the method (orally, in writing, on the Internet) of making calls.

According to the Russian legislator, public calls for unleashing a war of aggression, committed with the use of mass media or by a person holding a state position of the Russian Federation or a state position of a subject of the Russian Federation, have a greater public danger. Since the mass media, according to the Law of the Russian Federation "On Mass Media" No. 2124-1 of December 27, 1991, include a periodical printed publication, a network publication, a TV channel, a radio channel, a television, radio, video or newsreel program, as well as another

form of periodic dissemination of mass media under a permanent name or title (Article 2), a person who calls for a war of aggression in this way has the opportunity to convey his/her ideas to a large number of people, which is why there is an increased public danger.

According to Part 1 of Article 354 of the Criminal Code of the Russian Federation, any individual who has reached the age of sixteen and is sane can be brought to criminal liability for public calls for a war of aggression. As for persons holding public positions, the following should be noted. If public calls for unleashing of a war of aggression are carried out by a person who holds a public position, he/she may exert additional influence on individuals when making appeals due to his/her exclusive powers, "which he/she uses primarily to the detriment of the world community and, of course, his/her own people" [17, p. 121].

The actions provided for in Part 1 and Part 2 of Article 354 of the Criminal Code of the Russian Federation, according to the unanimous opinion of Russian lawyers, should be committed with direct intent, i.e. the subject is aware that he/she calls for a war of aggression, poses public danger, and also wants to commit these actions [19, p. 620].

There is no consensus among Russian researchers on the relationship between the concepts of "public calls" and "propaganda". N. Lopashenko equates these concepts [20, p. 642], while, for example, D. Lobach believes that nowadays, not only direct calls, but also latent forms of psychological influence on human consciousness are often used [21, p. 128].

In our opinion, propaganda differs from public calls in that it can be carried out not only in public. Moreover, latent forms of influence on human consciousness are more effective in achieving one of the goals of propaganda – imposing beliefs and views beneficial to the propagandist. In addition, propaganda is an activity [22, p. 88] that forms an idea of the permissibility and possibility of carrying out actions, the need for which is justified by propaganda [23, p. 83], in contrast to public calls, which can be expressed in a single action and which contain an incentive to certain actions, i.e. expressed in an imperative form.

In addition, despite the fact that the term "propaganda for war" is used in Article 20 (1) of the ICCPR and in Russian normative legal acts, in our opinion, Article 354 should criminalize public calls for aggression against another state, and not war or a war of aggression. As already noted, the General Comment No. 11 on Article 20 defines the term "war" through the concept of an act of aggression. This term is not defined in Russian legislation. The Military Doctrine of the Russian Federation approved by the Decree of the President of the Russian Federation No. Pr-2976 of December 25, 2014 presents definitions of three types of war: local, regional and large-scale (subparagraphs "e", "zh" and "z", paragraph 8), while there is no definition of the war itself. The concept "a war of aggression" has no legal meaning in relation to Article 354 of the Criminal Code of the Russian Federation, since none of the callers indicates in their speech that it will be aggressive, and the word "unleashing" itself means committing certain actions (inaction) in order to start something, i.e. the war will begin after this call and therefore will not be defensive [17, p. 120].

In connection with the above, it is necessary, in our opinion, to change the terminology used in Article 354 of the Criminal Code of the Russian Federation and establish criminal liability not only for public calls for aggression, but also for propaganda for aggression against a state or group of states. It is worth mentioning that, according to some Soviet scientists, propaganda for war could also cover calls aimed at unleashing a new war in general, and not only against a particular state or group of states [24, p. 192]. Others argued that calls for war against a particular state are not propaganda, but incitement to war, which means one of the forms of criminal complicity, while propaganda included only calls aimed at unleashing a new war in general [24, p. 192].

We back the stance of lawyers who understand propaganda for war as the dissemination of ideas and views aimed at provoking aggression of one country or group of countries against another country or group of countries [24, p. 154]. This point of view is also supported in the Russian doctrine [14, p. 54].

Conclusion

Thus, with the active participation of the entire international community, propaganda for war has received a fair legal assessment as socially dangerous and threatening the peace and stability in the world, as a result of which the ICCPR was explicitly banned.

Current criminal legislation of Russia, however, provides for criminal liability only for public calls for unleashing a war of aggression. However, taking into account the provisions of Article 20 (1) of the ICCPR, as well as the public danger of propaganda for aggression, it seems reasonable to fix liability for aggression propaganda, along with public calls for aggression, in the Criminal Code of the Russian Federation.

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Fulfillment of Obligations Prescribed by National Legislation and International Treaties when Deciding on Extradition of Persons for Criminal Prosecution or Sentence Execution

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Abstract

Introduction: the article analyzes the most important procedural aspects of extradition of persons for criminal prosecution or execution of a sentence as a separate area of international cooperation in the field of criminal justice. The author proceeds from the fact that the extradition procedure is a complex of interrelated, successive procedural actions that begin from the moment of actual detention of a person who is on the international wanted list on the initiative of the requested state and an official notification about it, with a proposal to send a request for his/her extradition to the Russian Federation. A similar request, but already on the part of the Russian Federation, is sent by its competent authorities if the requested person has Russian citizenship or does not have citizenship of the state on whose territory this person is located. However, it can also be sent when the requested person is a citizen of a third country or stateless. *Purpose:* to study aspects of the functioning of the institution of extradition of offenders and to propose possible solutions to problematic issues. *Methods:* the methodological basis of the research is made up of general scientific methods of cognition, including the principle of objectivity, consistency, induction, deduction, etc. as well as private scientific methods: descriptive, linguistic, comparative legal. *Results:* having considered the procedure for request forwarding, the author comes to the conclusion that the main task of extradition of offenders is to ensure inevitability of the punishment imposed by the court and social rehabilitation of convicts. At the same time, it is important that criminal prosecution or enforcement of a sentence against them are carried out in accordance with international law and domestic legislation of the requesting state. *Conclusion:* the key obstacle to full-fledged functioning of the institute of extradition is the lack of state responsibility for non-compliance with the requirements for extradition of the wanted persons and creation of artificial restrictions in solving these issues. The author's vision of the way to solve this problem is proposed.

Keywords: extradition of a person; request for extradition of a person located on the territory of a foreign state; execution of an extradition request; execution of a sentence; international cooperation in criminal proceedings; appeal of an extradition decision; refusal of extradition; criminal prosecution.

5.1.4. Criminal law sciences.

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Introduction

Extradition of persons who have violated the law is a fairly common and the most legally regulated type of international assistance in criminal cases. It usually involves two counterparts. Activities related to its implementation are initiated either by sending an extradition request or by the need for its execution. Not only persons, but also objects can be requested for extradition, and extradition itself can be carried out only during the period of criminal prosecution or execution of a sentence. In the context of globalization, integration, population migration and growth of transnational crime, extradition of persons has acquired special importance. A number of bilateral and multilateral international acts signed with the participation of the Russian Federation in this area of legal relations is steadily growing. When applying them, certain reservations should be taken into account, the text of which is contained in the law on ratification of an international treaty [1, p. 117].

So, the Russian Federation has initialed bilateral and multilateral agreements on the provision of legal assistance with many world countries. In cases of their absence, extradition issues are resolved on the terms of diplomatic courtesy. However, political rivalry often arises in the interests of third countries. As a result, the duration of consideration of extradition requests increases. It often entails the impossibility of bringing the accused to criminal liability due to the expiration of the statute of limitations of criminal prosecution. Investigative and judicial practice describe cases when a citizen is declared internationally wanted in his/her country under one name, but, hiding on the territory of a foreign state, manages to change it, and quite officially. Having issued a passport with a new surname, he/she leaves for third countries, which complicates processes of establishing his/her whereabouts, detention and extradition. However, there are other problems in this segment of procedural activity. In accordance with established international standards, the country to which the citizen has been extradited must unconditionally comply with the so-called principle of concreteness. Its essence boils down to the fact that the extradited person should not be prosecuted and convicted on the territory of the state that has initiated his/her extradition or detained for a crime committed before his/her extradition, but not being its basis. Moreover, if the crime for which extradition is required is punishable by death in the requesting state, and the requested state does not provide or does not apply this punishment, then extradition may be refused.

The core

The European Convention on Extradition as the legal basis for international cooperation in extradition of persons for criminal prosecution or execution of a sentence

The European Convention on Extradition, which entered into force on April 18, 1960, is of great importance for international cooperation in this area [2]. The Russian Federation signed it with some reservations and statements much later – on November 7, 1996 [3], and it began operating on its territory on March 9, 2000 [4]. The implementation of the provisions of this Convention is limited geographically (i.e. by the European continent) and personally (i.e. by the states localized on it). The signatory countries have assumed obligations to extradite to each other all persons against whom the competent authorities of the requesting party are conducting legal proceedings in connection with any crime or who are wanted by them for the execution of a sentence or arrest order. It is important to note that in cases where the international treaties of the Russian Federation concluded with the signatory countries contain other rules that are not related to supplementing the provisions or promoting the application of the principles contained therein, then the Convention provisions, not contractual, prevail [Article 28].

The concept of extradition (from Latin ex – “from”, “outside” and traditio – “transfer”) is crucial in the original text of the agreement, drawn up in French, is Translated into other languages (including Russian) it is actually more extensive and covers extradition of both those who have already been convicted and those accused in criminal cases. Nevertheless, its legal meaning is often narrowed to extradition of criminals of certain categories. However, in reality, extradition is an official legal procedure recognized by the international community, initiated by the state under whose jurisdiction the person accused by it is brought to criminal liability. The purpose of this procedure is to obtain a wanted person from the state in whose territory he/she is hiding in order to bring him/

her to criminal liability or ensure the execution of punishment [5].

The significance of the European Convention for international cooperation in criminal proceedings lies in the fact that it reveals concepts directly related to extradition of criminals, formulates principles of its practical implementation and specifies acceptable options for their extradition. Its legal basis is the mutual obligations of the contracting parties to extradite a certain circle of persons in respect of whom the requesting party wants to fulfill requirements of the sentence or conducts legal proceedings. The Convention also defines the nature of crimes that predetermine the potential possibility of extradition. These include only those criminally punishable acts that are provided for by the legislation of both parties and are punishable by imprisonment for a term of at least one year or more severe punishment. The Convention also provides for the right of a member state to refuse extradition in case the crime committed does not constitute grounds for extradition. If the person whose extradition is requested is accused of committing several crimes, not all of which meet the generally accepted criteria for extradition, the requesting party is entitled to decide on extradition at its discretion. The specifics of addressing extradition issues lies in the fact that the country receiving an extradition request undertakes to provide all possible assistance to the requesting party in exercising its right to convict and punish a person who has violated criminal law and is currently on the territory of the requested party. In fact, sending such a request is nothing more than a procedural form of delegation by the requesting party of a certain part of its powers to the competent authorities of the requested party. By sending a request, the requesting state hopes that competent authorities of the requested state will assist, on conditions of reciprocity, in convicting and punishing the person whose extradition from that state is requested.

On the procedural status of the person requested for extradition, sending a corresponding request and providing assistance in extradition

Researchers draw attention to the fact that in Russian criminal procedure legislation, the person in respect of whom the extradition request is received is not characterized in any way. Considering this a significant disadvantage, they propose to use the concept of “requested for extradition” defined as a person located on the territory of the Russian Federation, against whom a criminal prosecution or execution of a sentence has been initiated by a foreign state [6, p. 10]. We believe that this concept briefly and clearly reflects the procedural position of the person in respect of whom the extradition request is received, and makes it possible to distinguish him/her from all other participants in criminal proceedings as personally interested in the outcome of extradition. The extradition procedure itself should ideally have a pronounced step-by-step nature, involving initiation of an extradition case, pre-extradition check, and adoption of a final procedural decision based on its results. The person requested for extradition is entitled to familiarize him/herself with the request for extradition and receive a copy of it and information about his/her procedural status, the procedure and timing of the proceedings. The implementation of these proposals will make it possible to clearly define and systematize the rights and obligations of the person requested for extradition, avoid ambiguous interpretation of his/her procedural position in judicial practice and introduce procedural institutions necessary for its full implementation (measures of procedural coercion, evidence, appeals, etc.). This is required to exclude their possible inconsistency with key principles of extradition, such as reciprocity, extradition of a crime, dual jurisdiction, expiration of the statute of limitations, non-extradition of their own citizens, inevitability of punishment, exemption from liability in the case of the sentence already issued in the requested state or a decision to terminate prosecution in the same case, refusal to extradite for humane reasons, etc. All of them, as well as each of them individually, are aimed not only at protecting the interests of the requesting and requested states, but also at ensuring guarantees of respect for the rights and freedoms of the person subject to extradition [7, p. 304].

According to the established practice of international cooperation, the extradition procedure can be extended to persons who are citizens of both the Russian Federation itself and other states, to stateless persons, as well as to persons with two or more nationalities. The pur-

pose of its application may be the need to either carry out criminal prosecution, execute a sentence, or administer justice in a criminal case. The extradition procedure itself can be initiated either upon a request received from a foreign state, or upon a request sent to it in accordance with the established procedure from the Russian Federation. His referral takes place on the basis of an international agreement of the Russian Federation with this state or a written obligation signed by the Prosecutor General of the Russian Federation to extradite persons to this state in the future on the basis of reciprocity in accordance with the laws of the Russian Federation. The request is sent on the conditions that, in accordance with the laws of the two states, the action in connection with which the extradition request is sent is criminally punishable for a period of at least one year of imprisonment or other, more severe punishment (in the case of extradition for criminal prosecution), or if the person is sentenced to imprisonment for at least one year less than six months (in case of extradition for execution of the sentence). To send a request for extradition, in case the conditions and grounds provided for by the Criminal Procedural Code of the Russian Federation are met, all necessary materials are submitted to the Prosecutor General's Office of the Russian Federation, entitled to make a final decision on this issue. It has exclusive powers in the mechanism of international cooperation in the field of criminal proceedings due to its key role in the implementation of criminal prosecution [8, p. 10].

A similar procedure is applied when executing a request for extradition of a person located on the territory of the Russian Federation. In accordance with an international treaty, it may extradite to a foreign state a foreign citizen or a stateless person located on its territory for criminal prosecution or execution of a sentence for acts that are punishable under the criminal law of the Russian Federation and the legislation of the foreign state that sent the extradition request. In the absence of an international treaty, extradition of such persons can only be carried out on the basis of the principle of reciprocity. So, in accordance with the assurances of a foreign state that sent the extradition request, it can be expected that in a similar situation, but already at the request of the Russian Federation, the foreign state will extradite a requested person [9, p. 40].

The National Central Bureau of Interpol of the Ministry of Internal Affairs of Russia is responsible for monitoring the implementation of international treaties on combating crime, to which the Russian Federation is a party. It also assists in fulfilling requests from law enforcement agencies of foreign states for the search, detention and extradition of persons accused of committing crimes, as well as the search and arrest of proceeds of crime, stolen items and documents transferred abroad [10]. Now there are some obstacles to its work, because in February 2022, Ukraine, with the support of the United Kingdom, appealed to the Interpol General Secretariat with a demand to exclude Russia from this organization. However, it was rejected as political, and the continued membership of the Russian Federation in it is motivated by the continuing need to maintain cooperation through police services and to keep communication channels open. At the same time, it was decided to change the procedure for passing search queries from Russian law enforcement agencies. In particular, Russia was deprived of the right to send such requests directly to countries that are members of Interpol. Now it is obliged to carry out all staff procedures through the General Secretariat of this organization, which is authorized to check them for compliance with existing rules. If the transfer of the request is recognized as legitimate, it will be additionally distributed among the member countries of this organization. According to Interpol, the Russian Federation is now looking for more than three thousand people outside its borders [11].

Making a decision on the extradition of persons accused of committing crimes and its legal consequences

The decision to extradite a foreign citizen or a stateless person who is on the territory of the Russian Federation, accused or convicted by a court of a foreign state, is made by the Prosecutor General or his deputy. They are also authorized to decide which request is to be satisfied if there are applications from several foreign states for extradition of the same person, as well as for transportation of the extradited person through the territory of the Russian Federation. The person against whom the

extradition decision was made must be notified in writing of this fact within 24 hours. The same message explains to him/her the right to appeal the decision in court. If the person has not used it, the decision on extradition comes into force ten days after the notification of the person in respect of whom it is made. No issuance is made before the expiration of this period. If the decision of the Prosecutor General of the Russian Federation or his deputy on extradition is still appealed, then within ten days from the date of receipt of the notification, the complaint must be sent to the court of the subject of the Russian Federation, at the location of the person in respect of whom this decision is made. It is filed by a person him/herself or his/her protector. Within the same period, the prosecutor must send to the court materials confirming the legality and validity of the decision. If the person against whom the extradition decision is made is in custody, the administration of the place where he/she is being held, after receiving the complaint addressed to the court, immediately sends it to the appropriate court and notifies the prosecutor about it.

The question of the legality and validity of the decision on extradition is decided by the court based on the circumstances occurred at the time of making such a decision. The person's appeal to the competent authorities with an application for temporary or political asylum, refugee status after the decision on extradition should not entail a postponement of the complaint consideration, since the court's recognition of such a decision as lawful and justified will not lead to further actual transfer of the person to the requesting state until the resolution of the relevant application or until the end of the appeal proceedings in the presence of a refusal to its satisfaction [12, p. 26]. During the court session, the court has no right to discuss the guilt of the person who has filed the complaint. It is limited only to checking the compliance of the decision on extradition of this person with the legislation and international treaties of the Russian Federation. Accordingly, the wording of the court decision adopted on this occasion should not indicate the established fact of the commission of a crime by the specified person, and the decision itself can be appealed to the Judicial Board for Criminal Cases of the Court of Appeal of General Jurisdiction. Thus, the Russian Federation can extradite a person to a foreign state only when the act in connection with the commission of which the extradition request is sent is punishable both under its criminal law and under the law of the requesting state. Inconsistency in the description of individual elements of the crime the person is accused of or in the legal qualification of the act is not a reason for refusing extradition, since actual circumstances of the crime and its punishability under the laws of both countries are assessed [12].

In accordance with Article 7 of the International Covenant on Civil and Political Rights [13] and Article 3 of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment [14], a person is not subject to extradition if there are serious grounds to believe that in the requesting state he/she may be subjected to torture, inhuman or degrading treatment or punishment. According to the provisions of this Convention, when assessing the presence or absence of such circumstances, the court takes into account both the general situation regarding the observance of human rights and freedoms in the requesting state and specific circumstances of the case, which together may indicate the presence or absence of serious grounds to believe that a person may be subjected to treatment or punishment of this kind. In this regard, the court may take into account, in particular, the testimony of the person against whom the extradition decision is made, witnesses, the statement of the Ministry of Foreign Affairs of the Russian Federation on the situation with respect to human rights and freedoms in the requesting state, guarantees of the requesting state itself, as well as reports and other documents adopted in respect of him/her by international treaty and non-contractual bodies. Undoubtedly, the general situation regarding the observance of human rights and freedoms in the requesting state, which was previously assessed, may change over time. The European Court of Human Rights, for example, to estimate the threat of prohibited treatment, applies the so-called principle of predictability of consequences when considering the risk of possible ill-treatment of a person in the receiving state with regard to the general situation on its territory and personal circumstances of the applicant. From the court's point of view, the applicant should provide convinc-

ing evidence that there are serious grounds to believe that if the contested measure is applied, he/she will be in real danger of being subjected to treatment contrary to Article 3 of the Convention for the Protection of Human Rights and Fundamental Freedoms. However, the possibility of ill-treatment due to the instability of the situation in the requesting state does not in itself mean a violation of these rights.

Extradition may also be refused when exceptional circumstances indicate that this will create a danger to the life and health of a person, taking into account his/her age and physical condition. The obligation to substantiate these and other circumstances (including those indicating the absence of grounds to believe that the death penalty, torture, inhuman or degrading treatment or punishment may be applied to a person, as well as that this person may be brought to criminal liability on the basis of race, religion, citizenship, nationality, belonging to a certain social group or political beliefs) is assigned to the Prosecutor's Office of the Russian Federation. Thus, the conditions and grounds for refusal of extradition are provided not only in the Criminal Procedural Code of the Russian Federation and other laws, but also in international treaties signed by the Russian Federation. At the same time, if extradition of a person is not carried out, then regardless of the type of regulatory legal act in which they are contained, the Prosecutor General's Office is obliged not only to notify the competent authorities of the relevant foreign state, but also to inform them of the specific grounds for its refusal.

Pre-extradition arrest to ensure extradition

In order to ensure the possibility of extradition to a person, in particular, a preventive measure in the form of detention may be chosen, which in such cases is commonly referred to as pre-extradition arrest. It becomes possible by a court decision made on the basis of a prosecutor's petition in accordance with the procedure provided for in Article 108 of the Criminal Procedural Code of the Russian Federation. When making a decision, the judge is obliged to check legal and factual grounds for the selection of this measure. At the same time, the judge should take into account not only relevant normative prescriptions of the Russian criminal procedure legislation, but also provisions of the aforementioned European Convention on Extradition, as well as the Convention on Legal Aid and Legal Relations in Civil, Family and Criminal Cases, adopted in Minsk in 1993 (Minsk Convention) [15]. They stipulate that a person in custody should be released if the request for extradition is not received within forty days after taking him/her into custody. If the requesting state is not a party to the Protocol to the Minsk Convention, the period of detention of a person before receiving an extradition request may not exceed one month. Other periods during which a person may be detained until such a request is received must be specifically provided for in bilateral international treaties of the Russian Federation. But if a duly executed extradition request has not been received by the Russian side within the period stipulated by them, then the person is subject to release from custody.

The terms during which a person may be detained until an extradition request is received may also be provided for by bilateral international treaties of the Russian Federation [16, p. 222]. At the same time, if the requesting state is simultaneously a party to an international treaty of the Russian Federation and the European Convention on Extradition, the period of detention of a person before receiving an extradition request should not exceed forty days. These periods should be taken into account by the courts when determining the specific period of time during which a person can be held in custody until an extradition request is received. In the absence of a corresponding petition, the preventive measure in the form of detention is chosen and subsequently extended only by the court of the Russian Federation, indicating for what period and until what specific calendar date the preventive measure is chosen or extended.

As an example, we can mention the relatively recent consideration by the Moscow City Court of Appeal of the submission of the Deputy Simonovsky Interdistrict Prosecutor of Moscow, filed against the decision of the Simonovsky District Court of Moscow on the imposition of preventive measures in the form of detention on Mr. Yu. Having changed this decision, the court of appeal drew attention to the fact that, choosing a preventive measure in the form of detention for this citizen, the court had motivated its decision to satisfy the prosecutor's petition, justifiably referring to the provisions of Article 108 of the Criminal Procedural Code

of the Russian Federation and the Minsk Convention, according to which a person wanted by law enforcement agencies of a foreign state for criminal prosecution for the act punishable under the criminal law of the Russian Federation may be detained to ensure the possibility of his/her extradition if there are grounds to believe that this person may escape. However, when determining the validity period of this preventive measure, the court had not taken into account that in accordance with Article 61 of the aforementioned Convention, the period of detention of a person wanted by law enforcement agencies of a foreign state before receiving a request for his/her extradition could not exceed one month. Since the requesting state was not a party to the Protocol to this Convention, fixing the possibility of holding internationally wanted persons in custody for a longer period (forty days). The court had mistakenly established the validity period of the chosen preventive measure within forty days. The appellate instance changed the court's decision regarding Mr. Yu., reducing the period of his detention by ten days. Thus, the said Protocol to the Minsk Convention at the time of consideration of the prosecutor's submission was an international treaty of the Russian Federation, which at one time agreed to be bound by it, but the requesting state that sent the request for extradition of Mr. Yu., at the time of consideration of this submission was not a party to it, as a result of which the relations between the Russian Federation and the requesting state on extradition issues (in terms of determining the period of stay of a person in custody pending receipt of an extradition request) were regulated by the provisions of the Minsk Convention, without taking into account the provisions contained in the Protocol [17].

All this is in a systemic relationship and legal unity with the characteristic feature of extradition – the minimum amount of jurisdiction transferred from the requesting state, which retains all the most important powers in the criminal and criminal procedural spheres, unlike other types of international cooperation in criminal matters (legal assistance, transfer, prosecution). In this aspect, extradition is an international obligation of one state to take the requested person into custody and transfer him/her to a foreign jurisdiction in accordance with the established procedure. However, with the detention of such a person in the legislation of the Russian Federation, everything is ambiguous so far. Back in 2006, the Constitutional Court of the Russian Federation determined the following: Article 466 of the Criminal Procedural Code of the Russian Federation does not provide for the possibility of applying to a person in respect of whom the possibility of his/her extradition to another state for criminal prosecution is being considered of a preventive measure in the form of detention outside the procedure provided for by criminal procedure legislation and beyond the time limits established by it. At the same time, the provisions of Chapter 13 of the Criminal Procedural Code of the Russian Federation "Preventive measures" as general norms are applied to all stages and forms of criminal proceedings, therefore they should be used when executing extradition orders [18]. According to the Resolution of the Plenum of the Supreme Court of the Russian Federation adopted a few years later (paragraphs 16, 17), when deciding on the imposition (extension) of a preventive measure in the form of detention, the court should take into account the possibility of choosing another preventive measure sufficient to ensure possible extradition of a person. His/her voluntary appearance in the law enforcement agencies of the Russian Federation, presence of his/her dependent family, minor children, permanent residence, serious illness may allow the court not to impose or extend the previously chosen preventive measure in the form of detention in relation to this person [12].

The Russian Federation is obliged to notify the foreign state of the place, date and time of the transfer of the extradited person. If this person is not accepted within 15 days from the date set for transfer, then he/she may be released from custody. In case of unforeseen circumstances, the date of transfer may be postponed, but the person is subject to release after thirty days from the date set for his/her transfer. Simultaneously with extradition of a person, items that are tools, equipment or other means of committing a crime, as well as items that have traces of a crime or obtained by criminal means, may be transferred to the appropriate competent authority of a foreign state. The law allows their independent transfer upon request (that is, separately from the extradited person). This is typical for those cases when extradition of the requested person is impossible in con-

nection with his/her death or for other objective reasons. If the requested items are necessary for the production of investigation in a criminal case, their transfer may be temporarily postponed. If it is necessary to ensure the rights and legitimate interests of third parties, the transfer of items can be carried out only if there is an obligation of the relevant institution of a foreign state to return them after the completion of criminal proceedings.

Conclusion

Thus, the main task of extradition is to ensure that criminal prosecution or execution of a sentence is carried out in accordance with international law and domestic legislation of the requesting state. The key obstacle to the full-fledged functioning of this institution should be recognized as the absence in existing legal acts of state responsibility for non-compliance with the requirements for extradition of the requested persons by introducing artificial restrictions on the resolution of these issues for political reasons. The solution of this problem should take place in the plane of its settlement within the framework of relevant international treaties, the provisions of which will be specified in national legislation. Moreover, the fulfillment of obligations stipulated by national legislation and existing international treaties should become a mandatory rule for all states engaged in international cooperation in the field of criminal justice. Double standards are unacceptable here. The interaction of states in this area should be purposeful, permanent and absolutely equal. Otherwise, irreparable harm will be done to the cause of protecting the rights of victims of crimes.

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On Equality and Justice Principles in Criminal Law and the Specifics of Modern Criminal Lawmaking in the Light of the Exclusion of Paragraph “o” from Part 1 of Article 63 of the Criminal Code of the Russian Federation

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Abstract

Introduction: the amended list of aggravating circumstances published in 2010 and 2023 in connection with the addition and exclusion of paragraph “o” of Part 1 of Article 63 of the Criminal Code of the Russian Federation (“commission of an intentional crime by an employee of the internal affairs body) are of interest in the light of the principles of equality of citizens before the law (Article 4 of the Criminal Code of the Russian Federation) and justice (Article 6 of the Criminal Code of the Russian Federation), as well as in terms of modern criminal lawmaking. *Purpose:* taking into account the current legislation and doctrine, to determine correlation of these changes with the stated principles, as well as to indicate legislative activity trends. *Methods:* formal-logical and analytical methods, statistical method and interpretation method. *Results:* the analysis of the current constitutional and criminal legislation in terms of provisions enshrining the principles of equality of citizens before the law and justice, as well as their doctrinal and judicial interpretations, shows that the recognition of the fact of committing an intentional crime by an employee of the internal affairs body as an aggravating circumstance contradicts these principles, since it puts this category of citizens in a more vulnerable position relative to other employees of the internal affairs body whose status actually has criminality as well. In addition, the 2010 and 2023 amendments to Part 1 of Article 63 of the Criminal Code of the Russian Federation confirm the relevance of a number of trends inherent in modern criminal lawmaking. *Conclusion:* it seems more logical to correct the violation committed in 2010 by proposing the following wording of paragraph “o” of Part 1 of Article 63 of the Criminal Code of the Russian Federation: “commission of an intentional crime by a law enforcement officer”. Having considered the situation of the introduction of paragraph “o” in Part 1 of Article 63 of the Criminal Code of the Russian Federation in 2010 and its exclusion in 2023, the author has come to a conclusion about the existence of negative trends in criminal lawmaking, such as its opportunism, criminological unreasonableness, priority of specialization and casuistry of the criminal law as a consequence, as well as absence of an ambiguously formulated position of the higher courts in the discussion of draft laws.

Keywords: aggravating circumstances, criminal lawmaking, principle of equality, principle of justice.

5.1.4. Criminal law sciences.

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Introduction

The commission of an intentional crime by an employee of the internal affairs body as an aggravating circumstance was introduced into the Criminal Code of the Russian Federation in February 2010 and excluded – in June 2023. In both cases, the legislator’s decisions provoked an active discussion in the doctrine and among law enforcement officers. It seems to us that the steps taken to change the list of aggravating circumstances in both cases can be assessed from at least two positions: first, in the light of implementation of the principles of equality of citizens before the law (Article 4 of the Criminal Code of the Russian Federation) and justice (Article 6 of the Criminal Code of the Russian Federation), and second, in the context of the specifics of criminal lawmaking of the last decade.

Relevance of paragraph “o” of Part 1 of Article 63 of the CC RF for the practice of imposing a sentence

After the indicated changes in 2010, the law enforcement officer faced the problem of taking into account this circumstance when imposing punishment, in case the act was qualified as official or committed using official position in the light of the prescription of Part 2 of Article 63 of the Criminal Code of the Russian Federation. In 2015, the Supreme Court of the Russian Federation published the clarification about the non-application by courts of paragraph “o” of Part 1 of Article 63 of the Criminal Code of the Russian Federation in case an employee of the internal affairs body commits a crime using his/her official position (for example, a crime provided for in Part 3 of Article 160, Article 286 of the Criminal Code of the Russian Federation) [1]. The above rule guided the courts to apply the circumstances in question when imposing punishment for crimes of a common criminal nature committed by an employee of internal affairs bodies, while a lack of clarification regarding the need to establish a connection between the committed act and the official position of the subject caused an active discussion in science and the heterogeneity of judicial practice in the relevant part. For example, the appellate instance changed the sentence of the first instance court imposed on A.G. Amelyanovich accused of committing accessory acts in murder and intentional damage to someone else’s property (Part 5 of Article 33, Part 1 of Article 105, Part 5 of Article 33, Part 1 of Article 167 of the CC RF) by applying paragraph “o” of Part 2 of Article 63 of the Criminal Code of the Russian Federation, since “A.G. Amelyanovich, being an employee of the internal affairs body, knowing that A.E. Amelyanovich does not have a permit to store and carry weapons, did not prevent its use, and on the contrary, assisted in the commission of intentional criminal acts. By implication of law, the commission of an intentional crime by employees of the internal affairs bodies, who are responsible for protecting the life and health of citizens, countering crime and protecting public order, testifies to their conscious, contrary to their professional duty and the oath taken, opposing themselves to the goals and objectives of the police, which contributes to the formation of a negative attitude towards the internal affairs bodies and state institutions as a whole, deforms moral foundations of the interaction of the individual, society and the state, and undermines respect for the law” [2].

Despite the fact that in this case the accomplice’s actions were expressed in driving a personal vehicle during the prosecution of the victims and were not related to his official position, the court considered it possible to take into account the analyzed circumstance as an aggravating punishment. This practice caused critical comments to the doctrine, since “criminal legislation does not provide for either strengthening or mitigation of punishment for crimes not related to the use of official position, even if they are committed by persons holding high and responsible positions” [3, p. 90].

At the same time, such an approach of the law enforcement officer seems quite justified in the sense that a crime committed outside of official activity and in the absence of its connection with the official position of the subject somehow undermines both the authority of state power and the

public's trust in its bearers and the state as a whole. However, this is obviously true not only for employees of internal affairs bodies, but also for any officials of state and municipal authorities, including law enforcement agencies. In this context, the discussion of amendments to the list of aggravating circumstances (Part 1 of Article 63 of the Criminal Code of the Russian Federation), in terms of paragraph "o" supplemented in 2010 and excluded in 2023, raises the question of the observation of criminal law principles of equality of citizens before the law and justice, enshrined in Articles 4 and 6 of the Criminal Code, respectively.

The circumstance fixed in paragraph "o" of Part 1 of Article 63 of the Criminal Code of the Russian Federation in the light of principles of equality and justice

It is worth mentioning that all critical comments made in criminal law science on the 2010 changes are mostly focused on the question of their relationship with the principle of equality of citizens before the law (Article 4 of the Criminal Code of the Russian Federation) [4–6].

The authors, referring to the idea of equality in law in their research, note, first of all, the historical variability of its content, and use Soviet and modern Russian periods as an illustration. The first period is usually characterized by the existence of "... a clear bias towards the introduction of de facto equality to the detriment of formal legal equality" [7, p. 4]. In other words, equality in Soviet law was identified with the actual equality of people, which ultimately took the form of "universal equalization" [7, p. 4]. It is obvious that such an approach is fundamentally wrong, since the situation of actual equality of people is impossible a priori: "... real actual equality is contrary to human nature ... contradicts the very idea of law" [8, p. 82].

As for the modern interpretation of the principle of equality, it is primarily based on provisions of the current legislation. Thus, according to Article 19 of the Constitution of the Russian Federation, the state guarantees equality of human and civil rights and freedoms regardless of gender, race, nationality, language, origin, property and official status, place of residence, attitude to religion, beliefs, membership in public associations, as well as other circumstances; any form of restriction of citizens' rights on the grounds of social, racial, national, linguistic or religious affiliation is prohibited.

Consolidation of the constitutional principles of equality of citizens in the Criminal Code of the Russian Federation has given them the importance of the criminal law principle of equality of citizens before the law, the essence of which is reduced to the requirement to bring to criminal liability the persons who have committed a crime, regardless of any inherent characteristics. In other words, the content of the principle of equality in criminal law is significantly narrower than general constitutional provisions: by establishing the need to bring a subject to criminal liability in connection with a committed crime, it thus extends to a limited number of persons and, in order to bring to justice, does not take into account their other characteristics, except for the fact of the crime committed. We emphasize that these characteristics can be taken into account in order to differentiate or individualize liability, however, they do not affect the presence or absence of grounds for bringing liability. As V.D. Filimonov notes, in addition to establishing "... an equal obligation to bear responsibility for the crime committed" "the basis of the content of the principle of equality of citizens before the law in criminal law is the requirements of equal grounds for the application of criminal liability and equal criteria for determining the content and extent of criminal liability" [3, p. 88].

It is worth mentioning that the doctrinal interpretation of the above legislative provisions is based on the distinction between formal (legal) equality and actual (social) equality. At the same time, the former acts as a kind of fiction that allows, in order to ensure legal regulation, protection of socially significant goods, values and relationships, to abstract from actual differences of subjects with legal capacity. This means that in a legal sense, virtually unequal subjects with different personal, socio-demographic and other characteristics are recognized as equal. According to D.E. Zaikov, formal equality is a screen that hides the specifics, superiority, shortcomings and other existing differences between citizens and which is actually transparent [9]. Speaking about transparency, the author seems to mean the fact that formal equality does not only cancel, but even vice versa, justifies the legislator's differentiated attitude to certain categories of subjects: legitimate inequality is the driving force of legal equality [9].

Indeed, the consolidation of provisions on equality of citizens before the law at the constitutional and sectoral levels serves as the basis for differentiated legislative regulation and protection of public relations and social benefits, taking into account characteristics of the subjects. In particular, with regard to criminal law, we are talking about institutions of differentiation and individualization of criminal liability and punishment, in some cases involving consideration of individual characteristics of the subject of the crime and/or the victim.

To support the idea, we will consider legal positions of the Constitutional Court of the Russian Federation, which has clarified the issue of equality and differentiation in law: "any differentiation of legal regulation leading to differences in the rights and obligations of subjects of law must be carried out by the legislator in compliance with the requirements of the Constitution of the Russian Federation, including those arising from the principle of equality (parts 1, 2 of Article 19), by virtue of which differences are permissible if they are objectively justified and pursue constitutionally significant goals, while the legal means used to achieve these goals are proportionate to them. Compliance with the constitutional principle of equality, which guarantees protection from all forms of discrimination in the exercise of rights and freedoms, means, among other things, a prohibition to introduce such differences in the rights of persons belonging to the same category that have no objective and reasonable justification (prohibition of different treatment of persons in the same or similar situations)" [10].

In the light of the criteria of objective justification and validity of differentiation of legal regulation outlined by the Constitutional Court of the Russian Federation, the idea of equality turns out to be directly related to the principle of justice. Thus, according to the general theory of law that indicates "the unity of justice and equality as an expression of proportionality and equivalence", justice is "retribution of the equal for the equal" [11, p. 30].Considering that we are talking about formal equality, inevitably associated with the legitimate inequality of the subjects-addressees of legal influence, "retribution of the equal for the equal" becomes possible only due to the appropriate kind of exceptions (privileges, restrictions, etc.). With regard to criminal law, this means that the criminal law measure of equality is the provision enshrined in the law on bringing to justice everyone who has committed a crime, and the possibilities of differentiation and individualization of liability and punishment are nothing more than tools to ensure fair equality for the actually and legally unequal.

It is important that this idea is not new and corresponds to moral imperatives formalized, including at the level of religious texts: "And from everyone to whom much has been given, much will be required; and to whom much has been entrusted, more will be exacted from him" (Gospel of Luke, 12:48). This is of particular importance in the light of the legislator's differentiated approach to the establishment of measures of responsibility for the crime committed, depending on characteristics of the offender and/or the victim, since it allows to correlate it with the principle of equality of citizens before the law (Article 4 of the Criminal Code of the Russian Federation) as not only not contradicting it, but also approved in order to implement this principle. The same can be said about the institution of individualization of punishment in connection with certain characteristics of the perpetrator and/or victim.

Taking into account the above arguments, the legislative establishment of stricter penalties for the crime committed by an official, including a representative of the authorities, does not violate either the requirements of equality of citizens before the law or the requirements of justice as criminal law principles. Indeed, consideration of the official position of a person seems to be aimed at ensuring fair equality in determining penalties for subjects whose status and role position is criminogenic. It is important to emphasize that the occupation of a position by itself and the exercise of official activity does not mean the inevitability or at least some probability of committing a crime, however, by definition it is associated with formalized criminogenic possibilities of power influence, and in some cases – with the use of legal coercion tools. In addition, it is a mistake to deny unformalized criminogenic opportunities that also accompany the occupation of an official position and are realized in interpersonal interaction – first of all, we are talking about authority, personal disposition, trust, etc. They do not only determine the possibility of committing an act

and/or facilitates it, but also affects the change in the public danger of a crime, increasing it, since in any case it undermines the authority of state or other service, as well as public trust in the state and its structures. Indeed, granting authority to a subject, including the possibility of coercive influence, in fact, is an act of trust on the part of the population, who have voluntarily entrusted these tools to individuals representing the state, in return for ensuring their own security. So, regardless of the direction of criminal behavior of such an authorized person, in the public consciousness, he, being guilty, is perceived precisely as invested with power for the purpose of establishing legality, however, he has trampled it. Will the trust of the population not be shaken in this case?

Hence, the existence of opportunities for differentiation of liability and individualization of punishment in the current criminal law, taking into account the official position of the subject or the official activity carried out by him seems logical. At the same time, since "justice is equality for the equal in its social significance" [9], the legislator's determination of an aggravating circumstance particularly for an employee of the internal affairs bodies raises questions. It is obvious that such selectivity has led to a clear violation of the principles of equality and justice. We back the stance of those scientists who have emphasized this in their works [12–15]. So, justifying this position, A.V. Elinskii refers to the fact that "the conclusion about the similarity of the legal status of employees of internal affairs bodies and employees of other law enforcement agencies, in particular institutions and bodies of the penal system, bodies for the control of the turnover of narcotic drugs and psychotropic substances, was made in the Ruling of the Constitutional Court of the Russian Federation of June 20, 2006 No. 173-O" [16].

The above allows, in the end, to conclude that the principles of equality of citizens before the law and justice in relation to paragraph "o" of Part 1 of Article 63 of the Criminal Code of the Russian Federation are violated precisely in connection with the unjustified selectivity of the legislator, who, ignoring the similarity of the legal status of representatives of various structures related to law enforcement, gave the greatest criminality to the status of an employee of internal affairs bodies.

Hence, it would seem that by excluding this aggravating circumstance from Part 1 of Article 63 of the Criminal Code of the Russian Federation, the legislator corrected a ten-year-old violation of the constitutional principles of equality of citizens before the law and the relevant criminal law principles. It should be noted that the Explanatory Note to Draft Law No. 215274-8 "On invalidation of paragraph "o" of Part 1 of Article 63 of the Criminal Code of the Russian Federation", defining the eliminated feature as "discriminatory", refers to the unfairness of separating these employees from representatives of other structures that ensure law and order in Russia, the minimum share of crimes committed by law enforcement officers from the total number (1%) and the need to "restore the logic of legislative regulation and thereby avoid emphasizing undeserved and unfair distrust to employees of the internal affairs bodies of Russia" [17].

We believe that this situation rather reflects some criminal lawmaking trends characteristic of the past ten years than the desire to eliminate legal violations of fundamental principles and requirements of systematic legislation.

On some trends in modern criminal lawmaking in the light of the exclusion of paragraph "o" from Part 1 of Article 63 of the Criminal Code of the Russian Federation

As mentioned above, along with the issues of compliance with the principles of equality of citizens before the law and justice, the introduction of paragraph «o» in Part 1 of Article 63 of the CC RF and its subsequent exclusion from the list of aggravating circumstances makes us think about features of modern criminal lawmaking. So, the analysis of the situation preceding the 2010 novel helps identify resonant events with the participation of law enforcement officers. We are talking about the crime of the former head of the Department of Internal Affairs in the Tsaritsyno district of Moscow, Police Major D.V. Yevsyukov, who on the night of April 27, 2009 staged a shooting in the supermarket "Island" on Shipilovskaya Street. According to investigators, the policeman killed two people, made an attempt to kill 22 people, seven of whom received gunshot wounds, as well as an attempt on the life of police officers. On February 19, 2010, the Moscow City Court sentenced D.V. Evsyukov to life imprisonment [18].

Apparently, it was this act, coupled with the increase in the number of crimes committed by law enforcement officers in previous years and the ongoing reform of the Ministry of Internal Affairs of Russia, that served as a trigger for the legislator. As a result, the analyzed novel appeared and Article 286.1 of the Criminal Code of the Russian Federation "Non-execution of the order by an employee of the internal affairs body" as a special norm establishing less severe penalties regarding sanctions of Article 286 of the Criminal Code of the Russian Federation.

Although the described chain of events – the public outcry about the committed act and the point activity of the legislator in the form of a corresponding new norm – was not new in 2010, in recent years it has acquired significance as a rule for most acts of criminal lawmaking. In other words, the recent appearance of reactive (opportunistic, situational) norms in the Criminal Code of the Russian Federation follows this logic. Prospects for such norms are uniform in most cases: they remain stillborn. This is evidenced by law enforcement data: 16 people were brought to liability for the entire period of Article 286.1 of the Criminal Code of the Russian Federation in force [19]. It should be noted that already at the time of this article introduction, its non-viability was predicted by the authors [15].

The essence of the trend manifested in the specified logic of criminal lawmaking is that the legislator ignores the requirement of criminological validity of criminalization, involving "first, the appearance of antisocial features in a significant number of people, second, the manifestation of these features in socially dangerous behavior, third, the influence of the level, structure and dynamics of socially dangerous behavior on the legislator's will" [20]. Simplifying the task, the legislator, apparently, connects the need for criminalization with the emerging significant public outcry on a particular negative occasion, and thus considers the goals of criminal legal impact, first of all, in the light of solving momentary (current) tasks.

The consequence of this approach is another trend of modern criminal lawmaking, which manifests itself in the fact that the emergence of new elements of crimes occurs mainly due to the differentiation of special elements from general ones [21]. The differentiation of criminal liability that takes place in such cases would not cause objections if it were justified. In particular, according to V.N. Kudryavtsev, the existence of a special norm along with the general norm makes practical sense when this special norm somehow solves the issues of criminal liability in comparison with the general norm (for example, on the type and amount of punishment) [22]. However, how this requirement corresponds to Article 286.1 of the Criminal Code of the Russian Federation is a big question (the sanctions of Article 286.1 are privileged and the list of penalty types is not fundamentally different, and because there is no lower limit to the imprisonment term in the sanctions of Part 1 of Article 286 of the Criminal Code of the Russian Federation, the introduction of a special norm seems superfluous).

In our opinion, the introduction of a special norm containing elements of the act already recognized as criminal, and not assuming a fundamentally different solution to the issue of liability, is a consequence of the legislator's desire to focus the attention of the law enforcement officer and population on certain phenomena of reality. It is difficult to call such legislative activity otherwise than an imitation of activities to counteract such phenomena, since often the newly introduced norm is not viable.

By and large, the exclusion of paragraph "o" from Part 1 of Article 63 of the Criminal Code of the Russian Federation in June 2023 also corresponds to the established logic of legislative activity. The instability of the external and internal socio-political situation in the country, when the preservation of socio-political balance is associated, among other things, with the activation of criminal legal influence, involving the active involvement of law enforcement agencies and, in particular, internal affairs bodies, forms, in our opinion, the factual basis for legislative amendments to the list of aggravating circumstances in the analyzed part. We cannot but agree with A.A. Tarasov that in modern Russia, any anti-criminal campaigns, against which no one would have thought of objecting, for some reason are always accompanied by restrictions on procedural guarantees and the expansion of powers of representatives of law enforcement agencies, and sometimes even begin with this [23]. The researcher mentions the campaigns to counteract terrorism in 2008 and combat pedophilia in 2013 as an example.

At the moment, taking into account the geopolitical events involving Russia and the accompanying amendments in the criminal law, we can speak with full confidence about the ongoing campaign to combat crimes that encroach on state power. this is evidenced by the dynamics of legislative activity in terms of novelization of the Special Part of the Criminal Code of the Russian Federation. As N.A. Lopashenko notes, in 2022, the bulk of the changes fell on three sections, one of which is Section X of the Criminal Code of the Russian Federation "Crimes against state power": 9 articles were amended and 11 new articles were included, while the chapter of encroachments on the foundations of the constitutional system and state security underwent significant changes (4 articles were amended, 9 new articles were included)" [24]. The relevance of the current anti-criminal campaign has zeroed out achievements of the other (against crimes committed by law enforcement officers), held in 2010.

In addition to the above, it seems that the question of the role of the Constitutional Court of the Russian Federation and the Supreme Court of the Russian Federation in modern criminal lawmaking deserves separate consideration, in the situation of exclusion of paragraph "o" from Part 1 of Article 63 of the Criminal Code of the Russian Federation.

Thus, repeatedly addressing the issue of application of the considered aggravating circumstance in the framework of working with citizens' complaints and court appeals, the Constitutional Court of the Russian Federation noted the "exceptional nature" of the responsibility assigned to employees of internal affairs bodies, thereby confirming the validity, expediency and compliance with the Constitution of the Russian Federation of the amendments made to the criminal law. Thus, in the Ruling of the Constitutional Court of the Russian Federation of December 8, 2011 No. 1623-O-O states that "the commission of an intentional crime by employees of the internal affairs bodies, who are entrusted with an exceptional in scope and nature ... responsibility for protecting the life and health of citizens, countering crime and protecting public order, testifies to their conscious ... opposition to the goals and objectives of the police, which contributes to the formation of a negative relations to the internal affairs bodies and institutions of state power in general, deforms the moral foundations of the interaction of the individual, society and the state, undermines respect for the law and the need for its unconditional observance" [25].

It is obvious that the exclusivity of responsibility emphasized by the Constitutional Court of the Russian Federation for employees of internal affairs bodies has not disappeared anywhere after the exclusion of the relevant aggravating circumstance in the current period – it also took place at the time of discussion of the relevant draft law. However, no one remembered about it and did not attach importance to it, while, the Constitutional Court of the Russian Federation refused to satisfy a number of complaints and appeals appealing to this exclusivity [26; 27].

In this regard, it seems important to consider doctrinal reflections on the relationship between judicial and legislative authorities in the context of the criminal policy being implemented. Thus, Yu. E. Pudovochkin and M.M. Babaev define the role of the Constitutional Court of the Russian Federation as the role of a legal assistant, which obviously excludes minimal confrontation between the Constitutional Court of the Russian Federation and the Parliament, which also obviously excludes the existence of contradictions between them [28]. N.A. Vlasenko, stating a period of weak activity of the Constitutional Court of the Russian Federation, remarks that dissenting opinions, rotation, not to mention decisions contrary to the management system, have gone into oblivion [29].

Undoubtedly, it is possible to talk about attributing a particular phenomenon to a number of trends only on the basis of a thorough and in-depth study, which is not considered as a task in our research. However, we believe that the positions chosen by the highest judicial instances in the case under consideration fully correspond to the conclusions that have already been made in science, and once again confirm them.

As for the role of the Supreme Court of the Russian Federation, it is necessary to specify the following. Consideration of reviews to the 2010 draft law, proposing to supplement Part 1 of Article 63 of the Criminal Code with paragraph "o", and to the 2022 draft law, proposing to exclude this paragraph, shows some self-distancing of the Supreme Court of the Russian Federation from participating in the discussion. In particular, in the first case, the review contained only

an indication of the Court's support of the initiative [30], whereas in the second case, the Court, pointing to the attribution of the issue under consideration to the jurisdiction of the federal legislator, summarizes the review by the absence of "comments and proposals on the draft law within the jurisdiction" of the Court [31].

In our opinion, in this case, the Supreme Court of the Russian Federation demonstrates insufficient involvement in the legislative process, which, however, is evaluated differently in science: some authors believe that such a position corresponds to the idea of separation of powers, while others emphasize the necessity of interaction "court-lawmaking" [32]. We believe that the idea of judiciary independence and the mechanism of checks and balances within the separation of powers are not mutually exclusive, but rather complement each other. Our approach contradicts to that of the Supreme Court of the Russian Federation, at least in terms of self-limitation to "limits of jurisdiction". Though the concept "area of jurisdiction" of the Supreme Court of the Russian Federation is poorly elaborated, [32], the powers of the Plenum to interpret legislation and the direct application of the latter by the courts are the basis for a broad understanding of this concept. Hence, the conscious self-distancing of the Court from legislative activity, which, in our opinion, is observed in the above reviews of draft laws, seems unacceptable and clearly does not contribute to the formation of reasonable legislative dynamics.

Conclusion

As practice shows, unfortunately, the fundamental importance of the provisions recognized as constitutional or sectoral principles is not always taken into account within the framework of legislative activity. The introduction of the paragraph "o" "commission of an intentional crime by an employee of the internal affairs body" to the list of aggravating circumstances of Part 1 of Article 63 of the Criminal Code of the Russian Federation in 2010 is an example of such a situation. In our opinion, in this case, requirements of the principles of equality of citizens before the law and justice are violated because of the reactive selectivity of the legislator, who emphasized the criminogenic significance of the status of these employees out of a number of law enforcement officials. Meanwhile, due to the possession of similar essential characteristics, the statuses of employees of other law enforcement agencies are no less criminogenic, and therefore the correction of the violation committed in 2010 required bringing the norm of paragraph "o" of Part 1 of Article 63 of the CC RF to the following wording: "commission of an intentional crime by a law enforcement officer".

The analysis of the situation of the introduction of paragraph "o" in Part 1 of Article 63 of the CC RF in 2010 and its exclusion in 2023, in our opinion, confirms the relevance of some trends in modern criminal lawmaking, which can be described as negative. So, we are talking about the opportunistic nature of lawmaking, its criminological unreasonableness, priority of specialization, which entails the casuistry of the criminal law, as well as the lack of an unambiguous formulated position on the part of the higher courts when discussing novels.

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Control, Supervisory and Jurisdictional Powers of the Federal Penitentiary Service as a Direction of Administrative and Legal Protection of Russian Penitentiary Institutions

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Abstract

Introduction: the article considers legal regulation of the jurisdictional powers of special structural units of the Federal Penitentiary Service in the process of implementing control and supervisory activities in the territories and facilities of the Russian penal system. *Purpose:* to present theoretical and legal understanding of the implementation of control and supervisory activities in territories and objects of the Russian penal system. *Methods:* general scientific methods of cognition (analysis, synthesis, induction and deduction), special methods of legal science (comparative legal and normative-logical), individual private methods of social sciences. *Results:* the issues of combining of control and supervisory functions in the activities of special structural units of the Federal Penitentiary Service are studied, and their role as one of the main directions of administrative and legal protection of objects of the Russian penal system is indicated. The problems of legal regulation and practice of implementation of jurisdictional powers by the subjects of control and supervisory activity applicable to the sphere of execution of criminal penalties are analyzed. *Conclusion:* proposals regarding regulation of administrative and jurisdictional powers of special structural units of the Federal Penitentiary Service are formulated. The following characteristics of control and supervisory activities of the penal system are identified: it is carried out taking into account the specifics of the sphere of public relations in which it is implemented; it combines elements of control and supervision; it has a complex nature of action; it is carried out by specially authorized structural units of the Federal Penitentiary Service; supervisory activity is implemented within the framework of the external activities of authorized subjects of the Federal Penitentiary Service, while the control is of an intra-system (intra-departmental) nature; it is the most important form of the implementation of administrative and jurisdictional activities in the sphere of public relations under consideration.

Keywords: control and supervisory activities; administrative jurisdiction; administrative coercion; penal system; Federal Penitentiary Service; administrative liability.

5.1.2. Public law (state law) sciences

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Introduction

Nowadays, ensuring penitentiary security is one of the key areas for the development of the Russian penal system. Security of the penal system in its essential and substantive relation implies the existence of a certain level of protection of both territories, institutions and bodies of the penal system, and persons directly located at these facilities, from internal and external threats that pose a danger to them. The problem of security in the penal system is closely related to such categories as public and state security, since only an integrated approach to their compliance ensures the necessary level of security, legality and law and order not only in the field of execution of criminal penalties, but also in the state as a whole.

Our review of the legal literature indicates that there is interest in this issue in the scientific community. Researchers consider issues of maintaining external security of penitentiary facilities [1, 2] and internal, within which they, as a rule, consider various aspects of ensuring safety of convicts and personnel of the penitentiary system [3, 4]. At the same time, the issues of ensuring security of the penal system at the required level through the implementation of control and supervisory activities by authorized subjects of the Federal Penitentiary Service.

The control and supervisory powers of the Federal Penitentiary Service, as a rule, are evaluated in terms of their analysis as a body authorized to exercise control and supervision functions exclusively in relation to convicted, suspected and accused of committing crimes. Indeed, it is difficult to argue with this view, since these powers are normatively fixed in the Decree of the President of the Russian Federation No. 1,314 “Issues of the Federal Penitentiary Service” of October 13, 2004. Meanwhile, a more detailed study of the powers of the Federal Penitentiary Service shows that in many respects the state of penal system security from various kinds of external and internal threats is ensured only by endowing the latter as an executive authority with special control and supervisory powers, thanks to which the necessary level of security is achieved in the established sphere of public relations.

Nowadays, one of the priority issues of providing security and organizing activities of the penitentiary system is to ensure sanitary-epidemiological, fire, veterinary and industrial safety at the facilities and territories of institutions and bodies of the penitentiary system. It is an important component of the functioning of institutions and bodies of the penal system, as it is aimed at forming a general state of protection of the life and health of the personnel, convicts and persons at the facilities and territories of penitentiary institutions, as well as their belongings and property of organizations operating in the regime territories, from fires, epidemics, epizootics, accidents at hazardous production facilities and consequences of these accidents, other hazards, as well as risks, which may arise in the field of execution of criminal penalties.

The core

The main powers for the organization of work related to the provision of sanitary-epidemiological, fire, veterinary and industrial safety in the territories and facilities of penitentiary institutions and bodies are assigned to special structural units of the Federal Penitentiary Service, such as the department for the organization of medical and sanitary support of the Federal Penitentiary Service; the veterinary service of the Federal Penitentiary Service; the inspection of technical supervision of the management of the organization of production activity and labor adaptation of convicts of the Federal Penitentiary Service; the departmental fire service of the penal system (VPO). At the local level, these activities are carried out by federal state institutions and unitary enterprises subordinate to these structural divisions [5, p. 56].

These entities exercise federal state sanitary-epidemiological, veterinary and fire supervision, as well as monitor industrial safety in relation to hazardous production facilities of

the penal system (industrial supervision). A.V. Martynov in his monograph "Administrative supervision in Russia: theoretical foundations of construction" suggests considering these activities as separate types of administrative supervision, each of which represents a special form of state management activity [6].

We have identified that in the sphere of public relations under consideration, special structural units of the Federal Penitentiary Service are empowered to exercise both departmental control and administrative supervision.

When considering this issue, it is necessary to pay attention to the existence of a discussion in the administrative law doctrine regarding the content of control and supervisory activities [7]. Sharing S.M. Zubarev's point of view regarding the nature of control and supervision in the activities of public authorities and their officers, we agree with the statement that the choice of a specific form of activity should be determined primarily by the legal status of the subject of coercion with regard to the nature of the tasks and functions performed by him [8, p. 10].

As noted above, in relation to the sphere of legal realization, authorized penal system officers perform the functions of departmental control and administrative supervision. At the same time, it should be pointed out that the control function is reflected in the performance of tasks and functions by penal system employees within the framework of official relations, while supervision is exercised in relation to entities that are organizationally insubordinate to them (in this case, we are primarily talking about organizations operating in regime territories and facilities of the penal system, and individuals (officers)). It is noteworthy that these forms of activity can be combined with each other in the process of implementing certain powers, at the same time, it is the object of coercive influence (the object of coercion) that should be considered as the basis for their differentiation.

So, in terms of the established sphere of public relations, we can talk about a combination of control and supervision as special forms of state administrative activity, therefore, about control and supervisory activities carried out by penal system employees.

At the same time, singling out two independent, but closely related areas of activity (departmental control and administrative supervision) in the structure of the powers of officers of the Russian penal system, it is necessary to point out the specifics of their normative consolidation. The powers of specially created structural divisions of the Federal Penitentiary Service regarding the implementation of departmental (intradepartmental) control in most cases are regulated by subordinate and departmental regulations. We can mainly talk about the orders of the Ministry of Justice of Russia and the Federal Penitentiary Service, establishing the competence of structural units of the Federal Penitentiary Service (for example, the Order of the Ministry of Justice of Russia No. 177 "On approval of the Instructions on the organization of activities of fire brigades, individual posts, groups of fire prevention of departmental fire protection of institutions executing punishments, and pre-trial detention facilities of the penal system" of September 3, 2007 and the Order No. 999 "On approval of the Regulations on the veterinary service of the Federal Penitentiary Service" of the Federal Penitentiary Service of November 1, 2018). While supervisory powers are regulated, as a rule, by the norms of federal legislation (for example, the Code of Administrative Offences of the Russian Federation (KoAP RF), the Federal Law of the Russian Federation No. 52-FZ "On sanitary and epidemiological welfare of the population" of March 30, 1999, etc.).

As noted by Herwig H. H. Hofmann, Gerard K. Rowe, and Alexander H. T rk, the implementation of control and supervisory powers by subjects of state administrative activity cannot be effective without their endowment with a certain amount of authority, providing for the possibility of applying state coercion measures, in particular, administrative coercion measures (administrative liability) [9]. V.D. Ardashkin also emphasizes that the right to use administrative coercion "is an important element of state control and supervision, without the implementation of which the functions of public administration under consideration would be incomplete" [10, p. 11].

S.M. Zubarev considers the possibility of applying administrative coercion measures as one of the main criteria by which control and supervisory activities in any sphere of state administrative activities should be distinguished among themselves. At the same time, admin-

istrative coercion is considered exclusively as an element of supervisory activity, while the implementation of control activities by authorized subjects does not provide for the application of administrative and coercive measures to control objects. At the same time, since control and supervision are legislatively identified, the scientist admits that in case of detection of elements of an administrative offense, the possibility of applying certain measures of administrative coercion and bodies that exercise control over subordinate issues, thereby referring to this type of activity as "quasi-control" [11, p. 30].

Administrative coercion in the penal system of the Russian Federation acts as one of the legal instruments through which the control and supervisory structural units of the Federal Penitentiary Service carry out their functions. I.O. Vasyukhno believes that at the present stage of development of the science of administrative law, the relationship of administrative coercion, law enforcement and supervisory activities is beyond doubt [12, p. 53], since they all involve the direct implementation of jurisdictional powers. Special structural divisions of the Federal Penitentiary Service are no exception, since their control and supervisory activities are closely related to the realization of jurisdictional powers in the framework of the implementation of proceedings on administrative offenses.

Control and supervisory powers of structural divisions of the Federal Penitentiary Service are exercised within the framework of their external activities in relation to the management objects that are organizationally subordinated to them – legal entities and individuals. At the same time, if the subjects of control and supervision of the Federal Penitentiary Service detect any violations of the current legislation norms on the part of the management objects, they are authorized to apply to the latter all necessary measures of administrative influence (coercion), up to measures of administrative liability. Dennis Daley also points out the effectiveness of the impact of administrative liability measures as a tool that stimulates law-abiding behavior of organizations and individuals (officers) [13].

When analyzing powers of the penal system employees implementing control and supervisory functions within the established competence in the sphere of public relations under consideration, it should be pointed out that not all of them are entitled to initiate cases of administrative offenses. This right is granted only to individual employees who, if there are legally established reasons and grounds, are authorized to draw up protocols on administrative offenses (Part 1 of Article 28.1 of the KoAP RF). The list of these subjects is fixed in the Order of the Federal Penitentiary Service No. 780 of December 19, 2013. The Order contains key elements of administrative offenses, after commission of which the penal system officers exercising state federal administrative supervision in the territories and objects of the penal system are authorized to draw up protocols on administrative offenses for the compositions that do not directly reflect the specifics of the penal system functioning and can be committed in other spheres of life. However, their commission can cause harm to public relations developed in the sphere of execution of criminal penalties. That is why officers of a specially created structural subdivision of the Federal Penitentiary Service were empowered to carry out proceedings on cases of administrative offenses within the established competence.

For instance, the state sanitary and epidemiological supervision at penitentiary facilities is carried out by penal system employees, in particular, the Chief State Sanitary Doctor of the Federal Penitentiary Service and the chief state sanitary doctors of territorial bodies of the Federal Penitentiary Service. The state sanitary and epidemiological supervision at penitentiary facilities, as the main goal of its activity, conducts all necessary measures aimed at preventing the occurrence and spread of epidemic (infectious) diseases at places of deprivation of liberty.

Sanitary and epidemiological supervision acquired particular importance during the spread of coronavirus infection (COVID-19) among the suspected, accused, convicted, as well as employees of the penitentiary system. Thus, restrictive measures dictated by the sanitary and epidemiological situation were introduced at penitentiary facilities. For instance, in 2020, the Chief State Sanitary Doctor of the Federal Penitentiary Service introduced a temporary ban on the provision of long and short-term visits with convicts (Resolution of the Chief State Sanitary

Doctor of the Federal Penitentiary Service No. 15 "On the introduction of additional sanitary and anti-epidemic preventive measures" of March 16, 2020) to prevent the emergence and spread of COVID-19 [14, p. 113].

In case of detection of violations, officials carrying out sanitary and epidemiological supervision at penitentiary facilities are authorized to make reasoned decisions on the imposition of administrative penalties against organizations and officials provided for by articles of the Administrative Code of the Russian Federation establishing administrative liability for violation of sanitary and epidemiological legislation (for example, provided for by articles 6.1, 6.3 (Part 2, 3), 6.33, (parts 1, 3), 14.26, 14.34 (Part 1), 14.43 (Part 3), 14.46.1, 14.46.2 of the Code, etc.) in the form of a warning or an administrative fine.

For other types of the state federal administrative supervision implemented in the penal system, the elements of offenses are listed in articles 23.14 (veterinary supervision) and 23.31 (industrial supervision) of the Administrative Code of the Russian Federation. For example, the state veterinary supervision in the territories and facilities of the penitentiary service allows timely detection and prevention of the spread of particularly dangerous diseases, food toxic infections among consumers of animal products, since it is aimed at ensuring the safety and quality of animal products manufactured in the penal system. In case of detection of veterinary legislation violations at penitentiary facilities, employees of the veterinary service are authorized to initiate cases of administrative offenses provided for in articles 10.6–10.8 of the Administrative Code of the Russian Federation.

Safe and serviceable maintenance of hazardous production facilities in the penal system is ensured through ongoing industrial supervision measures. The inspection of technical supervision of the management of the organization of production activity and labor adaptation of convicts of the Federal Penitentiary Service is authorized to carry out industrial supervision at penitentiary facilities. It is focused on ensuring industrial safety in the established sphere of public relations.

Thus, administrative coercion in the penal system acts as a kind of law enforcement activity, within the framework of which the control and supervisory powers of the Federal Penitentiary Service are implemented by authorized structural units and their officials. In addition, the use of administrative coercion measures is necessary for the effective implementation by these entities of the tasks assigned to them to prevent, detect and suppress offenses in the established field of activity.

We believe that granting jurisdictional powers to the penal system employees in the established sphere of public relations suggests the formation of a legal mechanism for administrative and legal protection of penitentiary facilities.

What is more, all subjects of control and supervisory activities in the penal system are endowed with different amounts of jurisdictional powers. So, for example, officials of the departmental fire service of the penal system (VPO) are not authorized to draw up protocols on administrative offenses. When detecting violations of fire safety requirements at penitentiary facilities and for drawing up appropriate protocols, penal system employees send all materials during control and supervisory activities to the state fire supervision authorities (Article 23.34 of the Administrative Code of the Russian Federation, Paragraph 71 of Section V of the Order of the Ministry of Justice of the Russian Federation No. 177 of September 3, 2007 "On approval of the Instructions on the organization of activities of fire brigades, individual posts, groups of fire prevention of departmental fire protection of institutions executing punishments and pre-trial detention centers of the penal system").

For example, in 2021, on the initiative of VPO officials exercising control and supervision in the field of fire safety in the territories and facilities of the Russian penal system, 60 penal system employees and 187 convicts were brought to administrative liability; 38 employees, 101 convicts; and 50 legal entities were imposed an administrative fine. The amount of fines imposed was 232.6 thousand rubles for officials and 79,322 thousand rubles for legal entities [15, p. 402].

So, officials of the departmental fire service of the penal system can only act as initiators of bringing officials and organizations to administrative liability in case they violate fire safety requirements at penitentiary facilities. The departmental fire service of the penal system is entitled to apply disciplinary coercion measures

to offenders within the framework of departmental control (Paragraph 94 of Section V of the Order of the Ministry of Justice of the Russian Federation No. 177 of September 3, 2007). At the same time, the discussed above does not mean that VPO officials are not endowed with any amount of authority to apply administrative coercion measures at all.

VPO officials are authorized to make prescriptions for the elimination of identified violations of fire safety standards, mandatory for execution, thereby realizing administrative and coercive capacities in practice. As G.A. Ozhegova emphasizes, the instruction to eliminate the identified violations in theoretical jurisprudence and administrative law science is traditionally considered as a form of state coercion [16, p. 25].

So, for example, in 2021, VPO officials submitted 644 instructions on the elimination of identified violations of fire safety standards and prohibition of functioning of fire-hazardous facilities, including 298 industrial buildings and premises, 26 warehouses, bases and retail premises, 33 administrative and public buildings and structures, 71 residential buildings and premises, 49 structures and applications, 26 agricultural facilities, 24 garages, and 117 other fire-hazardous objects [15, p. 402].

Thus, the instruction to eliminate identified violations, issued by an VPO official, can be considered as an act of an administrative nature, which contains mandatory directions and entails, in case of non-compliance, legally significant consequences for the offender.

The conducted analysis of legal acts regulating jurisdictional powers of subjects of control and supervisory activities in the penal system shows that the level of systematization of regulatory legal material is quite low. For instance, the Administrative Code of the Russian Federation defines the procedure and limits of the powers of officials of the Criminal Code when conducting proceedings on administrative offenses in the sphere of public relations under their jurisdiction. At the same time, attention should be paid to the following circumstance: the normative regulation of the powers of subjects of administrative jurisdiction in the penal system is unsystematic and dispersed according to individual articles of the Code. The powers of the subjects exercising administrative supervision at penitentiary facilities are fixed not only in the Administrative Code of the Russian Federation (articles 23.13, 23.14 and 23.31 of the Administrative Code of the Russian Federation), but also in certain norms of federal legislation (for example, Article 9 of the Law of the Russian Federation No. 4979-1 of May 14, 1993 “On veterinary medicine”) and departmental legal acts (for example, Paragraph 4.9 of the Order of the Federal Penitentiary Service No. 999 of November 1, 2018), which regulate activities of officials of specially authorized structural divisions of the Federal Penitentiary Service for the implementation of proceedings on administrative offenses in the field of execution of criminal penalties. So, in practice both subjects of law enforcement and objects of coercive influence (legal entities and officials) find it rather difficult to navigate a large array of regulatory legal acts and norms, which cannot but affect the final result of activities of those carrying out control and supervisory activities in the penal system.

In view of the above, it should be emphasized that the need for a critical understanding of the powers of subjects of administrative jurisdiction in the panel system in the framework of the implementation of proceedings on cases of administrative offenses is caused by the ongoing administrative reform of control and supervisory activities implemented in all areas of public administration. The ongoing reform is aimed, on the one hand, at systematization of administrative and legal norms and, on the other hand, deeper elaboration of issues related to the legal regulation of administrative and jurisdictional powers of participants in control and supervisory proceedings in subordinate areas.

Indeed, effective implementation of control and supervisory powers largely depends on the quality of the regulatory framework. Meanwhile, despite the active use of control and supervision functions in the activities of the Federal Penitentiary Service, the content of these functions remains undisclosed to date. For example, the federal service has no administrative regulations that establish and disclose the procedure for the implementation of these functions in the law enforcement activities of authorized entities. The only exception is the Administrative regulations of interaction between the Federal Service for Environmental, Technological, and

Nuclear Supervision and the Federal Penitentiary Service in the implementation of state control (supervision) in the field of industrial safety at hazardous production facilities of the penal system adopted back in 2014 (Order of Federal Service for Environmental, Technological, and Nuclear Supervision No. 96, Federal Penitentiary Service No. 123 of March 11, 2014).

As practice shows, any imperfections in the legal regulation of any type of activity, including control and supervisory, reduce not only the quality and effectiveness of the functions performed, but can also lead to violations of the rights and legitimate interests of objects of coercive influence (organizations and individuals).

We propose to draw attention to the need to legally consolidate the administrative and jurisdictional powers of officials of the Federal Penitentiary Service who carry out relevant types of administrative supervision within the framework of one article: administrative and jurisdictional powers related to the implementation of federal state veterinary supervision at penitentiary facilities; administrative and jurisdictional powers related to the implementation of federal sanitary and epidemiological supervision at subordinate and serviced facilities and serviced territories of the penal system; administrative and jurisdictional powers related to the implementation of federal state supervision in the field of industrial safety in relation to hazardous production facilities of the penal system; administrative and jurisdictional powers related to the implementation of departmental fire supervision at facilities of institutions and bodies of the penal system.

The introduction of amendments to the Administrative Code of the Russian Federation is one of the ways to solve the discussed problem. In particular, we propose to supplement Article 23.4 “Bodies and institutions of the penal system” with separate parts establishing the administrative and jurisdictional powers of officials of the Federal Penitentiary Service performing control and supervisory functions in the penal system within the established competence [14, pp. 240–241].

In this case, the approach that was applied in the draft Code of the Russian Federation on Administrative Offenses (Article 44.22) seems to be the most priority direction in terms of regulatory regulation and consolidation of the powers of subjects of administrative jurisdiction in the penal system, which was applied in the draft Code on Administrative Offenses of the Russian Federation (Article 44.22). Consolidation within one article of the powers of subjects of administrative jurisdiction to draw up protocols on administrative offenses and consider administrative cases greatly facilitates the law enforcer’s perception of the legal norm and minimizes the number of mistakes.

Thus, the integrated approach to the consideration of the issue of legal regulation of the jurisdictional powers of special structural units of the Federal Penitentiary Service, implemented in the course of control and supervisory activities, allowed us to formulate proposals to improve the legal regulation of their activities in the framework of proceedings on administrative offenses.

Conclusion

Control and supervisory activities of specially authorized structural units of the Federal Penitentiary Service are one of the most effective areas of administrative and legal protection of penitentiary facilities, which implementation makes it possible to ensure the necessary level of penitentiary security. The provision of penitentiary security is largely ensured by the possibility of the control and supervision subjects applying measures of administrative coercion, up to administrative liability, to the objects of influence. These powers are of a law enforcement character.

Our research has shown that control and supervisory activities in the penal system are characterized by the following:

– they are carried out with regard to the specifics of the sphere of public relations in which they are implemented;

– they combine elements of control and supervision;

– they have a complex nature of action, that is, they provide for the possibility of implementing several types of sectoral administrative supervision within one system;

– they are carried out by specially authorized structural divisions of the Federal Penitentiary Service;

– supervisory activities are carried out within the framework of external activities of the authorized subjects of the Federal Penitentiary

Service in relation to the objects of management that are organizationally insubordinate to them – legal entities and individuals, while control activities are of an intra-system (intra-departmental) nature;

– control and supervisory activities in the penal system is the most important form of administrative and jurisdictional activity, within the framework of which the powers to apply administrative coercion measures are implemented.

Administrative coercion is an obligatory element of supervisory activity, a criterion that helps distinguish this activity from control, along with the ratio of the subject and the object of coercive influence. When exercising control, coercion, as a rule, has a pronounced disciplinary character. While in modern conditions of legislative identification of control and supervision, there is a widespread penetration of coercive measures into the exercise of control, which turns it into a so-called "quasi-control". As a consequence, there is a process of replacing the managerial essence of control with law enforcement content.

There are several grounds for normative regulation of the powers of special structural units of the Federal Penitentiary Service in the implementation of control and supervision measures in the penal system.

First, the normative regulation of supervisory activities is carried out, as a rule, at the federal level, while the legal regulation of control activities in the system of executive authorities is largely at the subordinate level. Such a state of affairs leads to a lack of system and consistency in terms of the normative consolidation of the powers of subjects of control and supervision within even one sphere of public relations we consider.

Second, we believe that our proposals to supplement Article 23.4 of the Administrative Code of the Russian Federation with separate parts establishing administrative and jurisdictional powers of officials of the Federal Penitentiary Service exercising control and supervisory functions in the penal system within the established competence, will improve the law enforcement component in matters of implementation of the established norms.

Thus, the state federal administrative supervision in the Russian penitentiary system, despite its great role in ensuring security at penitentiary facilities, requires critical reflection and improvement in terms of view of legal consolidation.

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Administrative Basis of the Formation and Development of Public Service in Russia in the Pre-Revolutionary and Soviet Periods

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Abstract

Introduction: the article discusses the administrative basis of public service in Russia. *Purpose:* to highlight features of administrative regulation of the formation and development of professional public service in Russia in the pre-revolutionary and Soviet periods. *The methodological basis* is formed by general scientific and private scientific (historical-legal, comparative-legal, descriptive, content analysis) methods of cognition of legal reality. The conclusions are substantiated that the development of a centralized Russian state entailed significant changes in the recruitment for the army that became regular in the middle of the XVI century. The main result of the development of public service in the pre-revolutionary period was the formation of a system of extensive legislative and subordinate regulation of key types of public service – military and civil (state and court), which in terms of legal technology was one of the most advanced for its time and served as the basis for further development of the administrative institute of public service in our country. It is noted that the Soviet nomenclature system of public administration and service in its characteristics did not correspond to global trends in the formation of a rational bureaucracy and was based on abstract ideological principles that were more political than legal in nature. Politicized principles of partisanship and classism that prevailed in our country and were primarily of a doctrinal political and legal nature, were aimed at forming a national legal ideology and determined the extremely specific content of legal policy on the development of administrative bureaucracy. The Soviet party nomenclature was never able to transform into a full-fledged public service and become independent of the political conjuncture, which did not allow the final formation of the administrative institution of public service in the Soviet period. *The scientific and practical significance of the work* consists in substantiating the provisions that the processes of democratization in Russia led to the gradual construction of a new model of public service based on modern achievements of social philosophy, theory of state and law, constitutional, administrative and other branches of law.

Keywords: public service; public administration; nomenclature system; democratization of public service.

5.1.1. Theoretical and historical legal sciences.

5.1.2. Public law (state law) sciences.

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Introduction

Public service of the Russian Federation as a kind of professional activity of citizens (subjects) to implement state powers and realize public administration has a centuries-old history and is inextricably linked with the processes of formation and development of a centralized Russian state [1]. The Russian historiography distinguishes several key stages of the formation of professional public service with various approaches applied to staffing, legal status of employees, training, education and social protection of employees. Well-known historical models of public service represented a kind of a copy of the public administration system used at a specific historical stage of the Russian state development and were preconditioned by a large number of external and internal factors.

Features of the legal regulation of public service in the period of the formation of a centralized Russian state and the Imperial period

The emergence of a unified system of public service and its legal registration in Russia is directly related to the emergence of a centralized Moscow state (XVI–XVII centuries). At this stage, there was no professional public service. The Moscow state at that time was not sufficiently centralized, and state service at the courts of Muscovite princes had a pronounced class character. Nobles and "boyar children" (that is, servants of the court of boyar origin) were involved in the service [2, p. 119]. In peacetime they fulfilled other functions, including police officers serving as deliverymen, bailiffs, county and even provincial headmen in cities and tax collectors, etc. They also had the duty, together with city nobles, to defend border towns and engage in military defense works [3, p. 233].

Development of a centralized state entailed significant changes in the recruitment for the army, which became regular in the middle of the XVI century. In 1550, Tsar Ivan the Terrible issued a decree "On the placement of a chosen thousand service class people in Moscow and surrounding counties" [4, p. 112], according to which elected provincial nobles formed the command core of the Russian army. In the same year, the regular Marksman Troops were created [4, p. 115], and in 1565 – Oprichnina [4, pp. 128–130].

In the era of the departmental system of public administration, which existed for more than two hundred years, there was no professional public service as such in its modern sense. The management of state affairs was carried out by the departmental bureaucracy – "service class", which had its own internal hierarchy, a complex division into various categories depending on the functions performed in a particular state department (order). The privileges and powers of service class people were often haphazard in nature and were determined not by principles of personal merit, service and achievements, but by traditions of system of precedence based on the class and nobility of ancestors and entire families [5, pp. 28–34]. At the same time, the departmental bureaucracy laid the foundations for further professionalization of public service, which already in the era of Peter I finally acquired a nationwide centralized character.

At the beginning of the XVIII century, one of the important directions of large-scale transformations was the formation of a new type of public service according to the best European models of that time. The reception of European legal standards made it possible to create in Russia a new model of public service based on the principles of professionalism and personal service, which was due to the modernization of the entire apparatus and the need to attract the most active part of the population from among the nobility to governance. During this period, public service began to be considered as "the activity of individuals aimed at implementing the will of the bearer of the supreme power in the sphere of public administration" [6, p. 1,501], based on the powers given by the bearer of the supreme power – the monarch. At the same time, the empowerment of public service persons could be both compulsory and voluntary (contractual).

Peter the Great introduced the General Regulations (1720) and the Table of Ranks (1720) [7] that defined external and intra-organizational administrative activities of collegiate bodies and determined classification of positions of military, public and court service, had a huge positive impact on improving the efficiency of public administration and laid the legal basis for the formation of the legal institution of professional public service. The new legislation on public service was the result of transformations of the state apparatus and the public service procedure [8] and application of standard administrative procedures related to the selection, placement, relocation and release of employees.

Up to the middle of the XVIII century, public service was the duty of the nobility and only Peter III granted liberties to the nobility in the form of exemption from compulsory military or public service introduced by Peter I [9]. The Manifesto on Freedoms of the Nobility abolished the obligation of service, which was later confirmed by Catherine II in the Charter for Nobility in 1785. Nevertheless, public service retained a privileged character, although in some way it expanded the possibilities of admission for persons who were not hereditary nobles (children of personal nobles, children of officers and officials, honorary citizens, clergy, merchants of the 1st guild), subject to a number of additional conditions (education, gender, age, immaculate behavior, religion and citizenship) [6, p. 1,501].

The beginning of the XIX century was accompanied by further liberalization of public service. By the Decree of Alexander I of December 3, 1808, persons of "taxed estate" (except for praedial serfs) were allowed to fill lower (clerical) positions of public service, and then by decrees of August 14, 1811 and January 12, 1812 – to fill positions in ministries and educational institutions, respectively. At the same time, in accordance with the Decree "On the rules of promoting to ranks of public service and on tests in the sciences for the production of collegiate assessors and state advisers" [10], the requirements for professional training and education of applicants for public service positions were strengthened, thus significantly improving the quality of public service of that period as a whole. In particular, applicants for a number of higher civil positions and for certain types of ranks (from the rank of a collegiate assessor and above), in addition to service record in lower positions, had to have an appropriate level of education or pass a qualification exam "in sciences associated with service", as well as have an impeccable official reputation "to serve with zeal and diligence" [11].

Further development of public service in Russia is connected with the largest systematization of the entire array of legislation in the framework of the development and adoption of the 1832 Code of Laws of the Russian Empire, the third volume of which, the Code of Charters on Public Service, directly contained sections on admission to public service and determination to positions, promotion to ranks, on general rights and duties of public service, on dismissal from positions and from service, on acts or proofs of official status, as well as charters on pensions and lump-sum benefits [12]. These norms on public service, with amendments and additions, remained in effect until 1917 and were of great importance in the implementation of public administration in Russia.

Undoubtedly, the reforms of public service affected not only civil service, but also military. In 1699, Peter I issued the Decree "On admission of all free people to the Great Sovereign's military service", and in 1705 – the Decree "On recruiting" [13], fixing the recruiting system of the army, which existed up to the introduction of compulsory military service in 1874 [14]. At that time there were different forms of military duty, among which (along with derived forms: militia, reserve, military registration; or alternative: cash ransom, hiring a hunter) the passage of military service was the most important [15].

In turn, public service in the police and in the prison department had special features. These types of public service evolved rather slowly and were brought into a more formalized state only in the second half of the XIX century in connection with the 1860s reforms. Service in law enforcement agencies of that period was regulated by a large number of by-laws (circulars), which generally preserved and consolidated all features of the division of society into classes inherent in civil and military service.

The specifics of the service in the police and in the prison department was that for a long time there had been no unified centralized system of law enforcement agencies in the Russian Em-

pire: police functions had been carried out centrally only in large metropolitan and provincial cities, where the general management of police activities had been entrusted to the mayors and special officials of the city police (police chief, assistant police chief, officers of the city police department offices, district wardens, city bailiffs and their assistants, police wardens, and civil service class rank) [16].

In the province, functions of police bodies were performed by local government bodies. In counties, there were offices of the county police departments, headed by police officers and his assistants, who were appointed by the governor, were representatives of the governor in local communities and performed numerous administrative functions. It was only in 1837 that the posts of bailiffs were introduced into the staff of the county police and only in 1878 – mounted constables [17].

Development of capitalist relations, the resulting growth of cities and the abolition of serfdom determined the need to increase the police apparatus and its further centralization.

During this period the following was done:

– county police departments were created by merging the county police with the police of county towns;

– contract hiring was introduced instead of recruitment;

– salary was raised, pensions, awards for service and other benefits were introduced;

– the police functions were narrowed: the investigation was transferred to judicial investigators, economic functions and urban improvement, food business, control over the condition of roads were transferred to county and city self-government bodies [18].

In turn, the legal regulation of public service in the prison department was significantly fragmented, it consisted of many regulations adopted at different times and often contradicting each other, which did not contribute to the effectiveness of penitentiary activities. In fact, up to the end of its existence in the Russian Empire, internal and external protection of institutions, as well as escorting, was carried out by various military formations (field and reserve units, and in some cases local teams) [19].

The main result of the development of public service in the XIX – early XX centuries was the formation of a system of extensive legislation on key types of public service – military and civil (state and court), which, despite all its inconsistency, generally met the requirements of the time and served as the basis for further development of public service in Russia.

Development of public service in the Soviet period

The Soviet (nomenclature) period (1917–1991) is associated with revolutionary transformations in our country, affecting all spheres of the state and society without exception.

The changes in public service were of a diverse nature. At the dawn of the formation of Soviet power, large-scale measures were carried out to dismantle the estate system of public administration. By Decree of the Central Executive Committee and the SNK of November 10 (23), 1917 “On the destruction of estates and civil ranks” all estates and class divisions of citizens that existed at that time in Russia, estate privileges and restrictions, estate organizations and institutions, as well as all civil ranks and titles (nobleman, merchant, philistine, peasant, etc., titles – princely, count and etc.) and the names of civil ranks (secret, state and other advisers). The decree established one common name for the entire population of Russia – citizens of the Russian Republic.

Elaboration of new Soviet legislation on public service required a significant amount of time and had many gaps and contradictions. During the existence of the USSR, the law on public service was not adopted. Official relations were regulated by the Fundamentals of Labor Legislation, Labor Code of the Union Republics, laws on the Council of Ministers, and local Councils. The abolished Peter’s Table of Ranks was replaced by a nomenclature system of selection and placement of personnel, which included a list of positions in the apparatus of party, state and public organizations of all levels and links and based on the principles of party affiliation and devotion to communist ideals from bottom to top. Work on the legal formalization of the institute of public service began only in the late 1980s, but the collapse of the USSR suspended it [20].

The Soviet nomenclature represented a historical phenomenon of the formation and consolidation of state power by the ruling party elite of Soviet society. Candidates for leadership, Soviet and economic bodies were

appointed centrally on the basis of the principles of partisanship, classism and centralism according to nomenclature lists approved by party bodies.

In public administration, the nomenclature was a way of forming and implementing the state personnel policy and a form of actual implementation of public service. This was the reason for such an important feature of the institution of nomenclature bureaucracy, which distinguishes it from the democratic institution of professional public service, as the absence of a unified legislation on public service. Legal regulation in the field of the formation and functioning of the nomenclature was reduced to a huge number of by-laws that did not contain uniform requirements for nomenclature workers and fixed various privileges for different categories and levels of the Soviet nomenclature [21]. In theory and in practice, the concepts of "public service" and "public servant" were often replaced and identified with the nomenclature concept of "employee of the state apparatus", which was interpreted quite broadly and included, respectively, officials, government officials, specialists or functional workers (engineers, economists, doctors, etc.) and support staff [22].

In special literature of the Soviet period, public servants were "Soviet citizens working in state organizations, holding a position by appointment, election or in another manner prescribed by law, endowed with appropriate official powers, acting on behalf of and by order of the state for the practical implementation of its tasks, with a certain salary" [22, pp. 82, 83]. Such a broad interpretation of the concept of public service of the Soviet period, including the work of the personnel of state bodies and other state organizations, did not allow to finally form a composition of professional civil servants and ensure professional selection for public service positions.

At the same time, despite the unresolved nature of a number of theoretical and applied problems of public service in the Soviet period, a number of fundamentally important positive aspects in the development of this institution should be highlighted. First of all, we are talking about creating a unified centralized system of public service in the Armed Forces and law enforcement agencies of the Soviet State.

As already noted, in the early years of Soviet power, there was a drastic breakdown of the old imperial approach to public service. The first decrees ("On the destruction of estates and civil ranks", "On the equalization of all military personnel in rights") abolished military and civil ranks in Russia completely [23]. However, as the institutions of the new state became established, an acute problem arose in the formation of new attributive elements of military and other types of militarized service – the award system, military and special ranks (class ranks), service procedures, etc. In this regard, already in 1935, by the Decree of the Central Executive Committee and the Council of People's Commissars, personal military ranks were restored for the personnel of the army and Navy [24], and in 1940, military ranks of the highest command of the Red Army and Navy were established [25; 26].

Development of the system of military and other militarized service was triggered by the Great Patriotic War, during which the problems of unification of military and special ranks were identified, rethought and resolved, a new award system was introduced, external attributes of the service were ordered, etc. In particular, the Decree of the Central Executive Committee and the Council of People's Commissars of October 16, 1935 introduced "Regulations on the passage of service by the commanding staff of the Main Directorate of State Security of the People's Commissariat of Internal Affairs of the USSR" [27], which determined the procedure for assigning regular ranks, procedure for appointing and dismissing employees, and insignia. Ranks and insignia of the commanding staff of the People's Commissariat of Internal Affairs of the USSR, the militia and the combined arms were unified in 1943 in accordance with the Decree of the Presidium of the Supreme Soviet of the USSR of February 9, 1943 "On the ranks of the commanding staff of the People's Commissariat of Internal Affairs and the militia" (the document was not published). Somewhat later, class ranks were established for prosecutorial and investigative staff of the prosecutor's office [28], as well as for diplomatic staff of the Ministry of Foreign Affairs [29].

Final unification of military and special ranks was fixed by the Decree of the Presidium of the Supreme Soviet of the USSR of July 6, 1945

"On ranks, uniforms and insignia of the commanding staff of the People's Commissariat of Internal Affairs and the People's Commissariat of State Security of the USSR", according to which all commanding staff of these bodies were assigned military ranks established for officers and generals of the Red Army. This decree provided for:

– introduction of military ranks established for officers and generals of the Red Army for the commanding staff of the bodies of the People's Commissariat of Internal Affairs and the People's Commissariat of State Security of the USSR;

– introduction of uniforms and insignia for generals of the troops and bodies of the NKVD – NKGB, established for generals of the Red Army and admirals of the Navy (existing uniforms and insignia for officers of the troops and bodies of the NKVD – NKGB were preserved);

– extension to the officers, generals and admirals of the troops and bodies of the NKVD – NKGB of all decisions of the Government of the USSR on the rights and benefits for officers and generals of the Red Army, and admirals of the Navy;

– recertification of the highest commanding staff of the NKVD – NKGB bodies.

This unification was maintained until the adoption of the Decree of the Presidium of the Supreme Soviet of the USSR of August 21, 1952 "On the abolition of military ranks and the introduction of new ranks for the commanding staff of the Ministry of Internal Affairs of the USSR" [30]. At the same time, final consolidation of the system of special ranks for employees of the Ministry of Internal Affairs of the USSR was carried out only in 1966 in accordance with the Decree of the Presidium of the Supreme Soviet of the USSR of October 24, 1966 "On the procedure for awarding military ranks to military personnel and special ranks to persons in command of the Ministry of Public Order of the USSR and awarding military personnel and persons in command with orders and medals".

As noted in special sources, up to August 1952, special military ranks had been assigned to military personnel (the command staff of the USSR Ministry of Internal Affairs), different from military ranks of other military ministries, with the addition of the words "internal security", "convoy guard", and "local air defense service" [31]. In 1952, the commanding staff of the internal affairs bodies ceased to be military personnel with the exception of convoy guards, anti-chemical engineering units and headquarters of the local air defense, military construction units of the Ministry of Internal Affairs of the USSR and the Special Road Construction Corps. Thus, in 1957–1969 in the system of the Ministry of Internal Affairs there were both employees of bodies with special titles of "internal service" and military personnel with similar sounding titles. In addition, ranks of "internal security" were retained for servicemen of the internal security.

Subsequent major transformations of the regulatory system of service in the internal affairs bodies occurred in 1973 in connection with the adoption of the Decree of the Presidium of the Supreme Soviet of the USSR of October 23, 1973 "On special ranks of ordinary and commanding personnel of internal affairs bodies" (together with the "Regulations on the procedure for taking the Oath by ordinary and commanding personnel of internal affairs bodies") [32] and in 1992 in connection with the adoption of the Resolution of the Supreme Council of the Russian Federation No. 4202-1 of December 23, 1992 (as amended of November 21, 2011, as revised on December 30, 2012) "On approval of the Regulations on service in the internal affairs bodies of the Russian Federation and the text of the Oath of an employee of the internal affairs bodies of the Russian Federation" [33].

Conclusions

In general, it should be stated that the Soviet nomenclature system of public administration and public service in its characteristics did not correspond to the global trends in the formation of rational bureaucracy and was based on abstract ideological principles that were more political than legal in nature. The politicized principles of partisanship and classism that prevailed in our country and were primarily of a doctrinal political and legal nature, were aimed at forming a national legal ideology and determined the extremely specific content of legal policy on the development of administrative bureaucracy. The Soviet party nomenclature was never able to transform into a full-fledged public service and become independent of the political conjuncture, which did not allow the final formation of the administrative and legal

institution of public service in the Soviet period.

In turn, in a democratic state governed by the rule of law, public service is called upon to ensure social stability, security, and effective functioning of the entire infrastructure of society's vital activity, and at the same time is obliged to implement the will of the state democratically [34, p. 13]. In this regard, democratization processes in our country predetermined gradual construction of a new model of public service based on modern achievements of social philosophy [35], the theory of state and law, constitutional, administrative and other branches of law. They led to the formation of a new democratic paradigm [36] of law enforcement, personnel policy in the law enforcement sphere in general and in the penal system in particular [37].

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Characteristics of Female Terrorism: Psychological Motives, Social Roles, Recruitment Methods

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Abstract

Introduction: the need for effective psychocorrective work with persons convicted of terrorism-related crimes, focused on the correction of these persons, does not raise any doubt. Even greater relevance to the problematic issues considered in the publication is given by the fact that we are talking about females. A not so significant number of convicts in this category, as well as gender psychological characteristics, determine the relevance and significance of aspects of psychological work with women convicted of terrorism-related crimes. *Purpose:* to determine roles and psychological motives of women in the commission of terrorism-related crimes and disclose methods of their recruitment. The study (83 women convicted of terrorism-related crimes) was conducted in the period from 2014 to 2022 with the help of the following *methods:* survey and analytical, providing a theoretical analysis of literary sources; empirical, involving the use of psychodiagnostic techniques, author's questionnaires and questionnaires designed to determine general and socio-psychological characteristics of persons convicted of terrorism. The study covered 83 women convicted of terrorism-related crimes. The analysis of empirical material and scientific sources helps identify key trends of female terrorism, the role, psychological motives of behavior and methods of recruiting potential terrorists. Recommendations for conducting psychocorrective work with the appropriate category of persons are developed. Conclusion: the experience of psychocorrective work of correctional psychologists with women convicted of terrorism-related crimes has not been sufficiently studied due to the small number of this category in correctional institutions; the analysis of scientific data makes it possible to determine key reasons for women's involvement in terrorism-related crimes, as well as the roles and motives for which they were involved. Understanding mechanisms and motives of women's involvement in terrorism-related crimes, psychologists of correctional institutions can conduct psychocorrection with this category of convicts.

Keywords: convicted women; gender aspect; socio-psychological characteristics; terrorism; psycho-correctional work; correction; penal system.

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Introduction

The Federal Penitentiary Service of Russia has considerable experience in psychocorrective work with convicted women, as well as experience in their correction. Nevertheless, the experience of psychocorrective work with such a category of convicted women as those convicted of terrorism-related crimes is unique in its own way and understudied, primarily due to the small number of representatives of this category in penitentiary institutions. In the total number of convicts who have committed terrorism-related crimes, women make up no more than 10–12% [4]. The purpose of the study is to determine roles and psychological motives of women in the commission of terrorism-related crimes and reveal methods of their recruitment, as well as determine reasons for women's involvement in the commission of terrorist acts.

Theoretical background and overview of the problem

The entire volume of currently available domestic and foreign scientific literature on the issue of mechanisms of involvement in terrorist organizations (commission of crimes) can be presented in two meaningful planes: works revealing external conditions (social, economic, etc.) that promote involvement (I.B. Bovina, Baudrillard J., K.G. Gorbunov, S.N. Enikolopov, A.L. Zhuravlev, Yu.P. Zinchenko, S. Milgram, K.G. Surnov, A.D. Tikhonova, A.V. Yurevich, etc.) and research results, determining internal (socio-psychological) reasons for such involvement (R. Borum, O. Galand, M. King, R. Konesa, S.V. Kulakova, N. McWilliams, T.A. Nestik, S.S. Oganesyan, V.A. Sosnin, A.D. Tikhonova, S. Taylor, etc.).

Nevertheless, it should be noted that the absolute majority of these authors apply mainly a hypothetical approach to the study of the mechanisms of adherents' involvement in terrorist organizations, as one of the above researchers (Sosnin V.A.) frankly writes about. This circumstance determines the direct need to study the issue of this mechanisms using sources based on the collection of empirical material [2–6] and results of our own research [1–4, 7].

The experience of practical work and methodological support of psychological work with women who have committed terrorism-related crimes allowed the article author to determine the uniqueness of methods of involvement in terrorism associated with the history of their criminal activity. Undoubtedly, certain trends observed in the past and in the present of our society, as well as social roles and psychological motives of women's behavior played a role in the involvement of women in this type of criminal activity [6, p. 215; 8, p. 437].

Materials and methods

When preparing the article, the author studied the practice of psychological work with these persons, author's questionnaires designed to identify mechanisms of adherents' involvement in terrorist organizations, as well as structured interviews with persons belonging to the category under consideration. The study covered the period from 2014 to 2022, the following methods were used: survey and analytical, involving a theoretical analysis of literary sources; empirical, including analysis of normative legal and organizational-methodological sources, criminal-legal characteristics (materials of personal files, court verdicts, etc.), results of psychodiagnostic research, and practice of organizing psychological work with this category of convicts. The study involved 83 women convicted of terrorism-related crimes serving sentences in penal institutions of the territorial bodies of the Federal Penitentiary Service, which are part of the Ural, Volga and Siberian Federal districts, as well as employees of psychological and educational services directly interacting with them. Since, as a rule, only 1–3 convicts of this category are held in a correctional facility, it took us many years to collect materials.

Results and discussion

Women as terrorists: key trends

By analyzing the results of empirical research and scientific literature, the main trends in women's terrorism, roles and motives of terrorist behavior, including suicide bombers, are determined.

It is worth noting that at the turn of the 19th and 20th centuries there were only a few female revolutionaries who committed terrorist attacks, risking their health and lives. Women's participation in terrorist activities has become more quantitatively pronounced in the modern world. Figure 1 shows the historical dynamics of the content of the roles and pre-existing psychological motives of female terrorists [1; 6; 7; 9–11].

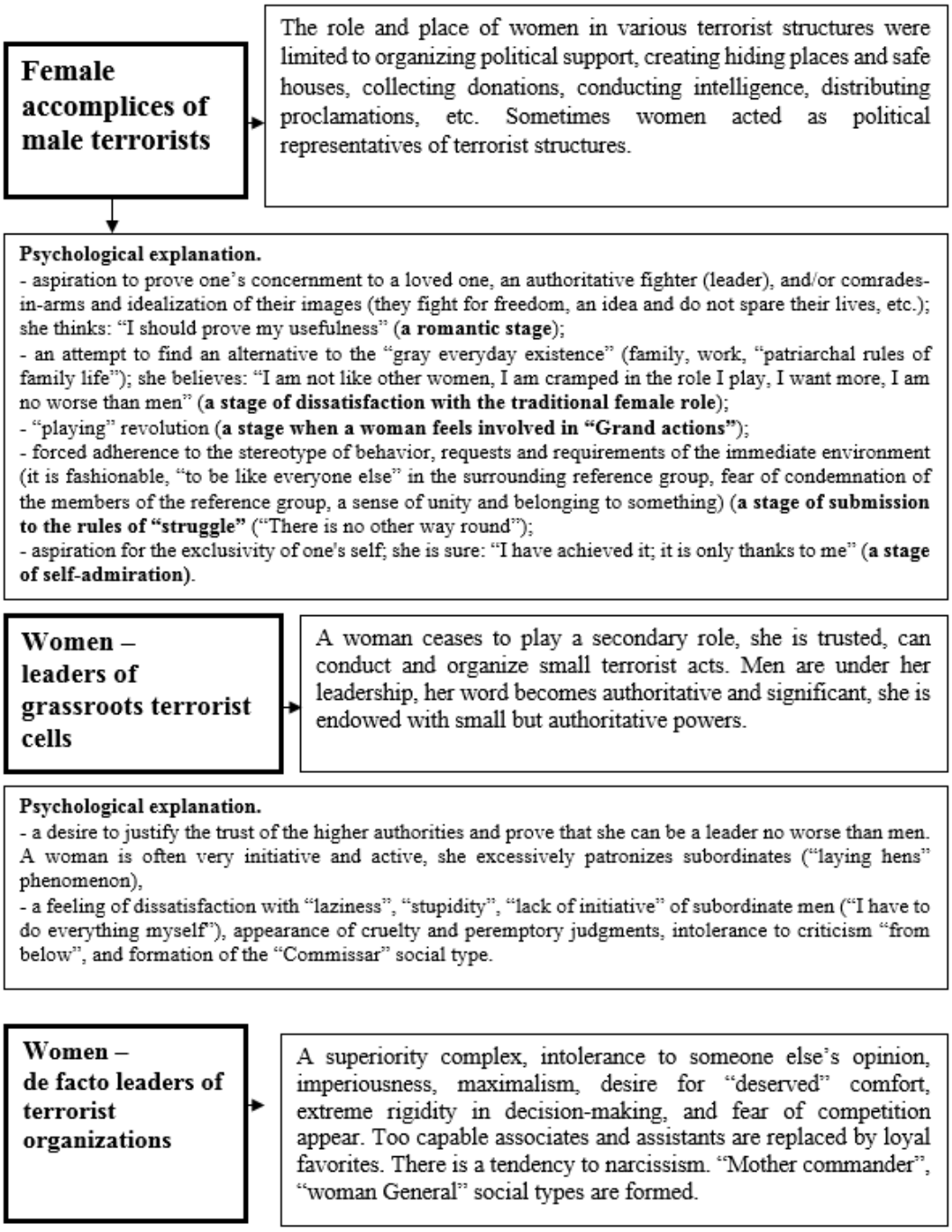

Figure 1. Stages of the evolution of the role of women in terrorist activities

Methods of involving women in terrorism

It is important for prison psychologists to know the methods of involving women in terrorism, since it is they who, basically, objectively determine the content and forms of further psychocorrective work with them, focused ultimately on their correction [10, 12]. It should be noted that, thanks to the data obtained during the research work on the results of the study of the practice of penitentiary psychological activ-

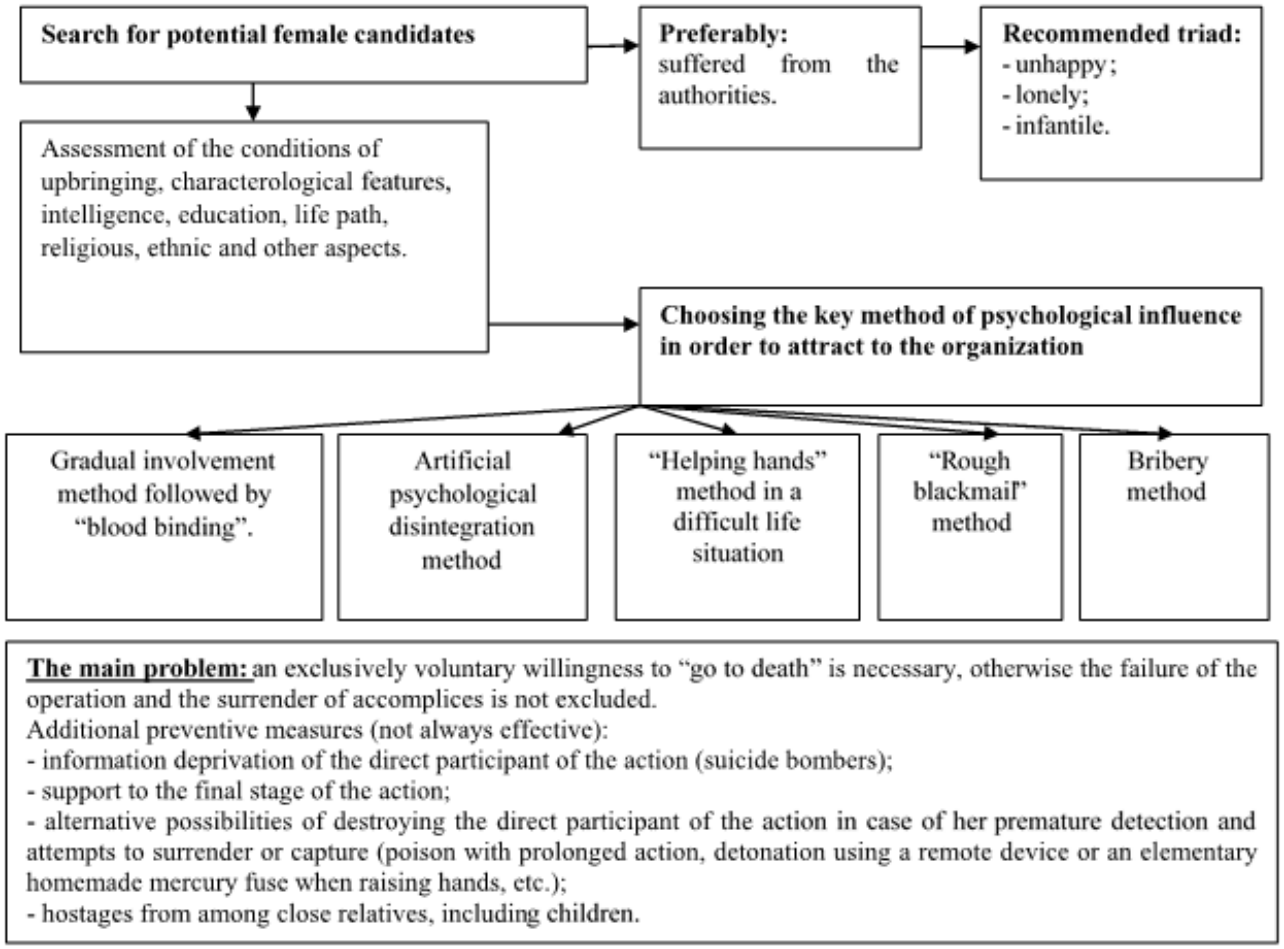

Figure 2. System and methods of recruiting potential terrorists

ity with this category, the system and methods of recruiting women through their questionnaires and interviews are investigated.

It is determined that the mechanisms of recruiting women are based on deception and coercion (Figure 2):

– the situation of artificial social deprivation eliminates alternative sources of objective information [13, p. 122];

– the intensity of all types of preparations (combat, tactical, theological, etc.) for terrorist acts leaves no time for doubt and reflection;

– the scheme of mutual responsibility and "internal information" help to quickly identify doubters.

Using the available material, prison psychologists can reproduce a system for recruiting female terrorists, their psychological and ideological training, and identify their "weak points", in order to determine psychocorrective work with survived female terrorists who have been trained in terror training camps.

The thesis contradicting the Koran about a place guaranteed to female terrorists in paradise is the main religious, and, consequently, in many respects, ideological deception. Paradise in Islam is a purely male place, but female adepts cannot compete with the Gurias who are tempted in seduction [12, p. 97]. There is no question of restoring family relations with previously deceased husbands at all. There may be a local area for Muslim women in the Muslim paradise somewhere, but the holy books do not mention it [14, p. 59; 15, p. 23–25].

The practice of distorting the true meaning of the holy books in order to spread the ideology of terrorism further actualizes the need for interaction between penal system employees, in particular psychologists, and representatives of the Islamic clergy who are able to explain to truly believing convicts the true meaning of the verses of the Koran and the sayings of the Prophet Muhammad [14, 16, 17].

Typological characteristics and compilation of a socio-demographic portrait of a convicted female terrorist

Despite a small number of female convicts in this category, the analysis of empirical data made it possible to determine their typological characteristics and make a socio-demographic portrait [2, p. 89]. Thus, a female terrorist, aged 24–30, often comes from the North Caucasus region. Unlike the majority of female convicts, half of the representatives of this category of convicts have never been married, and also have not had children.

Female terrorists are fit (most of them have no addictions, chronic diseases, etc.). Besides, many of them have been brought up in full wealthy families. The majority of convicts of this category have not worked anywhere before their conviction [7; 18]. They do not consider themselves as radically inclined to religion, describing themselves, as a rule, Sunni Muslims, believers since childhood [9, 19].

We find it reasonable to take into account the following circumstances of female terrorists' life when conducting preventive, psychodiagnostic and psychocorrectional work:

– presence in her family or among close relatives of persons who are or have been previously involved in terrorist activities, including those who have died or are serving long sentences (early, from childhood under the influence of parents, relatives, formation of a critical attitude towards the current government and state institutions) [20]. All this can actualize the idea of fighting against injustice, the motive of revenge, including blood;

– presence in her family of a cultivated atmosphere of male veneration, when, for example, all women, regardless of age, must get up when a five-year-old boy enters a room, which causes difficulties when working with this category of female employees;

– adherence to non-traditional religious cults, for example, radical Wahhabism, instilling from early childhood a system of uncritical subordination to religious dogmas and elders in the family, alienating from the real surrounding reality;

– a difficult economic situation in the family and poverty, which additionally contribute to the formation of feelings of inferiority, hopelessness and hatred, provoking the desire to take revenge on "offenders", others and "the whole world";

– upbringing in an isolated community, strict regulation of family life and high intolerance and dependence on other people's opinions.

Young Muslim women who have lost their virginity out of wedlock are more vulnerable to the influence of terrorist organizations. It is suggested to them that only by entering "the path of struggle" and dying "with honor", they will atone for "their sin". Therefore, the sexual abuse of a potential suicide bomber often acts as a powerful and effective "psychotechnological means". Hence, abductions of brides and fictitious weddings, when brides meet their grooms for the first time, are rather widespread.

The gradual involvement method (Figure 2), as a rule, is not applied to "one-time" female suicide bombers due to its complexity, duration and high risk of failure. It is more acceptable in relation informants, "saviors" who work with future female suicide bombers and help them with "advice and deed" to get out of a difficult life situation (often artificially created), owners of safe houses, etc. As a rule, older women with certain life experience to influence the immature consciousness of a confused 13–18-year-old future shahid act as mentors.

On the other hand, some leaders of terrorist organizations (Sh. Basayev) prefer more adult and ideological women who have lost their loved ones, their meaning in life and sought only revenge for the role of suicide bombers. These women can themselves play the role of mentors in communication with each other and younger companions, consolidating the idea of "merciless struggle with the enemy". In these cases, it is only necessary to control and suppress doubts, express understanding and sympathy, stimulate the idea of "a friendly family united by a common idea and hatred of the enemy".

Such differences in preferences for a higher age limit for future female suicide bombers are dictated not by moral considerations (although they are also taken into account for propaganda purposes), but by purely technical limitations, tasks and tactical goals. Persons who have not reached the majority age attract less attention and do not arouse suspicion and are best suited for the role of shahids. In addition, they are more easily amenable to psychological and ideological training. However, if they are

not orphans, they have close relatives whose behavior may not always be predictable.

Due to their immaturity, they can easily be converted, physically and psychologically forced to testify and cooperate with law enforcement agencies (if they are detained alive), etc. In addition, it is difficult to place even one shahid belt with a sufficient amount of explosives on the body of a teenage girl unnoticed by others. As a rule, a female shahid puts on two shahid belts for a terrorist act, one with explosives and the other with damaging elements (screws, nuts, nail clippings, ceramic fragments, etc.).

The shahid belt itself is a converted regular military unloading or, most often, its improvisation (it is necessary to tightly connect explosive components to each other in order to avoid their premature spread during detonation, therefore the partitions of inner pockets are removed). The weight of one shahid belt is significant even for an adult, and interconnected pockets make person's figure shapeless and noticeable. All this also limits possibilities of the combat use of such a shahid.

In addition, methods of gradual involvement in a terrorist organization provide for the level of education and specialty, place of residence and place of work of a possible candidate for recruitment. To work with female shahids and support their terrorist acts, preference is given to authoritative elderly women with many children and without a good education, who have firmly assimilated stereotypes of patriarchal rural life and unconventional dogmas of extreme religious movements. Residents of large cities with a good education, certain connections and a profession, especially related to work in municipalities or law enforcement agencies, are more suitable for organization of safe houses, intelligence and target selection, contacts with the media, human rights and other organizations, etc. The main condition for securing these persons in the organization is that they themselves or people important to them have the prospect of social collapse in connection with the exposure of a previously committed crime (more often corruption-oriented or indirect complicity in the action that caused the death of many people).

As a rule, such members of a terrorist group are protected, they are extremely rarely directly involved in combat operations and practically do not fall within the competence of the penal system. Within the framework of this publication, it makes no sense to dwell in detail on the methods of gradual involvement in a terrorist organization, it is enough to mention that manipulation, blackmail, bribery, and exploitation of life illusions are used. Understanding general mechanisms of involvement, roles and motives of terrorist behavior is relevant for both law enforcement officials and penal system employees.

The use of the artificial psychological disintegration method (Figure 2) is carried out mainly for the purpose of recruiting suicide bombers. This method requires less time and other costs. Its essence lies in manipulating the consciousness of a person in a crisis situation. Such situations are often created artificially.

Conclusions

1. The results of the analysis of literary sources, own experience of practical work with the category of convicts under consideration, determine that the problematic issue of psychological mechanisms of involvement of adherents, women in particular, in terrorist organizations remains largely unresolved. The author, based on the results of empirical material interpretation, as well as his own research, offers schematically designed data on the historical dynamics observed in the content of the roles and prevailing psychological motives of female terrorists, as well as on the system of methods used to involve in terrorist activities, recruitment of potential terrorists.

2. As the practice of penitentiary psychologists shows, schematic data on the dynamics of the content of roles and prevailing psychological motives of female terrorists, as well as on the system of methods used to involve them in terrorist activities, are an effective methodological basis for psychological work with women convicted of terrorism.

At the moment, the issue of the effectiveness of psychocorrective work with persons convicted of terrorism-related crimes already has a pronounced relevance. The main reference point in the process of ensuring this effectiveness should be reliable methodological materials (recommendations) and scientific literary sources on the area of work of penitentiary psychologists under consideration.

In addition to the issues of recruitment, roles in crimes and psychological motives of female terrorists, many other aspects characterizing their socio-psychological characteristics are subject to thorough study, knowledge of which makes it possible to effectively carry out psychocorrective work.

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Features of Hardiness and Life-Purpose Orientations of Cadets of Departmental Educational Organizations

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Abstract

Introduction: the article presents results of the interdepartmental study covering cadets of educational institutions of the Federal Penitentiary Service and the National Guard Troop. Development levels of two professionally important qualities, such as hardiness and life-purpose orientations, are determined. The study assesses graduate cadets' readiness for professional activity, as well as the impact of the educational environment of departmental educational organizations on the formation of professionally important qualities. Purpose: to identify the level of hardiness and life-purpose orientations of cadets of departmental organizations (case study of the Vologda Institute of Law and Economics of the Federal Penitentiary Service and the Saint-Petersburg Military Order of Zhukov Institute of the National Guard Troops). *Methods:* to study the stated characteristics of cadets of departmental organizations on a sample of 125 male and female persons (aged 21 to 25 years), the "Hardiness Survey" by S. Maddi and the "Purpose-in-Life Test" by J. Crumbaugh and L. Maholic, adapted by D.A. Leont'ev, are used. Results: differences in the parameters of hardiness, challenge, commitment to educational activities and in some positions of life-purpose orientations are identified and reasoned. A pattern is substantiated: the more active and productive a cadet is, the higher his/her vitality and sense of purpose, and vice versa. Conclusion: the educational environment of departmental educational institutions has a positive effect on the development of professionally important qualities of graduate cadets. The data obtained have made it possible to develop proposals to raise hardiness and form life-purpose orientations.

Keywords: cadets; hardiness; life-purpose orientations; personal characteristics; professional activity; departmental educational organizations; employees of the Federal Penitentiary Service; employees of the National Guard Troops.

5.3.9. Legal psychology and security psychology.

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Introduction

Law enforcement agencies of the Russian Federation perform an important function to ensure the country's security, law and order, and, if necessary, protect its interests, including by force. The current geopolitical situation, as well as a high level of negative information impact, exerted on both citizens and personnel of law enforcement agencies require new interdepartmental studies, including those aimed at studying hardiness and life-purpose orientations of people who will ensure the security of the Russian Federation.

Data from the research portal "Superjob" show that the military profession in the Russian Federation is now considered the most dangerous (43% of the respondents). Citizens worry about the fate of "people in uniform" three times more often than in previous years. One of the reasons for dramatic changes in public opinion is the conflict at the borders of Russia. In this regard, citizens associate official activity with an obvious threat to life [1]. At the same time, the survey conducted by the Russia Public Opinion Research Center (VCIOM) reveals that citizens aged 18 to 24 years (79%) find it difficult to deal with stresses provoked by the special military operation [2].

Emotional experience of extreme life events affects people's health and also changes the perception of the surrounding world and their place in it. Official environment can be a source of many professional stressors for individuals, contribute to a high level of stress and, as a result, negatively affect the physical and psychological health of employees. Critical situations trigger the use of person's internal resources and test his/her hardiness. A person's ability to cope with difficult life situations and minimize the negative impact of stress is an important indicator of the level of personal development, which, in turn, actualizes the study of the relationship between a sense of purpose and a level of hardiness.

Hardiness is an important advantage in difficult situations and stressful conditions. Having a high level of hardiness, a person can cope with almost any difficult circumstances and problems.

The Californian psychologist S. Maddy, one of the founders of the hardiness theory, developed the problem of the phenomenon with regard not only to the idea of a holistic approach to personality, but also to principles of positive psychology. This concept was developed during the study of psychological factors contributing to successful overcoming of stress and reducing (or even preventing) negative reactions to stressful situations. According to it, stressful circumstances are an integral part of life, and, therefore, courage is necessary if a person wants to develop and not to deny problems and avoid stressful events [3].

In S. Maddy's research, the phenomenon of hardiness is understood as a set of attitudes and personal skills that provide motivation and courage, contributing to the transformation of stressful events from potential problems into opportunities for personal growth [4, p. 23]. In particular, three hardiness components were identified, namely commitment (the belief that involvement in what is happening gives the maximum chance to find something worthwhile and interesting for the individual), control (the belief that the struggle helps influence the outcome of what is happening, even if this influence is not absolute and success is not guaranteed) and challenge (the person's conviction that everything that happens to him/her contributes to his/her development due to knowledge extracted from experience, no matter whether positive or negative) [5, p. 5].

Thus, hardiness is especially important in conditions that initially cause stress, for example, such as service. Since 1979, extensive research has shown that hardiness mitigates adverse effects of work/service-related stress on people's health in a wide variety of occupations.

S. Maddy developed a hardiness model showing that when stress effects increase, a person may have a stress reaction. If this reaction continues to rise, a decrease in productivity is expected (for example, a physical illness or a mental breakdown). However, if hardiness components are high, critical situations are constructively overcome.

A number of studies have noted that hardiness is formed in childhood and adolescence, although its development is possible at a later age [6].

A large block of foreign studies is devoted directly to the study of the problems of har-

diness of cadets, military personnel, as well as employees of various law enforcement agencies (A.G. Thomassen, S.W. Hystad, B.H. Johnsen, G.E. Johnsen, J.C. Laberg, J.Eid [7]; S.R. Maddi, M.D. Matthews, D.R. Kelly, B. Villarreal, K.K. Gundersen, S.C.M. Savino [8]; S. Lo Bue, S. Kintaert, J. Taverniers, J. Mylle, R. Delahaij, M. Euwema [9]; M. Nordmo, O. K. Olsen, J. Hetland, R. Espevik, A.B. Bakker, and S. Pallesen [10]). It should be noted that the analysis of foreign publications indicates that a high level of hardiness among cadets is associated with a higher level of academic performance, perseverance, efficiency, confidence in the ability to complete the entire training path, satisfaction with their own lives, etc. [11].

It should be noted that in Russia there is also a growing number of publications on the study of hardiness of military personnel, employees of the Ministry of the Russian Federation for Civil Defense, Emergencies and Elimination of Consequences of Natural Disasters, internal affairs and justice bodies, including cadets (E.R. Kuasheva, 2011 [12]; E.A. Gorskaya, I.V. Chernova, 2013 [13]; L.N. Molchanova, A.I. Red'kin, 2014 [14]; S.S. Franchuk, S.N. Gavryuchenko, 2015 [15]; A.S. Otradnova, 2018 [16]; A.A. Zemskova, N.A. Kravtsova, 2019 [17]; G.M. Muratshina, 2021 [18]; A.R. Dashevskii, E.A. Shmeleva, P.A. Kislyakov, 2022 [19]; A.V. Speranskaya, 2023 [20], etc.).

Research

To survey cadets of departmental educational organizations, the authors of the publication used valid and reliable methods: the "Hardiness Survey" [5], which is a version of the questionnaire developed by the American psychologist S. Maddy and adapted by the scientific group of Professor D. A. Leont'ev, as well as the "Purpose-in-Life Test" (PIL) [21], a version of the questionnaire worked out by D. Crumbaugh and L. Maholic and adapted by D.A. Leont'ev.

The research covered 63 graduate cades (22 boys and 41 girls) of the Vologda Institute of Law and Economics of the Federal Penitentiary Service (VILE of the FPS of Russia) and 62 students (62 boys) of the Saint-Petersburg Military Order of Zhukov Institute of the National Guard Troops (SPVI). The age of the surveyed ranged from 20 to 25 years (average age – 22).

The data obtained were processed using the multifunctional computer diagnostic system "Psychometric Expert' and the statistical data analysis system "SPSS Statistics 24".

The results were interpreted by groups of cadets differentiated by the criterion of gender with the help of the nonparametric statistical Mann-Whitney U test to assess the differences.

Let us take a closer look at the results of the "Hardiness Survey" (Table 1).

Table 1

Average values on the scales of the method "Hardiness Survey"

Scales	Women, VILE of the FPS of Russia	Men, VILE of the FPS of Russia	Men, SPVI
Commitment	33.8	33.4	33.2
Control	31.9	32.5	32.4
Challenge	17.5	18.4	19.5*
Hardiness	83.2	84.3	85.1

Note: * indicates differences at the level of $p \leq 0.05$.

Significant differences were revealed between women of the VILE of the FPS of Russia and men of the SPVI by "challenge" component, therefore, it can be stated that cadets of the SPVI are more prone to risky actions, which, in turn, may be due to the specifics of educational activities of the military university (a large number of shooting drills, exercises, tactical training, etc.). Other scales of the test show no significant differences between cadets of educational organizations.

However, it is worth noting that women of the VILE of the FPS of Russia are more involved in educational activities than men of both educational or-

ganizations, which may be due to more developed perseverance, punctuality and attentiveness. The overall index of hardiness is slightly higher in the group of young men of the SPVI, which suggests that they tend to use active rather than passive strategies to overcome stressful events, are more motivated to social support, to provide and receive it, as well as to active physical training.

Figure 1 shows the percentage distribution of cadets with different hardiness levels.

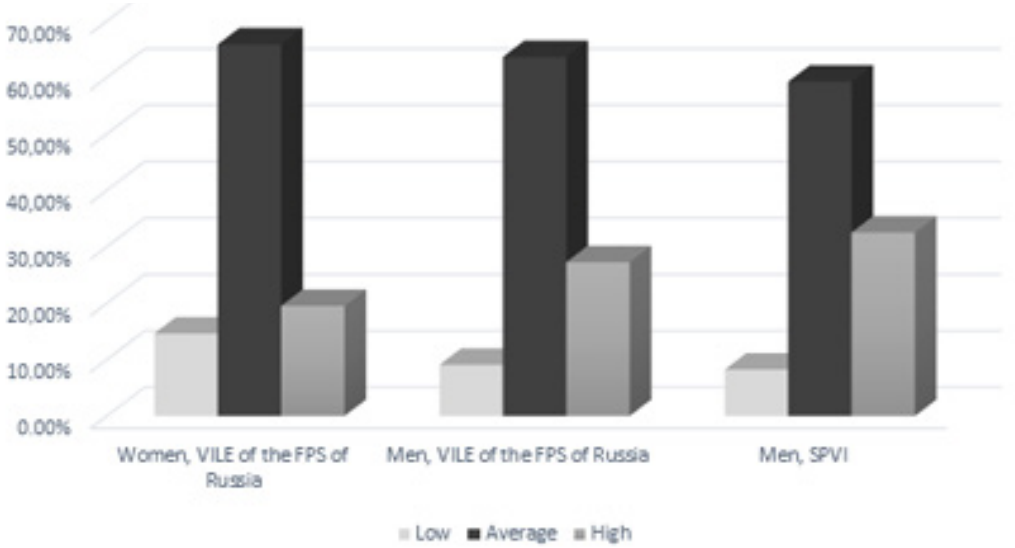

Figure 1. Percentage distribution of cadets with different hardiness levels (%)

The absolute majority of the men and women surveyed (89.35%) are characterized by medium and high hardiness. The number of respondents with a low indicator is minimal (10.65%).

Let us consider results of the "Purpose-in-Life Test" in more detail (Table 2).

Table 2

Average values on the scales of the method "Purpose-in-Life Test"

Scales	Women, VILE of the FPS of Russia	Men, VILE of the FPS of Russia	Men, SPVI
Goals in life	30.6	31.3	32.2
Life process, interest and emotional intensity	28.7	26.9	30.7*
Life effectiveness, satisfaction with self-realization	25.3	24.1	26.4
Locus of control – I (I am the master of life)	17.6	19.8	19.2
Locus of control – life, controllability of life	28.7	30.4	30.1
General indicator of the sense of purpose	104.8	105.4	106.2

Note: * indicates differences at the level of $p \leq 0.05$.

Significant differences were revealed on the scale of "Life process, interest and emotional intensity" between young men of the VILE of the FPS of Russia and the SPVI, which suggests that cadets of the SPVI perceive the process of their life to a greater extent as interesting, emotionally intense and filled with purpose, which may be due to their involvement in future professional activities (carrying services for the protection of public order and ensuring public safety in Saint Petersburg).

Comparative analysis of other scales of the "Purpose-in-Life Test" shows the absence of significant differences. As for the "locus of control – I" scale, a significant number of respon-

dents of all groups have low indicators. It can be assumed that cadets find freedom of choice insufficient and do not control events of their own lives, possibly due to strict subordination in educational institutions, the need to obey orders of commanders and chiefs in accordance with requirements of general military regulations.

The highest indicators are observed on the scale of "goals in life". The largest number of respondents are focused on determination of their future and making plans, and beginning of professional formation.

In general, average results of the "Purpose-in-Life Test" fall within the limits of the norm, which indicates that the cadets are satisfied with life at the present time, their life is productive and full, they have clearly defined life goals, interests and intentions. It is worth noting that that the sense of purpose is a necessary condition for person's development of personality.

Figure 2 shows the distribution of the formed life-purpose orientations of cadets.

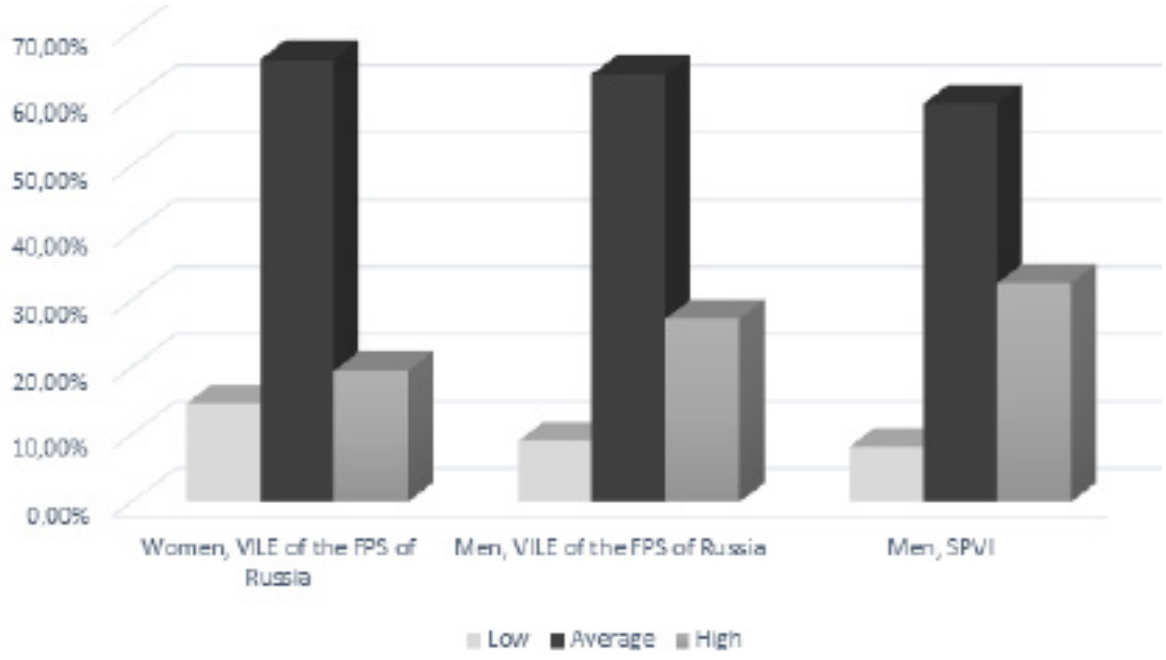

Figure 2. Distribution of the formed life-purpose orientations of cadets (%)

Most surveyed men and women (83.15%) have average and high values on the "general indicator of the sense of purpose" scale. The number of respondents with a low indicator is 16.85%.

Conclusion

Thus, the problem of hardiness as a factor that helps employees of extreme professions to be mentally stable, turning potential difficulties into opportunities for personal growth and self-realization, deserves special research and practical attention of scientists. After all, it is known that extreme professions are characterized by increased responsibility for the lives of other people and the need for quick decision-making in traumatic situations.

Based on the study, we can highlight a certain degree of interrelation of hardiness and purpose of life among cadets of departmental organizations of the Federal Penitentiary Service and the National Guard Troops.

It is established that cadets' hardiness is an exceptional personal quality that leads to adaptability and high efficiency in difficult conditions of training in departmental educational organizations and in further service. In addition to the fact that it is difficult for cadets to balance their service and life, they try to overcome the conflict between service, personal life and responsibilities, where each area takes a lot of time and is difficult in terms of their tasks and activities. In service, stressors can manifest

themselves in various forms, including physical (for example, lack of sleep, physical exhaustion, etc.) and psychological (for example, lack of time, heavy workload, information overload, etc.).

The practical significance of the study is that the data obtained can be used to develop comprehensive programs for psychological work with representatives of extreme professions. For example, hardiness development training will be useful for cadets of departmental educational organizations, since a high level of human hardiness increases their performance, leadership, allows them to maintain health in stressful circumstances, forms motivation to work hard in order to overcome transformations, interact with social support and effectively take care of themselves in order to turn stressful circumstances from potential problems in the possibility of constructive development.

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Pedagogical Capacity of the Regime as a Means of Correcting Convicts

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Abstract

Introduction: the article is devoted to identifying and characterizing pedagogical capabilities of the regime as a means of correcting convicts. It presents a scientific view of the essence and structure of pedagogical capacity of the regime, as well as highlights its components, each of which is designed to help employees of a correctional facility to apply a normatively defined model of the order of the execution and serving a sentence and assist convicts in getting used to regime requirements. Pedagogical capacity of the regime is considered as a set of resources, which effectiveness is largely associated with by penal system employees' wiliness and skills for pedagogical activity, as well as the state of the material and technical base for educational work in the correctional facility. *Purpose:* to reveal the essence and content of pedagogical capacity of the regime as a means of correcting convicts; to identify and characterize conditions of its productive use in the light of modern penal legislation and taking into account scientific achievements in this field of knowledge. *Methods:* comparative historical analysis, document analysis, monographic method, structural analysis, deduction method, logical generalization, etc. *Results:* the essence of the concept "pedagogical capacity of the regime as a means of correcting convicts" is revealed and its definition is proposed; key structural components of the phenomenon under study are presented; and conditions for successful application of the educational opportunities inherent in the regime are characterized. Prospects for studying pedagogical capacity of the regime in terms of the importance of applying individual and differentiated approaches in the correctional process are determined.

Keywords: means of correction; regime; pedagogical capacity; upbringing; educational work; pedagogical process; training; personal qualities; educational methods; pedagogical activity; psychological mechanisms.

5.8.1. General pedagogy, history of pedagogy and education.

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Introduction

The adoption of new Internal Regulations to a certain extent widen the list of rights of those sentenced to deprivation of liberty, including in the field of education and educational work. In particular, convicts have the right to receive education and undergo vocational training according to programs for training qualified workers; to enroll in online educational programs, use additional, separately paid, educational services, devote more time to physical culture and sports, etc. [1]. So, it is rather relevant to consider potential possibilities of the order of execution and serving of imprisonment as an instrument of pedagogical influence on convicts in the light of new trends in the modern penal policy.

Although the term "regime" in relation to the issue of detaining prisoners was firstly used in special domestic literature in the early 1920s, deprivation of liberty accompanying the execution of criminal punishment has always been associated with special regulations, regardless of the type of state structure. Russian scientists studied the regime in the context of pedagogy at the turn of the XIX–XX centuries. I.Ya. Foinitskii, enumerating factors of ensuring order in prisons, called prison discipline its main condition, which he understood as "a set of measures aimed at maintaining order and peace within the walls of the prison" [2, pp. 388-390]. He described the following requirements as measures ensuring order: regulation of prisoners' pastime; prohibition to use things that "may be applied to disturb prison order"; building a special system of prisoners' accommodation to prevent "harmful influences on each other"; approval of the norms for conducting visits and receiving parcels; establishing the procedure for communicating with prison staff and interacting with priests, teachers, watchers at work; determining penalties for violating prison discipline, etc. [2, pp. 388–390].

I.Ya. Foinitskii's pedagogical approach to the regime was manifested in his interpretation of the essence of penalties applied to prisoners for violating rules of conduct. In this regard, the "core of punishments" should be considered the principle according to which "prison penalties should be consistent with educational tasks of prison activities and should not contradict them at all". Otherwise, punishments are "dishonoring the prisoner in the eyes of his comrades" "weakening his energy", "triggering aversion to those phenomena that are necessary for successful movement along the path of honest discipline" [2, p. 394].

S.V. Poznyshev developed his ideas in a similar way. In "Essays on prison studies" (1915), he called the order of serving a criminal sentence "the conditions with which the life of prisoners in prisons is arranged" [3, p. 143]. He described material conditions (everything associated with the physical well-being of prisoners: the condition of buildings in which they are held, food, clothing, walks, hospital, bathhouse, etc.); moral conditions (all measures of spiritual and moral influence on prisoners); prisoners' connections with "the world outside prison" (meetings, correspondence, etc.) [3, pp. 214227]. Subsequently, in the work "Fundamentals of penitentiary science" (1923), S.V. Poznyshev used the term "penitentiary regime" for the first time in the domestic scientific literature and defined it in a broad sense as an order that "encompasses the entire system of measures by which penitentiary institutions strive to achieve their goals" [4, pp. 113-114]. According to N. Luchinskii, the "penitentiary regime" should be "correct", that is, having "a really great moral impact on prisoners"; the school and the church, i.e. institutions with an inherent dominant educational function, are "the most important foundations of the correct regime" [5, p.9].

The special merit of S.V. Poznyshev, I.Ya. Foinitskii and N.F. Luchinskii is that they not only revealed the educational essence of the penitentiary regime, implemented with the help of such directions as subordination of prisoners to a certain order in the distribution of their hours of study and rest; mandatory expediently organized labor of prisoners; mandatory participation of prisoners in cultural and educational classes (school or extracurricular); organization of serving sentences in such a way that prisoners strive for parole [4, p. 160–161], but also raised its meaning to the level of interpretation from the standpoint of morality.

Developing ideas of his predecessors, A.S. Makarenko formulated characteristics of the "right regime" having an educational impact on convicts. They are the following: expediency (all forms of the regime should have a certain meaning; accuracy, implying the inadmissibility of exceptions and indulgences in terms of established time and place; generality, asserting the mandatory regime for everybody; certainty, implying validity and regularity by precise rules and distribution of responsibility [6, p. 103].

In the framework of the modern Russian penal policy, the regime acts not only as a legally formalized procedure for the execution and serving of imprisonment, but also as one of the main means of correcting convicts (Article 82 of the Penal Code of the Russian Federation). The regime is characterized in the works of a number of scientists who have revealed various aspects of its implementation. Researchers pay a lot of attention to its functions. Thus, the works of S.L. Babayan, M.M. Galkin, A.V. Dergachev and others are devoted to the study of the punitive function of the regime; in their opinion, the use of punishment is an integral attribute of the penalty and consists in retribution, which should reflect the principle of justice of the law and follow the commission of a crime [7–9]. The preventive function of the regime, which consists in the prevention of offenses in places of deprivation of liberty, is presented in the studies of M.N. Zharkikh, V.A. Ishigeev and others [10; 11]. The sustaining function of the regime, the essence of which is that it acts as the basis for the implementation of other means of correction and the entire correctional process as a whole, is described in the works of S.A. Vetoshkin, I.I. Koroleva and others) [12; 13]. The educational function of the regime is reflected in the works of A.V. Vilkova, E.V. Zautorova, L.V. Kovtunenko and others [14–16].

Within the framework of penitentiary psychology mechanisms of the regime's influence on the individual are considered in the works of M.G. Debol'skii, Yu.A. Dmitriev, V.M. Pozdnyakov and others. They focus on deprivation and discomfort experienced by convicts in connection with isolation from the usual environment, constant supervision and control, strict regulations concerning all the main areas of their human vital activity [17–19]. Philosophical and sociological issues related to the application of the regime in modern correctional facilities are summarized in the dissertation prepared by D.Kh. Shakirov, who argues that the restrictions accompanying the regime should not become an end in itself, but are designed to harmonize the convict's relationship with a positively oriented society and encourage acceptance of its norms and values [20].

Summarizing the presented scientific judgments, it can be stated that the expected result of the corrective effect of the regime should be the following: displacement of antisocial habits and negative personal characteristics; formation of positive qualities, socially approved foundations; and development of resistance to negative criminal influence. Appreciating scientists' contribution to the study of various aspects of the regime implementation, we cannot but mention the absence of special monographic studies devoted to consideration and description of pedagogical capacity of the regime that correlates with the current penal legislation and modern achievements in the field of pedagogy.

Purpose of the study. The purpose of this article is to present and characterize the regime as a means of correcting convicts that has pedagogical capacity. The disclosure of the essence and content of pedagogical capacity of the regime is important in determining pedagogical impact methods for convicts who get used to the order of serving imprisonment, as well as identifying conditions conducive to effective application of regime norms. The study conducted is relevant, since the range of pedagogical impact measures increases due to the expansion of humanistic trends in the penal system, which is confirmed in the new Internal Regulations.

Methods. To achieve this goal, a group of theoretical methods were used in the course of the study, including a method of comparative historical analysis (referring to it made it possible to compare scientific approaches to the identification of pedagogical aspects of the regime at certain historical stages of the penitentiary science development), document analysis (the study of normative legal acts helped clarify pedagogical aspects of the correctional process), a monographic method (an in-depth study of the regime was carried out, ways of achieving the goals to correct convicts by means of the regime were specified, problems preventing the use of pedagogical capabilities of the regime in the correctional process were identified); a method of structural analysis (it helped present the structure of pedagogical capacity of the regime as a means of correcting convicts), a method of deduction (it contributed to the consideration of general features of the concept "capacity" with their transfer to a particular characteristic of the concept "pedagogical capacity of the regime as a means of correction", as well as to the study of mechanisms and methods of positive personality change with their extrapolation to the pedagogical process of introducing convicts to the regime), logical generalization (it helped sum up certain results of the study), etc.

Analysis and discussion of the results.

In modern conditions, the regime or the order for serving sentences in penitentiary institutions is regulated by legal acts, among which the leading role belongs to the Law of the Russian Federation "On institutions and bodies executing criminal penalties in the form of deprivation of liberty" of July 21, 1993 No. 5473-1, the Penal Code of the Russian Federation of January 8, 1997 No. 1-FZ, and the Internal Regulations. The implementation of the regime is also provided by other regulatory legal acts, including Resolutions of the Government of the Russian Federation, orders of the Ministry of Justice of the Russian Federation, orders of the Director of the Federal Penitentiary Service of Russia, etc., as well as special methodological recommendations and instructions.

The pedagogical essence of the established procedure for the execution and serving of punishment is reflected in Article 9 of the Penal Code of the Russian Federation, which states that the means of correcting convicts, including the regime, are aimed at forming "a respectful attitude towards a person, society, work, norms, rules and traditions of human community and stimulating law-abiding behavior". The listed directions imply an appeal to pedagogical tools, since they are focused on encouraging the convicted person to recognize the personal significance of a person, society, as well as generally accepted social norms. According to the Penal Code of the Russian Federation, the regime is designed to ensure effectiveness of all the main means of correction, among which provision of general and professional education and educational work are of particular importance in the aspect of our research. The means of correction of convicts have an integral pedagogical nature, as they provide for the mandatory participation of professional teachers and employees of the educational institution with competencies in the field of education. The process of correction of convicts is largely created by people who must be professionally trained to carry out pedagogical functions in correctional facilities, and the effectiveness of this process directly depends on their level of education and skill, as well as attitude to their work. The staff of correctional facilities should rely on pedagogical capacity of key correction means, including the regime.

The term "capacity" is interdisciplinary in nature and can be applied in various scientific and practical fields. Capacity is considered as a set of means, conditions necessary for maintaining and preserving something; as a rule, this term is associated with the concept "resources" [21, p. 526; 578]. In turn, resources are considered as auxiliary means, which include everything that can be used by a person for effective activity and maintaining the quality of life [22, p. 514]. Based on the existing ideas about the concept "pedagogical capacity" [23, p. 90], we consider this phenomenon in relation to the regime of serving a sentence as an integral resource formation with a pronounced educational orientation, which creates an opportunity for a penal system employee to broadcast norms and the procedure for serving a sentence, as well as to facilitate their acceptance by convicts. Since the resources of any object that determines a successful activity include, first of all, organization, content and meanings [22, p. 522], and the regime in a correctional facility is always characterized by normative certainty, then pedagogical capacity of the regime can be represented as a specific series of means, the structure of which consists of organizational-normative, content-normative, and value-normative resources. We will consider the listed resources in more detail.

Organizational and regulatory resources include regulatory requirements for the organization of training and education in a correctional facility. The main list of them is defined in the Penal Code of the Russian Federation and is specified in more detail in the Internal Regulations. Thus, Section 2 of the Internal Regulations "Basic rights and obligations of persons sentenced to imprisonment", fixes the rights, the implementation of which is designed to ensure positive personal development through general and vocational education, as well as vocational training in accordance with the legislation of the Russian Federation (paragraph 6.19). In this section, the right to participate in cultural and sports events, go to the library, board games, listen to radio broadcasts, and watch TV shows, movies and videos at a time determined by the daily routine of those sentenced to imprisonment is fixed (paragraph 6.21). If there is a technical possibility and subject to compliance with the Internal Regulations, persons sentenced to imprisonment may have access to educational programs in the information and telecommunications network "Internet" when they receive general and vocational education in accordance with the legislation of the Russian Federation (paragraph 6.22).

The obligation to conduct educational activities in a correctional facility is fixed in the legal norms defining the procedure for serving sentences. According to paragraph 406 of the Internal Regulations, up to one hour and 30 minutes are provided for educational activities in the daily routine for juvenile convicts, and up to one hour for adults. Attendance of a general or professional education organization of the Federal Penitentiary Service of Russia and self-training are carried out according to a separate schedule in accordance with the curriculum. The new Internal Regulations permit convicts to use electronic books for reading for educational purposes (paragraph 6.25 of the Internal Regulations). The novelties of the Internal Regulations approved in 2022 consisted in the provision of additional opportunities for physical exercise, obtaining and accessing educational services and legal information.

Priests traditionally play the role of education subjects, and their authority among convicts has recently been increasing. In accordance with Article 14 of the Penal Code of the Russian Federation, which regulates conditions for the admission of priests to prisoners held in a penitentiary institution, the procedure for involving priests of traditional confessions in the correctional process is defined in the Internal Regulations [23]. According to paragraph 397 of the Internal Regulations, there is a norm imposed on the conduct of religious rites and ceremonies within the framework of agreements of the Federal Penitentiary Service of Russia and territorial bodies. It has been established that in order to perform religious rites, clergymen are allowed to bring books, as well as objects of religious worship, necessary for them for the time of worship and religious rites, to the territory of a correctional facility and a pre-trial detention center.

The regime is supposed to promote correction of convicts. The existing progressive and step-by-step system for serving a sentence meets this goal, providing the possibility of changing detention conditions within one correctional facility or by transferring to another type of a correctional facility; replacing the unserved part of the punishment with a milder penalty, conditional early release, etc. In accordance with Article 96 of the Penal Code of the Russian Federation, positively characterized convicts serving imprisonment in correctional facility, as well as convicts left to conduct maintenance work in pre-trial detention centers and prisons, may be allowed to move without escort outside the correctional facility, if necessary by the nature of the work they perform. At the same time, in case a convict violates the Internal Regulations or the nature of the work performed changes, movement without escort is canceled by the decision of the head of the correctional facility. A progressive system of serving a sentence can not only contribute to positive changes in the conditions of detention, but also act in the opposite direction: in cases of non-compliance with regime requirements, the legal status of a convicted person may change in a regressive direction and lead to the deterioration in the conditions of serving a sentence or transfer of a convicted person to an institution with a more stringent type of regime.

A progressive and step-by-step system for punishment execution, in which the content of restrictions varies depending on the degree of correction of the convicted person, serves as an incentive to correction. In a correctional facility, there is an order to promote convicts according to the stages (levels) of achievements, depending on which each convict is equated to one of the following categories: observing the order of serving sentences, showing activity in positive self-change; basically observing the order of serving sentences, but not striving for positive personal change; systematically violating the order of serving sentences and not seeking self-correction. In order to move “up”, a convict has to prove his/her desire for correction, including through the presentation of achievements confirming the growth of his level of education and upbringing.

It should be noted that the variety of deprivations and restrictions in a correctional facility and their specifics are fixed in the norms on types of regime and differentiation of conditions of serving a sentence. The variability of conditions of serving sentences affects such areas of convicts’ life as place of residence, monthly expenditure of funds for the purchase of food and basic necessities (Article 88 of the Penal Code of the Russian Federation), number of short-term and long-term visits during the year (Article 89 of the Penal Code of the Russian Federation), number of parcels received during the year, number of telephone calls per year (Article 92 of the Penal Code of the Russian Federation), etc. Thus, different types of regime reflect differences in the conditions of serving sentences affecting essential spheres of life of convicts, and the progressive system

creates opportunities for gradual changes in the conditions of serving sentences, depending on convicts' behavior in the direction of expanding or limiting their legal status. It is assumed that a convicted person, focused on integration into a progressive system of serving sentences, knowing the criteria according to which his/her behavior is evaluated, strives to comply with the Internal Regulations, as well as minimize negative consequences of the crimes committed, including compensating for the damage caused by him/her to the victim.

In general, it can be stated that organizational and regulatory resources of the regime are able to ensure implementation of pedagogical capabilities of the established procedure for the execution and serving of imprisonment, since they are focused on creating necessary conditions for education and upbringing, the organization of which is strictly regulated.

The content and normative resources of the regime, first of all, fill the correctional process with the pedagogical content that should encourage convicts to manifest certain personal qualities. Personal qualities (properties) are understood as a set of individual characteristics, the nature of which is hereditary or acquired, i.e. socially conditioned. Personal qualities as stable manifestations of the uniqueness of each person have an impact on the social status of the convict in the penitentiary environment, his behavioral attitudes and the direction of actions, well-being, reputation, and predisposition to specific activities.

The progressive system of serving sentences, correlated with the regime, contributes to the formation of personality qualities in convicts, such as adherence to law, discipline, independence, responsibility, purposefulness, diligence, accuracy, politeness, etc. Adherence to law is unquestioning obedience to legal norms; discipline consists in voluntary conscious observance of the established order; and diligence – in a positive attitude to work, a tendency to work hard, getting satisfaction from the process and results of the work.

Convicts' independence is manifested in their predisposition to initiate useful deeds, develop and implement their own positive life plans, the ability to make judgments independent of the ideas existing at the level of subcultural communication. Responsibility as a personal quality is characterized by convicts' conscious attitude to their actions and their tendency to see inner reasons for what is happening to them. Responsibility is associated with the choice of a life path and convicts' awareness that they themselves are the source of a positive change in their legal status. Purposefulness is persons' willingness to achieve goals and readiness to overcome circumstances that prevent its implementation.

The regime forms carefulness in convicts – a character trait that expresses the ethics of their relationship to themselves, people around them, and their belongings, including clothes and household items. Neatness manifests itself in persons' habit of keeping things in order, diligence, accuracy, etc. For example, paragraph 10.10 of the Internal Regulations obliges convicts to keep living quarters, sleeping, study and work places, bedside tables, clothes clean and tidy; paragraph 10.10.1 of the Internal Regulations – to make the bed according to the established pattern. Politeness is a quality required by the regime, which consists in respectful and tactful communication with people; this imperative is fixed in the approved norms of relations between employees of the correctional facility and convicts. Thus, paragraph 19 of the Internal Regulations obliges convicts to greet employees of the correctional facility, get up when meeting with them, address them formally by name and patronymic (if any).

In addition, the regime is focused on the displacement of negative personality formations inherent in convicts. In particular, the Internal Regulations fix a list of prohibited actions that accompany bad habits and antisocial behaviors. These include drinking alcoholic beverages, smoking in places not designated for this purpose and before the age of eighteen, gambling, tattooing yourself and others; when communicating with other persons, the use of obscene language and slang words and expressions, humiliation of the honor and dignity of other people, the appropriation and use of nicknames in speech, replacing the names of people, etc. (paragraph 12).

The regime also performs a censorship function, which is associated with the implementation of a system of supervision over the content and dissemination of information, printed materials, musical and stage works, works of fine art, film and photographic productions, radio and television broadcasts, websites and portals, in some cases private correspondence to restrict or prevent dissemination of ideas and information recognized by the authorities as prohibited. Censorship in places of deprivation of liberty can

be conditionally called pedagogical, since it presupposes a special kind of control over books, films and other sources of information, which can concern all people or be prohibited only in relation to convicts. Special requirements are imposed on the repertoire of books and films, since works of literature and cinema can have a strong influence on readers and watchers, including negative ones that are incompatible with the goals of correcting convicts. Thus, according to Appendix No. 3 to the Internal Regulations, literature, documents or information on any media calling for the implementation of extremist activities or justifying them, pornographic materials, objects and videos are prohibited.

The presented information shows that the content and normative resources of the regime are designed to fill educational activities conducted with convicts with the content that can contribute to the formation of positive personal qualities and the displacement of negative ones, and promote the implementation of the required patterns of behavior in everyday life.

Value-normative resources of the regime reflect the value nature of the normative acts regulating the regime and, accordingly, are determined by the values with which the law as a whole is endowed. The axiosphere of regime norms includes such values of law as legality, equality, and dignity. "Legality" asserts the necessity of the regime and is based on its self-worth. Standardization of the regime is an objective necessity that finds its form in the totality of norms. Standardization is inherent in the regime in any sense; it is associated with general obligation and formal certainty. It is obvious that if there were no order of executing punishment and serving imprisonment correlated with the tasks of correction, then such tasks could not be solved at all or would be solved chaotically and haphazardly, without achieving their goal.

The value of "equality" characterizes the same opportunities of convicts as individuals who are able to influence their legal status in line with the progressive system of serving sentences. The order of serving the sentence puts each convict before a choice that requires self-determination in the direction of law-abiding or illegal behavior; at the same time, all convicts are in an equal position, since they can independently decide on the preference of the most acceptable options for him.

The value of "dignity" determines the role of the convict as a person, his/her responsibility to him/herself and others. The regime that encourages the manifestation of dignity gives a convict the opportunity to minimize negative consequences of the crime committed, thereby showing "inner nobility" and gaining the trust of society. This value is reflected in the regime, since the order of serving a sentence, which provides for a progressive system, contributes to the formation of certain positive personal qualities inherent in a decent person. Thus, the content of the value of "Dignity" associated with the regime includes two factors: objective, which represents the social role of the convict as a person perceived by other people, and subjective, which expresses his/her own self-esteem [24, pp. 33–34].

Familiarization of convicts with the values that the regime is endowed with brings them closer to a meaningful attitude to the order of serving imprisonment and gives direction to the assimilation and acceptance of the requirements.

Having considered the specific range of resources that reveal the structure of pedagogical capacity of the regime as a means of correcting convicts, we note that the regime is implemented to the extent that convicts are able to assimilate and internally accept its norms. In the pedagogical context, the use of the concept "pedagogical capacity of the regime" helps identify important educational processes when accompanying convicts in circumstances subject to regulation by the order of serving a sentence. So, correctional facility employees should ensure the assimilation and acceptance of regime requirements by convicts. The need for such support is based on the understanding that in some cases the fulfillment of regime requirements by convicts is hindered by objectively existing circumstances, including a deformed worldview; active influence of criminal subculture; predominance of authoritarian educational systems in the correctional facility; inconstancy and situationality of value-semantic guidelines that determine convicts' behavioral attitudes; imperfect application of the progressive system of serving sentences; change in the vector of human self-realization; violation of the rights of convicts in places of deprivation of liberty, etc.

The regime, which not only establishes prohibitions and restrictions, but also requires the convict to prove achievements in correction, acts as a guideline to help answer the question "What should be done?", but at the same time the question "How to achieve this?" often remains unanswered. In this regard, the choice

of means of pedagogical influence on convicts and a special system of methods of education, becomes significant.

M.I. Rozhkov's classification of methods of education seems can be proposed to solve this problem. It provides for a harmonious correlation of methods of influencing logical and sensory spheres of convicts. According to it, methods of education are binary. Selection of pairs of methods is based on the principle "education – self-education", and each method of education and the corresponding method of self-education differs from each other in what personal sphere of a person it has a dominant effect on. Personal spheres and corresponding dominant methods of education and self-education include: intellectual sphere (persuasion – self-persuasion), motivational sphere (stimulation – motivation), emotional sphere (suggestion – auto-suggestion), volitional sphere (requirement – exercise), self-regulatory sphere (correction – self-correction); existential sphere (dilemma – reflection) [25, pp. 166–168].

Implementing the persuasion method, correctional facility employees should use arguments in favor of the profitability of fulfilling regime requirements. They should explain the meaning of these requirements; clarify their content and disclose possible consequences for specific violations; show the effectiveness of a progressive system of serving sentences in a specific context, etc. According to the self-persuasion method, convicts are encouraged to formulate their own logical conclusions by comparing possible reactions of the correctional facility administration to convicts' behavior in certain situations mediated by regime requirements.

Stimulation is based on the formation of meaningful attitudes among convicts to comply with approved norms; this method is provided with the help of tools of encouragement and punishment. Condemnation or approval of other people, as ell as expression of public opinion, are also important. Motivation is based on bringing convicts to an awareness of their needs and awakening their desire to achieve goals.

The suggestion method is focused on influencing convicts' senses, and through them – their mind and will. In turn, auto-suggestion involves triggering the mechanism of experiencing failure, the joy of success and overcoming difficulties. Implementing this method, the staff of the correctional facility should use pedagogical interaction techniques to cause emotions reflecting an adequate perception of the regime and awareness of the inevitability of fulfilling its norms.

The requirement method implies that convicts are familiarized with prescriptions or behavioral models that are subject to mandatory implementation in actions and deeds. Relevant guidelines are categorically and clearly formulated; they do not allow ambiguous interpretations and discrepancies. Along with a direct requirement, an indirect one can be applied in various forms: advice, instruction, hint, reminder, call, exhortation, etc. An indirect requirement contributes to the awakening of the convicts' desire to comply with the established order of serving the sentence in response to the sympathetic attitude towards them as individuals. The exercise method consists in repeated performance of the required actions leading to the emergence of certain skills and habits.

The correction method focuses on creating circumstances in which convicts are forced to make changes in their behavior and attitude to the regime. Self-correction implies convicts' desire to follow the regime norms on their own initiative.

The dilemma method means person's inclusion in a situation of self-identification: the convict is offered a task that puts him/her before the need to choose between two behaviors, one of which reflects adherence to norms of the regime, while the other – neglect of them. Convicts discuss likely consequences accompanying each choice. Reflection as a method of education is aimed at encouraging the convict to reflect on his/her own behavior within the framework of the Internal Regulations. An important component of reflection is self-understanding, which is embodied, first of all, in the awareness of the meanings of familiarization with the values of regime requirements. Reflection, being the result of understanding one's behavior from the standpoint of regime norms, forms the basis of the convict's evaluation activity, during which questions, such as "What am I doing?", "How am I doing this?", "Why am I doing this?", "Does my behavior meet the requirements of the regime?", "What consequences will my behavior lead to?" etc. Thus, the method of reflection provides for the convicts' inclusion in the analysis of actions, their boundaries and meanings. It becomes an impulse for the personal identity formation, which provides for delaying intentions to commit illegal acts, weighing arguments in favor of "pros" and "cons", restrain-

ing negative emotions, developing self-control and the ability to constructively resolve a conflict [24, pp. 169–170].

Along with the presented classification, other methods can be used to solve the problem of effective use of pedagogical capacity of the regime in the correctional process. It is important that in their totality the methods used ensure the launch and functioning of certain psychological mechanisms, thanks to which it becomes possible to achieve the assimilation and acceptance of regime requirements by convicts. In this context mechanisms are the processes that favor the transformation of pedagogical influences into positive personal properties, reflecting the willingness to adequately perceive regime requirements and follow them. The relevant mechanisms include motivation, internalization, emotional response, reflection, overcoming the crisis of personal perception of regime requirements [24, pp. 170–173].

During the formation of motivation for the positive perception of regime requirements, the reliance on the development of meaning-forming motives in convicts that lie in the plane of combining situational motives, desires and interests with promising life goals becomes particularly relevant; the indicator of effectiveness in this case is convicts' formation of their own model of productive existence in the system of requirements, taking into account the possibilities of a progressive system of serving sentences.

The essence of internalization lies in the fact that, mastering and realizing the status of a person sentenced to imprisonment, an individual first internalizes (translates the external into the internal plan) the regime requirements imposed, that is, as if "accepts them" at the level of inner conviction, and then follows them in his/her behavior. The psychological mechanism of interiorization is closely related to the assimilation of regime requirements, i.e. the accumulation of knowledge about how to correlate life phenomena and events with the categories of "due", "necessary", and "fair" through understanding the essence of regime requirements. In the process of memorizing, reproducing, understanding, applying and evaluating the necessary information, the convicted person receives up-to-date knowledge about the order of serving a sentence; in the course of recognizing, typing and generalizing relevant situations, he/she masters the stereotypes of law-abiding behavior.

Convicts' emotional response to events and facts connected with the regime is significant for internalization of regime requirements. In fact, an emotional reaction is a person's reaction to the value system of the regime and his/her own claims as models, with which the choice that determines the subsequent action is measured. The appearance of an emotional reaction largely depends on how the interaction between a convict and a legal space of the correctional facility is initiated and organized by educators and to what extent the relationship with him/her is mediated by his/her semantic sphere. Receiving information about the criteria of a law-abiding personality and striving for it, a convict discovers meanings of these criteria, finding adequate forms of response. In fact, an emotional response is the convict's reaction to a system of values that are initially endowed with regime requirements; these are emotional experiences about situations with a regime context, expressed in the form of regret, remorse, guilt, shame, despair, anger, indignation, protest; satisfaction from a positive attitude towards oneself from others, awareness self-esteem, joy, etc.

The content of reflection is the correlation between the existing order of serving imprisonment and the value-semantic core of the convict's "self-concept". In the course of reflection, one's own behavior is correlated with regime requirements. Reflection as a dialogue between a person and himself presupposes the choice of criteria with which the content of this dialogue is compared. It can manifest itself at the level of awareness and be unconscious; according to its subject, it can be directed at the inner world (feelings, thinking, values related to the regime), ways and forms of behavior. The level of reflection is determined by these three dimensions [26, pp. 45–47]; its positive result is the decision to follow the established order of serving a sentence.

Overcoming the crisis of personal perception of regime requirements is actualized in situations when such a crisis emerges. Often, the reason for its appearance is that, being internally ready to follow the established norms, convicts are disoriented in the legal space of a correctional facility, are not able to comply with its legal norms and conditions of the surrounding legal reality, and have no skills to protect their interests. A crisis can also arise in circumstances in which, comprehending the legal re-

ality, the convicted person, along with acquiring information about regime requirements, receives a lot of reasons for disappointment, since in some cases he/she witnesses that penal system employees, who declare adherence to law, themselves act as its cynical violators. Data about such facts are available in official sources. Thus, the Report on the activities of the Commissioner for Human Rights in the Russian Federation for 2021 notes that during the reporting year, the Ombudsman's office received 5,879 complaints from citizens who are in penitentiary institutions. T.N. Moskal'kova states a 20.7% increase in complaints for this period compared to the previous year. The speaker connects this rise with such phenomena as rudeness of penal system employees, humiliation of human dignity, inconsistency of the penalties imposed with the nature of violations of the established order, etc. The ombudsman also highlights torture, calling it "the most terrible thing, which in principle should not exist" [27]. Overcoming the crisis in the context under consideration can be presented as a process of gaining a new experience for the convict, mediated by restoring justice in a situation of violation of his/her rights, exhaustive explanations and providing the necessary assistance.

The use of pedagogical capacity of the regime as a means of correcting convicts becomes successful when carried out by professionals – people competent in this field. The staff of a correctional facility should be ready for conducting appropriate pedagogical activities, which implies a desire to work with convicts in this direction. In addition, penal system employees should be prepared to educate convicts by means of the regime. This means that they have a legal culture, possession, along with special (according to the profile of the main specialty), pedagogical knowledge, skills and abilities. The essence of pedagogical training of penal system employees is the formation of their pedagogical worldview, determined by institutionalized norms and status-role requirements. In modern practice, pedagogical training of penal system employees is carried out mainly in universities of the Federal Penitentiary Service of Russia, in which pedagogical disciplines are obligatory at the bachelor's, specialist and master's degree levels, and within the framework of additional professional education.

Another condition for the full use of pedagogical capacity of the regime in the correctional process is the availability of an appropriate material and technical base for organizing educational work with convicts in correctional institutions; its importance is fixed in Part 3 of Article 110 of the Penal Code of the Russian Federation. According to the Decree of the Government of the Russian Federation of August 2, 1997 No. 974 "On the approval of norms for the creation of a material and technical base for the organization of educational work with convicts in correctional institutions", all educational institutions should be equipped with rooms for mass educational work, general education classes, educational work rooms, a radio room, a library reading room and a book depository, a summer playground for watching movies with spectator seats, etc.

An important factor in the successful use of pedagogical capacity of the regime, in addition, is the functioning of the correctional facility in the form of a legal space in which the order of execution of punishments is mandatory for everyone, both for convicts and employees. At the same time, the response measures, the staff of a correctional facility applies convicts, should be commensurate with the content and direction of their actions and deeds.

Thus, having considered pedagogical capacity of the regime as a means of correcting convicts, we have identified "niches of opportunities", the reliance on which can significantly affect the course and effectiveness of the correctional process. We believe that the full use of pedagogical capacity of the regime will contribute to the formation of convicts' willingness to follow regime requirements and the desire to integrate into a positive channel of a progressive system of serving sentences, while its partial application – to the development of adaptability in convicts with a pronounced tendency to demonstrate adherence to regime requirements only "for show", that is, situationally. Penal system employees' incompetence or reluctance to rely on pedagogical capabilities of the regime may lead to convicts' opposition to the requirements imposed.

Conclusion

The article reveals the essence of the terminological construct "pedagogical capacity of the regime as a means of correcting convicts", which consists in the selection and integration in one concept of resources that fill the order of execution and serving of imprisonment with a pronounced educational orientation. The structure of the phenomenon under study is presented, including organizational-normative, content-

normative, and value-normative resources. Organizational-normative resources reflect legally fixed capabilities of the regime associated with the mandatory implementation of education and upbringing of convicts. Content-normative resources indicate convicts' personal enhancement, which presupposes the formation of positive qualities in them and displacement of negative properties when following the requirements imposed. Value-normative resources make it possible to give regime requirements a value character due to their validity, obligation and fairness, as well as to direct convicts to build a line of socially approved behavior accompanying a decent human life.

The idea is substantiated that, in their totality, the listed resources create an opportunity for a penal system employee to broadcast the norms and procedure for serving a sentence, as well as to facilitate their acceptance by convicts under certain conditions. These include the following conditions: special pedagogical support, availability of the necessary material and technical base to fulfill the tasks of education and training, functioning of a correctional facility in the form of a legal space within which regime requirements are mandatory for convicts and penal system employees. The proposed view on the nature of pedagogical capacity of the regime as a means of correcting convicts is based on the analysis and generalization of data contained in normative legal acts regulating the procedure for the execution and serving of imprisonment, scientific works describing functions of the regime, and makes it possible to multiply existing knowledge about the phenomenon under study.

The presented list of conditions for the successful use of pedagogical capacity of the regime is not exhaustive and can be supplemented. The conditions associated with taking into account an individual and differentiated approach in educational work with convicts on the assimilation and acceptance of regime requirements, as well as with the specifics of the educational process associated with types of regime, etc., are left outside the boundaries of this study. Accordingly, the problem field of research can be expanded in line with the description and justification of newly identified conditions for the full realization of pedagogical capabilities of the regime as a means of correcting convicts.

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Higher Education for Convicts Provided in Foreign Correctional Institutions with the Help of Distance Learning Technologies

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Abstract

Introduction: the problem of the low level of education of persons serving sentences in correctional institutions is worldwide. In addition, offenders with a low level of general and digital literacy, being isolated from society, find themselves unprepared for the conditions of a rapidly changing world. All this creates conditions for increasing social marginalization of prisoners and, as a result, spreading recidivism. Therefore, obtaining education by convicts and increasing their educational level is one of the effective methods of resocialization and reducing recidivism rates; besides, it creates opportunities to increase their competitiveness in the labor market after release. Multi-level convict training programs are implemented in penitentiary institutions of most countries. It is most difficult to realize convicts' right to higher education in institutions of the penal system that execute punishments related to the isolation of convicts from society, therefore, the emphasis is placed on this category. *Purpose:* to study the possibility for prisoners to receive higher education with the help of distance technologies in foreign correctional institutions. Research objectives: to systematize empirical data on penitentiary systems of foreign countries, models and forms of distance learning of convicts undertaking higher education programs; to identify sources of funding and incentives for convicts to receive higher education in places of deprivation of liberty; to analyze problems of implementing higher education programs in penitentiary institutions of foreign countries. *Methods:* dialectical method, used to consider interrelated and interdependent concepts "education" and "correction", principles, and requirements of distance learning of persons held in penitentiary institutions of foreign countries; formal legal and hermeneutic methods, applied to analyze legislative and other regulatory documents on the topic; logical semantic method, used to determine the essence and significance of forms and methods of distance learning that have an effect on convicts; structural and comparative legal methods, applied to identify stages and features of the development of distance learning in higher education programs in penitentiary systems of foreign countries. *Results:* the study makes it possible to evaluate models of vocational education in a number of foreign countries aimed at widening convicts' abilities and knowledge in order to guarantee their employment after release. *Conclusion:* the author comes to the conclusion that most countries recognize the value of prison education as a way of reintegration of convicts. Education is part of a wider range of proposed activities that are aimed at achieving a comprehensive goal of correcting them and reducing recidivism rates. Improving the educational level of convicts contributes to their competitiveness

after release. Educational programs are implemented in various forms: from face-to-face non-credit workshops conducted by volunteers to drawing up a business plan with a degree. The learning process, as a rule, is carried out in a mixed format. Teachers and university students come to correctional institutions to conduct face-to-face classes. Educational programs are adjusted depending on the profile of convicts in a particular country. The most effective programs are those that take into account the local situation and individual needs of convicts. In many foreign countries, conditions are created for the implementation of educational programs of higher education for people in isolation with the use of distance education technologies. The issue of providing educational services to convicts is resolved based on the capabilities of the educational organization and the correctional institution itself. However, due to the low availability of this level of education, the percentage of convicts receiving academic degrees in a correctional institution remains low in foreign countries.

Keywords: academic degrees; higher education; distance educational technologies; correctional institution; modular educational programs; convicts; resocialization.

5.8.1. General pedagogy, history of pedagogy and education.

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Introduction

Researchers and practitioners discuss the question of how convicts realize the right to education and what level of education they can claim. There is no uniformity among scientists. Most researchers recognize that receiving education from general to higher education in isolation contributes to the correction of convicts, expands their horizons, forms new moral foundations, and reduces recidivism. However, there are also those who believe that obtaining higher education is a privilege that should not be granted in isolation.

An analysis of the penitentiary practice of foreign countries shows that education is one of the main priorities in the system of execution of sentences and is the right of the convicted person. In addition, education is crucial for reducing recidivism and crime rates [1]. S.I. Kuzmin and A.A. Sivova describe the study conducted in the United States, revealing that convicts who have received education while serving their sentences, upon leaving the correctional institution, do not commit crimes in the future, and the recidivism rate in this category amounts to 16%. At the same time, the recidivism rate is 70% among convicts who have not received an education. In addition, it is found that the costs for keeping a recidivist amount to 25 thousand dollars per year [2, p. 51]. Thus, the economic feasibility of the educational process of convicts does not require additional evidence, as well as the fact that the higher the level of education of the convict, the higher his/her opportunities to be employed after release and financially well-off [3, p. 194].

The majority of foreign countries follow international standards and achievements in implementing convicts' right to education. International standards for the protection of human rights, including the rights of convicted persons, not only enshrine the rights and obligations of individuals to education, but also provide a system of legal guarantees for detention, underscoring the importance of this activity from the standpoint of achieving the goal of correction. Most international instruments have been developed within the framework of the United Nations. Universal legal instruments that enshrine the right of everyone to education include the 1948 Universal Declaration of Human Rights, the 1966 International Covenant on Economic, Social and Cultural Rights, the 1960 Convention against Discrimination in Education, the 1989 Convention on the Rights of the Child, and the 1995Convention of the Com-

monwealth of Independent States on the Rights and Fundamental Freedoms of the Person [4].

Distance learning in places of deprivation of liberty becomes an integral part of state programs for the correction of prisoners, is important for penitentiary systems and provides the most constructive solution to a number of problems of rehabilitation and social adaptation of convicted persons [5]. In terms of the realization of the convict's right to higher education, the most difficult legal and regulatory aspects are those of the penal system, which carries out punishments connected with the isolation of convicted persons from society, Therefore, the current study focuses on this category of convicted persons.

We will consider models of higher education programs for convicts held in foreign correctional institutions.

In Great Britain, the prison education system formed earlier than in other countries. There exists an important network of partner universities working to improve access routes and opportunities for convicted persons to higher education; support new and existing partnerships between prisons and universities through the exchange and promotion of best practices; and influence academic and prison policy.

The Prisoners Education Trust (PET) has a 30-year history of work with prisons. It offers more than 125 different distance learning courses in prisons in England, Wales, the Channel Islands and the Isle of Man: from social assistance to transport and logistics, A-levels, and open university access modules [7].

In England and Wales, about 1,000 convicts receive higher education (Leeds Beckett University, University of Birmingham, Open University (OU), etc.). Most prison education projects are carried out in partnership with the St Giles Trust.

The Open University is the largest university in the United Kingdom, and many of its programs focus on prison-based learning. It has been supporting convicted students since the 1970s by offering courses ranging from short-term modules to full-fledged bachelor and graduate programs. Since 2017, the Open Justice Center at the Open University Law School carries out legal education projects in eleven prisons in England and Wales: HMP Altcourse, HMP Cardiff, HMP Doveoagate, HMP Kwood, HMP Sudbury, HMP Leiter HMP Foston Hall, HMP Send, HMP High Down, HMP Wandsworth and HMP Wormwood Scrubs.

At university, most convicts undergo bachelor's degree programs. To do this, they should have B2 level English. Before reaching that level, they take courses to be prepared for bachelor's degree programs. It can be carried out within the framework of the project "Open Book", implemented in partnership with Goldsmith, University of London [7]. A special feature of this project is that some lectures are given by former convicts who have considerable personal experience in the prison environment and have graduated from university.

Since 2016, the University of Newman has been implementing a higher education program at the HM Prison Birmingham called "Admission directly to the university". This partnership, created as part of the "Learning Together" program and inspired by "the Prison-to-College Pipeline" in the John Jay College, is aimed at providing convicts with loans that will be a significant springboard for higher education after their release.

Those who have received a bachelor's degree may apply for a Master's degree (MA or MSc), which is the next level of higher education [7].

In a number of prison institutions, a pilot project of co-education of graduate law students and convicts is implemented. In order to consolidate the knowledge gained in practice, both categories of students identify areas requiring legal assistance in prison. Convicted persons are engaged in the development of educational materials aimed at resolving problems of deportation, family and labor law, etc., then these papers are reviewed by law students. After approval, they may give legal advice to other convicted persons [8]. Legal knowledge is disseminated through prison radio. The United Kingdom's prisons actively use the Virtual Campus platform (VC). It offers a number of educational applications (examinations and courses) and employment (job search, job application, rewriting and secure messaging); provides convicted persons with secure access to the information on the VC and a limited number of sites from the so-called white list.

Requests for posting content on the platform are reviewed and approved by the Virtual Cam-

pus Management Board to check whether all the content is suitable for use in prison. Currently, Internet service providers give priority to accrued software, but non-accredited content (for instance, BBC Writers) is also available. Prisoners use the platform under the supervision of a teacher or prison officer. The service is available in 105 prisons of England and Wales [7].

Moodle virtual learning environment is also actively involved in the learning process. Convicted persons plan and organize their own learning process by choosing modular training programs. After selecting a specific module, they submit an application to the Open University for reservation. Further, with the support of PET counsellors, convicted students complete a distance learning questionnaire and a registration agreement form. Once all organizational matters are agreed between the prison institution and the university, the PET staff order the course material at the university one week before it begins and act as mentors to the convicted persons [7].

The experience of the Federal Republic of Germany in the organization of the educational process for convicts is of particular interest. German legislation reflects that the main purpose of serving a sentence is to correct convicts and implement programs for rehabilitation and reintegration into society.

In some German prisons, convicts with completed secondary education have the opportunity to distance learning to get higher education. Since not all penitentiary facilities provide such a possibility, convicts who meet university requirements and want to get higher education can be transferred from other prisons.

The University of Hagen is the leader institution for convicted students; it offers various forms of training, ranging from advanced training to academic degrees. Due to the application of the concept of mixed education, convicted persons are provided with educational content in various forms. In addition to the training materials in hard copy, digital media are used. Lessons are conducted in video conference mode on the ZOOM platform. With studyPORT, the University of Hagen provides a user-friendly portal environment. Digital services, important for distance learning, can be managed from studyPORT (e.g., Moodle, virtual learning site, examination portal, university library catalogue, etc.). Each distance learning course has a portal that provides comprehensive information on the content and process of distance learning.

Convicts take oral exams at their place of detention, using video conference or written communication, sending the completed tasks by e-mail. Registration for the exam is done through the examination portal. Participation in face-to-face activities and examinations shall be governed by individual prison conditions [9]. For example, the Hagen University provides 16 distance learning places for convicts held the correctional facility in W rzburg [10, p. 223].

At the Allensbach University of Applied Sciences convicts can obtain a bachelor's degree by distance using the modern learning environment. These include online lectures and workshops, learning applications, Internet courses and seminars.

There is no free access to the Internet for convicted prisoners in German prisons, but at the request of the prison safe and restricted access can be established, through which one can connect to the e-learning systems of the educational institution daily from 8.00 to 15.00 for doing tasks or ordering specialized literature. It is allowed to send and receive e-mails but only under supervision of correctional officers. A copy of each incoming and outgoing electronic document is sent to the institution employee responsible for the said category of convicted persons [10, p. 223].

Detention conditions for convicted students differ. In most institutions, it is prohibited to have a stationary computer in the cell, so special rooms with access to computers and teaching materials are provided so that students can prepare and print qualifying papers. At the same time, the training takes place under constant control of the staff, who check what convicts are doing [10, pp. 224].

A big incentive for convicts in Germany is the fact that they can get higher education free of charge. It is believed that education can change convicted persons' attitudes and make them law-abiding citizens able to integrate into the labor market after release, accept social support and prevent further relapse. Today, however, this approach is increasingly criticized by the most conservative part of German society, which advocates the provision of such services only on a reimbursable basis.

Portugal belongs to the Iberian type of prison system, which does not have private prisons. One of its special features is the existence of so-called family prisons, that is, the staff, regime, cells, organization of work and training of convicts in such a penitentiary institution are adapted to the specifics of keeping spouses. Another feature is the prison authorities of the Directorate-General of Reintegration and Prison Services (DGRSP) are subordinate to the Ministry of Justice and the Ministry of Internal Administration. The Portuguese penitentiary system consists of 51 correctional facilities of several types: 15 central prisons (high, medium and low security) for convicts sentenced to imprisonment of more than 6 months; 31 regional prisons for convicted prisoners sentenced to prison terms of less than 6 months and 5 special prisons for female prisoners, juveniles (12 to 16 years old, in some cases minors may be kept in these institutions until the age of 21), former policemen, persons suffering from diseases requiring permanent medical care [9].

The Portuguese Association of Prison Education (APEnP) plays an important role in popularizing educational programs of higher education among convicts. It has its offices at the University of Tr s-os-Montes and Alto Douro (UTAD), at the School of Human and Social Sciences (ECHS). In 2017, the first meeting of the General Assembly of the Portuguese Association of Prison Education (APEnP) was held at the University of Tr s-os-Montes and Alto Douro (UTAD) in Vila Real. The APEnP program was adopted, which includes the following areas:

– stimulating and improving the education system in Portugal prisons in accordance with the Recommendations of the Council of Europe;

– solving the problem of low qualifications of convicts by motivating them to participate in educational programs, courses and modules of higher education;

– coordination of training programs for teachers operating in the prison context;

– conducting research at the national level in order to communicate with specialists who teach in prisons.

Two projects on e-learning in prisons have been implemented in Portugal: “EPRIS” (2015) and “Educação a Distância e e-Learning em Estabelecimentos Prisionais em Portugal. Desenvolvimento e Avaliação de um Modelo Pedagógico Inclusivo” (2016) [9].

In 2016, an agreement was signed between the Directorate-General of Reintegration and Prison Services (DGRSP) and the Open University on the creation and development of a Virtual Campus with secure access and content for convicts to get higher education using distance and e-learning [6].

Finland’s experience in organizing educational space for convicts is also worth considering. Education is organized by educational institutions operating outside the prison. Expenses are covered by the Ministry of Education and Culture, and premises and materials are provided by prisons.

In 2015, amendments regarding electronic communications and a number of specializations were added to the Imprisonment Act, thus expanding the rights of convicts to receive all levels of education, including higher.

Since 2012, all open prisons have been equipped with virtual desktop infrastructure provided by Oracle (VDI devices). Convicts use the so-called dumb terminal (screen, keyboard, mouse, smart card reader) [11].

A convicted person may be granted permission to use the Internet to solve educational and legal issues or for other important reasons, for example, for e-learning and contacts with the authorities. In a closed-type prison, convict’s access to non-authorized websites is blocked. Permission may be granted if the use of the Internet does not threaten the security of the prison. A convict may be allowed to send and receive emails to maintain contact with teachers, resolve legal issues, or for other important reason. E-mails sent and received must pass through a server controlled by prison staff. Outgoing emails are forwarded only after the prison officer evaluates them. Permission may be granted if their detention does not threaten the order in the prison or the safety of a prisoner or another person, if the sender and recipient of the communication are properly checked.

Convicts log into the electronic system using a prison smart card (not a personal one), software and administration on an external server (Fujitsu) [11]. In closed-type prisons, the use of the Internet has been tested in educational projects. IPads have been tested to communicate with the teacher via Adobe Connect. Since

2015, a pilot project with the use of VDI devices has been implemented in closed-type prisons; convicts can only access the closed Moodle learning environment. Internet links can be replaced by other educational materials (texts, illustrations). All the material is posted on the Moodle educational platform; convicts and teachers can send messages to each other. Final and intermediate certification is also carried out on this platform.

Thus, in most foreign prisons, convicts have the opportunity to realize the right to education. However, the range of what is offered and how it is organized and presented differs significantly in different institutions. Professional orientation and counseling allow convicts to expand their participation in educational programs and help them adapt to society. Thus, in Greece, all convicts participating in educational programs have access to information about educational opportunities inside and outside the prison, as well as about possibilities of subsequent employment. In the UK, Germany, and Ireland, vocational guidance specialists work with convicts, including in search of further training opportunities, both during the process of serving a sentence and after release [9].

In most countries, the certificates received by convicts do not differ from those issued by educational institutions in general, they do not contain information that education is received in a correctional institution. This is one of the significant incentives for the motivation of convicts to get an education. In the USA, it is practiced to grant early release to convicts for successful educational activities (participation in research, project development, etc.) [12].

Another incentive for obtaining higher education is the practice of allowing certain categories of convicts to participate in educational programs outside the penitentiary. A pilot project was implemented in Lithuania, Malta and Romania, in which convicts attended educational courses outside the prison. For example, in Malta, this is already an established practice. It concerns convicts who have served six months of punishment (as minimum), if they are convicted for a term of 18 months or more. The educational process takes place at the Malta College of Arts, Sciences and Technology (MCAST), the Institute of Tourism Studies and the University of Malta. The reasons for the emergence of such a practice are the following: the opportunity to receive other ("prestigious") diplomas than those issued by penitentiary institutions; limited capacity of penitentiary institutions; more successful reintegration into society; promotion of a responsible attitude to classes in order to meet requirements of educational institutions of this level.

At the same time, the percentage of convicts receiving certificates of higher education in foreign prisons remains low, and there are several reasons for this: convicts' low level of education; insignificant number of prisons with conditions for providing convicts with the opportunity to obtain higher education; limited skills of convicts in the field of information educational technologies; low language proficiency; health restrictions (presence of a disability); and limited access of convicts to the Internet for educational purposes with regard to security requirements of correctional institutions. Reasons of an institutional nature are the following: interrupted training caused by transfer to another institution; personnel shortage; and insufficient places for convicts to study. Psychological reasons are also important: unsuccessful previous experience, low self-esteem, problems with drug addiction, learning difficulties, etc. Material reasons include high tuition fees for higher education programs and origin from a socially disadvantaged environment.

Conclusions

1. Most countries recognize the value of prison education as a way to re-socialize convicts and a useful period of detention. Improving the educational level of convicts contributes to their competitiveness after release.

2. In many foreign countries, conditions are created for the implementation of educational programs of higher education of persons in correctional institutions using distance education technologies.

3. Educational programs are adjusted depending on the profile of convicts in a particular country. The unique situation has an impact on the needs of convicts and educational decisions and programs. The most effective programs are those that take into account the local situation and convicts' individual needs.

4. For admission, convicts, like other potential students, should have at least secondary education or a certificate of passing a qualifying

exam, fill out an application and provide necessary documents to be enrolled in the university education program. Most forms are filled out on paper if access to a computer is not provided.

5. The learning process is usually carried out in a mixed format. Teachers and university students come to correctional institutions to conduct face-to-face classes.

6. In most correctional institutions, educational path consultants assist convicts in developing an individual training plan and advise on issues related to programs available in a particular correctional institution. Lessons are often conducted in the same way as in a traditional educational institution, but with restrictions, including the specifics of the regime of detention of convicts, technical and technological limitations.

Summing it up, we can state that most countries have a system of higher education programs for those serving sentences in places of deprivation of liberty. However, there is no unified model of higher education in foreign prisons. In each specific case, the issue of educating convicts at the university is decided based on possibilities of the parties. As many regions and countries, there are so many different approaches to the organization of higher education for those sentenced to imprisonment.

The Russian penal system also has positive experience in teaching convicts according to higher education programs. More than a dozen and a half Russian state and commercial universities provide them with such an opportunity. It is advisable to increase the number of educational organizations developing modular programs implemented in isolation. We believe that familiarity with foreign experience will make it possible to create a network of partner organizations to assist convicts, for example, by creating specialized funds for prison scholarships, prison education funds, etc. We consider it promising to expand incentives, limits and ways of informing convicts about options of training inside and outside the correctional institution and possibilities of subsequent employment. This issue is of particular importance for convicts who have interrupted their studies at the university due to a criminal record.

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