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CONTENT

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Organization and Activity of the Soviet Convoy Guard in the Early 1950s

ALEKSANDR E. EPIFANOV
Management Academy of the Ministry of the Interior of the Russian Federation, Moscow, Russia, mvd_djaty@mail.ru, https://orcid.org/0000-0002-5686-5770

Abstract

Introduction: the article is devoted to the analysis of problems related to the organization and activities of the convoy guards of the Ministry of Internal Affairs of the USSR in the early 1950s. The chronological framework of the study is determined by the dates of the reorganization of convoy troops into convoy guards, as well as the unification of internal guards and convoy guards into a single military formation – internal and convoy guards of the Ministry of Internal Affairs of the USSR. *Purpose*: summarizing the experience of the convoy guard in the period under study, to supplement and correct the ideas developed in the history of domestic internal affairs bodies and the penitentiary system in particular. *Methods*: the article is prepared with the help of general scientific and historical research methods. The methods of materialistic dialectics, chronological, comparative, system analysis, statistical, etc. are also used. Archival materials of the Convoy Guard Department of the Ministry of Internal Affairs of the USSR, most of which are first introduced into scientific circulation, help generalize the escorting experience. *Results*: the analysis of the regulation and practice of convoy guards of the Ministry of Internal Affairs of the USSR shows that the period under consideration was characterized by further improvement of the organization and activities of its units. In turn, this ensured implementation of crucial tasks to ensure activities of internal affairs bodies, state security and justice. Activities of the convoy guard leadership aimed at strengthening discipline, service and political training of personnel were of great importance. *Conclusion*: having the purpose of escorting prisoners, the convoy guard focused on servicing the bodies of the Ministry of Internal Affairs, the Ministry of State Security, the Ministry of Justice and the Prosecutor's Office of the USSR. Thus, it ensured their work in matters of state security of the Soviet Union, fight against crime, as well as isolation of persons who violated Soviet laws. The main task of the convoy guard during the study period was to prevent escapes of the escorted contingents and at the same time to ensure the maintenance regime established for them.

Keywords: convoy guards; Ministry of Internal Affairs; prisoners; escapes.

5.1.1. Theoretical and historical legal sciences.

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Introduction

Despite all the variety of literature related to the history and legal status of domestic internal troops, the problems under consideration are insufficiently studied. In the works of Z.A. Astemirov [1], F.Kh. Akhmadeev [2], G.S. Beloborodov [3], M.G. Detkov [4], A.I. Zubkov [5], V.V. Knyazev [6], I.I. Kizilov [7], A.Ya.Malygin [8], V.F. Nekrasov [9–11], P.P. Rasskazov [12], A.S. Smykalin [13], V.P. Tonkonogov [14], V.G. Timofeev [15], P.A. Fedorov [16] and others, the problems related to the history and legal status of the convoy guard are considered from the perspective of the organization of internal affairs bodies, internal troops and penitentiary institutions at various historical stages.

Activities of convoy troops in the pre-revolutionary period, during the Great Patriotic War and in the first post-war years are described by A.E. Epifanov [17–19], E.E. Krasnozhenova [19, 20], S.V. Kulik [20], M.M. Stepanov [19] and others. In these works, organizational and legal foundations of activities of the convoy guard during the period under study were slightly reflected and did not receive systematic and comprehensive research.

Results

To conduct investigation, judicial proceedings, and execute punishment, the Soviet state apparatus had prison, camp and other bodies associated with deprivation or restriction of liberty, while escorting was entrusted to the convoy guard.

During the 1917 October Revolution, the convoy guard that had previously operated was abolished during the breaking of the old pre-revolutionary state apparatus as an institution used in the interests of the tsarist autocracy and the exploiting classes. However, soon a special armed organization was required to protect penitentiary institutions and to escort arrested and convicted criminals.

On April 20, 1918, by order of the People's Commissar for Military Affairs, troops of the convoy guard were formed as part of the Red Army. They were subordinate to the Main Inspection of the Convoy Guards of the People's Commissariat for Military Affairs (Russian State Military Archive (hereinafter – RGVA). Archive 40. List 1. Case 335. Page 103 flesh side)

The subsequent reorganization of convoy troops was carried out following transformations in the system of bodies of the All-Russian Extraordinary Commission for Combating Counter-Revolution, Speculation, and Sabotage (Cheka), the Joint State Political Directorate (OGPU), the People's Commissariat for Internal Affairs (NKVD), the People's Commissariat for State Security (NKGB), the Ministry of Internal Affairs (MVD), and the Ministry of State Security (MGB). Guarding prisons and escorting prisoners, convoy troops ensured the fulfillment of the tasks assigned by the state to the bodies of internal affairs, state security and justice. On February 2, 1939, the Council of People's Commissars of the USSR (SNK USSR) adopted the Resolution "On the reorganization of the management of border and internal troops", according to which the Main Directorate of the NKVD USSR was separated from the Main Directorate of the Border and Internal Troops of the NKVD USSR. The latter was subordinate to the Deputy People's Commissar of Internal Affairs of the USSR for troops, and then directly to the Minister of Internal Affairs of the USSR (RGVA. Archive 40. List 1. Case 335. Page 104).

In the first period of its existence, the convoy guard consisted of provincial and county commands, which were subordinate to the corresponding military commissariats. They were staffed on a voluntary basis, and commanders were elected. Further, convoy troops were staffed on a par with the Red Army units from among citizens of military age.

Over time, the organizational structure of troops became more perfect and harmonious. Ultimately, convoy troops were organized according to the type of formations of the Red Army. Their departments were consolidated into units (regiments, battalions) and units into formations (divisions, brigades). While troops were reorganized, the quality of their service,

combat and political training, and discipline improved (RGVA. Archive 40. List 1. Case 335. Page 104).

On September 29, 1939, by order of the NKVD USSR, the Charter of the NKVD Convoy Troops Service was put into effect, which replaced the temporary charter of the USSR convoy guard of 1928. According to the Charter, these troops were part of the Armed Forces of the USSR and, as special troops, had the purpose of escorting persons detained for violating laws of the Soviet state, as well as guarding prisons. These provisions were fixed in the Regulations on convoy troops approved by the Order of the NKVD USSR on November 20, 1939 [6, p. 21].

With the beginning of the Great Patriotic War, the tasks of convoy troops were greatly expanded and become more diverse. At the same time, the conditions for their implementation became more complicated, especially in the frontline zone. In addition to the above, the tasks of convoy troops during this period included escorting prisoners of war from the fronts to rear camps, their protection both in camps and at work. In addition, convoy troops were involved in the protection of corrective labor camps, escorting and guarding their prisoners at the place of work. They escorted relocated prisoners and special cargo transported by rail, as well as guarded special facilities. In addition, convoy troops performed tasks to assist border and internal troops in operations to counteract enemy parachute landings, catch deserters and other types of service to protect the hinterland.

A number of units of convoy troops, by virtue of their official duties, took direct part in the fighting against the Nazis. In particular, this took place during the defense of Leningrad, Odessa, Rostov-on-Don, Voronezh, Stalingrad, etc. (RGVA. Archive 40. List 1. Case 335. Page 105).

On May 6, 1951, convoy troops were reorganized into the convoy guard of the Ministry of Internal Affairs of the USSR. The Resolution of the Council of Ministers of the USSR "Issues of the Ministry of Internal Affairs of the USSR" relieved them from protecting prisons of the Ministry of Internal Affairs and the MGB, camps for especially dangerous state criminals, as well as war criminals from among prisoners of war. By order of the Minister of Internal Affairs of the USSR, these functions were transferred to the Main Directorate of Camps and Places of Incarceration (GULAG) of the Ministry of Internal Affairs of the USSR. The convoy guard began to only escort prisoners (RGVA. Archive 40. List 1. Case 335. Pages 106, 107).

This resolution stipulated that the convoy guard was to escort prisoners according to the requirements of the prosecutor's office, judicial, investigative and medical authorities; from prisons to camps and colonies of the Ministry of Internal Affairs; guard and escort prisoners at meetings of various judicial instances, including military tribunals, linear transport courts, as well as at their exit sessions; escort prisoners from places of detention to special points for exchange with scheduled convoys and their transportation to places of detention.

These changes led to changes in the organizational structure of the convoy guard. General management of official activities, training, education and staffing, as well as issues of providing personnel was carried out by the Main Directorate of the Convoy Guard of the Ministry of Internal Affairs of the USSR. It was headed by a chief with deputies for general issues, politics, and personnel (RGVA. Archive 40. List 1. Case 335. Page 107). Political, service, training, personnel, organization and manning departments performed the tasks of managing units of the convoy guard. In addition to them, there were special services: communications, dogs, vehicles, apartment maintenance, medical, veterinary and the secretariat.

The convoy guard structure was composed of departments, separate detachments and divisions, subordinate to the head of the Guard Directorate. The department included the directorate, which consisted of the political department, command unit, personnel department, support services, communications, financial department, medical and veterinary. The head of the department had deputies for drilling, politics and logistics. Structural divisions of the departments were detachments and separate divisions, the number and numerical composition of which depended on the amount of official tasks performed. The structure of detachments was similar (RGVA. Archive 40. File 1. Case 335. Pages 108, 109).

Divisions consisted of the command unit and teams. The number of divisions in the detachments and teams in the divisions was not the same. All teams consisted of 3–4 groups, and each group was divided into 4 departments.

Each republican center had the department's management with a head unit, or separate units that were not part of the departments. Units and subunits of the convoy guard were located in regional centers (RGVA. Archive 40. List 1. Case 335. Page 109).

Official activity of the convoy guard depended on the type of the penitentiary facility, subordinate to the MVD and the MGB. Due to different numbers and characteristics of prisoners, goals and conditions of escorting, the units guarding prisoners differed in their tasks, composition, and organization of the service. Convoys were named according the type of escorting (echelon, scheduled, through, special and urban) (RGVA. Archive 40. File 1. Case 335. Page 110).

Echelon convoys escorted large groups of prisoners to camps and colonies of the Ministry of Internal Affairs. Convicts were transported on separate trains, usually in freight cars, as well as on steamships or barges. Their main task was to protect prisoners and prevent their escapes. In terms of their numbers, echelon convoys exceeded all other types and were associated with the greatest expenditure of funds. Their service was considered the most difficult and required a special strain of moral and physical strength. This type of service in the convoy guard was the main one. The service in the echelon convoy lasted 2 months or more. The personnel undergone thorough training to successfully complete assigned tasks. In some cases, in the absence of railways and waterways, convicts walked along dirt roads or were transported by motor transport. The composition of convoys in these cases was similar to echelon ones (RGVA. Archive 40. List 1. Case 335. Page 110).

Judicial, internal affairs and state security bodies often transported solitary prisoners or small groups of them from one locality to another. To ensure timely escorting of this contingent, the so-called scheduled convoys operated along all key railways and waterways, received prisoners from convoys of interested bodies, and handed over to them those transported to their destination. This procedure was regulated by the "Instructions for escorting and protecting prisoners in judicial institutions and at the exchange points by convoy guards of the Ministry of Internal Affairs of the USSR" of December 29, 1952 (RGVA. Archive 40. List 1. Case 335. Page 134).

These convoys were called scheduled since they moved according to a certain plan, along established routes, on certain passenger trains or steamships, according to a fixed schedule. The exchange of prisoners was carried out at stations or piers, called exchange points. Scheduled convoys transported the contingent in custody and prisoners from prisons to trials and back, as well as escorted solitary prisoners and small groups of them from prisons and camps to various construction sites.

The scheduled convoy service occupied a very important place in the general complex of operational and service activities of the convoy guard in the studied period both in terms of the number of transported contingent and the importance of the transportation carried out. At the same time, in comparison with other types of escorting, it did not require the involvement of a large number of personnel. The importance of the scheduled convoy was proved by the close connection with bodies and institutions they serve.

Scheduled convoy chiefs were selected from among the officers and the most trained sergeants who knew the service well, were disciplined, morally stable, able to ensure high quality of service, maintain discipline and order in the convoy and create strict regime conditions for the escorted contingents within the limits of Soviet law. A lot depended not only on the training level of scheduled convoy chiefs, but also on their volitional and moral qualities. Practice showed that the absence of such often led to tragic consequences. So, in March 1952, one of the chiefs of the Baku–Rostov scheduled convoy could not maintain the regime and 8 prisoners attacked the convoy. His counteract attempts were rather hesitant (RGVA. Archive 40. File 1. Case 335. Page 94 flesh side).

Scheduled escorting was very important for ensuring the timely transportation of convicted prisoners from one prison and camp to another. This was especially true for staffing significant construction sites with a workforce of corrective labor camps. Previously, they were subordinate to the Ministry of Internal Affairs of the USSR, but during the study period they were transferred to the Ministry of Justice and some other ministries.

This circumstance raised the role of scheduled and through escorting in 1952 and early 1953 due to the unfolding construction of grandiose hydraulic structures on the Volga and

other large-scale construction projects in the eastern and in the European part of the Soviet Union. Scheduled and through convoys ensured quick transportation of a large number of prisoners having relevant knowledge and skills to these construction sites (RGVA. Archive 40. List 1. Case 335. Page 133).

Since June 1953, a large number of prisoners had been transferred, mainly to industrial camps, due to the release of many prisoners under amnesty and the associated liquidation of a number of camps and camp units.

These circumstances imposed great responsibility on the command and command units of departments and units of the convoy guard. They had to organize the scheduled escort service in such a way that all tasks of the Convoy Guard Department of the Ministry of Internal Affairs of the USSR, as well as requests from local authorities for the transportation of contingents, especially to construction sites, were carried out unhindered, in a short time and were under constant control of command units (RGVA. Archive 40. List 1. Case 335. Page 134).

Despite small volumes (within 2–3% of the total number of the escorted), the escort of other categories of contingents, namely exiles, special settlers, family members of traitors to the motherland, juvenile delinquents, etc., required serious attention of command units of departments and units of the convoy guard (RGVA. Archive 40. File 1. Case 335. Page 134).

The main purpose of the scheduled convoy was still escorting suspects from prisons, police stations and linear departments of the Ministry of Internal Affairs, as well as transporting convicts to places of serving sentences individually and small groups. At the same time, transportation of specialists from among prisoners to construction sites became of paramount importance.

Scheduled convoys traveled by rail in special prison wagons. The latter consisted of passenger cars with cells equipped for detaining prisoners, as well as compartments for the head of the convoy and escorts, kitchens for cooking food for the convoy. On steamships, convoys occupied separate cabins or holds.

Ensuring the regime of detention of prisoners and other contingents in a prison wagon or on a steamship in accordance with the established procedure included the following: careful preparation of the convoy for the task, firm knowledge of their rights and obligations towards prisoners; constant study of the contingent both when receiving, boarding the car (steamer), and during escorting; isolation of the contingent from citizens; reasonable placement of the escorted in cells of the carriage (cabins, compartments of the hold of the steamer); strict control over prisoners' observance of the order and rules of conduct established for them; providing the escorted with food, water and boiling water; ensuring the safety of convicts' personal belongings (especially special settlers and family members of traitors to the motherland); providing them with possibility to visit restrooms; applying measures of influence to violators of the detention regime; constant monitoring of convoys' work to ensure a strict regime of the escorted.

During the period under study, the Directorate of the Convoy Guard noted a number of gross violations of the contingent maintenance regime on the part of scheduled convoys, since commissioned officers paid insufficient attention to this issue. So, on October 8, 1952, a scheduled convoy of one of the divisions allowed cohabitation of its personnel and prisoners with accompanied (RGVA. Archive 40. List 1. Case 335. Page 179).

On January 17, 1953, by order of the Ministry of Internal Affairs of the USSR, as well as instructions for the planned escort service, the prevention of escapes of escorted contingents under any circumstances was stated as the main task and main requirement for the convoy guard. "Service without escapes" was declared not a slogan, but a practical combat task. Most officers, sergeants and privates of the convoy guard performed their duties in good faith, showing resourcefulness and skill when serving in convoys. So, in 1952, the head of the scheduled convoy of the 54th detachment Sergeant Lebedev got into a crash and, despite severe injuries of almost the entire convoy, managed to prevent the escape of prisoners. Skilful actions were demonstrated by the convoys in 1952–1953; they counteracted to 13 prisoners' attacks (RGVA. Archive 40. List 1. Case 335. Page 136).

At the same time, practice showed that the issue of ensuring the reliability of security had not always become central in the daily work of command units of departments and units when organizing scheduled escorting. One of the weak points in the work of both scheduled and

other convoys, which significantly reduced the reliability of security, was a low-quality search of received prisoners. In turn, this gave them the opportunity to keep knives, saws and other metal objects that could serve as weapons in attacks and other bandit manifestations. So, at the beginning of 1953, when receiving 20 "criminal-bandit" prisoners from the convoy in the prison, 11 "huge-sized" knives were exacted during the search (RGVA. Archive 40. List 1. Case 335. Page 117).

According to the established procedure, all prisoners received by the scheduled convoy from oncoming convoys, police, prisons, camps and colonies of the Ministry of Internal Affairs were subject to the most thorough search. The necessity of this measure was dictated by the fact that prisoners tirelessly used various methods and tricks to keep various items with them for attacking the convoy or escaping. Command units of the convoy guard had to conduct a daily in-depth study of prisoners' tricks in order to elaborate advanced methods of work.

A thorough search of prisoners and their belongings in the prison car was usually carried out in a free cell, and in its absence – in the corridor. For a personal search, prisoners had to take off their outer clothing and shoes. Female prisoners were not searched by the convoy, only their belongings. Prisoners prone to escape were searched personally by the chief of the convoy, or his assistant (RGVA. Archive 40. List 1. Case 335. Page 183).

Prohibited items, valuables, and money in excess of the amounts allowed for storage found during the search were taken away by the convoy and recorded by its chief in the travel journal. The owner of the items was given a receipt. According to the Directive of the Directorate of the Convoy Guard of February 20, 1953, noncompliance with the established procedure entailed the loss and theft of prisoners' belonging and was regarded as a violation of Soviet legality (RGVA. Archive 40. List 1. Case 335. Page 164).

The escorted used the slightest disorganization and weakening of the detention regime to attack the convoy. Mostly the convoy was attacked when accompanying prisoners to the restroom. In 1952, for example, 10 such cases were recorded (RGVA. Archive 40. List 1. Case 335. Page 180). In this regard, the command and command units took pains to study prisoners' tricks to conceal these items from the convoy; increase vigilance and train personnel in more advanced search methods and techniques; and strengthen control over convoys' activities to receive and search prisoners. There was "a sharp reaction" to any slightest manifestations of irresponsibility and complacency on the part of the convoy (RGVA. Archive 40. List 1. Case 335. Page 137).

The chief of the scheduled convoy was responsible for ensuring a proper quality service, managed convoy's activities and ensured the detention regime. The reception of convicts started with a survey of claims and a detailed verification of the identity of each prisoner according to a personal file certificate. In case a prisoner had any claims or complaints to the prison administration, the convoy chief was obliged to suspend the admission procedure until such were resolved.

The convoy refused to accept those who could not follow the doctor's prescriptions; those who had declared a hunger strike; cripples requiring outside help when traveling (if the prison administration had not provided accompanying persons for this purpose); women who were 6 months pregnant and over (according to the doctor's certificate); those who were drunk; those who had not passed sanitary treatment and the established quarantine period; those who were unsatisfied with food according to the established norm; those who were dressed out of season (taking into account climatic conditions). When receiving convicts in prison, the chief of the convoy had to clarify the presence of groups hostile to each other, as well as prisoners prone to escape, in order to organize their transportation in separate cars and proper placement in a prison car or steamer (RGVA. Archive 40. List 1. Case 335. Page 160).

If prisoners were brought to the station to prison wagons by an oncoming convoy, then the chief of the scheduled convoy started accept prisoners directly at the wagon. At the same time, he was obliged to carefully study characteristics of the delivered prisoners fixed in personal file certificates and information of the chief of the oncoming convoy (RGVA. Archive 40. List 1. Case 335. Page 162).

Scheduled convoys were to strictly observe Soviet legality, prevent rudeness, illegal actions and requirements in relation to the escorted. In the light of the measures carried out by the party and Soviet bodies in the field of improving state and economic management during the

period under study, the relevance of compliance with the rule of law increased significantly.

During the period under study, the fulfillment of this task was achieved by daily and persistent work of clarifying the basics of the Soviet corrective labor policy to the personnel. At the same time, each serviceman was called upon to understand personal responsibility for the exact and strict implementation of the order and rules of transportation established by the Soviet laws.

At the same time, some convoy guards violated Soviet legality, beat and insulted the escorted, embezzled or stole their personal belongings. Prisoners were often refused to be taken to the restroom. On February 4 and 5, 1953, for example, in the scheduled convoy on the route of Chelyabinsk – Novorudnaya, the prisoners were forced to defecate in cells, using the dishes they had (RGVA. Archive 40. List 1. Case 335. Page 139).

Convoys neglected cases of theft and loss of prisoners' personal belongings. An irreconcilable struggle was waged against such manifestations. So, in March 1952, in the scheduled convoy on the route Kharkov – Novosibirsk, his chief violated the order of placement of escorted special settlers. As a result, a bag with personal belongings totaling to 1,944 rubles disappeared. By decision of the head of the Directorate of the Convoy Guard, this amount was recovered from the perpetrators from among the command of the unit and the convoy and sent to the victim (RGVA. Archive 40. List 1. Case 335. Page 140).

The issue of strengthening discipline in convoy guards was also important. Unfortunately, according to the command of convoy guard units, the state of the personnel discipline deteriorated noticeably during the study period. It was scheduled and through convoys who most often violated discipline regulations. In this regard, the struggle for strengthening discipline and increasing the personnel's responsibility for the conscientious performance of official duty and the accurate and precise implementation of the Soviet Army statutes and service instructions remained one of the key tasks of political departments of convoy guards in their daily activities for the management of the service, training and education of the personnel (RGVA. Archive 40. List 1. Case 335. Page 141).

Through convoys transported prisoners in prison wagons or on steamboats without exchanging them on the way. Such convoys were appointed in cases when it became necessary to escort prisoners in directions not served by scheduled convoys; to unload prisons and exchange points, in cases when scheduled convoys, due to their limited capabilities, were unable to perform this work; and to escort prisoners to the points of formation of echelons from places of detention of the Ministry of Internal Affairs. Through escorting was carried out mainly according to the instructions of the Directorate of the Convoy Guard due to the limited number of prison wagons, used mainly for scheduled escorting. Through convoys performed their service as well as planned ones. The essential difference between them was that through convoys in most cases traveled by freight trains and not according to the schedule. Their routes were determined on a case-by-case basis without exchange of prisoners along them. Nine people were engaged in scheduled and through convoys (RGVA. Archive 40. List 1. Case 335. Pages 112, 112 flash side).

Periodic checks of the practical performance of the service were of great importance in ensuring the proper quality of service by convoy guard units. These were organized in such a way that at least 50% of the scheduled and through convoys were controlled en route, usually on stretches or remote stations, and in different sections. Exhaustive measures were taken to correct revealed shortcomings and their execution was monitored. It is worth noting that the quality checks of convoys were severely criticized by the higher command. In general, the control was assessed as sufficient in terms of its coverage and low in its quality. As noted, often checks were extremely superficial; inspectors neglected shortcomings and no one asked them for the quality of their work. In one of the detachments, for example, for 5 and a half months in 1953, 490 types of convoys were checked. At the same time, not a single flaw was revealed in any of them, which clearly did not correspond to reality. In this regard, the command of convoy guard units faced the task to struggle against even slight manifestations of complacency in the leadership of the service. Everyday control over the service and continuous work to improve its quality were recognized as the best means of combating them (RGVA. Archive 40. List 1. Case 335. Page 157).

Special convoys were designed to protect and escort especially dangerous state crimi-

nals. Transportation of this contingent was organized in separate cells of prison wagons of scheduled convoys. The special convoy service was independent of the scheduled convoy, in accordance with a special order of the NKVD USSR issued in 1939. In each individual case, the special convoy personnel was selected and instructed by the commander of the unit or the chief of the command unit (RGVA. Archive 40. List 1. Case 335. Pages 113 flash side, 114).

Urban convoys escorted prisoners to judicial institutions and protected them during trials, delivered prisoners to exchange points to hand them over to scheduled convoys, as well as escorted accepted contingents to places of detention. These tasks were carried out at the points of deployment of convoy units and subunits.

According to the nature of service, convoys were divided into city convoys that transported prisoners from prisons to the courts and back; judicial that guarded prisoners during trials; oncoming that handed over prisoners to scheduled convoys and escorted them to prisons.

As a rule, prisoners were escorted in prison vehicles. Ordinary covered vehicles could be used in their absence and for the delivery of prisoners to circuit courts outside the city.

Escorting prisoners to circuit courts and service at exchange points were considered the most difficult and dangerous due to possible escape of prisoners. Special attention was paid to their organization on the part of commanders of the convoy guard units. The Ministry of Internal Affairs of the USSR and the Directorate of the Convoy Guard attached great importance to the city escort service, especially in remote, separately deployed teams. The latter were subject to reformation for their organizational strengthening and recruitment with the best personnel (RGVA. Archive 40. List 1. Case 335. Pages 114, 114 flash side).

On March 12, 1954, the internal and convoy guard were merged into a single military formation. To manage it, there was established the Ministry of Internal Affairs of the USSR subordinate to the Main Directorate of Internal and Convoy Guard (GUVKO) [15, p. 37]. The history and legal status of the new system require special consideration.

Conclusion

During the period under study, the convoy guard of the Ministry of Internal Affairs of the USSR fulfilled its main task of escorting prisoners. It was released from performing unrelated functions and focused on servicing the bodies of the Ministry of Internal Affairs, the Ministry of State Security, the Ministry of Justice and the Prosecutor's Office of the USSR. Escorting and protecting prisoners, the convoy guard ensured state security, struggled against crime and isolated society from persons who violated Soviet laws.

Key tasks of the convoy guard during the study period were to prevent escapes of the escorted contingents and at the same time to ensure the maintenance regime established for them.

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INFORMATION ABOUT THE AUTHOR

ALEKSANDR E. EPIFANOV – Doctor of Sciences (Law), Professor, Chief Researcher at the Department for the Study of the History of the Ministry of Internal Affairs of Russia of the Research Center of the Management Academy of the Ministry of the Interior of the Russian Federation, Moscow, Russia, mvd_djaty@mail.ru, https://orcid.org/0000-0002-5686-5770/

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The Concept and Implementation of Personal Responsibility: Theoretical and Procedural Aspect (on the Example of Article 113 of the Constitution of the Russian Federation)

ALEKSEI G. SAMUSEVICH
Irkutsk Institute (Branch) of the All-Russian State University of Justice (RPA of the Ministry of Justice of Russia), Irkutsk, Russia
Irkutsk National Research Technical University, Irkutsk, Russia
samusevich79@mail.ru, https://orcid.org/0000-0003-0845-1343

Abstract

Introduction: the article is devoted to theoretical aspects of the implementation of personal responsibility of the Chairman of the Government of the Russian Federation to the President of the Russian Federation. The author analyzes Article 113 of the Constitution of the Russian Federation, as well as norms of the Federal Constitutional Law "On the Government of the Russian Federation" regulating personal responsibility of the Chairman of the Government of the Russian Federation in case of improper execution of his powers. It is noted that personal responsibility arises in the process of carrying out certain activities, within the framework of which a respectful and positive attitude of the subject to this activity is formed in order to achieve a positive result. *Purpose*: to give a theoretical and legal characterization of personal responsibility, as well as consider problematic issues of its implementation. The authors formulate the following research tasks characterizing the logical chain of reflections on personal responsibility and punishment of the Chairman of the Government of the Russian Federation: to consider general issues of personal responsibility of the Government of the Russian Federation; analyze key elements of personal responsibility; characterize the basics for implementing Article 113 of the Constitution of the Russian Federation and identify certain aspects. *Methods*: the methodology is determined by the specifics of the legal regulation of personal responsibility implementation. The article uses a complex of general scientific (dialectical, analysis and synthesis, system-structural approach) and special cognition methods. The formal legal method helps analyze provisions of legal acts regulating the process of implementing personal responsibility. *Results*: Personal responsibility can be realized both in positive and negative aspects. At the same time, there are 2 types: constitutional and legal, and disciplinary responsibility. The author models the process of implementing personal responsibility on the example of bringing the Chairman of the Government of the Russian Federation to legal liability. *Conclusion*: based on the conducted research, it is concluded that there are many unresolved problems of an applied nature in the field under consideration, which do not allow us to talk about effectiveness of personal responsibility. The legislative consolidation of this type of responsibility does not clarify the process of its implementation. It is necessary to actively continue scientific research and legislative initiatives on the analyzed issue, which will improve the quality of public administration.

Keywords: legal liability; constitutional and legal liability; personal responsibility; constitutional law enforcement; illegal behavior.

5.1.1. Theoretical and historical legal sciences.

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Introduction

In addition to establishing the principles of building constitutionalism in Russia, the text of the Constitution of the Russian Federation also contains articles that directly or indirectly provide for various types of legal liability for some subjects of constitutional and legal relations implementing tasks in the field of state and municipal administration. Undoubtedly, legal liability is still an effective tool in the mechanism of restoring violated rights and freedoms, including in the activities of public officials.

To substantiate the relevance of the presented topic, we would like to mention that it is primarily due to the fact that the issues of establishing and implementing personal responsibility of the Chairman of the Government of the Russian Federation, in particular, to the President of the Russian Federation, are currently poorly studied not only in terms of general theoretical positions, but also in the context of the constitutional law theory. Thus, the concept defining personal responsibility, its elements and formation is not developed. In addition, certain aspects of implementing personal responsibility are not specified, including grounds for bringing the Chairman of the Government of the Russian Federation to this type of liability, as well as forms of its implementation. It is not entirely clear to what kind of liability (constitutional, disciplinary, administrative, etc.) the Chairman of the Government of the Russian Federation may be brought, as well as what punishment will be imposed as a result. And most importantly, how it will affect further work of the Russian Government as a whole. All these issues require scientific understanding and legislative regulation.

Article 113 of the Constitution of the Russian Federation is, perhaps, one of the most controversial in terms of understanding and legislative regulation of the application process (hereinafter referred to as the Constitution RF). It stipulates personal responsibility of the Chairman of the Government of the Russian Federation to the President of the Russian Federation for the exercise of the powers assigned to the Government of the Russian Federation. It is worth emphasizing that this article was amended during the constitutional reform of 2020 and fixed in the same wording in Part 2 of Article 27 of the Federal Constitutional Law No. 4-FKZ of November 6, 2020 “On the Government of the Russian Federation” (hereinafter FKZ “On the Government of the Russian Federation”).

Since this norm is rather new and has never been applied in practice, its implementation is rather uncertain and requires scientific justification, including from a theoretical standpoint. Let us make a reservation that we had planned to characterize only a procedural component of implementing this type of liability, however, during the study, certain difficulties in understanding personal responsibility as a whole arose. In this connection, within the framework of this article it seems possible for the author to consider theoretical and legal aspects of personal responsibility of the Chairman of the Government of the Russian Federation, as well as construct a theoretical model of the process of applying Article 113 of the Constitution of the Russian Federation.

Describing the essence and features of personal responsibility

Undoubtedly, the consolidation of various types of legal liability of the Government of the Russian Federation should enhance effectiveness of fulfilled tasks to some extent. Their nonfulfillment presupposes personal responsibility to the President of the Russian Federation. However, it is not entirely clear what is meant by personal responsibility?

The problem is that the concept of personal responsibility is not provided for by Russian

legislation. However, in practice, this is usually understood as the responsibility that a particular subject in a particular area personally bears for non-fulfillment or improper fulfillment of his/her work duties (powers), as well as other violations that may be committed during their execution. In this case, the subject may be brought, in particular, to disciplinary, material, and in some cases, to administrative liability. Nevertheless, it is premature to talk about criminal liability.

In this regard, it seems reasonable to determine general features of personal responsibility. Strengthening of the importance of individual behavior in society is widely discussed in sociology, political science, psychology, economics and a number of other sciences. At the same time, increased conflict in the interaction of interests of the individual and society is emphasized [1, p. 269].

It is worth noting that there are not so many studies in legal science devoted to general issues of establishing and implementing personal responsibility of a subject in the field of public administration. Nevertheless, some publications describe the concept of personal responsibility of the Government of the Russian Federation for a certain field of activity.

As A.V. Yarovoi argues that "personal responsibility of officials arises as a result of their guilty illegal behavior and implies the imposition of negative consequences on them for violating interests of public entities" [2, p. 34]. Under this approach, personal responsibility is perceived as a negative (retrospective) liability, that is, liability for an illegal act committed by the subject.

Some authors come to the conclusion that within the framework of personal responsibility, constitutional and legal liability is of particular importance, since its measures imposed on subjects of constitutional and legal relations that both neutralize the possibility of "improper" behavior and some of its consequences in the implementation of constitutional powers [3, p. 4].

From the above, a certain concept can be traced, according to which personal responsibility is realized as the attitude of a particular person to the state and society for his professional activity.

In this regard, the point of view of A.S. Vershkov is of interest that in modern socio-philosophical knowledge, personal responsibility exists primarily as a category of ethics and law, which in its essence is associated with the fulfillment of socio-moral and legal norms of behavior in society. It is expressed in ethical concepts of duty and conscience, in a person's independent, that is, free and conscious, choice of traditional culturally accepted principles of behavior and rules for the practical performance of duties to society, other people and oneself [4, p. 9]. It seems that in this case it is positive personal responsibility, that is, ensuring the subject's lawful behavior in professional activity.

Summing up, it is possible to assume that personal responsibility arises in the process of carrying out a certain professional activity, within which a respectful and positive attitude of the subject to this activity is formed in order to achieve a positive result. The subject forms an appropriate level of legal culture and legal awareness, which allows him/her to effectively perform assigned tasks. Here we back a point of view of S.B. Tokareva that "personal responsibility is a special kind of consciousness associated with self-restraint. It is the person's readiness to voluntarily and consciously assume obligations towards other members of society, take care of them, prevent risks, minimize damage from social actions and thus take care of social well-being" [5, p. 45]. Moreover, the structure of personal responsibility, according to D.A. Anufrieva, includes intellectual-cognitive, motivational-affective and activity-behavioral personal education, which combines the basics of motivating, regulating, controlling and executive behavior implemented by a person in various activities [6, p. 11].

Simply put, the establishment of personal responsibility of public officials for the effectiveness of their work means that they are personally responsible for actions (inaction) in the performance of public administration functions. At the same time, the highest levels of personal and professional responsibility are characterized by the person's willingness to build his/her system of moral guidelines and determine priority addressees of responsibility (to whom and for whom to be responsible and from whom to receive sanctions), but at the same time correlate his/her ethical creativity with existing legal and moral norms [7, p. 39].

In turn, E.I. Pyzhova, considering personal responsibility of a judge, finds out that it can be

defined as an official duty provided for by material legal, procedural and ethical (moral norms) to prevent possible abuse of office due to the presence of a special status of judicial community members and obliging a particular person, in cases of certain circumstances, to report to the competent authority on the guilty act (inaction) in the performance of official duties or in off-duty activities, to be inspected and, in case of negative consequences to bear responsibility in accordance with the law [8, p. 147]. At the same time, the researcher identifies criminal, disciplinary and civil law liability among the types of personal responsibility.

In general, today in legal science scientists single out constitutional and legal responsibility in all its directions (restorative-compensatory and punitive), in the process of which officials are held accountable for committing a constitutional offense [9, p. 174].

According to other approaches, it is parliamentary responsibility of the government, expressed in a certain state of the executive authorities and the government as a whole, which consists in developing a strategy and tactics of the act and discussing it with the parliament. Broadly speaking, the Government of the Russian Federation is responsible to the state and society, which means that it must justify its actions in the eyes of parliament and prove correctness of the decisions taken to public institutions [10, p. 47].

R.S. Markunin believes that the subject of responsibility represented by a public authority, having a certain list of duties and performing them, ensures implementation of positive responsibility. However, when evading their duties or committing an offense, the subject of legal responsibility turns to a negative manifestation, involving elements of a systemic phenomenon in the form of negative measures and procedures for their implementation. Such a transformation takes place within the framework of one system of legal liability of public authorities [11, p. 38].

Based on the above, we can state that personal responsibility of the Chairman of the Government of the Russian Federation can be both positive and negative. R.M. Dzidzoev notes that "in this case, we are talking more about positive responsibility, expressing subordination of relations between the head of state and the head of government. It can turn into legal, constitutional, since the above constitutional wording allows the President to dismiss the Chairman of the Government of the Russian Federation from office without announcing the government's resignation as a whole ..." [12, p. 50].

In addition, in modern scientific research many authors pay more or less attention to the concept of the dominant role of the President of the Russian Federation in relation to the Government of the Russian Federation [13] and mention the possibility of bringing the Chairman of the RF Government to justice by dismissing him from office while implementing personal responsibility [14].

Moreover, the analysis of various points of view and norms of legislation makes it possible to doubt that the President of the Russian Federation can unreasonably dismiss the Chairman of the Government of the Russian Federation from office. For example, the basis for implementing measures of personal responsibility against the Chairman of the Government of the Russian Federation in the form of dismissal from office or disciplinary measures against him is not entirely clear. It is worth noting that the FKZ "On the Government of the Russian Federation" does not fix an exhaustive list of grounds for the dismissal of the Chairman of the Government of the Russian Federation by the President of the Russian Federation, although the meaning of this can be traced throughout the regulatory act. For instance, Part 2 of Article 7 of the FKZ "On the Government of the Russian Federation" grants the President of the Russian Federation the right to dismiss the Chairman of the Government of the Russian Federation.

In general, the Government of the Russian Federation terminates its powers only in the following cases:

– before the newly elected President of the Russian Federation;

– in case of resignation;

– in case the State Duma expresses no confidence in the Government of the Russian Federation or refuses to trust the Government of the Russian Federation.

So, today the Chairman of the Government of the Russian Federation is not entitled to implement measures of personal responsibility against himself, including in connection with the inability to fulfill his duties, as it was before. For example, in accordance with Article 7 of the Federal Constitutional Law No. 2-FKZ

of December 17, 1997 "On the Government of the Russian Federation", termination of powers was possible at the request of the Chairman of the Government of the Russian Federation on resignation, as well as in case of the inability to exercise his powers.

The history of the Russian statehood development has witnessed numerous government resignations. So, since 1993, the Government of the Russian Federation has been dissolved five times by the President of the Russian Federation (twice in 1998 and 1999, as well as in 2004) and twice resigned voluntarily (2007 and 2020). In other cases, the resignation occurred in connection with the inauguration of the elected head of state (the State Duma of the Russian Federation has never passed a vote of no confidence in the government). Moreover, the reasons for resignations were the desire of the President of the Russian Federation to form a more energetic and effective team to ensure economic recovery and solve social problems by correcting the crisis situation in the economy and social sphere, and determining the course of the country's development.

We believe that for the moment the legislator did not take into account the practice of government resignations and formalize this procedure in Article 113 of the Constitution of the Russian Federation, but also further complicated its understanding. We find the wording of exercising the responsibility of the Government of the Russian Federation in the Federal Constitutional Law No. 2-FKZ more understandable and logical.

To be fair, we note that in case of improper performance of its powers, the Government of the Russian Federation may initiate the process of implementing measures of constitutional and legal liability in the form of voluntary resignation, which the President of the Russian Federation either accepts or not. So, what kind of personal responsibility are we talking about? As can be seen from the above, there is not a single reason in this list, using which the President of the Russian Federation might dismiss the Chairman of the Government of the Russian Federation for non-fulfillment of his powers, which implies personal responsibility. Unfortunately, this issue remains open for now. Here we cannot but agree with R.S. Markunin's opinion that disparate and very abstract norms do not allow building a unified system of liability of public authorities, there is irresponsibility and permissiveness of the above-mentioned subjects [15, p. 53].

Nevertheless, the following key features of personal responsibility can be identified:

– first, the basis is that fact the subject performs his powers improperly or does not perform at all;

– second, it is expressed both in a positive (ensures future lawful behavior of the subject) and in a negative aspect (implemented upon the commission of an illegal act);

– third, it is functionally aimed at the effective implementation of powers of a particular subject;

– fourth, it is formed as a subject's responsible attitude to the powers performed, etc.

We believe that the President of the Russian Federation may impose measures of constitutional and legal liability or disciplinary liability on the Chairman of the Government of the Russian Federation as part of the personal responsibility implementation. It is more logically follows from the meaning of Article 113 of the Constitution of the Russian Federation.

Implementation of personal responsibility

Despite the uncertainty of legislative regulation of implementing personal responsibility of the Chairman of the Government of the Russian Federation, it is necessary to bear in mind the fact that, like certain types of legal responsibility, personal responsibility of the Chairman of the Government of the Russian Federation should be exercised in a strictly procedural form and within the framework of appropriate law enforcement relations. The latter can be realized within the framework of constitutional law enforcement.

As mentioned earlier, personal responsibility is positive, which expresses the subordination of relations between the President of the Russian Federation and the Chairman of the Government of the Russian Federation, but under some circumstances it can turn into a negative one.

It seems to us that personal responsibility in retrospect cannot be limited only to measures of constitutional liability, in the form of resignation. In this regard, a logical question arises: what prevents the President of the Russian Federation from correcting further behavior of the Chairman of the Government of the Russian Federation in the exercise of his powers by disciplinary measures? Moreover, in prac-

tice, such liability has already been repeatedly implemented against some members of the Government of the Russian Federation precisely for the unsatisfactory implementation of the instructions of the President of the Russian Federation.

Nevertheless, speaking about the implementation of this type of responsibility, it is worth noting that the subject of the application of Article 113 of the Constitution of the Russian Federation, based on its meaning, is the President of the Russian Federation, since his powers include assessing the quality of activities of the Chairman of the Government of the Russian Federation and identifying shortcomings, and the Chairman of the Government of the Russian Federation is personally responsible to him.

At the same time, it remains unclear what will be the basis for exercising personal responsibility. The commitment of the Chairman of the Government of the Russian Federation of the relevant offense (non-fulfillment or improper fulfillment of his work duties) constitutes grounds for the emergence of relevant law enforcement relations (as it follows from Article 192 of the Labor Code of the Russian Federation). For example, the non-fulfillment of presidential instructions by Government of the Russian Federation leads to a negative result in their activities.

According to the legislation, the basis for exercising the corresponding type of liability may be a resolution of the State Duma of the Russian Federation on the expression of distrust or denial of confidence in the Government of the Russian Federation (Article 35 of the FKZ "On the Government of the Russian Federation"). This fact also gives rise to the realization of responsibility towards the Government of the Russian Federation.

The final stage of the constitutional law enforcement under consideration is to pass a law enforcement verdict and make the interested person aware of it. It can be assumed that the law enforcement act in this process will be a decree of the President of the Russian Federation on the imposition of appropriate measures of legal liability. We agree that the institution of responsibility of the Chairman of the Government of the Russian Federation is of a procedural character, if the legislative level that the application of liability measures is carried out by a decree of the President of the Russian Federation [12, p. 51].

In this case, punishment may be the following: dismissal from the post of the Chairman of the Government of the Russian Federation, admonition or reprimand.

Conclusion

The conducted research shows a number of problems of an applied nature in the sphere of personal responsibility of the Chairman of the Government of the Russian Federation. As can be seen from the above, the amendments to Article 113 of the Constitution of the Russian Federation, introduced in 2020, as well as the adoption of the new Federal Constitutional Law "On the Government of the Russian Federation" do not clarify the process of imposing personal responsibility on the Chairman of the Government of the Russian Federation for non-fulfillment or poor-quality performance of their powers. It seems that the wrong meaning is laid down in the regulation of responsibility of the Chairman of the Government of the Russian Federation, which follows from literal interpretation of the norms under consideration.

It is worth mentioning that we cannot consider all aspects of the implementation of personal responsibility of the Chairman of the Government of the Russian Federation within the framework of this article, since it goes beyond the format of the study subject, which indicates the relevance and imperfection of the institution under consideration.

Thus, it is safe to say that scientific research, as well as legislative initiatives on the analyzed issue, should become the basis for strengthening the role of the head of state in the mechanism to implement personal responsibility of the Chairman of the Government of the Russian Federation for the exercise of his powers.

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INFORMATION ABOUT THE AUTHOR

ALEKSEI G. SAMUSEVICH – Candidate of Sciences (Law), associate professor at the Department of Constitutional Law and the Theory of Law of the Irkutsk Institute (Branch) of the All-Russian State University of Justice (RPA of the Ministry of Justice of Russia), Irkutsk, Russia; associate professor at the Department of Jurisprudence of the Irkutsk National Research Technical University, Irkutsk, Russia, samusevich79@mail.ru, https://orcid.org/0000-0003-0845-1343

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Analyzing the Russian Penitentiary Legislation of the Pre-Revolutionary and Soviet Periods

EVGENII N. YAKOVETS
Russian Customs Academy, Lyubertsy, Russia, koshka997@mail.ru, https://orcid.org/0000-0002-8386-4247

Abstract

Introduction: the article presents a retrospective analysis of the criminal correctional legislation in the pre-revolutionary and Soviet periods of the Russian state development. It emphasizes that the execution of punishment and the application of corrective measures in various historical periods, being an element of the criminal correctional system, were determined by the relevant time specifics and represented an independent direction of the law enforcement activity. Key measures of the state's criminal correctional policy were fixed by provisions of the criminal correctional law, since it is the law that is one of the key forms of policy expression. *Purpose*: based on a retrospective analysis of the Russian penitentiary legislation and relevant scientific publications, to formulate a conclusion about prospects of its development in the modern period and for the current perspective. *Methods*: a general cognition method – dialectical materialism based on the laws of dialectics; formal logical methods – analysis, synthesis, induction, deduction, abstraction, analogy; general scientific methods – observation, comparison, description, etc.; a private scientific method of historical analogy. *Results*: the analysis of the development of the Russian penal legislation and law enforcement practice shows that the development of the penal system throughout Russian history is characterized by relevancy, progressive character and responsiveness to changes in the criminal situation in the country. *Conclusion*: the modern Russian penal system should ensure continuity in the development of penitentiary law with regard to the experience of the formation of correctional (criminal correctional) legislation in relation to new challenges and threats. At the same time, it will be possible to talk about establishing control over it only if key socio-economic contradictions in society are eliminated.

Keywords: criminal correctional system; criminal punishment; penitentiary legislation; professional criminal criminality; socio-economic contradictions.

5.1.1. Theoretical and historical legal sciences

5.1.4. Criminal law sciences.

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Introduction

Counteracting crime involves the provision of an effective impact on persons found guilty of crimes by a court verdict. On the basis of the social policy provisions and in accordance with the criminal policy requirements, a system of measures and means is created in the state to correct and re-educate persons who have

committed crimes. In the pre-revolutionary periods, it was part of criminal law, since there was no specialized legislation yet. As a separate branch of law, it appeared in the Soviet period and received the name of corrective labor. At the modern, post-Soviet stage, it was renamed penal law. The execution of punishment and the application of measures of administrative influence have significant specifics and therefore form an independent field of activity, which is directly based on the correctional policy. The latter is known to be based on the criminal policy, but not absorbed by it, since it has its own content. It is influenced by the social policy both through the criminal policy and through provisions related to upbringing of the individual and formation of his/her socially useful interests and needs. Key measures of the state criminal correctional policy were fixed by the provisions of correctional (corrective labor) law, since it is the law that is one of the key forms of the state policy expression. The Russian penal system, based at various periods on the social policy provisions and driven by the state criminal policy, determined the main directions of the activities of executive authorities and public organizations in the field of execution of punishments, specifying specific forms, tasks and content of the correctional impact.

It is known that in the Russian Federation, the term "penal system" is currently used to characterize the bodies and institutions that execute punishments. As a result of the reforms of the 1990s and changes in the state policy in the field of execution of punishments, it replaced the term "corrective labor system" used in the Soviet period.

The pre-revolutionary stage of the development of the Russian penitentiary system

In the period of the Russian state formation, the list of illegal acts primarily included crimes and misdemeanors against religion, the state, the order of government, as well as official crimes. In a later period, counteraction to general criminal crimes came to the fore. The first attempts to streamline the punishment system date back to the 13th–15th centuries. They were reflected in the Russian Truth. Most articles stipulated the imposition of a monetary fine, the amount of which depended on the crime severity and the class status of the victim and the criminal. Blood feud on the part of relatives of the murdered person was allowed for murder as a form of capital punishment. However, depending on the circumstances of the case, it could be replaced by a 40-grivna fine.

In the 1497 Law Book fixing the norms of law of custom, charters, princely decrees and other documents that contributed to the process of completing centralization of the state, as in the Russian Truth, the concept of a criminal act was not yet clearly defined. The wording of its vague content as "some other wicked act" allowed those in power to interpret it very broadly and impose criminal punishment for any acts that could cause the ruling elite this or that damage. During this period, a list of various punishments was further developed, primarily the most severe, aimed at depriving the guilty of life. The criminal policy of that time maintained its focus on intimidating the lieges [1].

The 1649 Council Code was also focused on protecting interests of the church and the state and tightening punishments. More than 50 criminal acts were punished with the death penalty. At the same time, there was a trend to expand the use of imprisonment for a certain or indefinite period. Deprivation of liberty was exercised in the form of placement (in a fortress), under guard, expulsion to outlying cities, to Siberia for a time or for life [2, p. 25]. There appeared new types of punishment, such as exile "to Siberia, to live at the Lena" and "what the sovereign will decide on". Various types of punishments related to disfigurement and branding of convicts were widely used during this period. There was also a civil execution, which consisted in public humiliation and punishment with the breaking of a sword over his head as a sign of the deprivation of all rights of the state (ranks, verbal privileges, property rights, parental rights, etc.). During this period, prisoners' labor was widely used.

During the reign of Peter the Great, more than 100 special acts related to criminal legislation were adopted, which formed the basis of a civilized penitentiary policy. The most important regulations adopted during this period were in effect for many subsequent decades. During the reign of Peter the Great, the penalty in the form of hard labor was introduced.

Further development of the legal regulation of the punishment execution, as well as the first attempts to humanize it, are associated with the reign of Catherine II, who sought to prove her enlightenment and commitment to humanitar-

ian values. The system of penal institutions was established in this period. In 1775, compulsory educational institutions for the maintenance of persons of dangerous behavior, such as workhouses and correctional houses, were established. Their activities were regulated in detail by law.

The first steps to streamline the management structure of places of deprivation of liberty were taken at the beginning of the 19th century. By the decree of Aleksandr I of June 25, 1811, the Ministry of Police was established, which included three departments, including the executive police. In 1819, these departments became part of the Ministry of Internal Affairs, and the Executive Police Department acquired the status of a centralized management body of the prison system of the state. In the same year, with the permission and under the patronage of the Emperor, the Prison Trustee Society was established, which existed up to 1917.

The first systematized legislative act on the execution of punishments related to deprivation of liberty was the Set of Institutions and Charters on Detention and Exiles in 1832 [3, p. 332].

By the beginning of the 19th century, the Council Code had lost its importance. The year of 1836 witnessed the start of the elaboration of the Code of Criminal and Corrective Penalties of Russia, which, after consideration of its draft by the State Council, was approved by Emperor Nicholas I in 1845 and put into effect in 1846. The Code of Criminal and Corrective Penalties of Russia provided for an extensive and complex system of punishments, which were divided into categories, types and degrees. All penalties for crimes and misdemeanors were divided into criminal and correctional. Criminal penalties included deprivation of all rights of the state, combined with the death penalty, hard labor or exile. Correctional punishments included deprivation of all special personal and class rights and advantages, combined with exile to Siberia or other places; imprisonment in a fortress, a straitjacket house, prison; short-term arrest and some others. The Code maintained the class principle of the application of punishments: all criminals were divided into those to whom corporal punishment could be applied, and those in respect of which they were not applied.

The Code of Criminal and Corrective Penalties of Russia did not fix penalties for servicemen. Their activity was regulated by the 1839 Military Criminal Statute, which replaced the Military Article [4, pp. 327–329]. Later, it was replaced by the Military Statute on Punishments, adopted on May 5, 1868, which also provided for 2 types of punishments: criminal and correctional. The criminal ones included a death penalty, exile to hard labor and a settlement with deprivation of all rights and imprisonment. The imposition of correctional punishments depended on the social class: for officers, these were exile to Siberia with dismissal and deprivation of rights, temporary imprisonment in a fortress with dismissal, temporary imprisonment in prison with dismissal, detention in the guardhouse, monetary penalties; for lower ranks – temporary transfer to military correctional squads, imprisonment in a military prison, monetary penalties, deprivation of stripes for blameless service with transfer to the category of punished [5].

The Second Dispatch of the Third Department of His Imperial Majesty's Own Chancellery was in charge of state political prisons, such as the Alekseevsky Ravelin, the Peter and Paul Fortress, the Shlisselburg Fortress, the Saviour Monastery of Saint Euthymius and the Schwarzholm House, and dealt with schismatics, sectarians, counterfeiters, criminal murders, the "peasant issue", official crimes, etc. [6].

A little later, in 1879, the execution of punishments was transferred to the Main Prison Administration (GTU), formed as part of the Ministry of Internal Affairs. As a result of the reform, a unified nationwide prison system was created, combining three types of prisons: 1) large prisons with central subordination to the GTU, the so-called "central" (for example, the Vladimir Central in Vladimir, the Aleksandr Central near Irkutsk, etc.), as well as the Peter and Paul Fortress and the Shlisselburg Fortress, had been previously subordinate to the Third Department of His Imperial Majesty's Own Chancellery); 2) general type prisons subordinate to provincial prison institutions; 3) convict prisons, located mainly in Siberia [7, p. 45.]. In 1895, penitentiary institutions were transferred to the jurisdiction of the Ministry of Justice.

With each passing year, the problem associated with the growth of professional criminal activity became more urgent in the Russian Empire. At the beginning of the 20th century, a strict system of relationships already existed

among prisoners and tsarist penal servitude [8, p. 26]. In the prison hierarchy, the upper position was occupied by "ivans" or "vagabonds", the main bearers of prison traditions, prison old-timers, the convict "aristocracy", followed by "snores". The third class of the then prison was represented by the so-called "zhigans", the most diverse category. The lowest level of the prison hierarchy was occupied by the so-called "shpanka", a disenfranchised, hungry, crushed mass of prisoners, consisting mainly of peasants. They were mocked by representatives of all higher "estates". They were bitten by "ivans", intimidated by "snores", and robbed by hungry "zhigans".

The prison itself generated the criminal world, which acquired there all the new forces necessary for its activities. At that time, about 2 million prisoners passed through the places of imprisonment of the Russian Empire annually. The Government could not effectively counter the spread of crime emanating from prisons. State institutions for offenders inevitably turned into schools of criminal skill. Isolation of persons who violated the law only complicated the situation: prisons and forced labor camps were overcrowded and became unmanageable [9, pp. 17–20].

Criminals even tried to influence the country's political life. A unique document dated 1906, a memorandum of thieves about improving conditions of their detention, addressed to the State Duma, has reached our days [10, p. 27].

During the 1917 February revolution, when many city prisons, including the Kresty, the Lithuanian Castle, the Shpalerka pre-trial detention house, were seized and burned in Petrograd, notorious criminals were released from them along with political prisoners, subsequently referred to as "chicks of Kerensky" [11, p. 141]. They actively participated in police killings and mass robberies in the city [12, p. 482], while there was nobody to counteract during this period.

Development of the Soviet corrective labor system

In the early years of the Soviet power, the management of detention places was entrusted to the Punitive Department of the People's Commissariat of Justice of the RSFSR (NKYu), which repeatedly changed its name, and in 1922 was transformed into the Main Directorate of Places of Detention (GUMZ) of the People's Commissariat for Internal Affairs (NKVD). This GUMZ NKVD had its own territorial bodies. Besides, a system of forced labor camps subordinate to the All-Russian Extraordinary Commission for Combating Counter-Revolution, Speculation, and Sabotage (Cheka), and the State Political Directorate (GPU) – the Joint State Political Directorate (OGPU) was created [13, p. 23].

The legal norms regulating the application of punishment, which had been an integral part of criminal legislation in the pre-revolutionary period, were first singled out into an independent branch of law in the Corrective Labor Code of the RSFSR (ITK RSFSR) on October 16, 1924. Article 1 of this Code defined rules for implementing the criminal policy principles on the territory of the RSFSR through the appropriate organization of deprivation of liberty and forced labor without detention. The goal was to reform the existing places of imprisonment in accordance with social needs by creating a network of agricultural, handicraft and factory labor facilities, as well as transitional corrective labor houses with different conditions of detention (Article 4).

The general provisions confirmed the inadmissibility of causing physical suffering to convicts and humiliation of human dignity. Article 5 established the unity of the system of corrective labor institutions, and Article 9 stipulated their self-sufficiency, without prejudice to the fulfilment of the tasks of corrective labor policy. The main type of corrective labor institutions under the ITK RSFSR was a corrective labor house. The regime in all places of deprivation of liberty was based on a correct combination of the principles of compulsory labor of persons deprived of liberty and political and educational (cultural and educational) work (Article 48).

In accordance with the ITK RSFSR provisions, all corrective labor institutions had supervisory commissions comprised of the head of the place of detention, local people's judge and representative of the bureau of trade unions. These commissions monitored the transfer of prisoners from one category to another, discussed possibilities of early release, etc. In 1929, their rights were significantly expanded.

General principles of the regime provision in places of deprivation of liberty were sufficiently liberal. For example, besides dates, vacations were permitted (Article 20). The regime in plac-

es of detention did not pursue the goal of bullying convicts. The use of influence measures, such as shackles, handcuffs, punishment cells, deprivation of food, and visits of prisoners through bars, was prohibited.

Work was considered compulsory for all able-bodied people, and good work was encouraged by reducing the term of imprisonment or even transferring to forced labor without detention. In places of deprivation of liberty, prisoners got general and professional education, so that, after release, they could get a job. Cultural and educational work was conducted.

The Code provided for a wide range of measures related to the provision of assistance to persons who have served a sentence of imprisonment: allocation of material assistance to the poor, provision of housing and food on preferential terms for a certain time, loans for the purchase of working tools, acquisition of necessary household items, etc. These duties were assigned to the Main Directorate of Places of Detention and its local bodies.

In 1925, the Corrective Labor Code of Ukraine was adopted, built on the same principles as the national one. In the same year, the corrective labor codes were put into effect in Georgia, Uzbekistan and Azerbaijan, in 1926 – in Belarus, and in 1928 – Turkmenistan. Amnesties were repeatedly granted up to the early 1930s. For example, in 1923, up to 60% of the prisoners were released by the decision of the Special Commission of the All-Russian Central Executive Committee and the Central Committee of the Russian Communist Party.

Special attention was paid to the re-education of juvenile offenders. The Soviet authorities believed that if society did not make efforts to re-educate young people, then such a society would be doomed to collapse. In 1921, Soviet teacher A.S. Makarenko proposed an original solution to the problem of street children, whose number reached critical proportions after the civil war. He was a theorist and practitioner of combining the communist education with "labor-based education". Makarenko stressed the need for human respectful treatment of colony members and creation of the atmosphere of mutual respect. Under his leadership, convicts built two high-tech plants "from scratch" – for the production of electromechanical tools (Austrian license) and famous FED cameras (German license). They mastered the most complex technologies, successfully worked and manufactured high-tech products [14, p. 19].

However, let us return to adult crime. Prisoners in places of deprivation of liberty were divided into three categories mostly on the basis of their social origin. The first category included persons, subject to imprisonment with strict isolation, the second – professional criminals, as well as those prisoners who, not having a relation to the class of workers, committed crimes due to their class habits, views or interests, and the third – all other prisoners. In addition, prisoners were divided into three ranks – primary, secondary and higher. They were transferred from one rank to another during their stay in the correctional facility with regard to their behavior.

"Ivans", "snores", "zhigans", "shpanka" gradually dissolved into the mass of criminals of the "new formation" – speculators, "traitors of the motherland", "contra", etc. [15, pp. 59, 70, 94, 133]. This community had a "core" of professional crime – "thieves", convicted of theft (mainly pocket) three times or more. In the second half of 1928, representatives of professional crime in places of detention made up about 4.2% [16, p. 185]

In places of detention and colonies for women, the way of life was different from what existed in those for men. There was a less rigid system of "thieves' concepts", as well as ideas about what is permitted and forbidden. The most authoritative woman serving a long-term sentence was a cell leader. As a rule, she was a "second-timer", that is, she was imprisoned for the second time. In fact, the whole hierarchy was limited to this. The rest obeyed the elder, who made sure that order was observed in the cell and the cleaning schedule was not violated. She also supported psychological balance among prisoners, whether it was scandals between prisoners or sobs of newcomers who crossed the threshold of places of detention for the first time [17].

Most employees of penitentiary institutions did not have clear patterns in communicating with representatives of various categories of criminals, and even more so in matters of their correction and re-education. This led to dangerous trends. The internal life of places of deprivation of liberty was almost everywhere regulated by prisoners themselves. The admin-

istration was assigned a very modest and limited function of purely external supervision. Experienced and dangerous criminals dominated penitentiary institutions, subjugating the rest of the convicts, as it had been in the pre-revolutionary period [9, pp. 21–24].

The Russian statesman, politician, and scientist A.I. Gurov notes that, taking advantage of this situation, many thieves began to infiltrate administrative positions in order to put pressure on other prisoners and receive unlimited opportunities to approve their own laws in the criminal environment. Moreover, thieves sought complete separation from various political groups, believing that a thief should only steal. Those who adhered to thieves' rules of behavior were called thieves in law [18, pp. 104–105].

On April 24, 1930, the Directorate of Camps was established in accordance with the order of the OGPU USSR. The first mention of the Main Directorate of Camps and Places of Incarceration (GULAG) can be found in the Order of the OGPU USSR of February 15, 1931. During this period, which coincided with the the decline in the new economic policy and the beginning of agriculture collectivization, the number of prisoners increased and their composition changed dramatically. The percentage of "class alien elements" deprived of liberty, which did not exceed 3–4% in 1929, went up to 35% in 1931 [19, p. 283].

The Resolution of the Central Executive Committee and the Council of People's Commissars of the USSR of November 6, 1929 "On the amendment of articles 13, 18, 22, 38 of the Fundamentals of the Criminal Legislation of the USSR and the Union Republics" introduced an additional measure of social protection – deprivation of liberty in corrective labor camps in remote areas of the USSR. The first group of such camps appeared in 1929 in the north of the country in the basin of the Pechora, Vorkuta, and Ukhta rivers. On August 5, 1929, the Department of the Northern Special Purpose Camps (SLON) of the OGPU USSR was established in Solvychegodsk. This Department included Sevitlag, Kotlas, Ust-Vym, Pinyug, and Syktyvkar camps with a total number of prisoners of 33,511 people. Convicts of these camps exploited natural resources of the Northern Region: extracted coal in the basins of the Pechora and Vorkuta rivers and oil in Ukhta, and developed forests. The created department was headed by A.P. Shairon [19, p. 303].

In 1930–1932, other similar corrective labor camps were organized in various regions of the country, for instance, White Sea-Baltic, Siberian, Kazitlag, Karaganda, Daliseldorstroi, Temnikov, Dmitrov, Nizhny Novgorod, Syzran, Kungur, Svirsky, and Vishersky corrective labor camps. As of January 1, 1936, the total number of prisoners in them was 839,406 people. By 1939, corrective labor camps had opened in Sverdlovsk, Perm, Vyatka and other oblasts. In addition, 392 general prisons had functioned in the NKVD USSR system by this time [9, pp. 26–27], transferred to its jurisdiction in 1934.

By the Resolution of the Central Executive Committee and the Council of People's Commissars of the RSFSR of August 1, 1933, a new Corrective Labor Code of the RSFSR was approved and put into effect, which, however, did not make any significant changes to the existing system of places of deprivation of liberty. It consisted of 7 main provisions and 7 sections developing these provisions. In articles 1 and 2 of the basic provisions, the principles of the new corrective labor policy were formulated. Article 3 fixed a corrective labor colony as the main type of prison facilities and principles of placement of convicts with regard to their labor skills social danger, social status, age and success of correction [20]. The 1933 ITK RSFSR did not provide for the execution of punishment in OGPU corrective labor camps.

In September 1938, the independent Main Prison Directorate was formed as part of the NKVD USSR, and on June 10, 1934, in accordance with the Resolution of the Central Executive Committee of the USSR, the Main Directorate of Corrective Labor Camps and Labor Settlements was formed as part of the new Union-Republican NKVD. In October of the same year, this department was renamed the Main Department of Camps, Labor Settlements and Places of Detention. Further, this department was renamed twice more and in February 1941 it became the Main Directorate of the Administrative Labor Camps and Colonies of the NKVD USSR.

The Great Patriotic War left a special imprint on activities of this directorate. From January 6, 1942, special camps were organized to check persons of operational interest to the People's Commissariat of State Security of the USSR,

and subsequently SMERSH, which were under the jurisdiction of the Department for Prisoners of War and Internees (UPVI) of the NKVD USSR. On July 19, 1944, they were transferred to the jurisdiction of the GULAG of the NKVD USSR, and on August 28, 1944, the Department of Special Camps of the NKVD USSR was organized, which on February 20, 1945 was transferred to the Department of Verification and Filtration Camps (OPFL) of the NKVD USSR. On January 22, 1946, the latter was disbanded, and its functions were transferred to the GULAG of the NKVD USSR [21, p. 38].

The final chord of the Stalinist period of the domestic penal system development was a Secret Note of March 26, 1953, sent to the Central Committee of the Communist Party of the USSR by L.P. Beria, the Minister of Internal Affairs of the USSR. It noted that "detention of a large number of prisoners in camps, prisons and colonies, among which there is a significant part of those convicted of crimes that do not pose a serious danger to society, including women, adolescents, the elderly and sick people, is not caused by the state necessity". So, Beria proposed to halve the sentence of persons convicted for more than 5 years, release women with children under 10 years old, pregnant women, minors (under 18 years old), elderly and seriously ill people. As a result, 1,203,421 people gained freedom, including many so-called "forest brothers" from the Baltic States, Ukraine and Belarus. In addition, there were also hardened criminals who served short terms of imprisonment among the "chicks of Beria" who flew out to freedom. In this regard, the criminogenic situation in the USSR became severely complicated. For example, the city of Ulan-Ude was actually captured by offenders returned from the camps and several weeks of unrest led to killing of several thousand civilians [22]. In Moscow, the number of serious and especially serious crimes increased several times compared to the previous year [23, p. 62]. As recounted by veterans, during this period, the personnel of the Moscow Criminal Intelligence were transferred to the barracks until most representatives of the criminal world who had been released and had found themselves in the capital were again in prison for committing various crimes.

In 1953, corrective labor institutions were transferred to the Ministry of Justice of the USSR. However, already at the beginning of 1954, they were returned to the Ministry of Internal Affairs of the USSR.

By the decrees of the Presidium of the Supreme Soviet of the USSR of April 24 and July 14, 1954, early and conditional release from prison was restored. The Regulations on Prosecutorial Supervision in the USSR, approved by the Decree of the Presidium of the Supreme Soviet of the USSR of May 24, 1955, and the Regulations on Supervisory Commissions, approved by the Resolution of the Council of Ministers of the RSFSR on May 24, 1957 were of great importance for the further work of the institution. In 1956, it was found impractical to continue maintaining corrective labor camps, which were subject to reorganization into corrective labor colonies [24, pp. 317–320, 322–326].

On December 25, 1958, the Supreme Council of the USSR approved the Foundations of the Criminal Legislation of the USSR and the Union Republics, which contained a number of norms, according to which the labor legislation was to be changed. The adoption of this law and the experience of corrective labor institutions made it possible to develop the Regulation on corrective labor colonies and prisons of the Ministry of Internal Affairs of the USSR, approved by the Decree of the Presidium of the Supreme Soviet of the RSFSR of August 29, 1961 [25] and similar provisions in other Union republics. These regulations provided for the creation of 4 types of corrective labor colonies (ITU): general, reinforced, strict and special regimes. By the Decree of the Presidium of the Supreme Soviet of the USSR of June 26, 1963 "On the organization of corrective labor colonies-settlements and on the procedure for transferring to them those sentenced to imprisonment who firmly embarked on the path of correction" [26], the colony system was supplemented by another type – a panel settlement. Corrective labor institutions for juvenile delinquents were also changed. The Regulation on labor colonies for minors, approved by the Decree of the Presidium of the Supreme Soviet of the USSR of June 3, 1968 [27], stipulated organization of colonies of general and reinforced regime. In 1965–1967, new regulations on supervisory commissions and regulations on commissions for minors were worked out and adopted [28; 29]. The Decree of the Presidium of the Supreme Soviet of the USSR of July 26, 1966 established administrative supervision of

persons released from places of deprivation of liberty.

The post-war experience of corrective labor institutions and the development of the science of corrective labor law created necessary conditions for the elaboration and adoption of the Fundamentals of corrective labor legislation of the USSR and the Union Republics on July 11, 1969 and corrective labor codes of the Union republics in 1970–1971. Thus, the system of corrective labor legislation of the last period of the Soviet state existence was created [30, p. 93].

The new Corrective Labor Code of the RSFSR fixed the following key forms of political and educational work with convicts: labor competition; clarification of legislation; agitation and propaganda work; activities for spreading culture and sport among the masses; and individual work. Political and educational work with convicts was to be carried out in a differentiated manner with regard to the type of a corrective labor colony and the regime established in it. In prisons and cell-type premises, such work was carried out in cells [31, p. 86].

By the Decree of the Presidium of the Supreme Soviet of the USSR of February 8, 1977 "On making additions and amendments to the Fundamentals of corrective labor legislation of the USSR and the Union Republics", the system of corrective labor institutions was supplemented with another type of colonies – a panel settlement for persons who committed crimes by negligence.

Bringing all branches of the Soviet legislation into compliance with the 1977 Constitution of the USSR contributed to the expansion of the rights of citizens, public organizations and labor collectives and the creation of more effective guarantees for their implementation. For these purposes, the Decree of the Presidium of the Supreme Soviet of the USSR was issued on August 13, 1981 "On the introduction of amendments and additions to the Fundamentals of Corrective Labor Legislation of the USSR and the Union Republics" [32]. An important task in the period under review was the legislative consolidation of the procedure and conditions for the execution of all types of punishments not related to deprivation of liberty, reflected in the Decree of the Presidium of the Supreme Soviet of the USSR "On further improvement of criminal and corrective labor legislation" adopted on July 26, 1982 and in the decree of the Presidium of the Supreme Soviet of the USSR of October 15, 1982 [33; 34; 35, pp. 47–52].

Conclusion

Russian correctional (corrective labor) institutions' extensive experience, primarily in the Soviet period, largely predetermined the formation of a modern penal system in our country based on the principles and traditions developed by domestic and international practice. So, having such a solid own historical experience, we can neglect remarks of the "enlightened West" [36, pp. 136–175], which has not had "tender feelings" for Russia for a long time.

The formulation of a particular problem in the field of modern penitentiary science causes the emergence of a new terminology, which creates only the illusion of scientific progress. In fact, it turns out that most modern theories only paraphrase what was said at the end of the last century and the beginning of the last century. The author's personal experience, who at one time dealt with the issues of organizing interaction of the Main Criminal Investigation Department with operational divisions of the GUITU both in the Soviet and post-Soviet periods, clearly confirms this continuity.

At the present time, the modern Russian penal system needs to ensure that the historical experience of this activity is borrowed in relation to new challenges and threats emanating from the criminality. This, in particular, is stated in the Concept for the development of the penal system of the Russian Federation for the period up to 2030, approved by the Decree of the Government of the Russian Federation No. 1138-r dated April 29, 2021. In this regard, along with strengthening measures aimed at preventing the spread of extremism in penitentiary institutions, as described in Section 2 of this document, taking into account recent events, special attention should be paid to the problems of detention in correctional institutions of the Federal Penitentiary Service of Russia of persons from among Ukrainian nationalists convicted of committing crimes against humanity, terrorist activity and other grave and especially grave crimes on the territory of the Russian Federation. Negative consequences of the amnesty conducted by Beria, due to which grandfathers and great-grandfathers of the current Neobanderovites were released and continued their subversive activities for the moral decomposition of Ukraine, should not be repeated.

The Soviet experience of humanizing penal legislation is important and can be taken as a basis in the implementation of requirements of the Federal Law No. 10-FZ of February 6, 2023 "On probation in the Russian Federation", which comes into force on January 1, 2024.

In the modern period, it is advisable to pay special attention to the re-socialization of juvenile offenders and use outstanding achievements of the Soviet educator A.S. Makarenko. "Three pillars" of his system – labor education, play and education in the team – have been undeservingly forgotten or distorted in our country, unlike in foreign countries, where his works are desktop books of heads of enterprises. Nowadays, almost all Japanese and many German firms build their work according to Makarenko's ideas of a labor colony. So, it is doubly disappointing that those "three pillars" are now boomeranging back to us in the form of "corporate events", "team building" and "teamwork skills".

Finally, it should be emphasized that it will be possible to talk about establishing full control over crime only if key socio-economic contradictions in society are eliminated. In conditions when the population is divided into strata with different levels of material well-being, it is practically impossible to eliminate threats from crime using any radical measures, since the latter, being an integral attribute of such a society, constantly reproduces itself.

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INFORMATION ABOUT THE AUTHOR

EVGENII N. YAKOVETS – Doctor of Sciences (Law), Professor, Honored Lawyer of the Russian Federation, professor at the Department of Criminal Law Disciplines of the Law Faculty of the Russian Customs Academy, Lyubertsy, Russia, koshka997@mail.ru, https://orcid.org/0000-0002-8386-4247.

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Implementing Criminal Punishment Goals in relation to Those Sentenced to Imprisonment for Extremism-Related Crimes

LYUDMILA A. BUKALEROVA
Russian Academy of Advocacy and Notaries, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
l_a_buka@mail.ru, https://orcid.org/0000-0003-2794-5074

LYUDMILA A. KOLPAKOVA
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, kolpackova.liudmila1975@yandex.ru, https://orcid.org/0000-0002-9937-8462

Abstract

Introduction: the article analyzes possibilities of the penitentiary system for implementing goals of criminal punishment in the execution of a penalty in the form of deprivation of liberty against those convicted of extremism-related crimes. The emphasis is placed on possibilities of correcting persons pursuing extremist ideology and preventing commission of new crimes (both by convicts themselves by isolating them from society and by other citizens following their example). The article analyzes domestic and foreign experience in the field of countering prison radicalization. Based on statistical data on the terms of imprisonment and types of correctional institutions, the authors propose implementation of various resocialization schemes when correcting convicted extremists. Recommendations for preventing the spread of the relevant ideology among convicts are presented. Purpose: to identify key current trends and problems associated with the spread of the terrorism ideology in correctional institutions; consider them in the context of achieving criminal punishment goals; develop sound proposals and recommendations for effective correction of convicted extremists, and prevent expansion of the extremist ideology in correctional institutions. Methods: the research is based on the use of a combination of general and private scientific methods: analysis and synthesis, systematic, statistical, logical, formal-logical, sociological, comparative-legal, and hermeneutic. Results: the generalized statistical data on the total number of persons sentenced to imprisonment for extremism-related crimes for the past three years, the level of recidivism among them, terms of imprisonment, and types of penitentiary institutions in which these convicts serve their sentences show that there is an upward trend in the number of such persons in correctional facilities of general and strict regimes, as well as persons with unexpunged and outstanding convictions. Trends to increase religious radicalization risks are determined. Problems associated with insufficient readiness of the penitentiary system to ensure processes of correcting convicted extremists with various mental, especially radical religious attitudes, and preventing expansion of extremist radicalism are identified. With regard to domestic and foreign experience, actual and potential capabilities of the

domestic penitentiary system, recommendations are developed to overcome the identified problems. Conclusions: the author substantiates the need to improve professionalism of penitentiary institution employees and third-party specialists involved in work with extremist convicts; the necessity to separate extremist convicts from others by creating separate sections of penitentiary institutions; the expediency of creating a specialized progressive system for the execution of punishments in relation to extremist convicts with regard to the degree of their correction; the need to introduce and implement comprehensive programs to counter the spread of the extremism ideology in correctional institutions, covering the closest circle of communication of the extremist criminal before his/her conviction.

Keywords: extremism; extremism-related crimes; radicalism; deradicalization; correction of the criminal; resocialization of the convicted person; prevention of the extremism ideology spread.

5.1.4. Criminal law sciences.

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Introduction

Extremism in the context of the problems of various social sciences and humanities is presented as one of the most dangerous phenomena not only in connection with real negative changes in society, but also in terms of capacities to develop into more radical forms characterized as terrorist activity. And although the percentage of persons serving sentences for extremism-related crimes in the total mass of those sentenced to imprisonment is relatively small, penitentiary institutions face a twofold task: on the one hand, to try to correct and resocialize these persons, and on the other, – to prevent dissemination of the extremist ideology among other convicts. Domestic and foreign experience show that possibilities of the penitentiary system to implement criminal punishment goals with the existing organizational and staff structure in this regard are quite limited. First, this is due to the fact that the law enforcement officer is focused on eliminating symptoms, not causes of the disease. It is important not only to implement goals of correcting convicts and preventing them from committing new crimes, but also to enhance interaction with other law enforcement agencies in terms of identifying and deactivating centers of the destructive ideology spread. There are also acute issues of the personnel's professional competence in terms of preventive work with convicts with various extremist orientations and of attracting specialists, including in the field of theology. Among other things, it is relevant to study relations between terms of imprisonment, types and regional location of correctional institutions where extremists and terrorists serve their sentences, the development level of a criminal subculture there and isolation of other subcultural groups on national, religious and other grounds. We believe it possible to deepen an individualized approach to the punishment execution on this basis, in particular, to work out differentiated schemes for resocialization of convicted extremists.

The core

Public danger of extremism-related crimes is assessed by the legislator significantly lower than that of terrorism-related crimes. This statement is substantiated by the comparative analysis of sanctions of the norms on liability for those and other acts. So, for example, for organizing a terrorist community (Part 1 of Article 205.4 of the Criminal Code of the Russian Federation), punishment is provided for in the form of imprisonment for a term of fifteen to twenty years with additional penalties in the form of a fine, restriction of liberty or life imprisonment, and for participation in it (Part 2 of Article 205.4 of the Criminal Code of the Russian Federation) – imprisonment for a term of five to ten years with an optional fine. For organizing and leading an extremist community (Part 1 of Article 282.1

of the Criminal Code of the Russian Federation), the legislator also provided for punishment in the form of deprivation of liberty, but compared with the previous composition, it set the minimum threshold 2.5 times lower, and the upper one was halved (without taking into account the possibility of life imprisonment). Additional penalties in sanctions of the corresponding norm are also present, however, in a slightly different set. Participation in an extremist community (Part 2 of Article 282.1 of the Criminal Code of the Russian Federation) is punished by imprisonment with the imposition of additional penalties at the discretion of the court, but also a fine as the main punishment. In both cases, there is a special ground for exemption from criminal liability – voluntary refusal to participate in activities of a terrorist community or extremist activity in the absence of signs of other crimes. An additional condition, such as commission of an act for the first time, is also fixed for exemption from liability under Part 2 of Article 282.1 of the Criminal Code of the Russian Federation. Here the question arises, whether the absence of this condition in relation to Part 2 of Article 205.4 of the Criminal Code of the Russian Federation is the legislator's omission? We do not think so. The fact is that the price of voluntary renunciation of terrorist activities is undoubtedly high, since, according to direct instructions of the legislator, a former member of the terrorist community is obliged to report its existence. In shifting this rule of substantive law to real procedural and law enforcement intelligence operations, it can be concluded that the case is not limited to only formal reporting about such a community. The law enforcement officer is interested in identifying and exposing, first of all, its organizers and ideological inspirers. The same observation is also true of voluntary refusal to participate in an extremist community or organization.

Backing legislative approaches to assessing the degree of public danger of extremism, we should not forget that the corresponding ideology always underlies the terrorism ideology development. Hence, prevention of less dangerous criminal manifestations indirectly affects the effectiveness of measures to counteract more serious phenomena.

Despite the alternative nature of sanctions for extremism, courts often choose punishments related to isolation from society against the perpetrators. So, in 2020, 304 people were involved in crimes for which liability is provided for by Chapter 29 of the Criminal Code of the Russian Federation, which includes most extremist acts that are taken into account as such without additional conditions, 70 of them were imposed real imprisonment (37 – with a term of up to 3 years inclusive, 24 – 3 to 10 years, 9 – over 10 years), and 175 – suspended sentence. In 2021, 527 persons were sentenced (+42.3%), 101 of them to real imprisonment (+30.7%, 45 – with a term of up to 3 years inclusive, 44 – from 3 to 10 years, and 12 – over 10 years), and 370 (+47.3%) – to suspended sentence. At the time of the article preparation, there are only data for the first half of 2022; however, there are already obvious upward trends in the number of convicts for crimes of this group and imposed imprisonment as a punishment for them. So, a total of 292 people were sentenced during this period, 64 of them to real imprisonment (24 – with a term of up to 3 years inclusive, 37 – from 3 to 10 years, and 3 – over 10 years), and 199 – suspended sentence [1].

We analyzed specific terms of imprisonment imposed on the perpetrators for the most typical extremism-related crimes provided for in Articles 282, 282.1, 282.2 of the Criminal Code of the Russian Federation, as well as the recidivism rate. The data are presented in the table [2].

	Total sentenced to real imprisonment	Term of imprisonment up to 3 years inclusive	Term of imprisonment over 3 years	Convicted persons with a criminal record	Convicted persons with 2 or more criminal records (from Column 5)
1	*2*	*3*	*4*	*5*	*6*
Article 282 of the Criminal Code of the Russian Federation "Incitement of hatred or enmity, as well as humiliation of human dignity"					
2020	3	1	2	2	–
2021	6	4	2	9	2

1	2	3	4	5	6
1st half of 2022	3	–	3	1	–
Article 282.1 of the Criminal Code of the Russian Federation “Organization of an extremist community”					
2020	4	1	1	1	1
2021	5	1	4	1	1
1st half of 2022	2	-	2	1	1
Article 282.2 of the Criminal Code of the Russian Federation “Organization of activities of an extremist organization”					
2020	33	24	7	7	1
2021	40	19	21	5	2
1st half of 2022	32	13	19	12	4

As we can see, the terms of imprisonment imposed for committing crimes of an extremist nature often approach the maximum possible level of sanctions for these acts. We also observe a fairly high level of recidivism among the category of convicts under consideration. At the same time, the question naturally arises whether the goals of punishment are achieved in this case with regard to leveling negative attitudes of the individual, eradicating ideologues embedded in consciousness, developing tolerance towards representatives of a different race, religion, nation, and political views. Without delving into theoretical reflections on the reasonability of setting such goals and critical understanding of the goal-setting process itself, we only note that it is necessary to distinguish between the final result that the legislator and the law enforcer are striving for and the process of achieving it. For example, the purpose of preventing commission of new crimes fixed in Part 2 of Article 43 of the Criminal Code of the Russian Federation is essentially a time-consuming process that is closely related to the issues of educational impact, resocialization in penitentiary and post-penitentiary periods. It is assumed that its final result may be the formation of certain stereotypes of law-abiding behavior, stable attitudes about the legality of ways to meet needs, awareness of the value of personal freedom and their own positive opportunities. In some cases, this is achievable to one degree or another. At the same time, a number of researchers of the practice of execution of punishments, including I.A. Uvarov [3, p. 28], M. Foucault [4, p. 339], V.N. Kudryavtsev [5, p. 175], doubt capabilities of the penitentiary system in this field. Scientists’ skepticism is quite understandable. The main argument here is the side effect of prolonged placement of a person in isolation conditions. The fact is that, despite all the efforts of the institution staff, socially useful connections are lost or significantly weakened, and professional skills are lost. Along with this, adaptive mechanisms of the criminal subculture act as a kind of socialization, as a result of which the reference group changes dramatically. If there are persons infected with the extremist ideology in such a group, and even more so, persons who have quite clear goals of recruiting new members into the ranks of extremists, the risk of the convict falling under their influence is quite high. This problem is aggravated by the fact that increased suggestibility and manageability are one of the leading psychological features of an extremist criminal. What is more, the disseminated beliefs can be focused not just on banal disobedience to the existing system of norms and rules, but also on the desire to achieve certain “high goals”. And this is already a direct path to radicalization of the extremist ideology and its development into a terrorist one, when any means are justified. All this points to the need for a personalized approach to organizing not only educational work with this category of convicts, but also the use of the entire arsenal of means of penitentiary influence, including operational investigative work.

One of the important steps in terms of implementing punishment goals against extremists is the correct choice of a penitentiary institution. Undoubtedly, this choice is determined

by provisions of Article 58 of the Criminal Code of the Russian Federation, which almost completely excludes the use of the strictest legal restrictions related to staying in prison in relation to persons convicted of extremism-related crimes.

The majority of those sentenced to real imprisonment for crimes against foundations of the constitutional system and security of the state, including extremism-related crimes serve their sentences in general regime correctional facilities (38 people in 2020, 56 – in 2021, and 33 – in the 1st half of 2022) and strict regime correctional facilities (25 people – in 2020, 26 – in 2021, and 25 – in the 1st half of 2022). Significantly fewer convicts are held in penal settlements (7 people in 2020, 17 – in 2021, and 5 – in the 1st half of 2022) and there are isolated cases of serving sentences in special regime correctional facilities (1 person – 2021 and 1 – in 2022) and juvenile correctional facilities (1 person in 2021) [2]. Unfortunately, the squad system created back in 1957 in such correctional institutions has a number of side effects that have an extremely negative impact on the effectiveness of preventing extremism among convicts. First of all, this system assumes rather close communication of these persons among themselves, and in some cases this communication leads to destructive consequences.

Squads are comprised on the basis of numerical occupancy, production orientation, and less often convicts' state of health, labor skills and specialization. In this regard, we also consider it appropriate to take into account religious views of the convicted person, his/her psychoemotional status, features of social adaptation, nationality, place of birth and residence before conviction. However, there are no and cannot be any uniform recommendations to keep, for example, all Muslims or all ethnic Russians in the same squad. In some cases, on the contrary, the formation of heterogeneous convicts may be useful. Under favorable conditions and a sufficiently high level of control and supervision on the part of the administration, this can contribute to the development of tolerance towards representatives of a different denomination, nationality, etc., and a better understanding between them. The so-called "families" of convicts, united according to the national, religious, or community principle, are forms of socialization, mutual support and adaptation to forced conditions of deprivation of liberty. Their separation can negatively affect correction, cause anger, depression and, on the contrary, push the convict to accept ideals of the criminal subculture. However, these "families", if there is a negative grouping in the correctional facility and a thief in law or an authoritative person, can become the basis for the formation of criminal organizations and communities right on its territory with the prospect of continuing criminal activity and beyond it. This situation is typical not only for the Russian penitentiary system. So, in British prisons, Muslim communities become a kind of survival teams. However, the mass adoption of Islam by the British is dictated not only by the desire to gain support and protection among other convicts of the same religion, but also to successfully advance through the criminal and subcultural hierarchy and receive appropriate preferences. Islamist extremists associated with well-known terrorist organizations, such as Al-Qaeda and ISIL, are responsible for this. For example, HM Prison Whitemoor in Cambridgeshire is described by the convicts and guards themselves as a "place of Taliban recruitment", inciting hatred and forming a new generation of extremists [6]. The US is also concerned about the problem of prison radicalization. So, back in 2011, no one raised this issue in detail. But already in 2015 this problem was defined as one of the priorities at the hearing in the U.S. House of Representatives with the participation of members of the Committee on Homeland Security, the Subcommittee on Counterterrorism, as well as three leading experts in the field. According to participants of the hearing, the complex of radicalization causes is defined as a fascination with the extremism ideology with the prospect of developing into a terrorist ideology and described as a prison association of people who, for various reasons, are dissatisfied with the social policy of the state and, moreover, are very susceptible to antisocial information influence, in the context of which complex problems of identity and belonging are exposed, existential fears about survival and disengagement in prison are discussed, philosophical questions of the search for the meaning of life are raised, followed by unacceptable ways of solving these problems. However, American researchers consider racial

extremism in prisons to be a more significant problem than problems of radical Islamization. In addition, they are concerned that gangs are formed in penitentiary institutions aimed not at committing terrorist acts, but at profitable criminal business, for example, related to drug trafficking [7].

Risk factors in relation to the spread of the extremism ideology based on hatred towards representatives of state structures and law enforcement agencies in correctional institutions are not only the presence of criminal subculture elements and criminal environment leaders, but also the identification of a great number of persons who maliciously violate discipline and internal regulations. Besides, some researchers also identify external determinants, such as illegal activities of individual religious (with a sectarian bias), public monitoring and other organizations; availability of financial assistance that comes from the authorities of the criminal environment who are at large and continue to engage in criminal activity; dissemination of radical views on the Internet (social networks, videos) and through other media [8, p. 90].

Recently, special literature has provided interesting data on the appearance of so-called green zones, ruled not by the administration or criminal authorities, but by radical Islamists. This has particularly affected the post-Soviet states of Central Asia, in particular Kazakhstan and Kyrgyzstan, where places of detention have become the radicalization epicenter on a religious basis. The former prevailing criminal-subcultural ideology is replaced by the extreme-Islamist ideology [9, pp. 35–36, 46].

We back the point of view of S.S. Oganesyan and S.H. Shamsunov on the need to take into account extremists' mental specifics in the process of their re-socialization [10, p. 14]. Speaking more precisely about the religious variety of extremism, they conclude that it is necessary to use ideological foundations of the scriptures themselves to form not only religious tolerance, but also ethnic tolerance. Indeed, without deep knowledge of phenomena to work with in the course of preventive work, it is impossible to eliminate true determinants of radicalism and milder manifestations of extremism. However, opposing the authors mentioned above, we believe that the reason for the criminal behavior of extremists lies not in the fact that the texts of the New Testament, the Koran or other scriptures predetermine its orientation, but in the absolutization of a distorted vision of these texts. After all, if we follow this logic, then the constitutional norm on freedom of religion can also be interpreted as permission to follow radical religious trends, freely disseminate relevant attitudes, with all the ensuing consequences. Their correct and comprehensive interpretation is important. Therefore, the root of the problem lies much deeper. It is necessary to understand who and why presents texts of the scriptures in such a perverted form. After all, as a rule, all quotes adopted by extremists and terrorists are literally torn out of context, which sometimes radically changes their very essence. Undoubtedly, a penal system employee working with different categories of extremists needs to know information sources of these ideas. And for this, their training programs should include not only such subjects as religious studies, philosophy, political science, sociology, but also subjects that develop critical thinking. Besides we cannot agree with the fact that almost any psychologist, educator and head of the squad in a correctional facility should "know the Scriptures so well that they can convincingly show a religious extremist that his/her views is contrary to the information about mental specifics of a person, as well as stages of mental development of the mankind that are indicated in the Scriptures themselves" [10, p. 15]. In fact, the developers of training programs for working with convicted extremists and terrorists from the Research Institute of the Federal Penitentiary Service of Russia have come to similar conclusions. With all generalized typological socio-psychological features, individual personality traits of these persons are too different. The problem is that not amateurs, but real professionals try to manipulate consciousness of the newly appeared extremism adherents; hence, it is highly qualified specialists who should also resist them. This remark is also true of all other types of extremists: supporters of AUE, neo-Nazis, racists, nationalists.

In general, we note that singling out certain types of extremism we still should not absolutize their narrow focus. Yu.M. Antonyan, studying problems of ethnocriminology, writes that "one of the paradoxes that give rise to religious

and nationalist terror is that nationalists and religious extremists react very acutely to real or imaginary insults to their nation. Although they are usually completely insensitive to the humiliations and insults that other nations themselves or their individual representatives are subjected to" [11, p. 154]. Therefore, it is necessary to dig deep in search of true causes of intolerance and radicalism in society. There seems to be no way to solve this problem, as it is impossible to rewind history and establish universal justice. However, one can recognize and acknowledge past mistakes and move on, trying not to repeat them. At the same time, nowadays, we observe an opposite situation; some people try to rewrite history, change it, pull out old interethnic and interfaith causes of strife and speculate on them for political purposes. And here again we find the real reason for the spread of the extremism ideology – there are forces that benefit from it, as well as agents of this evil will. So, the task of all law enforcement agencies, including the Federal Penitentiary Service of Russia, is to identify and neutralize them.

Programs for countering extremism in general and deradicalization in particular in the world penitentiary practice are reduced to three main areas: destruction and separation of extremist groups; changing ideological attitudes of individual extremists; behaviorist approach with the main emphasis on modifying extremists' behavior through a progressive system of execution of criminal penalties and work with the environment of the extremist. So, for example, in France, such criminals first get used to the prison regime in solitary cells for 45 days, then, after determining the degree of their propensity for correction, milder measures are gradually applied to them, up to the possibility of working outside the correctional institution and conditional release [12]. Besides, in France, as in some other states (Uzbekistan, Norway, Saudi Arabia), there are either separate special premises or specialized penitentiary institutions for detaining extremists.

Conclusion

Summing up the stated above, it seems reasonable to strengthen the individual approach when considering issues of recruiting a squad of convicts by a special commission of a correctional institution, which presupposes a more detailed and comprehensive study of the convict's personality.

Since preventive work in places of deprivation of liberty is insufficiently effective primarily for objective reasons and restricting communication of persons preaching extremist ideology with other convicts is impossible, there is a need to discuss creation of particular areas of correctional institutions of a multi-regime nature, where those convicted of extremism and terrorism-related crimes would serve their imprisonment. Establishment of a separate institution seems impractical due to a relatively small number of such convicts. This proposal can also be supplemented by the fact that specialized areas should be created in institutions located in the regions with a favorable and stable social situation, and guilty persons should be sent, contrary to the general rule, to areas remote from their place of residence before conviction in order to break unwanted ties with the former environment.

We believe that countering the spread of the extremist ideology in correctional institutions should be based on comprehensive programs that include measures not only within particular correctional facilities, prisons or pre-trial detention centers, but also measures to work with the convict's environment before deprivation of liberty. Thus, these programs should be based on three components: ideological, educational, and preventive. Efforts of one department (the Federal Penitentiary Service of Russia) are not sufficient. Specialists in various fields of knowledge should be involved in the development of such programs, depending on the mental specifics of extremists. At the same time, the system of control over their execution should be improved. Measures should be united by a common concept and consistently complement each other, not be isolated, point-based or formal.

We believe it useful to conduct meetings and conversations of those convicted of extremism-related crimes with former members or organizers of extremist communities who renounced their beliefs not under the influence of punishment, but because they acknowledged the inferiority of the extremist ideology or suffered from the involvement in such communities and organizations.

We cannot but support the stance on the need to deepen penal system employees' knowl-

edge in the field of religious studies, political science, sociology, and psychology. However, it should be recognized that such knowledge will help identify the problem and establish the need to seek specialized assistance only at the first meeting to. At the same time, we consider it necessary to involve narrow specialists in those areas of knowledge that are directly related to one or another type of extremism in working with convicted extremists.

Foreign countries' experience in the application of a progressive system of serving sentences by those convicted of extremism is very useful. It should be recognized that the degree of correction and perception of penitentiary means of influence varies significantly among them. This fact should be used when building deradicalization tactics. Terms of imprisonment for the acts under consideration make it possible to practice various schemes of resocialization, including taking into account the experience of such states as Ireland and France in organizing a gradual transition from strict isolation and supervision to a semi-free regime and release with the establishment of post-penitentiary control.

We believe that the implementation of the above ideas will contribute to the achievement of punishment goals in relation to convicted extremists. Besides, the following will be also achieved:

– physical isolation of convicted extremists during the entire or most of the term of imprisonment from society in order to prevent a negative impact on others;

– strengthening control and supervision measures for this category of convicts on the part of the administration;

– implementation of the principles of differentiation and individualization of the punishment execution process, choosing means and methods of correctional prevention depending on the convict's role in extremist organizations and orientation of extremist beliefs and activities (type of extremism);

– targeted work with specific causes and conditions in the mechanism of individual criminal behavior;

– definition of narrowly specific areas of group and individual psychological and educational-preventive work.

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INFORMATION ABOUT THE AUTHORS

LYUDMILA A. BUKALEROVA – Doctor of Sciences (Law), Professor, Vice-Rector of the Russian Academy of Advocacy and Notaries, Moscow, Russia, professor at the Department of Criminal Law and Criminology of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, l_a_buka@mail.ru, https://orcid.org/0000-0003-2794-5074
LYUDMILA A. KOLPAKOVA – Candidate of Sciences (Law), Associate Professor, Head of the Department of Criminal Law and Criminology of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, kolpackova.liudmila1975@yandex.ru, https://orcid.org/0000-0002-9937-8462

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Administrative Prejudice in Criminal Law

IVAN V. DVORYANSKOV
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

Abstract

Introduction: the article deals with one of the most controversial phenomena in criminal law – administrative prejudice. The author conducts a deep systematic and comparative legal analysis of this concept, gives its legal characteristic, explores its theoretical foundations, historical origins and evolution, including the pre-revolutionary, Soviet and post-Soviet periods. *Purpose*: based on the study of the legal nature, social conditionality of administrative prejudice, to identify problems of compliance of its application with the goals and objectives of modern criminal policy in Russia. *Methods*: the research is based on a dialectical approach to the study of social processes and phenomena. It uses methods traditional for the sciences of criminal law and criminology, such as analysis and synthesis; comparative legal; retrospective; formal legal; logical; comparative. The following private scientific methods are also used: a legal-dogmatic method and interpretation of legal norms. *Results*: the article reveals doctrinal origins of the administrative prejudice concept, better called as the theory of punitive progression, based on the repetition of homogeneous actions with an increasing level of illegality and progressive repression. In this regard, the works of C. Lombroso, E. Ferry, and R. Garofalo are studied. The article examines in detail the modern scientific controversy on the constitutional and doctrinal validity of the inclusion of norms with administrative prejudice in the criminal law. By conducting a comparative legal analysis of the meaning of the term "administrative prejudice" in other branches of law, in particular civil and criminal proceedings, the author establishes that the original (genuine) essence of this concept is expressed in the legal force (prejudice) of a court decision or other jurisdictional body, eliminating the need for its revision in the future. It has nothing to do with the concept of the so-called administrative prejudice in criminal law. It is noted that the criminal law terminology, reflecting the concepts used in other branches of law, is often filled with its own, narrowly sectoral meaning, different from the original one. The author considers intersectoral divergence and doctrinal inconsistency of this legal phenomenon and presents his point of view on possible negative consequences of the existence of norms with administrative prejudice in criminal law. He studies connection with and distinction between administrative prejudice and blank and predicate crimes, as well as recidivism of crimes, criminal and executive prejudice. In this regard, a new term "sectoral prejudice" is proposed. *Conclusion*: a number of conclusions are formulated about the meaning and prospects for the application of administrative prejudice in criminal law, theoretical and practical arguments for its exclusion from the criminal law.

Keywords: administrative prejudice; complex (sectoral) prejudice; theory of punitive progression; repetition of homogeneous actions with an increasing

level of illegality and progressive repression; recidivism of crimes; intersectoral recidivism; blank and predicate crimes.

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Introduction

According to the criminal law principle of legality, criminality and punishability of an act are determined only by criminal law (Article 3 of the Criminal Code of the Russian Federation, hereinafter – CC RF). At the same time, criminal legislation is based on the Constitution of the Russian Federation and generally recognized principles and norms of international law (Part 2 of Article 1 of the CC RF). In case of a conflict of constitutional and criminal law norms, the former is a priority. In all other cases, the rule of exclusivity of criminal law regulation applies, according to which the Criminal Code of the Russian Federation is the only source of criminal law norms. For example, the same act cannot simultaneously have elements of a crime and an administrative offense.

The exception is the cases of the so-called prejudice (from Latin praejudicium – relating to the previous court decision). It is the obligation for all courts considering the case to accept, without checking the evidence, the facts previously established by the court decision that entered into force in another case in which the same persons participated [1, p. 278].

In domestic criminal law, the institution of the so-called administrative prejudice has become widespread. Examples of compositions with administrative prejudice in the Criminal Code of the Russian Federation are, for example, Article 116.1 of the CC RF (beatings by a person subjected to criminal punishment), Article151.1 (retail sale of alcoholic beverages to minors if these acts are committed repeatedly), Article 157 of the CC RF (non-payment of funds for the maintenance of children or disabled parents, if these acts committed repeatedly), Article 158.1 of the CC RF (petty theft committed by a person subjected to administrative punishment), Article 264.1 of the CC RF (driving a vehicle in a state of intoxication by a person subjected to administrative punishment or having a criminal record), Part 1 of Article 315 of the CC RF (malicious non-execution of a court verdict, court decision or other judicial act that has entered into force, as well as obstruction of their execution by a person subjected to administrative punishment for an act provided for in Part 4 Article 17.15 of the Code of Administrative Offences of the Russian Federation committed in relation to the same judicial act), etc. However, recently their number has been increasing noticeably.

Thus, according to the Note to Article 314.1 of the CC RF, repeated non-compliance of administrative restrictions or restrictions imposed on a person under administrative supervision by a court in accordance with the federal law is non-compliance of administrative restrictions or restrictions imposed by a court on a person under administrative supervision in accordance with the federal law, provided that this person has previously been brought to administrative liability for a similar act twice within one year.

Moreover, as it often happens when borrowing terms from other branches of law or scientific knowledge, this concept has acquired a special criminal legal content that differs from the original meaning and is considered as a special connection between several similar acts committed during a certain time (usually a year), the first of which has the status of an administrative offense, and that committed two or more times is recognized as a crime. In this case, it is repeated commission of a similar act within a certain period of time that is important.

However, there are still discussions about the constitutional and doctrinal validity of administrative prejudice in criminal law science. Before analyzing their content, let us turn to the background of the issue.

Results

Administrative prejudice as a legal institution and a method of constructing elements of a crime has a rich background. Moreover, there are different versions about the time of its appearance in domestic criminal law. So, V.I. Ko-

Iosova believes that it appears for the first time in Soviet criminal legislation, in particular, in the Decree of the All-Russian Central Executive Committee and the Council of People's Commissars of December 15, 1924 on the amendment of Article 139-a of the Criminal Code of the RSFSR "On excise violations". Articles with administrative prejudice were also contained in the Soviet criminal codes of 1922, 1926 and 1960 [2, p. 248]. I.M. Goshaev, in turn, points out that some researchers attribute legal provisions of the Russian Empire of the 18th century to its prototype. For example, the Code of Criminal and Correctional Punishments of 1845 (as amended in 1885) included normative material of various branches of law and was based on the idea of strengthening legal liability for the repetition of identical crimes [3, p. 130]. A.G. Bezverkhov shares this approach [4 p. 46].

This stance on prejudice and prejudicialness was also shared by prominent scientists of pre-revolutionary Russia, such as I.G. Shcheglovitov [5], I.Ya. Foinitskii [6, p. 187], E.V. Vas'kovskii [7, p. 167], P.V. Makalinskii [8], L. Fon-Rezon [9;10], E. Nemirovskii [11], and others. Thus, in pre-revolutionary legal science, a well-defined understanding of prejudice prevailed, dating back to Roman law and related to giving legal force to a court decision (jurisdictional body) in relation to the previously established circumstances of the case [12, p. 4].

It had nothing to do with the concept of the so-called administrative prejudice in criminal law. In modern legal branches, such as civil and criminal proceedings, administrative prejudice, as a rule, is considered in the above described sense. For instance, E.B. Tarbagaeva uses the concept "prejudice" in relation to the legal force of court decisions [13, p. 52], which is consistent with the opinion of R. Iskanderov, who considers it as one of the legal characteristics of a sentence [14]. O.E. Pletneva also mentions prejudice of a court decision, linking this property with facts, legal relations and conclusions of the court that cannot be litigated or reproved [12, p. 6]. This approach is also backed by N.M. Korshunov and Yu.L. Mareev, arguing that prejudice presupposes the binding nature of conclusions about facts established by a court decision that has entered into force for other judicial bodies and organizations [15, p. 175].

And only in criminal law, traditional legal terminology is filled with its own, narrowly sectoral meaning. This conclusion concerns not only administrative prejudice. Earlier we analyzed the phenomenon of a special criminal law interpretation of terms adopted from other branches [16, pp. 11–12].

Nowadays there are no unified position regarding administrative prejudice. Some consider it right to return to the practice of applying administrative prejudice. Thus, according to E.V. Yamasheva, the restoration of administrative prejudice in the Criminal Code of the Russian Federation contributes to the effective differentiation of crimes and administrative offenses, provides savings in measures of criminal repression, is expedient, as it will ensure realization of the preventive function of criminal legislation [17]. This idea is shared by N.I. Pikurov, E.V. Ovechkin, I.G. Bavsun, M.V. Bavsun, I.A. Tikhon and others, who also believe that administrative prejudice is not only an effective way to counter crime, but it also strengthens the preventive role of criminal law [18; 19; 20, p. 6–9].

According to N.G. Ivanov, "in relation to the concept of crime, it should not be about criminal law prohibition, but about prohibition in a broad sense" [21, p. 25].

A similar viewpoint is expressed by G.A. Esakov who singles out general illegality along with the criminal law [22, p. 168].

Leaving aside the speculative construction of general illegality, it should be noted that it, in fact, duplicates the established scientific approach to the mechanism of criminal law regulation, according to which criminal law is an auxiliary mechanism that comes into effect only when positive legal regulation cannot ensure normal development of such relations. According to N.I. Pikurov, "combining into dynamic systems with the norms of almost all branches of law, it (criminal law), on the one hand, implants their prescriptions into its fabric to detail elements of socially dangerous acts, defining the boundaries between criminal and uncriminal, and on the other hand, it itself transfers of its legal force to them part, being a potential threat of criminal punishment" [23].

In this regard, theoretical constructions of general illegality do not create a fundamentally new explanation for already existing legal

phenomena. Therefore, in this case it is appropriate to apply the principle of methodological reductionism, also known as Occam's razor: "one should not multiply the agents in a theory beyond what is necessary".

In our opinion, the position of the opponents of the theory of administrative prejudice in criminal law is more reasoned and logically justified.

So, according to N.F. Kuznetsova, no administrative offense has a specific criminal property of the act – a public danger. Therefore, a number of offenses is not able to transfer mechanically into a crime. The prohibition of a socially dangerous and culpable act is established exclusively by the criminal code, and not by any other, even federal law. Thus, administrative prejudice contradicts Part 1 of Article 1 and Part 1 of Article 14 of the Criminal Code of the Russian Federation [24, p. 88].

This stance is shared by S.G. Kelina [25], D.N. Bakhrakh [26, pp. 88–91], V.L. Zuev [27, pp. 54–55], A.N. Tarbagaev [28] and a number of other scientists who criticize the application of administrative prejudice. So, S.G. Kelina believes that the repetition of an act cannot change its legal nature. D.N. Bakhrakh, a well-known expert in the field of administrative law, also differentiates an offense from a crime by the absence of a public danger element in it.

The definition of criminal illegality goes back to the principle of Roman law: "nullum crimen sine lege".

In our opinion, terms were substituted at the first development stages of the Soviet criminal legislation. Administrative prejudice was considered as a repetition of homogeneous actions with an increasing level of illegality and progressive repressiveness, or, as it can be called, a theory of punitive progression. It is based on a principled doctrinal position on the transition of quantitative indicators of the public danger of illegal actions to a qualitatively different level. This, in turn, replaces the basis of criminal liability: the emphasis shifts from the act to the individual and, in fact, to his social danger. After all, if we consider homogeneous acts committed in a certain period of time, then it is hardly possible to say that the subsequent is more dangerous than the previous one. On what basis? What has changed in the subsequent act? Undoubtedly, nothing. Then what is its legal assessment with increasing repressiveness based on? Obviously, it is on the postulate of the preventive function of punishment (in a broad sense) as a measure of coercive influence, as well as the dogma of social danger (social destructiveness, criminal infection) of the individual, which is amenable to correction by such influence. Surely, this cannot be denied. But if we raise this dogma to the absolute, then the absence of the effect of a lesser impact naturally leads to the conclusion about the strengthening of such, including from administrative to criminal law.

In this regard, it is necessary to refute the thesis arising from this dogma about the connection between the "danger of an individual" and subjective elements of the act (guilt, motive, purpose, signs of the subject). We believe that the presence of these elements in the construction of the corpus delicti does not mean the danger of the individual as such, but characterizes only the act. In other words, a criminal is not an immanent socio-psychological status of a person, and can only be considered at the time (period) of the crime commission. In this regard, we consider the term "a criminal" to be inconsistent with the prevailing modern scientific and legal approaches to the person who has committed the crime. In particular, its immanence levels the existing goals of punishment (Part 2 of Article 43 of the Criminal Code of the Russian Federation). Eventually, he/she is punished not for personality traits, but for the committed act, which has reflected a combination of subjective features of the person characteristic of the moment of the crime commission. Otherwise, it is necessary to recognize that punishment can be applied not only for an act, but also for a dangerous state of the individual, which contradicts fundamental foundations of domestic criminal law (the concept of crime, the basis of criminal liability), as well as results of its evolution.

This stance has its own theoretical foundations. Doctrines of C. Lombroso, E. Ferry, and R. Garofalo, representatives of anthropological, sociological (positivist) trends in criminology and criminal law, are one of the most significant sources predetermining an instrumental (in some cases, utilitarian) approach to criminal law in general and punishment in particular.

The essence of these approaches in general can be formulated as social protection from

criminals and potentially dangerous persons with the help of criminal legal means.

Thus, C. Lombroso considered criminals as sick (morally insane) people: "We tell born criminals: you are not to blame for committing your crime, but we are not to blame either, if the innate properties of our body make us deprive you of your freedom for our own protection" [29, p. 177; 30; 31, p. 11].

E. Ferry, without diminishing the impact of external factors (including meteorological, climatic, geographical, civilizational, demographic, etc.) on a criminal, nevertheless, put internal determination at the forefront, which conditioned the anthropocentric approach to the impact on crime. His teaching, like that of C. Lombroso, was based on the thesis of a "born criminal", which, however, did not mean that the commission of a crime was predetermined, but, at the same time, implied the protective function of criminal legal means. "In any case, in the treatment of crime, as in the treatment of any general or mental illness, it is necessary to remove from society those persons who are least adapted to life" [32, p. 65].

R. Garofalo reasoned in a similar way, arguing that the term of imprisonment should not be appointed by a judge a priori. Authorities of the penitentiary institution should speak out about the need for temporary or life imprisonment, relying on the psychoanthropological study of a prisoner [32, p. 65]. E. Ferry, by the way, opposed R. Garofalo in this matter, believing that "for less important crimes like rape, wounds, theft, fraud, it should be established that only after 2, 3 or 4 times of recidivism, the guilty should be sentenced to imprisonment together with the incorrigible" [33, p. 519].

All these positions clearly demonstrate the evolution of the theory of social danger of an individual, which gave rise to the punitive progression theory; the so-called administrative prejudice falls within its framework.

This approach was based on the idea that it is impossible to prevent crime, one should just protect him/herself from it. However, paradoxically, this theory turned out to be very viable even with the modification of the fundamental doctrinal thesis through the synthesis of social protection and prevention. The first codified sources of criminal law of the Soviet state serve as a clear illustration of this. Thus, Article 7 of the 1922 Criminal Code of the RSFSR postulated the danger of a person, "identified by the commission of actions harmful to society, or by activities indicating a serious threat to public order". The same was fixed in the 1926 Criminal Code of the RSFSR, which was in force until 1960. However, there was a greater emphasis on social protection.

To begin with, Article 7 sounded a little different: "In relation to persons who have committed socially dangerous acts or who pose a danger due to their connection with the criminal environment or their past activities, social protection measures of a judicial-correctional, medical, or medical-pedagogical nature are applied".

Besides, Article 9 contained a reservation that "social protection measures cannot be aimed at causing physical suffering or humiliating human dignity and do pursue the task of retribution and punishment". At the same time, the very name of punishment disappeared from the text of criminal law, and the means of criminal legal impact were called nothing else than social protection measures, reminding us of the previously analyzed theories.

Thus, on the one hand, the ability of criminal liability measures to constructively influence not only perpetrators of the crime, but also all other subjects of criminal law relations, including their positive aspect, was postulated. On the other hand, the idea of social protection, including from persons who have not committed a crime, but who pose a danger according to the established criminal law criteria, still prevailed. The analysis of the content of both codes, especially in the aspects of the hierarchy of protected objects, sanctions and punitive practices of the 1930–1950s, clearly indicates that the postulated goals were rather a statement of good intent than vital guidelines.

So, the emergence and widespread use of the administrative prejudice institution is quite understandable. It, in fact, embodied the practical essence of social protection with elements of prevention. At first, punishment was more or less mild, then – more harsh. At the same time, no assessment of the act was conducted. It just did not change. It was the personality assessment that was subject to change. In the first case we are talking about a preventive function, in the second – a protective one. Consequently,

the basis of both functions was not the act itself, but the person who committed it, in particular, the degree of its danger, analyzed by how much the person was susceptible to the intimidating effect of the sanction. There was no question about whether social protection measures had a preventive effect and whether the causal complex had such external determinants that could not be influenced by these measures and could not depend on the guilty person him/herself.

In this regard, the influence of sociological and anthropological theories developed by non-Soviet scientists on the developers of the Criminal Code of the RSFSR in 1922 and 1926 is undeniable. At the same time, it is necessary to talk about the synthesis of these theories with the communist ideology in the field of criminal law, based on the political expediency of repression against class enemies, enemies of the people, their relatives and loved ones, and in fact – all persons objectionable to the authorities [34, p. 57].

Further development of the domestic criminal policy demonstrates a steady tendency to focus on the preventive and correctional function of punishment and a gradual rejection of the idea of social protection. Thus, according to Article 20 of the 1960 Criminal Code of the RSFSR, "punishment is not only retribution for the crime committed, but is also aimed at correcting and re-educating convicts in the spirit of an honest attitude to work, exact execution of laws, and respect for rules of the socialist dormitory, as well as preventing the commission of new crimes by both convicts and other persons. Punishment is not intended to cause physical suffering or humiliation of human dignity". A curious difference of goals under the 1926 Criminal Code of the RSFSR from the concept is recognition of the punitive nature of punishment. The non-inclusion of punishment in the list of goals, in our opinion, was solely due to the political expediency (the desire to distance from the sad experience of Stalinist repression, given that the 1960 Criminal Code of the RSFSR was developed just during destalinization and everything connected with it). At the same time, along with prevention, there appears the goal of correcting and re-educating convicts in the spirit of an honest attitude to work, exact execution of laws, respect for the rules of the socialist community.

It is worth mentioning that the new goals were of the same declarative nature as in the previous codes. This is confirmed by a persistent high level of recidivism and the constant search for alternative forms of counter-recidivism prevention based on alternative mechanisms of resocialization to punishment. As an example, we can cite the measures introduced in the period of the 1960–1970s: conditional release of convicts from prison to work on chemical industry construction sites. According to this decree, conditional release was applied to able-bodied persons who showed a desire to redeem their guilt by honest work from among those convicted for the first time for a term of up to three years inclusive – who served at least one year of imprisonment; from those convicted for a term of up to ten years inclusive – who served at least two years; for a term of more than ten years – who served at least five years of imprisonment [35, p. 250].

In 1968, certain categories of convicts were conditionally released from corrective labor institutions and transferred to the enterprises subordinate to the Council of National Economy. The Decree of the Presidium of the Supreme Soviet of the USSR of June 12, 1970 introduced a suspended sentence with compulsory labor.

This experience (including creation of special commissariats to implement these measures organized not according to the territorial, but zonal-economic principle) showed a double positive effect. From a criminological point of view, the criminal activity of convicted persons was minimized due to the fact that they were withdrawn from their usual environment, in which their criminal tendencies had been formed, and were transferred to other regions of the country. In addition, they got the opportunity to work and, in fact, started a new life. From an economic point of view, punishments and criminal legal measures not related to imprisonment were of great economic importance for the country, since they ensured the organization of production and construction in those areas and geographical conditions where attracting free labor could be very problematic.

It is worth mentioning that the preventive goal was achieved not in the process of punishment, but just the opposite, through various forms of liberation from it.

However, returning to administrative prejudice, it should be noted that it also existed in the 1960 Criminal Code of the RSFSR, though embodying a completely different dogma about the preventive and corrective effect of punishment. In fact, it can be argued that we are dealing with two parallel courses of Soviet (and later Russian) criminal policy: 1) dogmatic, based on belief in preventive and correctional possibilities of punishment that is not supported by practice and objective statistics of recidivism [36]; 2) practical, based on real and proven forms of post-penitentiary resocialization of convicts. To date, this duality of courses persists, because with the immutability (except for minor editorial changes) of punishment goals, there is an active search and introduction of new forms of crime reduction, focused more on crime causes, rather than their consequences. These include a suspended sentence, commutation, exemption from criminal liability in connection with active repentance and reconciliation with the victim, and a new institution of probation [27].

Undoubtedly, administrative prejudice can be important as a scientific theory. But its implementation into the criminal law is fraught with a number of negative consequences.

First, it undermines foundations of criminal law, in particular, the basis of criminal liability (Article 8 of the Criminal Code of the Russian Federation) and qualitative characteristics of the crime (Article 14 of the Criminal Code of the Russian Federation). Thus, the basis for criminal liability is the commission of an act containing all elements of the corpus delicti provided for by criminal law. That is, each act must initially contain all elements of a crime, regardless of what was committed earlier. There can and should be no cumulative effect in this case. Repetition in itself does not make the act fundamentally more dangerous than the first one. A material element of public danger must be present in every act and correspond to its criminal status.

Second, administrative prejudice is a universal punitive tool that, if desired, can be applied to any act of a different legal nature. There is no need to invent a new corpus delicti. It is enough to add an element of repetition and there appears a crime. It can be done in case one has the will and expediency. In this sense, the legislator can go even further in punitive progression, considering the third and subsequent times of committing the same thing as qualifying elements. At least it would fit into the same logic.

In this regard, it is necessary to analyze the institutions related to administrative prejudice in order to both identify their similarities and differences.

According to the method of construction, compositions with administrative prejudice are similar to blank and predicate crimes.

Regarding the first, it should be noted that this is primarily due to the following feature of the subject and method of criminal law, which ensures those social relations that are positively regulated by other branches of law, due to the need for prohibition and punitive response to the most dangerous obstacles that hinder their implementation. In the case of blank norms, the corpus delicti fully or partially borrows the violation description from the norm of another branch of law and adds one or more criminalizing elements of the act (for example, grave consequences).

The specifics of predicate crimes is that one act is a way of committing another (for example, violence in robbery).

In both cases, unlike compositions with administrative prejudice, it is the same – there is a logical connection between acts when one is the cause and the other is the effect. There is no such thing with administrative prejudice. Connection between the acts is temporary, not causal.

Connection between administrative prejudice and recidivism is conceptual. In fact, the legal structure of recidivism is based on the same principle as administrative prejudice, in particular, repeated commission of the act if a person has been punished for the previous one. In this regard, administrative prejudice is called “intersectoral recidivism” in the literature [3, p. 130]. In our opinion, the use of this term is rather unreasonable, since it can be differently interpreted and competes with the recidivism concept established in criminal law.

In fact, these two institutions have the same mechanism for considering the repetition of homogeneous actions with an increasing level of illegality and a progressive level of repression. The only difference is that in case of re-

cidivism the initial act already has a criminal-legal character. As for the socially dangerous act as the basis of criminal liability, it also stands in the background. The personality comes to the fore and it is the assessment of its danger caused by recidivism as a consequence of ineffective punitive impact (even in the name of recidivism types – dangerous, especially dangerous).

Penal prejudice is a kind of administrative prejudice. We are talking about the norm provided for by Article 314.1 of the Criminal Code of the Russian Federation "Evasion of administrative supervision or multiple non-compliance with restrictions or restrictions established by the court in accordance with the federal law", which stipulates administrative prejudice, among other things, for repeated non-compliance by a person, in respect of whom administrative supervision is established, of administrative restrictions or restrictions imposed on him/her by the court in in accordance with the federal law, accompanied with the commission of an administrative offense against the management procedure (except for the administrative offense, provided for in Article 19.24 of the Administrative Code of the Russian Federation).

The establishment of administrative supervision in relation to a person released from places of deprivation of liberty is regulated by penal legislation, in particular Article 173.1 of the Penal Code of the Russian Federation. In this regard, we can talk about the dual (administrative and penal) legal nature of administrative supervision over persons released from places of deprivation of liberty.

By the way, the Decree of the President of the Russian Federation No. 119 of March 2, 2021 fixes the Federal Penitentiary Service of Russia as the authorized state body exercising control over the behavior of persons released on parole. Since March 2021, the execution of this function has been entrusted to criminal executive inspections, whereas previously it was under the jurisdiction of the police. This measure, although not an administrative supervision, has a very similar character to the latter. It has the same legal and technical features and implementation mechanism. At the same time, it should be noted that evasion of this kind of control is not covered by Article 314.1 of the Criminal Code of the Russian Federation.

Taking into account the presence of another kind of the phenomenon under consideration in the criminal law (combined or complex prejudice), the term "administrative prejudice" should be recognized as insufficiently voluminous and replaced with the concept of "sectoral prejudice".

Conclusion

As a result of the study of the so-called administrative prejudice in criminal law, it is necessary to formulate a number of conclusions about the meaning and prospects of its application.

First, the legal phenomenon in question has nothing to do with the traditional institution of administrative prejudice, understood as a presumption of the legal force of a court decision or another jurisdictional body, eliminating the need to establish and prove the issues already considered. The essence of the institution studied in the framework of this article is punitive progression, which is based on the repetition of homogeneous actions with an increasing level of illegality (from administrative or penal to criminal law) and progressive repression.

Second, administrative prejudice shifts the emphasis of the criminal-legal assessment from the act to the person, thereby replacing the current basis of criminal liability with the danger of the person.

Third, the evolution of domestic criminal legislation, at least during the 20th century, led to the gradual abandonment of administrative prejudice as an institution based on archaic criminal law theories. The progression observed today of the increase in the composition with administrative prejudice, in fact, indicates a reduction of the criminal law.

In this regard, we believe that in domestic criminal law it is necessary to abandon the administrative prejudice as contrary to its evolutionary development and undermining its conceptual foundations, and the currently existing compositions with administrative prejudice should either be excluded from the criminal law, or constructed with regard to criminalizing features of the first act. Recidivizm should be assessed exclusively within the framework of the relevant institutions of criminal law.

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INFORMATION ABOUT THE AUTHOR

IVAN V. DVORYANSKOV – Doctor of Sciences (Law), Professor, Chief Researcher at the Department for the Development of Methodology for the Execution of Criminal Penalties without Deprivation of Liberty of the Center for the Study of the Problems of the Execution of Criminal Penalties and Psychological Support for Professional Activities of Employees of the Penal System of the Research Institute of the Federal Penitentiary Service of Russia, Russia, Moscow, Russia, professor at the Department of Penal Law and Organization of Educational Work with Convicts of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, diw@yandex.ru, https://orcid.org/0000-0003-0542-5254

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Describing Legal Regulation of the Resocialization Process of Convicted Minors

IGOR Yu. SAMOKHVALOV
Arzamas Branch of the National Research Lobachevsky State University of Nizhny Novgorod, Arzamas, Russia, herrysam@mail.ru, https://orcid.org/0000-0001-7932-6238

ANDREI L. SANTASHOV
Moscow Academy of the Investigative Committee of the Russian Federation, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
santashov@list.ru, https://orcid.org/0000-0003-1044-1697

Abstract

Introduction: the article considers the current situation of punishment execution in juvenile correctional facilities, from the moment of arrival of the convicted person to the date of his/her release on the example of a specific institution. *Purpose:* to study aspects of the educational impact in the process of punishment execution aimed at subsequent social adaptation and resocialization of convicts after release. *Methods:* general scientific (analysis, synthesis, induction, etc.), private scientific and special methods of cognition (comparative legal, formal legal, statistical). *Results:* having assessed activities of a specific juvenile correctional facility in the field of law enforcement of the current legislation provisions regulating the educational impact on convicts to prevent recidivism, the authors found out the following: further social adaptation outside the correctional institution is necessary, carried out by a specially created state body with broad social rehabilitation powers, implemented with the coordination and interaction of interested state structures. *Conclusions:* convict's successful reintegration into society and renunciation of criminal activity is possible with the use of all available means and methods of impact, including training and unconditional submission to the detention regime during forced isolation, as well as minor's acceptance of social and life values and positive socially useful attitudes through social adaptation and resocialization carried out outside places of deprivation of liberty.

Keywords: juvenile correctional facility; resocialization; social adaptation; penitentiary adaptive; law-abiding behavior; criminal subculture; post-penitentiary adaptation; premises functioning as a pre-trial detention center.

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Introduction

The duty unit of the department of internal affairs received a claim of an attack and open theft of money and gold jewelry from a citizen. When visiting the crime scene and interviewing the victim and witnesses, it was found out that the crime had been committed by an unknown man, who, according to the victim's testimony, was about 180 cm tall, of medium build, with a tattoo in the form of a ring on the ring finger of the right hand. After committing the crime, the man disappeared into the entrance of the house. During the day on duty, the crime was solved, the criminal – detained, part of the stolen – found and seized. The detainee turned out to be Mr. K, who had previously served a sentence in the juvenile correctional facility for apartment theft. The crime was solved due to the information of an operational source received by the criminal investigation officer. As a rule, when information about the commission of such crimes is received, the operational staff works out versions, formulates an assumption that the crime is committed by a person previously convicted or recently released from prison.

Unfortunately, these are the realities, confirming statistics that persons who have undergone a full range of re-education in a penitentiary institution return to criminal activity. It suggests that the penitentiary system does not perform successfully, or does not work completely in certain aspects. Our research is devoted to the study of the problem of resocialization of convicted minors on the basis of existing legislation, law enforcement practice and work experience of one of the juvenile correctional facilities in the Nizhny Novgorod Oblast.

Arriving to places of serving a sentence in the form of imprisonment for the first time, dramatically changing the familiar environment, the self-consciousness of a minor convict undergoes significant changes. Thus, regime conditions of the juvenile correctional facility determine daily routine requirements and a fairly large list of legal restrictions for convicts, in order to make the most of the sentence, realized within the limits defined by law, designed to have a beneficial effect on their correction. Law defines the rules of behavior in the penitentiary institution for convicts, applying the whole range of educational measures, both punishment and incentive. Thus, the penitentiary system assumes to accustom the convicted person to the appointed execution of punishment during the term of serving the sentence, forcing him/her to unconditionally obey the detention regime, and then, after the expiration of the sentence, to return life values and positive attitudes, but in a corrected form. This goal is quite achievable if there is coherence in the work of the correction mechanism, which is seen as a certain conveyor that allows, during the period of detention of a convicted person, to distribute efforts of the administration of a penitentiary facility.

Many serious studies are devoted to the educational work carried out in juvenile correctional facilities, but these efforts are nullified in situations when a former pupil commits a crime again and receives a new sentence. This suggests that a certain link in the debugged mechanism of this educational conveyor does not work. In our opinion, it is the final stage of punishment execution – reintegration with the society, social adaptation and resocialization.

Discussion

International penal legislation provides internationally applicable standards for the treatment of convicts. These are imperative norms – principles and general provisions. The state ratifying international legal acts is entitled to apply both general and recommendation standards to the extent that they are necessary in the specific economic and political conditions of the society. International standards for the treatment of convicts can be classified on the following grounds: scale of action (degree of generality); specialization; and obligatoriness (degree of obligation) [1, p. 8]. International agreements regulating relations in penitentiary institutions establish foundations of the legal status of a person (convict), special norms on the rights and obligations of certain categories of convicts (minors), conditions of detention and rules for social adaptation of convicts, rules for the functioning of state institutions and their employees in places of deprivation of liberty and pre-trial detention facilities in relation to prisoners, access regulations and standards for public organization representatives to provide all possible assistance and control, state cooperation fundamentals on penitentiary issues. This should include the United Nations

Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) adopted November 29, 1985 by Resolution 40/33 at the 96th Plenary Session of the UN General Assembly and the Convention on the Rights of the Child of November 20, 1989.

Our country has ratified a number of international legal acts, which underlines the importance of international standards of penal enforcement activities. In the political aspect, this is the appearance of specific documents, standards, recommendations and principles. Once adopted, they define important areas of internal criminal and penal policy with different degrees of categorization and obligation [2].

Social significance of the punishment execution institution is expressed in the adjustment of the intensity of criminalization of specific socially dangerous acts depending on the achievement of punishment goals, at the same time contributing to the individualization and differentiation of criminal liability. The intensity of criminalization is determined with regard to all elements of the corpus delicti, accompanied by various assessment criteria: compliance with socio-political and moral values of the society, current legal system, practical applicability of the future norm, its economic feasibility [3, p. 496].

Consideration of the stated topic is impossible without a deep understanding of the adaptation concept in the context of the penitentiary environment. In this case, it is necessary to turn to penitentiary psychology, which considers the convict's personality as a product of both the penitentiary microenvironment at the communication level of the smallest cell of the penitentiary institution, and at the level of the entire penitentiary system. Here we observe a certain specifics of persons' penitentiary adaptive in new social conditions, which, under the influence of the criminal subculture forming its ideological content, incur their deformation with regard to the stratification system and the presence of status-role conditionality of principles of interpersonal relations of pupils. With forced isolation, complete deprivation of the former environment of people and things, blocking of information processes and many social needs, most convicts have negative emotions and aggressive behavior, both to the administration of an institution and to themselves (self-aggression), leading to violations of the detention regime, encroachments on life, health and personal dignity of other convicts.

The adaptation process in penitentiary institutions is complicated due to the increased regulation of person's behavior, a clear hierarchical position of each member of prisoner community, a socially reprehensible state of mind – awareness of his/her present place and role in every minute of stay, in every ritual of the institution. It is a morning and evening roll call with a report (last name, first name, patronymic, year of birth, article of conviction, how many years, months and days left to serve), uniform, identity plate, form of appeal to representatives of the administration, system of administrative penalties, and placement in a punishment cell on the territory of the correctional facility. These circumstances predetermine the specifics in choosing the adaptation strategy with regard to a number of subjective qualities of the convict's personality, such as presence of criminal experience or previous convictions (though we believe that the presence of criminal experience is not always associated with a criminal record and serving a sentence in prison), intellectual and physical development, presence of leadership qualities or submissiveness, remorse for the crime or crimes committed (which explains confession for past acts), level of legal awareness – desire for law-abiding behavior. These factors influence the formation of three diametrically opposed strategies: active movement towards correction and formation of socially approved, law-abiding behavior; conformist adaptive attitude to what is happening and communication in a narrow circle of proven accomplices or ethnic countrymen; active opposition to the administrative regime of the institution and preservation of subcultural criminal principles and traditions. Accordingly, subsequent resocialization will depend on the above positions and attitudes of the convicted person.

The resocialization concept in domestic and international penitentiary science is considered in many aspects. So, they are the following: a process of integration of persons who have served their sentences into the system of public relations through restoration of lost social values [4]; a set of measures of a socio-economic, pedagogical, legal nature carried

out by prevention subjects in accordance with their competence and persons involved in the prevention of offenses, in order to reintegrate into society persons who have served a criminal sentence in the form of imprisonment or have been subjected to other measures of a criminal legal nature [5].

V.I. Seliverstov defines resocialization as the convict's adaptation to the social environment, his/her assimilation of rules, norms of social positions, attitudes, and acquisition of skills to lead a normal social life [6, p. 448].

M.S. Rybak considers the essence of resocialization in terms of correcting convict's personality traits by forming features necessary and sufficient for life in a certain positive or neutral social security social group, a certain microenvironment [7, p. 64].

L.V. Yakovleva proposes to provide for the purpose of social adaptation in criminal and penal legislation, which implies convicts' adoption of values and norms of Russian society, their inclusion in public life as law-abiding members of society who do not commit crimes. Correction would be a means to achieve the goal of social adaptation [8, p. 14].

We find it most justified to interpret the resocialization concept as a process of constructive interaction of interested organizations consisting of penitentiary institutions, public and municipal organizations, private and legal entities, convicts themselves, as well as the probation service. The purpose of this interaction is to enable convicts to form skills of law-abiding behavior for positive participation in social life.

In relation to persons released from juvenile correctional facilities, in our opinion, it is most reasonable to consider the resocialization process in connection with socio-pedagogical rehabilitation, since socio-pedagogical rehabilitation is fixed as one of the tasks in the Federal Law No. 120-99 "On fundamentals of the system of prevention of neglect and juvenile delinquency" [9].

Turning to the historical retrospective of resocialization foundations in our country, we will focus on activities of the Prison Trustee Society, established on July 19, 1819. The society members believed that no improvement and enhancement of prison life would keep a person from recommitting crimes if, after leaving the place of imprisonment, he/she did not find support and help in organizing life after release. Therefore, the society's activity, along with other functions, consisted in preparing prisoners for release and helping those released to get a job, providing food and clothing. Temporary shelters for the released were organized. Due to the large volume of activity in this direction, independent societies (the so-called patronage), were focused specifically on providing assistance to those released from prisons. There operated patronage societies for persons released from prison, benefit societies for persons released from prison, patronage societies [10, pp. 122–136]. It should be noted that a number of societies were established with a narrowly directed purpose – to provide assistance to minors released from prison. Resocialization activities of that time consisted in preparing the prisoner to release, helping to get used to life in freedom in order to prevent recommission of the crime. Patronage society members visited convicts, found out their intentions after release, and helped to establish contact with family, find a job and place of residence, and purchase basic necessities. Supervisory commissions that appeared later, just as a result of the positive activity of the Prison Trustee Society, combined two principles: state and public forces. It was achieved by introducing both professional lawyers (prosecutor, directors of the men's prison committee), members appointed by the Minister of Internal Affairs, and members nominated by the City Duma. The main function of this structure was to monitor activities of the correctional institution administration without interfering in the management. It is noteworthy that commissions took part in the organization of labor in places of deprivation of liberty, moral and religious education, and petitioned for pardon, commutation, and parole. A convicted person could appeal to the commission with a complaint about detention conditions. Supervisory commissions were a public element [11, pp. 242–244].

Russian penitentiary science singles out several stages of resocialization: pre-penitentiary, penitentiary and post-penitentiary. The pre-penitentiary stage includes the investigation procedure and the issuance of a court decision on punishment, the penitentiary stage – the process of convict's adaptation to the conditions of criminal punishment execution directly

in places of deprivation of liberty, the post-penitentiary stage – release and social adaptation to the conditions of life in society as a citizen equalized in the rights.

The idea of the demand for social reintegration of convicts was developed already in the first half of the 19th century, when the issue of the importance to apply corrective measures, rather than to punish convicts, first arose in society. The main means of achieving the goal of correction is to inspire prisoners with faith and desire for repentance on the basis of moral principles [12, p. 53].

Considering resocialization stages as a structurally constructed conveyor of legal and educational influence carried out against a person who came to attention of law enforcement agencies upon the fact of an illegal act, we find it necessary to analyze these stages based on the experience of law enforcement activities of a specific penitentiary institution.

Thus, a minor offender, for whom a preventive measure of detention is applied, is placed in a pre-trial detention facility located on the territory where adult criminals are held. Even with strict separation of this contingent from the category of adult criminals, their unwanted contacts are possible, they cannot be avoided. The very atmosphere of the pre-trial detention unit contributes to the spread of a criminal subculture with the resulting negative consequences for both the person under investigation and the process of investigating a specific crime. These negative consequences manifest themselves in the defendant's opposition to the law enforcement system and refusal to cooperate with the investigation. During investigation of practically each criminal case there arise situations that hinder proving the fact of the crime commission by the investigative body, its procedural actions. Cooperation of the suspect at the investigation stage frees the investigating authorities from a significant number of procedural actions aimed at collecting evidence and additional verification of versions of the crime commission. Undoubtedly, any confessions should not be taken on faith without careful verification, comparison of facts and collection of evidence by all legal means. Considering the suspect's cooperation with the investigation as an internal psychological process, it should be noted that the sooner positive interaction begins, the faster it is possible to achieve the goal – to establish all the facts, circumstances, conditions of the crime. A person who has confessed once, even in a minor event or circumstance, and received a positive response from the investigator (of course, after checking his/her version), will definitely go further, from less significant to more significant, which will greatly facilitate the investigation. At the same time, the investigator, checking one or another version of the defendant, has the opportunity to verify his/her sincerity, outline and carry out tasks to collect the necessary evidence using his/her confessions. In practice, it looks like this: you have told about known circumstances or facts – explain why you think so and what you will give as an argument to confirm your words. This method of psychological impact helps build a dialogue of information exchange, which in the future should be verified, confirmed and secured by investigative and procedural means. In this case, a lot depends on skills and experience of the investigator. It requires an instant reaction to the information that has become known, the ability to conduct a dialogue, and skills to construct a question so that the answer to it triggers communication and does not break the logical chain of events being clarified. Studying interrogation materials, the investigator finds it important to expand the scope of the question. In case it is postponed, it will be problematic to do this at the next interrogation. Therefore, preparing for the investigative action, it is necessary to work out the most likely tactics of the defendant's behavior and possible answers presented as versions of what has happened.

A negative consequence of the criminal subculture influence, especially among minors, is an unjustified desire to take all or most of the blame on themselves, thus letting the real perpetrator of the crime evade responsibility. A teenager, getting into a difficult criminal situation, is mistaken, hoping that, due to his/her age, his/her responsibility will be minimized. Such "advice" is given by more adult participants in the criminal act, using tougher measures of intimidation and violence along with persuasion.

Establishment of pre-trial detention facilities for minors directly in juvenile correctional facilities could be one of the ways to minimize this influence by excluding any contact with

adult criminals. This idea is not new in domestic and international penitentiary practice. Such a structure was organized at the premises of the juvenile correctional facility – an area functioning as a pre-trial detention center (hereinafter PFRSI). Thus, contacts with the criminal subculture are minimized and emotional burden on the teenager is weakened, since the detention regime in this institution is quite transparent and controlled. It helps to objectively investigate a crime, perform necessary investigative actions, eliminates the factor of fear of a teenager for the future, and helps to avoid taking on someone else's guilt, thus confusing the investigation.

The existing practice of investigating criminal cases against minors reveals numerous facts of pressure on participants in the criminal process, coming from the immediate environment of the suspect on the one hand, and from accomplices at large on the other.

The possibility of carrying out certain investigative actions, for example, interrogations, confrontations, identification on the PFRSI territory, can also be considered as a positive trend in expanding functions of using the above-mentioned structure for objective investigation. This circumstance excludes unnecessary transportation of suspects directly to internal affairs departments, convoys, and armed escort during the investigation, which will help unload convoy units of internal affairs departments. It is much more effective, when the investigator arrives at the territory of the institution to conduct investigative actions, where the necessary conditions for work, in particular a separate guarded and equipped room, are created. Besides, during long holidays suspects held in internal affairs departments are transported to pre-trial detention centers. So, it is transportation costs, the work of convoy units, and the opportunity for minors to communicate with criminal elements and acquire criminal experience. During such communication with adult criminals "good advice" is given on how to behave during the investigation and counteract the investigation. There is also a possibility of leakage of investigative information about the investigation course, which further entails activity on the part of those remain at large. If a suspect is held on the territory of a juvenile correctional facility in the PFRSI, all of the above can be avoided or optimally minimized. Besides, it is possible to conduct law enforcement intelligence operations, since the institution has a professional operational staff.

After the sentence entries into force, a convict arrives at the juvenile correctional facility, where the administration watches him/her and analyzes his/her documents, such as the court verdict and investigation materials. They contain a significant amount of information about the convicted person, reasons, conditions, and motives for committing the crime. Based on these materials, it is possible to create a picture of the convict's internal attitude to the crime, completeness of proving the fact of committing a crime, as well as confession of guilt and personal remorse for the committed act. Much depends on the crime severity, circumstances of its commission, convict's behavior during the investigation and trial, admission or non-admission of guilt, both during the investigation and in court. The person's attitude to the guilt admission is of great importance, in terms of psychological readiness to serving the sentence. So, if the convicted person admits guilt in the crime committed, fully agrees that his/her illegal act is discovered by the investigation, his/her guilt is confirmed by investigative actions carried out in compliance with the norms of the Criminal Procedural Code of the Russian Federation, secured by legally obtained evidence, it will be easier for the administration of the penitentiary institution to work with this convict. Otherwise, the convicted person denies the detention regime and shows a hostile attitude towards the penal system employees, which ultimately makes it difficult for him/her to adapt to the institution.

When conducting a comprehensive psychological study of the convict's personality, the psychological support service of the institution creates his/her psychological portrait, identifies individual character traits, his/her attitude to the crime committed, and outlines a plan for working with him. Studies of domestic psychologists working in the penitentiary system prove that forced isolation of a minor, that is complete deprivation of the former habitual environment of people, blocking of information processes and needs and emotional and psychological crisis, leads to the emergence of negative emotions and aggressive behavior. Often ag-

gression is directed at oneself and occurs as if inside a person, but in most cases it manifests itself in violation of the detention regime, negative attitude towards the administration, and encroachments on the life and health of nearby convicts. Therefore, in this period, the process of personal adaptation in new social conditions comes to the fore. Here there is an urgent need for an individual to determine the status-role attitude in interpersonal relationships in a group of pupils.

The adaptation process in conditions of a penitentiary institution is complicated due to the presence of a stable system to regulate convicts' behavior, established traditions, rituals and unwritten rules to define the place or niche of each convict in the community hierarchy, and transformation of behavior stereotypes. Taking into account the above, the adaptation strategy of the administration team in relation to each convict is determined. When determining its specifics, it is necessary to take into account subjective qualities of the personality of a particular convict: a status-role position in the criminal community (presence of criminal experience), attitudes (positive or negative) to the sentence and, accordingly, to the execution of punishment, presence or absence of remorse for the crime committed, mental and intellectual development, presence of leadership qualities or submissiveness, health and physical indicators.

From the first moment of the convict's stay in the institution, it is possible to involve operational services – operational support in order to collect information with the help of auxiliary tools. The results obtained during the operational study will further help in establishing contacts with the convicted person, and the already established contact can be used in the work to determine circumstances of unsolved crimes. The result of this will be the receipt of a confession for a crime committed earlier.

To encourage a positive attitude to the re-education process, the correctional institution administration can place a convict in certain conditions of detention on a purely individual basis: ordinary, preferential, strict. This gradation makes it possible to classify the contingent in a certain way, dividing minors into categories of those who have consciously embarked on the path of correction, who have not made a decision or who deny re-education. So, stimulating methods aimed at inculcating positive value orientations to inmates of the juvenile correctional facility can be applied and the possibility of negative impact from the negatively-minded contingent – eliminated. This means that the detention conditions have certain differences in nutrition, content, and use of encouragement measures. Accordingly, candidates for parole are pupils who are on preferential conditions of serving the sentence.

All employees of the juvenile correctional facility working with the squad participate in the implementation of pedagogical methods of complex education. There is a so-called basic triangle – educator, master of industrial training, teacher. Besides, a head of the squad, employees of the regime service, psychological service, operational unit, and representatives of public organizations are involved in the education process.

In the juvenile correctional institution under analysis two vocational schools have been functioning for a long time, that is, it is possible for a pupil to get several specialties. Each convict has a diary where all his merits and violations are noted. There is also an electronic version of the diary, available for the institution authorities, and if necessary, this information can be used by the higher-level apparatus of the Main Directorate of the Federal Penitentiary Service (the AKUS electronic system). Tracking minor's behavior helps verify the correctness of the decision to place him/her, for example, in preferential conditions, and plays an important role in the release on parole. Such a control system over minor's behavior helps boost educational activity of employees. For example, an employee's remark about the minor's uniform is an action of the educational nature of the administration. By studying the diary of a convicted person, it is possible to draw conclusions about the presence of the pupil's conscious desire to embark on the path of correction. Activities of the operational part of the institution are worth mentioning, since the use of auxiliary tools and methods for obtaining information and psychological influence on the pupil bring their results (starting from writing apologetic letters to victims and compensating for material damage, ending with the writing a confession about previously committed and unsolved

crimes at large). The work on unsolved crimes is carried out systematically. One of the elements of this system is to receive information at the request of investigative departments of the Ministry of Internal Affairs from persons serving sentences. When submitting a petition for the application of parole, the operational unit gives its assessment of the minor's behavior.

Let us turn to the issue of parole. According to a number of researchers, early achievement of punishment goals and occurrence of circumstances of a different nature are connected, first, with minors' minimal possibilities in compensating for the damage (harm) caused by the crime; second, minors' submissiveness to correctional and educational influence, which makes it possible to achieve the goal of correcting them earlier than the term; third, due to their psychophysical impact, minors are not always able to endure the restrictions and deprivations associated with serving a sentence [13, p. 283].

According to Russian researchers, the legal nature of release from serving a sentence is considered as a means of individualization of criminal punishment. Individualization of punishment consists in the fact that when the court appoints a punishment measure (the type and size of state coercion), legally significant features of both the crime itself and the personality of the person who has committed it are carried out. Release from serving a sentence is a type of encouragement for certain convicts. A convict seeks to prove reduction of the danger of his/her presence in society to be with his/her relatives. S.V. Danelyan suggests considering the institution of exemption from serving a sentence as a means of criminal punishment individualization [14, p. 16].

According to S.I. Zel'dov, release from serving a sentence is understood as an act of justice that is carried out in the form prescribed by law against a person found guilty of committing a crime, and fully or partially (under a certain condition) frees the convicted person from deprivation or restriction of the rights that are the content of the sentence (it is not replaced with another type of punishment), but a criminal record is preserved [15, p. 14].

So, it is necessary to highlight legal consequences associated with a criminal record in more detail. It is generally accepted that a criminal record is a "complex of restrictions on the guilty person's rights and freedoms arising from the moment of his/her conviction and additional duties imposed on him/her by law during the period prescribed by law" [16, p. 317].

Considering criminal-legal consequences of a criminal record, M.V. Grammatchikov proposes a systematization, highlighting the following areas: the circumstance affecting qualification of a crime; the basis for recognizing recidivism of crimes; the circumstance affecting the imposition of punishment; the circumstance excluding the release of a person from criminal liability; the circumstance limiting possible release from punishment [17, p. 17].

Nowadays, the victim's participation in the penal process is discussed in the scientific literature. International standards for the protection of victims of crimes and the Constitution of the Russian Federation guarantee victims the right to protection, access to justice and compensation for the damage caused [18, p. 182]. It would be biased not to take into account these circumstances during the educational process of the convicted person. Thus, according to the Federal Law No. 62-FZ of March 30, 2015 "On amendments to the Criminal Procedural Code of the Russian Federation and the Penal Code of the Russian Federation on victims' participation in the court's consideration of issues related to the sentence execution", the administration of the institution executing the sentence is obliged on the day of sending the submission or convict's request for conditional release or replacing the unserved part of the punishment with a milder form, notify the victim about it. Realization of the victim's personal right is his/her desire to be present directly at the court session or to participate through the use of video conferencing systems. However, taking into account the fact that the overwhelming majority of victims or their legal representatives do not want to participate in it for various reasons, it would be advisable to amend Part 2.1 of Article 399 of the Criminal Procedural Code of the Russian Federation as follows: "The victim, his/her legal representative may participate in the court session directly or by using video conferencing systems, or express their opinion in writing". In our opinion, the consideration of the above-mentioned circumstances is a nec-

essary and sufficient condition characterizing a convicted person who has embarked on the path of correction.

The activity of representatives of religious denominations is one of the most effective means of influencing convicts throughout their stay in the institution. Thus, the juvenile correctional facility in the town of A. is located in close proximity to the convent, which carries out a number of measures to provide moral and rehabilitation assistance by conducting spiritual and educational conversations during personal meetings with the sisters of the monastery. There is an agreement with the monastery leadership on the inclusion of clergy in the work in the juvenile correctional facility. At the specified time, a representative of the monastery enters the territory of the colony, accompanied by an employee of the regime, who conducts a conversation not in the direct presence of a representative of the administration, but in the visual control zone. On the territory of the juvenile correctional facility there is a prayer room equipped with everything necessary, where services are held on certain dates. The work with convicts is obedience for monastery's servants, so they treat this with special trepidation. The institution authorities have repeatedly paid attention to the commitment and diligence of those involved in this work. The settlement where the facility is located, unfortunately, does not have its own parish, the presence of which would be an effective help in the work of carrying out liturgical activities and spiritual and pastoral care of inmates of the juvenile correctional facility.

Activities of the parent committee are of great importance in the process of re-education of convicts. Its most active members more often than others have the opportunity to communicate with their children and are involved as escorts during events – visits to the sports and recreation complex and the theater. All this is carried out only during daylight hours and should not exceed 8 hours. In the educational process, parents' initiatives to organize meetings with famous people and outstanding athletes are welcomed. Frequent guests of the facility are students of the Psychological and Pedagogical Faculty of the Branch of the National Research Lobachevsky State University of Nizhny Novgorod, conducting educational events dedicated to significant dates, as well as concerts.

Since the process of keeping a convict in a juvenile correctional facility is considered as a continuous educational complex that requires both initial and final stages, it would be logical to transfer him/her to penal settlements. A panel settlement can be introduced as a separate structural unit in a juvenile correctional facility. For this there is also a material and technical base, as well as protection and regime conditions. Similar structures exist and are embodied in the organization of dormitories outside the penitentiary institution, with a regime of supervisory control. So, juvenile offenders live outside the correctional facility, are unguarded, but under supervision. They have civilian clothes, their own food, as well as passes of the established pattern. During the day, they perform work in subsidiary farms, in production or at warehouse facilities on the territory of the village. They must observe a certain movement route. During the day and at night, an employee of the juvenile correctional facility conducts planned, as well as sudden checks of the compliance with the requirements of this contingent maintenance. At night, they are supervised, both by an employee and with the help of technical means brought to the central control panel of the facility's security.

Having a real example of embodying this structural unit in a particular juvenile correctional facility, it should be noted that a room was selected for this structure, which is a detached, isolated two-story building, at a distance of 50 meters from the duty station of the correctional facility. The building has necessary utilities, separate rooms for food, and accommodation and leisure activities are provided. The premises are technically equipped with surveillance cameras for remote access of the duty unit of the juvenile correctional facility. Thus, constant monitoring of this contingent is organized. A specific employee is appointed as the head of this structure, who is entitled to make decisions regarding convicts, depending on specific circumstances.

When the term of the sentence execution expires and the former convict is released, the stage of post-penitentiary resocialization begins. Unfortunately, social exclusion and problems of the lack of guaranteed employment of

persons who have served their sentences determine the fact that every third crime is committed by persons released from prison. The greatest probability of committing new crimes by a person released from prison occurs in the first year after his/her release. This time should be devoted to the released person's social rehabilitation with appropriate social and legal support, creation of conditions for the beginning of new life. To actively counteract crime commission, it is necessary to involve not only correctional facility employees, but to a greater extent local social structures. The powers of correctional institution heads (for example, consideration of applications by the head of a correctional institution and adoption of appropriate decisions to assist in the work and household arrangements of specific persons [19]) cannot be fully realized due to insufficient funding and sometimes inappropriate attitude on the part of municipalities. Since this stage implies accompanying a former convict in order to assist in social adaptation, there is a great dependence on the presence of socially significant structures of a particular municipality. We are talking about the practice of functioning of social adaptation centers for persons released from prison. Their main task is to achieve a reduction in recidivism among the contingent of those released from prison by providing real assistance in finding employment, providing a minimum of housing conditions, as well as psychological and legal support. Unfortunately, not every city and town has the opportunity to maintain such a center and infrastructure, such as employment opportunities at the enterprise (socialization is most effective in teams), availability of housing stock, and sufficiency of psychological and legal specialists to accompany a contingent of persons released from places of imprisonment. The above-mentioned methods of post-penitentiary adaptation and resocialization are reflected in the Federal Law "On probation in the Russian Federation", signed on February 6, 2023, published on February 9, 2023 and coming into force on January 1, 2024. The provisions of this law meet the urgent need for state participation in the fate of citizens who have served their sentences in places of deprivation of liberty. The staff of the mentioned penitentiary institution welcomes provisions of the federal law aimed at more effective participation of criminal executive inspections in this process, with regard to expansion of their functions and, accordingly, skilled personnel.

Conclusion

Statistics of operational reports of law enforcement agencies on the disclosure of crimes, along with crimes committed for the first time, shows recidivism, which causes a much greater negative reaction of the society. The repeated commission of a crime by previously convicted persons indicates the return to criminal activity of persons who have undergone a full range of re-education in a penitentiary institution, and unfortunately confirms that the performance of the penitentiary system is not very successful. Penitentiary institutions' activities are strictly regulated by the current legislation and are aimed precisely at executing the sentence appointed by the court, in particular, accustoming a convict to the punishment, forcing him/her to unconditionally submit to the detention regime, and then trying to form life values and positive attitudes. This goal is quite achievable if there is a coordinated work of the correction mechanism, which is seen as a certain conveyor. On the example of studying the experience of the juvenile correctional facility in the town of A., we have shown the system of means and methods of re-education of convicts within the penitentiary institution. However, this work will be full-fledged only when the full range of opportunities of society for the return of previously convicted citizens to society through social adaptation and re-socialization carried out at the necessary level is used. The adopted federal law "On probation in the Russian Federation" is designed to solve the main task of penitentiary legislation – returning the convicted person to society with the guaranteed renunciation of criminal activity.

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INFORMATION ABOUT THE AUTHORS

IGOR Yu. SAMOKHVALOV – Candidate of Sciences (Law), associate professor at the Department of History, Social Studies and Law of the History and Philology Faculty of the Arzamas Branch of the National Research Lobachevsky State University of Nizhny Novgorod, Arzamas, Russia, herrysam@mail.ru, https://orcid.org/0000-0001-7932-6238

ANDREI L. SANTASHOV – Doctor of Sciences (Law), Associate Professor, Chief Researcher for Sociological Research of the Research Department of the Faculty of Training of Scientific Pedagogical Personnel and Organization of Research Work of the Moscow Academy of the Investigative Committee of the Russian Federation, Moscow, Russia, professor at the Department of Civil Law Disciplines of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, professor at the Department of Criminal Law and Criminology of the North-Western Institute (branch) of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, santashov@list.ru, https://orcid.org/0000000310441697

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Data Constituting the Forensic Characteristic of Convicts' Intentional Infliction of Harm to Life and Health and Their Correlations

NIKOLAI G. SHURUKHNOV
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
Academy of the FPS of Russia, Ryazan, Russia
matros49@mail.ru, https://orcid.org/0000-0003-1132-760X

OLEG M. DECHKIN
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, olegd4105@mail.ru, https://orcid.org/0000-0002-4956-8655

Abstract

Introduction: the article considers key data constituting the forensic characteristic of convicts' intentional infliction of harm to life and health (articles 105, 111, 112 and 115 of the Criminal Code of the Russian Federation) in places of deprivation of liberty and their correlation. *Purpose*: based on the analysis and generalization of theoretical and practical materials, to formulate the most characteristic set of data that make up the forensic characteristic of these acts, as well as disclose their content. *Methods*: generalization, comparison, analogy, concretization, abstraction, as well as statistical and content analysis, and comparative legal research methods. *Results*: the article presents the percentage composition of various forensic data that help develop methodological recommendations for investigation and the practice of disclosure and investigation of crimes. The article shows how illegal actions are carried out without and with the use of means of committing crimes found at the scene of interpersonal conflict of convicts. A combined method presupposes the use of both physical strength of a person and instruments of harming life and health. Considering components of the method of committing crimes, the authors pay attention to correlations that help establish various circumstances of the crime commission. In particular, the authors express an opinion that in places of deprivation of liberty unofficial norms of behavior of convicts act as a general correlation of the commission of crimes against the person, including those that are the subject of this study. It is those cases when convicts relying on specific conditions and the contingent prepare devices to cause harm to life and health in advance, as if just in case, to stand up for themselves and respond to possible insults using such an object. The article clearly identifies the correlation between the crime scene and means and methods of the crime commission, as well as the correlation between the time and the crime scene. *Conclusion*: based on the available research, the authors' own ideas on these issues are substantiated.

Keywords: crimes against life and health; convicted person; deprivation of liberty; forensic characteristic; data; correlations; method of a crime commission; concealment; situation; scene; time.

5.1.4. Criminal law sciences.

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Introduction

Our research shows[1] that the content of the forensic characteristic[2] of convicts' intentional infliction of harm to life and health in places of deprivation of liberty (articles 105, 111, 112 and 115 of the Criminal Code of the Russian Federation) is comprised of the following information related to crime commission methods, including preparation and concealment techniques – 80%; instruments (devices) serving to harm convicts' life or health – 56%; situation, in which the illegal act took place – 72%; scene and time of the crime commission – 76%; personality traits of the criminal – 92% and the victim – 86%; traces and objects left at the scene – 68%; motives that prompted to commit a criminal offense – 63%; and circumstances that contributed to criminal acts – 52%. It is the basic set of data that make up the forensic characteristic, some of them will be considered in more detail in the article.

The core

Data on the methods of committing crimes, including preparation and concealment techniques

Due to its theoretical and practical significance, the method of committing a crime has always been the subject of close attention of criminologists [1; 2; 3, pp. 8–14; 4]. Due to its information component reflected in the crime scene, it is also of interest to practitioners whose activities are related to the disclosure and investigation of crimes. Data on the method of committing the crime obtained during inspection of the scene of the incident help determine a set of circumstances that reveal the content of the process of committing an illegal act. If we forecast correlations of the method of committing a crime with other components of the crime, personality traits, then the amount of information useful for the disclosure of the crime increases significantly.

The mentioned provisions fully apply to the methods of convicts' intentional infliction of harm to life and health in places of deprivation of liberty. Regarding analyzed criminal acts, it is a set of certain actions, techniques, skills grouped into a certain behavior of an individual, whose intentions are realized in a certain way [5, pp. 125–126].

The founder of the forensic doctrine of the crime commission method, G.G. Zuikov, included "a system of interrelated actions for the preparation, commission and concealment of a crime determined by a set of objective and subjective factors" in its content [6, p. 16]. Thus, according to G.G. Zuikov, the method of committing a crime includes three components: actions (behavior) to prepare, commit and conceal a crime. F. Ermolovich expanded this approach by adding the circumstances specifying the method of committing the crime. In his opinion, it includes a system of "deliberate actions for the preparation, commission and concealment of a crime, covered by a single criminal plan, determined by psychophysical qualities of the criminal's personality (his/her accomplices) and selective use of appropriate conditions, place, time, as well as taking into account possible actions (inactions) on the part of the victim, other persons" [7, pp. 54–55].

Developing the doctrine of the method of committing a crime, researchers came to the idea of constructing an appropriate classification. Various grounds were used, including components (the content), where the leading

[1] In 2019–2021, we studied 79 employees of the internal affairs bodies of the Russian Federation, including 42 investigators and 37 interrogators, as well as 62 investigators of the Investigative Committee of the Russian Federation from 6 subjects of the Russian Federation (Komi Republic, Arkhangelsk, Vologda, Kirov, Penza and Sverdlovsk oblasts) with experience in investigation crimes against life and health.

[2] The criminalistic characteristic as an information model of the crime commission, represented by a set of typical data, serves as the basis for the formation of the investigation methodology. It is especially important at the initial stages of investigation (preliminary and initial), because, as a rule, during these periods, authorized officials making decisions about the investigation have a certain lack of information. The specified information about the commission of similar crimes helps put forward reasonable versions and determine optimal ways to investigate a specific crime.

role was assigned to the behavior and actions of the criminal. As a result of the research, the types of crime commission methods were divided into "complete structural" and "incomplete structural". So, O.N. Aleksienko and A.V. Vardanyan write that "the incomplete structural method covers only two of the three options for achieving a criminal result, either actions for the preparation and commission of a crime, or actions for the commission of a crime and concealment of one's involvement in the crime" [8, p. 36]. Thus, a complete structured method should include all three components indicating its intensity and meaningfulness: character of the preparation and subsequent actions of the criminal, intent, behavior after the commission of an illegal act.

According to our data, in 36% of cases (of the total number of crimes), the method of causing intentional harm to life and health by convicts was complete structural and included a complex of various actions, differing both in content and direction. Preparation for the commission of the studied group of crimes included a complex of various actions, which, depending on the specific situation, were single or combined. First, they were connected with the search for crime instruments. The criminal, after forming an intent to harm life or health, took pains to find an instrument (device, object) for committing a crime. Duration of the search depended on the situation and the time interval separating the formation of a criminal intent from its immediate implementation. If the intent to cause harm to life or health arose in the convict suddenly (domestic assault), then there was no time to create a favorable environment for the crime commission, as a result of which the criminal situation developed haphazardly. The most likely instrument, as a rule, was an improvised object that was nearby at the time of the illegal act commission.

On the contrary, if the intent had arisen earlier and had been a secret for the "victim", then the person attempting to commit an illegal act had a certain time reserve to specify the time and scene of the crime, search for an instrument (device), and think over the method of committing a crime. In such cases, considerable time was spent on preparing an instrument (device) for the crime commission and they were very different (small pieces of metal (of various geometric shapes), nails of large length, and pieces of wire from durable metal were sharpened, garrotes were made from parts of clothing and underwear, and shanks were made from spoons or art supports). To cause harm to life or health, plates of various metals were placed (inserted) in the sock or on the sole of shoes. Hiding places were found to store these objects in a certain place or parts of clothing, shoes, and interior objects. Here we observe the correlation between the time of the preparation for committing a crime, the instrument (device for defense or attack), and the place of its concealment and rapid pulling out.

When preparing the crime commission, an offender specified the route of movement of a future victim within the industrial and residential zone, his work and sleeping places, close environment, and the moment when there were no eyewitnesses in a certain place and time interval (or there was a minimum number of them, preferably from among like-minded people).

When studying investigative practice (without special analysis), we found out the correlation between the scene – the instruments used – the crime commission method. Depending on the crime scene in correctional institutions, convicts used various objects, means, devices, instruments of crime, or nothing. In penal isolation cells and cell-type rooms, convicts used their muscular strength without any crime instruments – strangulated with hands or forearms, kicked and punched. In some cases, convicts used garrotes made from parts of clothing, as well as sharpeners made from spoons and nails, which they managed to carry into these premises. So, the more limited the space for convicts to move (the more limited his contacts with a diverse environment and people), the more specific (primitive) the instruments for causing harm to life and health and the ways of its implementation.

It is worth emphasizing that in places of deprivation of liberty traditions (unofficial norms of convicts' behavior) often act as a *general correlation of crimes against the person*, including those that have become the subject of this study. We are talking about those identified

cases when convicts, guided by specific traditions (unofficial behavioral norms), prepared devices for attack and defense in advance, as if just in case, to stand up for themselves or respond to possible insults using such an object. For this reason, in the process of studying the practice, we identified 44% of the cases when intentional infliction of bodily harm was carried out with the help of various instruments, means, and devices.

In 64% of the cases (of the total number of crimes) the method of intentional infliction of harm to life and health by convicts was incomplete structural. Crimes of this group were committed by convicts without any preparation. The revealed pattern suggests that the intent to harm life and health arose spontaneously under the influence of certain factors (conditions and circumstances). This can be connected with the emergence of an interpersonal conflict that occurred between persons serving a sentence of imprisonment. In relation to the incomplete structural method, crimes instruments were not specially prepared. They were the following:

– working tools intended for metal working, raw materials for the manufacture of finished products (pieces of metal pipe, metal rods, calipers, files, hammers, sledgehammers) – 12 %;

– production tools designed for sewing, construction, plumbing, and shoe repair work, without additional devices for inflicting bodily injury (scissors, shoemaker's knives, trowels, mason's hammers, plumber's gas keys) – 8 %;

– parts or household equipment intended for cleaning premises and territories (handles from shovels, rakes, brooms, and mops) – 16 %;

– household equipment or its components (cutting boards, heated iron, kettles, metal spoons), as well as food packaging items (cans of stew and canned food) – 4%. It is worth mentioning that the specific situation of the correctional facility determines more frequent infliction of harm to life and health with household items in normal conditions (40 % of the cases) [8, p. 37];

– objects that happened to be at the scene of the accident (parts of a brick, asphalt, or stone, parts of boards or metal pipes) – 8 %;

– interior items and equipment of residential premises (stools, ladders, bed frames) – 5%. Practice shows that bed shackles can be specially unmounted in advance (rivets are cut down). Being unfixed, they can serve as means for protection or attacking;

– other objects or liquids used as means of harming health or life (boiling water, dried bread, hair clipper) – 17%.

Intentional infliction of bodily injuries to the victim (punching, kicking and hitting with instruments of crime) occurred in 30% of the cases (of the total number of crimes). This is a combined way of committing crimes in question, which consists in a disorderly combination of physical strength of legs, arms and some specially prepared instruments, or found at the place where illegal acts are committed. The sequence of strikes depends on the distance at which the subject of the crime and the victim are located, as well as the pattern developed by training (convicts often visit gyms where they run special training sessions for themselves). It can be a kick, a punch, and after that hitting with some kind of tool or object (a handle of a household tool).

Intentional infliction of damage to life and health without the use of instruments and means by attacking with hands, feet, and head amounted to 26% (of the total number of crimes). For comparison, we note that under normal conditions, when committing crimes against life and health, kicks and punches account for 17.4% [8, p. 37].

It should be borne in mind that among those serving a sentence of imprisonment there is a category of persons who are constantly engaged in special physical exercises, including mastering the techniques of boxing, hand-to-hand combat, kickboxing, Thai boxing, and army hand-to-hand combat. To do this, there are appropriate "trainers", or skills are acquired independently, starting with the study of specialized literature. As a rule, there are premises and free time for this. The administration of the correctional facility should monitor the category of convicts, since they sometimes either try to test their skills on other persons with whom they have hostile relations, or do so at the request of their close circle. They explain their illegal behavior by the need to protect their friend from harassment and insults of other convicts. Let

us emphasize once again that these convicts master special techniques not only to keep fit, but also to stand up for themselves (here we observe again the role of specific traditions of places of deprivation of liberty).

The method of committing crimes related to the intentional infliction of harm to life and health by convicts in places of deprivation of liberty is characterized not only by instruments (devices), but also the number of persons taking part in illegal activities (alone or in a group of persons) [9, p. 7]. According to our data, 84% of the crimes under consideration were committed by convicts alone, and 16 % – by a group of persons.

There is the *correlation* between a number of persons (a group of persons) taking part in the crime and other circumstances of the illegal activity: the object (expected victim) of criminal encroachment; goals of the crime and tasks that accomplices fulfil; instruments to harm victim's life and health – the role of each accomplice; scene and time of the crime; the route for removing accomplices from the scene; the nature of the destruction of evidence; behavior after the crime (intensity of concealment); and the formation of an alibi.

All of the above is included in the subject of preparation for the commission of a crime and, as a rule, usually established during investigation. Other relations are observed there – the situation of the crime commission.

By its content, the preparation process for the commission of crimes provided for in Articles 105, 111, 112 and 115 of the Criminal Code of the Russian Federation is independent. A convicted person (classifying himself as the so-called authorities, or close to them), realizing a criminal plan, does not intend to independently implement an illegal act and assign it to a person (there are cases when not he but his inner circle commits a crime), who is under an obligation. In such situations, a detailed briefing is given to the one who will make illegal actions.

Crime concealment methods are actively used by persons serving sentences in the form of imprisonment. This is also connected with the previous experience of committing crimes, their own behavior during court proceedings and the experience of fellow inmates in pre-trial detention centers and correctional facilities. The analysis of practice shows that in 75% of the cases convicts actively obstructed the investigation by destroying traces and instruments of committing a crime, giving false testimony or refusing them, falsifying evidence, and influencing other convicts to give false testimony. By their target orientation, concealment techniques represent one of the forms of countering investigation and establishing the truth in criminal proceedings [10, p. 234].

The methods to conceal infliction of intentional harm to life and health committed by convicts in places of deprivation of liberty are certain actions aimed at hindering the investigator and the inquirer from obtaining information significant for establishing the truth, its distortion or destruction. In some cases, these techniques, as we have already noted, are included in the structure of the crime commission method, that is, when the attacker (attackers) has a single criminal intent covering all stages of the illegal activity (preparation, commission and concealment). In others, the intentions to conceal criminal acts of these persons arise suddenly, due to changed circumstances (at various stages of criminal proceedings).

There are the following key concealment methods used by convicts after committing crimes related to our research subject: destruction, concealment of traces, instruments of crime and other incriminating objects; creation of a false alibi by a criminal or other persons; exclusion (withdrawal) of the direct participation of individual convicts from the crime mechanism (when the criminal act was committed in a group); distortion of information about the event of a crime (staging of a non-criminal event, reporting injury as a result of falling from a height of one's own height, and others); concealment, and destruction of a human corpse.

Data about the crime situation.

Any crime, whether intentional or careless, takes place in a certain situation [11–17]. On the one hand, it has a direct impact on the course and dynamics of the crime, substantiating its mechanism as a whole, and on the other hand, it indicates patterns of the formation of traces and their carriers during the illegal act investigation.

To date, there is a significant number of definitions of the concept "crime situation" in criminology. The most complete and meaningful is the definition proposed by N.P. Yablokov. In his opinion, the crime situation is a system of various kinds of objects, phenomena and processes interacting with each other, characterizing conditions of the scene and time, material, climatic, industrial, domestic and other environmental conditions, as well as other factors of the objective reality that determine the possibility, conditions and circumstances of the crime commission [18, pp. 38–39]. Describing the situation, this scientist implies the surrounding (external) environment of the event of an illegal act, and also identifies its individual objects, phenomena and processes that are interconnected with each other. It seems that this is correct, and for the study of the process of committing crimes against life and health committed by convicts in places of deprivation of liberty, it is essential. The surrounding (or external) environment, in which a criminal act is committed, and further investigation is conducted, is specific and determined by the type of regime of the correctional facility, its territorial location, area, accumulation of a large number of persons with criminal experience, the profile and intensity of production activities, and the typical nature of all communications of these institutions that predetermine the situation of the crime commission.

Territorial limitations and closeness of a correctional facility make it possible to detect an illegal act, a criminal, traces and other objects that are important for its disclosure and investigation in the shortest possible time. At the same time, a limited area and a large concentration of convicts on it complicates the preservation of material traces (blood stains, finger marks, shoes), instruments and an original crime situation [19, p. 260].

In places of deprivation of liberty, criminals and their entourage, as a rule, have the opportunity to observe the progress of the work of the investigator, the inquirer and other authorized persons on the territory of the institution, receive necessary information about the investigation and the conduct of certain procedural and investigative actions, operational-search, regime and other measures from other convicts. Taking into account this specifics, these persons may develop different ways to counteract the investigation.

Despite this, the limited territory of the correctional facility contributes to prompt identification of persons who have committed illegal acts. In other words, there are *correlations* between the situation and the circle of convicts who may be suspected of committing crimes against life and health, as well as between a certain scene, time, and method. These are persons of the same squad, living in the same room, working in the same shift, at the same facility, housed in one isolated area, as well as those who have previously committed similar criminally punishable acts in a certain way [20, p. 65].

Territorial limitations of the correctional facility, its closeness, as well as a significant concentration of people in a particular territory, make it possible to quickly get information about the crimes themselves related to intentional harm to life and health. This efficiency is ensured by the round-the-clock supervision of convicts. Such supervision is carried out in cells, dormitories, production facilities, as well as on the territory of residential and industrial zones by employees of the correctional facility. Our research shows that in 43% of the cases, information about the crimes of the considered group was received by the police department on duty within one hour, in 38% – from one to three hours, and in 19% – from three or more hours.

In places of deprivation of liberty, it is possible to quickly obtain information characterizing the criminal, the victim and other participants. Such information about convicts is concentrated in their personal files stored in the special accounting units of the correctional facility, as well as operational, educational, and medical units, psychological service or other departments and services. The information characterizing the convicted person facilitates preparation of the investigation subjects for conducting separate procedural and investigative actions [21, p. 88].

Having studied the process of committing crimes in places of deprivation of liberty for a

considerable time, we have come to a conclusion that there are *correlations* between the specifics of the situation of a particular correctional facility, social environment, criminal activity, illegal activity mechanism, and convicts' behavior during the investigation. All of the above determines additional (concrete) specifics of the investigation of crimes and presence of effective interaction [22] of the inquirer and the investigator with operational commissioners and representatives of the security service of the facility, in which the crime was committed.

Hence, information about the situation in which convicted persons commit crimes related to intentional harm to life and health in correctional facilities is one of the important and necessary characteristics of these illegal acts. Despite the fact that the situation is very specific in places of deprivation of liberty, but it is closely related to other components of the forensic characteristic of crimes provided for in Articles 105; 111; 112 and 115 of the Criminal Code of the Russian Federation, in particular the scene and time of the crime commission.

Data on the scene and time of the crime commission

According to V.A. Obraztsov, if the investigation subjects lack this information, it negatively affects identification of the criminal and other circumstances of the criminal act committed [23, p. 91].

In the context of our research, a correctional institution is a crime scene. According to Part 1 of Article 74 of the Penal Code of the Russian Federation, it is correctional facilities, juvenile correctional facilities, prisons, medical correctional and others. In turn, correctional facilities, depending on the regime of serving a sentence, are divided into penal settlements, facilities of general, strict and special regimes (Part 2 of Article 74 of the Penal Code of the Russian Federation). The analysis of practice shows that 91% of the crimes related to intentional harm to life and health was committed by convicts in correctional facilities. This is due to the fact that correctional facilities make up the bulk of all penitentiary institutions, in which over 90% of the persons serve sentences in the form of imprisonment [24, pp. 6–23]. The majority of the analyzed criminal acts was committed in correctional facilities of strict (65%), special (17%), and general (14%) regimes, as well as penal settlements (4%). Approximately similar data are given by S.V. Rastoropov, investigating crimes provided for by Article 111 of the Criminal Code of the Russian Federation (64% – strict, 24% – special, and 12% – of general regimes) [25, p. 68]. The revealed pattern is confirmed by the official statistics demonstrating that correctional facilities of strict and special regimes keep those convicted of grave and especially grave crimes, committed repeatedly. Besides, such correctional facilities have a higher concentration of convicts, as well as close interpersonal contacts.

The most common crime scenes are dormitories for convicts (42%); industrial premises, such as workshops and sites (20%), local (isolated) areas of dormitories for convicts (12%), dining rooms and adjacent territories (8%); quarantine facilities for the reception of newly arrived convicts (5%); medical and household facilities, such as bathhouses and medical units and adjacent territories (5%), territories associated with the execution of disciplinary punishment, such as punitive isolation cells and cell-type premises (3%), cultural and leisure facilities, such as clubs and gyms and adjacent territories (3%), and other places of correctional facilities (2%).

Based on the empirical data provided, dormitories are the most typical place where crimes against life and health are committed. This circumstance can be explained by the fact that in a relatively small, closed territory there is a significant number of convicts, many of whom are characterized by emotional instability, irritability, inadequate emotional reactions, conflict in different situations, desire for dominance, self-affirmation, and suppression of others [26, p. 71].

Despite the limited territory of the correctional facility and the concentration of a significant number of people on it, convicts planning to commit crimes of the group under consideration also try to use certain places characterized by privacy, desolation, low illumination and low visibility by video recording equipment. This allows the attacker (attackers), first of all,

to avoid eyewitnesses of the incident and any interference on the part of employees of the correctional institution, as well as to further destroy material traces, instruments of the crime and escape from the scene. Depending on the time of day, these places in penitentiary institutions are household rooms, food storage rooms, washbasins, toilets, personal belongings storage rooms, stairwells, corridors, changing rooms, showers, storage rooms, and other small and remote rooms [27; 28, p. 118].

Any phenomenon and event, including infliction of intentional harm to life and health by convicts in places of deprivation of liberty, cannot exist outside of time. It should be considered not only as a calendar date, a specific time of the crime commission, but also as a set of other time data: the time of the year, day, convict's stay in certain places, etc. This helps quickly identify the perpetrator, eyewitnesses of the incident and other witnesses, as well as to find out other evidence sources [29, p. 110].

The analysis of criminal cases shows that 59% of the crimes provided for in Articles 105, 111, 112 and 115 of the Criminal Code of the Russian Federation were committed by convicts during the period when the majority of the commanding staff was outside the correctional institution: as a rule, from 17.00 to 08.00 hours of the following day. In the evening (from 17.00 to 22.00 hours) 28% of the crimes were committed, at night (from 22.00 to 06.00 hours) – 51%, and in the early morning (from 06:00 to 08:00 hours) – 21%.

The study of criminal cases revealed a *correlation* between the time interval from 22.00 to 06.00 and the organized nature, thoughtfulness of illegal activity, concealment of traces, and absence of eyewitnesses of the crime. There is also a correlation between the preparation and the specified time of the illegal activity. Committing a crime in such a time interval allows an attacker (attackers) to surprise the victim, deprive him/her of the opportunity to choose tactics of effective defense against an attack, avoid eyewitnesses of the incident, intervention of correctional facility employees, destroy traces, instruments of the crime and leave the scene as secretly as possible.

Crimes related to intentional harm to life and health, committed in the period from 08.00 to 17.00 hours (working hours of the commanding staff and employees of the correctional facility), in most cases (41%) are spontaneous, caused by the development of short-term conflict situations among convicts.

Conclusion

Summing up the above, we highlight the following.

1. The forensic characteristic of intentional infliction of harm to life and health by convicts in conditions of places of deprivation of liberty is comprised of methods of committing crimes, including preparation and concealment techniques; instruments (devices) used to cause harm to the life or health of convicts; situation in which the illegal act occurred; scene and time of the crime; characteristics of the personality of the offender and the victim; traces and objects left at the scene; motives that prompted the criminal encroachment; and circumstances that contributed to criminal acts.

2. Based on the analysis, generalization of theoretical and practical materials, we have shown key correlations between the crime commission method and physical fitness of the offender; crime scene and instruments; intent realization method; time and scene of the illegal activity; group nature and crime mechanism. It is also worth mentioning that in places of deprivation of liberty, unofficial norms of convicts' behavior act as a general *correlation* of crimes against life and health. We are talking about those identified cases when convicts, focusing on specific conditions, the contingent of those serving sentences, prepared devices for harming life and health in advance, as if just in case, to stand up for themselves and respond to possible insults with a help of this object.

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INFORMATION ABOUT THE AUTHORS

NIKOLAI G. SHURUKHNOV – Doctor of Sciences (Law), Professor, Leading Researcher at the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia; professor at the Department of Criminal Procedure and Criminalistics of the Academy of the FPS of Russia, Ryazan, Russia, matros49@mail.ru, https://orcid.org/0000-0003-1132-760X.

OLEG M. DECHKIN – Senior Lecturer at the Department of Criminal Procedure, Criminalistics and Law Enforcement Intelligence Operations of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, olegd4105@mail.ru, https://orcid.org/0000-0002-4956-8655.

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Conditional Nature of the Application of the Substitution of the Unserved Part of Punishment with a Milder Penalty as a Way to Improve This Criminal Law Institution

MIKAEL R. BALASANOV
Russian State University of Justice, Moscow, Russia, balasanovmikael@mail.ru, https://orcid.org/0000-0002-6251-765X

Abstract

Introduction: the article discusses the way to improve the application of norms of the institution of the substitution of the unserved part of punishment with a milder penalty (hereinafter – punishment substitution) by establishing conditions under which this type of exemption from punishment can be canceled by the court with the actual serving of the unserved part of the punishment. *Purpose*: based on the analysis of scientific literature, doctrinal positions, legislative provisions, and examples of judicial practice, to substantiate the prospects and expediency of introducing a conditional nature of the application of a sentence substitution. *Methods*: historical, comparative legal, method of interpretation of legal norms, theoretical methods of formal and dialectical logic. *Results*: a retrospective review of domestic criminal legislation showed that the substitution of punishment was initially considered as a form of conditional early release from serving a sentence, which is why it was characterized by a similar conditional nature. Over time, the institution of punishment substitution has become more independent and at the same time acquired an unconditional nature of application. Within the framework of the current legal regulation, convicts who, after the application of Article 80 of the Criminal Code of the Russian Federation, maliciously evade serving a substitute sentence, find themselves in an unjustifiably preferential position. There are also significant risks associated with the post-criminal behavior of a person whose situation has improved as a result of the punishment replacement. Moreover, this substitution of punishment implies that the convicted person will continue to behave lawfully. However, there are no legal mechanisms that guarantee the law-abiding behavior of a convicted person after the application of a sentence substitution. These circumstances determine prospects for the introduction of a conditional nature of the application of punishment substitution. *Conclusion*: as a result of the conducted research, in order to improve and optimize the institution of punishment substitution, the introduction of the conditional nature of its application is justified, as well as the addition and amendment of Article 80 of the Criminal Code of the Russian Federation is proposed.

Keywords: release from punishment; substitution of punishment; conditional nature; conditions of application; encouragement; stimulation; justice.

5.1.4. Criminal law sciences

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Introduction

One of the key tasks of the criminal law doctrine is the resolution of current problems, consideration and analysis of the prospects for the development of both criminal law as a whole and its individual institutions. At the same time, the vector of the direction of scientific thought largely determines the relevance of a particular legal phenomenon, which in turn is determined by various factors: socio-economic, political conditions of society and the existence of the state; aspects of strategic goal-setting in the field of regulatory regulation; the activity of the legislator to adjust the content of the criminal law, its implementation in practice.

Thus, one of the directions of the current criminal policy is to reduce a number of convicts held in penitentiary institutions, as well as to humanize criminal legislation and the practice of its application in the field of sentencing and executing of punishments. This development path determines the relevance of research in the field of types of release from punishment, in particular, the intersectoral institution of punishment substitution as an important incentive measure for convicts. The substitution of punishment not only ensures individualization of its execution, but also embodies a progressive punishment execution system based on the principles of consistency and gradual reduction of the level of criminal repression. This has triggered scientists' interest in the replacement of punishment and related issues.

In accordance with Article 80 of the Criminal Code of the Russian Federation, the substitution of punishment has an unconditional character, according to which the question of its cancellation is not raised even in case of subsequent disobedient behavior of the convicted person. So, it can be assumed that the legislator has chosen an exclusively retrospective approach. At the same time, the vast majority of scientific papers does not analyze the conditional nature of the application of the punishment substitution, but only states it. However, there are still both supporters and opponents of the legalized position among researchers.

So, O.V. Konkina substantiates an unconditional character of the replacement of punishment by stating that, first, conditional nature is characteristic of conditional early release, which implies more benefits for convicts, and, second, the Criminal Code of the Russian Federation provides for the possibility of replacing the punishment with a more severe one in case of convicts' malicious evasion from serving the sentence [1, pp. 69–70]. A.A. Urusov, on the contrary, notes the need for the conditional nature of the application of the considered type of exemption from punishment, arguing his position with the possible unjustifiably preferential position of persons who maliciously evade serving a substitute sentence after the application of Article 80 of the Criminal Code of the Russian Federation to them [2, p. 128].

Soviet science also did not have a unified position on the issue under consideration. A.L. Tsvetinovich proposed to make punishment substitution conditional [3, pp. 162–163]. Yu.M. Tkachevskii, on the contrary, mentioned: "since if a convicted person maliciously evades the execution of a sentence imposed as a substitute, then it is possible to replace it with another, more severe punishment in accordance with the procedure established by law" [4, p. 38].

It follows from the above that the appeal to the topic of the nature of the application of punishment substitution is not limited only to the twenty-first century, but is also characteristic of the twentieth one. In this regard, as part of the ongoing research, it will be appropriate to refer to a brief historical review of the criminal legislation of Soviet Russia.

The core

Transformation of the nature of the application of punishment substitution in the Soviet period

Having considered the institution of punishment substitution in retrospect of the Soviet criminal legislation, we can state its gradual transformation, which also affected the change in the nature of its application. The foundations of legal relationship between the institutions of parole and replacement of punishment were laid by the Soviet legislator.

According to the 1922 Criminal Code of the RSFSR, the substitution of punishment was considered as a form of parole and had a similar conditional character [5]. The same model of regulation was characteristic of the 1924 Basic principles of the criminal legislation of the USSR and the republics of the Soviet Union and the 1926 Criminal Code of the RSFSR. Soviet theorists substantiated the existence of two

forms of parole by the need for a combination of general and special prevention: "if a convicted person has committed a repeated or serious crime, then in this case crime prevention is most likely to be replaced by a milder type of punishment" [5, p. 6].

With the adoption of the Fundamentals of the criminal legislation of the USSR and the republics of the Soviet Union in 1958, the independence degree of punishment substitution as an institution increased: although it was still regulated in the same article as parole, the substitution of punishment ceased to be considered as its form, acquired an unconditional nature of application [4, p. 38] and was reflected in the article title. At the same time, both this document and the 1960 Criminal Code of the RSFSR contained a provision stipulating that "by applying conditional early release from punishment or replacing the unserved part of the punishment with a milder punishment, the court may impose on the personnel, with its consent, the duty to control the parolee for a period of the unserved part of the sentence imposed by the court or the person to whom the unserved part of the punishment has been replaced by a milder punishment, and conduct educational work with him/her". In our opinion, this stage can be characterized as a transitional one, when the conditionality of applying punishment substitution was no longer provided for, however, a certain quasi-control, resembling probation and imposed on the labor collective, was also possible. So, there are common features with a suspended sentence.

The 1991 Fundamentals of the criminal legislation of the USSR and the republics of the Soviet Union fixed parole and replacement of punishment also in one article; however, the court could not assign certain functions to the personnel. However, this document was not put into effect.

Undoubtedly, the Soviet experience is of interest today; the conditional nature of the application of punishment substitution occupies a certain place in the development history of the domestic criminal legislation. Turning to the present time, we note that, in our opinion, it is advisable to consider the possibility of returning a conditional nature of its application. Besides, we will substantiate the proposed ideas by considering the significance of the conditional nature for the institution under study from various sides.

Conditional nature of the application of the replacement of the unserved part of the punishment with a milder type of punishment as a way to eliminate the unjustifiably preferential position of persons who maliciously evade serving a substitute punishment

The issues of malicious evasion from serving a sentence are often discussed in the criminal law doctrine [6; 7]. However, much less attention is paid to the problem of malicious evasion from serving a substitute sentence by a person against whom Article 80 of the Criminal Code of the Russian Federation is applied.

In accordance with Part 3 of Article 80 of the Criminal Code of the Russian Federation, as well as Subparagraph 2 of Paragraph 4 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 8 of April 21, 2009 (as amended of 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 of the substitute punishment the court must take into account that: 1) it may not exceed the maximum term 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); 2) its upper limit should be established with regard to provisions of Part 1 of Article 71 of the Criminal Code of the Russian Federation. Consequently, determination of the term of the substitute punishment does not constitute a mechanical recalculation, as, for example, it is established to replace a milder punishment with a more severe one, according to Part 3 of Article 49, Part 4 of Article 50, Part 5 of Article 53, and Part 6 of Article 53.1 of the Criminal Code of the Russian Federation. Thus, depending on whether punishment substitution worsens or improves the legal situation of the convicted person, different methods of determining the final term of punishment are used, and the legislative approach to the application of Article 80 of the Criminal Code of the Russian Federation assumes a sufficient degree of judicial discretion. Nevertheless, today, taking into account the existing restrictions prescribed in the criminal law and the explanations of the Plenum, the rule of equality of the term

of the substitute punishment to the term of the unserved part of the substituted punishment is well-established in practice [8, p. 21].

In this regard, a problem arises when a convicted person, against whom punishment substitution is applied, maliciously evades serving a milder punishment. In this case the term of the sentence will be determined according to Part 3 of Article 49, Part 4 of Article 50, Part 5 of Article 53, Part 6 of Article 53.1 of the Criminal Code of the Russian Federation. Thus, one day of imprisonment or one day of forced labor corresponds to two days of restriction of freedom; three days of correctional labor or restrictions on military service; eight hours of compulsory labor.

We will simulate the situation based on the existing legal regulation and the established judicial practice. Mr. S. was sentenced to four-year imprisonment for committing a serious crime. According to Part 2 of Article 80 of the Criminal Code of the Russian Federation, in order to replace the punishment with its milder form (with the exception of forced labor), convicted S. must serve at least half of the sentence in the form of imprisonment, which is two years. After serving two years of imprisonment, the replacement of the unserved part of the punishment with a milder type of punishment in the form of correctional labor for a period of two years was applied in relation to S. Without starting to serve a substitute sentence, convicted S. maliciously evaded serving it. The court, on the recommendation of the criminal executive inspection, according to the rules of Part 4 of Article 50 of the Criminal Code of the Russian Federation, replaced two years of correctional labor with eight months of imprisonment, which was three times less than the two years not served initially. Thus, solely by recalculating the terms of punishment, the convicted person turned out to be in an unjustifiably preferential position, which could hardly be called fair.

We believe that the conditional nature of the application of punishment substitution will help solve this problem. This regulation model implies that in case of convict's malicious evasion from serving a substitute sentence (for example, in the form of correctional labor) the court, on the recommendation of the body executing the punishment, may decide to cancel the specified substitution of punishment and impose the execution of the remaining unserved part of the initial punishment.

It should be noted that in Part 6 of Article 53.1 of the Criminal Code of the Russian Federation, the legislator provided for the replacement of forced labor with a more severe punishment in case of evasion, as well as the recognition of a convicted person to forced labor as a malicious violator of the order and conditions of serving forced labor. In this regard, we consider it expedient to provide similar grounds for the abolition of the replacement of punishment in the form of imprisonment with a more lenient punishment in the form of forced labor.

If the person has served part of the replacement sentence, then this must be taken into account. For example, convicted S. served one year of correctional labor, and after that he maliciously evaded serving the rest of the sentence. In accordance with our proposed scheme, one year of correctional labor served by a convicted person must be transferred to imprisonment at the rate of one day of imprisonment for three days of correctional labor. Thus, the term of sentence of the person who has served one year of correctional labor is recalculated for four months of imprisonment. In case punishment substitution is canceled, the term of the sentence should be calculated as follows: four months should be deducted from two years of imprisonment, which were replaced by two years of correctional labor. As a result, after the cancellation of punishment substitution, convicted S. will have to serve one year and eight months of imprisonment.

However, the conditional nature of the application of punishment substitution is not limited to the possibility of its cancellation in case of malicious evasion from serving the substitute punishment. Another aspect of its manifestation is the action of a conditional nature when a person, against whom Article 80 of the Criminal Code of the Russian Federation is applied, committed a new crime. In this case, when imposing a sentence on the totality of sentences, the court must proceed from the unserved part of the sentence imposed by the court's verdict, taking into account the part of the substitute punishment served in the order shown above.

The convicted person to whom deprivation of liberty has been replaced by forced labor may later claim to replace the unserved part of

forced labor with an even milder punishment. This is evidenced by Subparagraph 2 of Paragraph 4.1 of the Plenum Resolution. In this regard, there arises a natural question: how the conditional nature of the application of punishment substitution will act if Article 80 of the Criminal Code of the Russian Federation has been applied to a person more than once. We believe that in this case, when a person commits a new crime, the "initial" penalty should be considered not that imposed by the court verdict, but as defined in the decree on the application of the first punishment substitution. A similar approach should be applied in the situation when the convicted person has maliciously evaded serving a substitute sentence imposed on him as a result of repeated punishment substitution.

In our opinion, the proposed version of regulation is more consistent with the principle of fairness. It prevents convicts who, after the application of Article 80 of the Criminal Code of the Russian Federation against them, maliciously evade serving a substitute sentence, from artificially reducing the sentence. Thus, such persons do not find themselves in an unjustifiably preferential position due to the difference in the rules for recalculating punishment terms, depending on the type of punishment substitution that improves or worsens conditions for the convicted person.

Conditional nature of the replacement of the unserved part of the punishment with a milder type of punishment application as an incentive measure

The scientific literature is characterized by a variety of approaches to determining the content of punishment substitution. Despite the pluralism of positions, most authors agree that punishment substitution involves not only encouragement, but also stimulation. Thus, S.L. Babayan writes that punishment substitution "is a complex, intersectoral, and incentive institution that implements the function of exemption from serving a sentence by replacing this punishment with a milder type of punishment and stimulating law-abiding behavior" [9, p. 224]. According to R.R. Khalilov, the essence of punishment substitution consists in both encouraging and stimulating a convict who has embarked on the path of correction [10, p. 24]. D.N. Matveev comes to the conclusion that punishment substitution is used to stimulate correction, consolidate its results and prevent convicts from committing new crimes [11, p. 7].

Since in science, incentives are differentiated into negative and positive [12; 13], we note that within the framework of the analyzed punishment substitution, we are talking about the latter type. According to O.V. Levin, "stimulation in law" is a process aimed at encouraging a person to be active by creating an interest in achieving an encouraged result, including a criterion of legal approval of active lawful behavior, as a result of which the subject acquires any positive consequences" [14, p. 8].

In the context of incentive institutions, it seems reasonable to consider incentives in both narrow and broad senses of the word. In the first variant, stimulation is manifested solely in the fact of possible encouragement and does not extend beyond this fact. In other words, stimulation is fully covered by encouragement and becomes its attribute. A person, realizing a favorable prospect, is motivated until he reaches a positive result. In the second variant, stimulation is long-term and goes beyond encouragement limits. The achieved benefit does not mean the end of the stimulus, but on the contrary, it is a new impulse, encouraging law-abiding behavior of the convicted person.

Regarding punishment substitution, it seems more correct to proceed from the broad meaning of the term. This is explained by the fact that this replacement is focused on the maximum effectiveness of punishment, that is, on achieving its goals in the shortest possible time allowed by criminal law through minimal costs. Therefore, the interest of the state mechanism in the implementation of the considered type of release from punishment is mainly determined by speedy correction of convicted persons. By applying this measure to people serving a sentence, the state not only positively assesses their behavior, but also gives them confidence, recognizing their positive tendency to correction and hoping that they will develop it. Here we come to the conclusion that the effectiveness of the applied punishment substitution should be assessed through the prism of the convicted person's post-criminal behavior. We believe that its reasonability can be established after the fact, when the convicted person be-

haves lawfully, after changing his situation in a favorable direction.

The significance of the institution under consideration also consists in optimization, establishing a correspondence between the personality of the convicted person and the level of criminal repression applied to him. If the convicted person does not feel discomfort from the penalty, then it is devalued. However, there is also a reverse side to the coin: if a convict experiences excessive discomfort than necessary, based on the existing set of circumstances, then he/she is not just not corrected, but is subjected to even greater deformation.

The disposition of Article 80 of the Criminal Code of the Russian Federation stipulates that when resolving the issue of the application of punishment substitution, the court must take into account the convicted person's behavior during the entire period of serving the sentence. Therefore, it can be assumed that punishment substitution contains two principles, such as retrospective (encouragement) and prospective (stimulation), has a dual character, since it is based on the facts of the past, but is directed to the future. However, there are no legal mechanisms that guarantee the law-abiding behavior of a convicted person after the application of a sentence substitution. As a result, the failure to meet expectations of the state does not affect the position of such a person in any way.

We are also convinced that the introduction of the conditional nature of the application of punishment substitution does not infringe on the rights of convicts in any way. If a person has actually embarked on the path of correction, then the conditional nature does not burden him/her in any way. Otherwise, the question arises, whether the punishment substitution applied to such a person is justified.

We back the stance of V.V. Stepanov, who considers possible cancellation of parole as an incentive element, which, in his opinion, boosts effectiveness of this institution, and also concludes that the main tasks of the probation period correspond to criminal punishment goals [15, p. 23]. Given the legal proximity of the institutions of parole and punishment substitution, it seems quite acceptable to draw an analogy. The conditional nature of punishment substitution corresponds to the stimulus that it contains, and, as a result, provides even greater efficiency. The convict's interest in further law-abiding behavior is strengthened. This contributes to achieving correction and prevention goals, and also reduces the degree of risks associated with possible subsequent deviant behavior of the convicted person.

Conditional nature of the application of the replacement of the unserved part of the punishment with a milder type of punishment as a risk reduction factor

We share M.M. Babaev's opinion that "any verdict, ruling or definition of any court at all times is a decision made in conditions of relative limited information about circumstances of the crime committed, the identity of the guilty person, as well as the true content of legal norms to be applied" [16, p. 169]. Indeed, the decision made by the court always involves the assessment of a specific set of facts. Evaluation, in turn, is inextricably linked with its subject and to a certain extent is an expression of its internal qualities, attitudes, and principles. The subjective nature of assessment in judicial activity is confirmed not only by reasoning, but also by the text of the law: the judge evaluates "evidence according to his/her inner conviction based on the totality of evidence available in the criminal case, guided by the law and conscience" (Article 17 of the Criminal Procedural Code of the Russian Federation).

Assessment is also of fundamental importance when considering a petition or submission for punishment commutation. The court needs to assess a correction degree of the convicted person, data on his/her personality, his/her attitude to work and study while serving his/her sentence, available incentives, penalties, their nature, presence or absence of social ties. This task is complicated by a sufficient level of abstraction of the material basis for punishment substitution in criminal legislation, as well as a lack of specific and universal criteria for assessing behavior of the convicted person.

Any estimation as a subjective activity inevitably involves risks of incorrect evaluation. Studying the general theory of risk, A.A. Aryamov comes to the conclusion that it is understood as "consciously strong-willed behavior of a person aimed at achieving a legitimate result in the situation with ambiguous development prospects, suggesting the likely occurrence of adverse consequences that caused the pre-

dicted harm" [17, p. 25]. According to foreign researchers, the model of the risk management doctrine in legal activity is important because it is closely related to the courts' decision-making [18, p. 428].

However, the unavoidability of risk as a given does not exclude the possibility of reducing its degree. In this context, forecasting, which is one of the forms of scientific foresight, is crucial. The problem of risk forecasting both in the process of criminal justice administration in general and in the practice of executing exemption from punishment in particular is of particular interest in foreign jurisprudence [19; 20]. Also, typical situations are sufficiently studied, for example, when the person causing harm acts in a state of risk, which manifests itself when committing reckless crimes [21], acting in conditions of extreme necessity [22], etc.

With regard to punishment substitution as an encouraging and stimulating institution, focused on the future and aimed at achieving punishment goals, the forecast helps consider prospects for its effective application. We proceed from the position that if a convicted person behaves unlawfully during the period of serving a substitute sentence, which, for example, may be expressed in malicious evasion from serving a sentence, punishment substitution applied to him/her can hardly be called justified.

Let us note that in Russian science, attempts have also been made to develop and implement a "prognostic" approach to resolving the issue of release from punishment, which allows determining the probability of a person committing a new crime [23]. At the same time, based on the analysis of an array of statistical data, a conclusion is made about a significant number of convicts who have repeatedly committed a crime after being released from punishment, which makes "think about existing approaches to the prospects of applying the institution of release from punishment in judicial practice" [24, p. 331]. Despite this, it is impossible to state that the "prognostic" approach is widely used in practice: courts rarely have documents forecasting convict's future behavior, and if such a document exists, then not all instances perceive it the same way.

For example, the Rybinsk City Court of the Yaroslavl Oblast, refusing to satisfy convicted N.'s request for punishment substitution, in support of its conclusions indicated that N. had only one incentive in 2021, had no incentives in 2022, and was employed for a short period of time. The court also referred to the results of a psychological examination, according to which the convict was characterized by an average deviation probability. The appellate instance reacted critically to this circumstance and, referring to Paragraph 6 of the Plenum Resolution, fixing the absence of the courts' right to refuse parole or punishment substitution on grounds not contained in the law, and stated the following: "however, contrary to these requirements, the court referred to the results of a psychological examination, without substantiating how the presence of an average deviation probability detected in the convicted person affects the resolution of his petition" [25]. As a result, this served as one of the arguments for the cancellation of the decision of the court of first instance and the referral of the case for a new hearing.

In law enforcement practice, there are also opposite examples when the refusal to satisfy the petition for punishment substitution on the basis of psychological examination results was assessed by a higher court as correct and justified. It is noteworthy that such precedents were in the same Yaroslavl Oblast. Thus, the court of first instance refused to satisfy the petition for punishment substitution, since convicted L. had had a small number of incentives in places of deprivation of liberty for a long time; the positive dynamics of behavior had been observed for a short period; the convict had committed two violations of the order of serving his sentences, one of which at the pre-trial detention center and the other had been removed ahead of schedule; during the period of serving his sentence, L. had not taken the initiative either to find employment or to study in professional educational institutions; and the results of psychological examination had indicated the average deviation probability [26].

The analysis of these judicial acts shows the absence of an unambiguous attitude to the "prognostic" approach even within the framework of the judicial practice of one subject. In this regard, it can be stated that the forecast as a risk reduction factor when deciding on punishment substitution in current condi-

tions is not well-established, and therefore the question of overcoming such a risk remains open.

It seems to us that the conditional nature of the application is the best option to reduce risks of possible unjustified punishment substitution. There are the following advantages of legalizing such an approach: first, in case of deviant behavior, expressed in malicious evasion from serving a substitute sentence, the convicted person turns out in the "initial" situation. In our understanding, this prevents damage to the interests of not only the state promoting lawful behavior of the convicted person, but also the society and victims of the crime committed; second, the possibility of canceling punishment substitution acts as a stimulus, suppressing the desire for disobedient behavior, which in turn is a manifestation of corrective action.

Conclusion

So, the analysis of the Soviet criminal legislation in terms of punishment substitution demonstrates that initially it was considered as a form of parole, and therefore had a similar conditional character. Then the development path of this institution was focused on independence, which, in particular, led to the unconditional nature of its application. In the course of our research, we tried to substantiate the expediency of establishing the conditional nature of the application of punishment substitution within the framework of modern criminal legislation. In our opinion, this would make it possible to improve this institution. The interest in the conditional nature of applying punishment substitution is determined by the following:

1. The conditional nature of applying punishment substitution is an effective way to eliminate the unjustifiably preferential position of persons who maliciously evade serving a substitute punishment. By example, it was demonstrated that the current regulation allows convicts who, after the application of Article 80 of the Criminal Code of the Russian Federation against them, maliciously evade serving a substitute sentence, to find themselves in an unjustifiably preferential position due to the difference in the rules for recalculating the terms of punishment, depending on the type of sentence replacement that improves or worsens conditions for the convict. This situation not only creates prerequisites for abuse, but also does not correspond to the principle of justice.

2. The conditional nature of the application of the punishment commutation can and should be considered as a stimulus and a guarantee of further law-abiding behavior of the convicted person. This circumstance is of particular importance, since this institution has not only an incentive, but also a stimulating component. Moreover, stimulation in this case should be interpreted as an ongoing process that goes beyond the limits of encouragement, when the good achieved does not mean the end of the stimulus, but on the contrary, represents a new impulse, directing the convicted person to further lawful behavior. In our opinion, the applied punishment substitution is justified, when the convicted person, after changing his situation in a favorable direction, still behaves lawfully, and this in turn correlates with the effectiveness of this type of release from punishment. The conditional nature reinforces the convict's interest in further positive behavior, which, therefore, contributes to achieving correction and prevention goals of punishment.

3. The conditional nature of applying punishment substitution acts as a factor in reducing risks of subsequent deviant behavior of the convicted person. Any court decision is associated with risks of negative consequences, since it involves assessment activities. In the context of the application of sentence substitution, this is especially relevant, since the material basis legalized in Article 80 of the Criminal Code of the Russian Federation is not specific, and neither the criminal law nor the Plenum Resolution contains criteria for assessing the correction degree of the convicted person. Moreover, to date, the "prognostic" approach designed to reduce the degree of this risk has not found its widespread use. Therefore, we believe that the conditional nature of the application is the best option to reduce risks of possible unjustified punishment substatution, since in case of deviant behavior of the convicted person, he/she can be brought to the "original" position, thereby preventing damage to the interests of both the state, society, and victims of the crime committed.

Based on the above, it seems appropriate to supplement Article 80 of the Criminal Code with the following provisions:

"5. If during the serving of a substitute sentence:

a) the convicted person evades serving forced labor, or is recognized as a malicious violator of the order and conditions of serving forced labor, or maliciously evades serving another punishment, the court, on the recommendation of the body executing the punishment, may decide to cancel the replacement of the unserved part of the punishment with a milder type of the penalty and the execution of the remaining unserved part of the sentence by the court verdict;

b) the convicted person commits a crime, the court cancels the replacement of the unserved part of the punishment with a milder type of the penalty and appoints punishment according to the rules provided for in Article 70 of this Code.

6. In case of cancellation of the replacement of the unserved part of the punishment with a milder type of the penalty, the term of punishment substitution served by the convicted person is calculated according to the rules provided for in Article 71 of this Code.

7. If the unserved part of the punishment in the form of deprivation of liberty is replaced by forced labor, then in the future the unserved part of the punishment in the form of forced labor may be replaced by an even milder type of the penalty. In relation to these persons, the court, canceling the replacement of forced labor with a milder type of punishment, proceeds from the remaining unserved part of forced labor, and not imprisonment".

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INFORMATION ABOUT THE AUTHOR

MIKAEL R. BALASANOV – Postgraduate Student of the Department of Criminal Law of the Russian State University of Justice, Moscow, Russia, balasanovmikael@mail.ru, https://orcid.org/0000-0002-6251-765X

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Administrative Discretion in Activities of the Federal Penitentiary Service: Theoretical and Doctrinal Interpretation

SERGEI A. STAROSTIN
Kutafin Moscow State Law University (MSAL), Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
SASTAROSTIN@msal.ru, https://orcid.org/0000-0002-0108-7916

Abstract

Introduction: the article is devoted to the study of issues related to the development and formation of the administrative discretion doctrine in Russian legal science, legislative regulation of administrative discretion and discretionary powers of subjects of public administration. *Purpose*: to present a theoretical and doctrinal interpretation of administrative discretion with regard to the specifics of activities of the Federal Penitentiary Service. *Methods*: our research is based on the dialectical method of scientific cognition. The article uses general scientific (analysis, synthesis, induction, etc.), private scientific and special methods of cognition (comparative legal, formal legal). *Results*: a general characteristic of concepts, such as administrative discretion, discretion in law and discretion (discretionary powers), is presented and logical connections between the content of these concepts in terms of their doctrinal understanding are considered. Problems of implementing administrative discretion in practice are studied. The dualism of administrative discretion in the penal system in terms of the implementation of anti-corruption measures in the field of execution of criminal penalties is revealed. *Conclusion*: based on the study of domestic and foreign experience, possible prospects for developing the institution of administrative discretion in the activities of public administration, including in the Federal Penitentiary Service of Russia, are indicated. The intersectoral nature of administrative discretion is emphasized. The issue of the modern role of administrative discretion in activities of the Federal Penitentiary Service of Russia, taking into account the specifics of the sphere of legal realization, is revealed.

Keywords: administrative discretion; discretion; discretionary powers; penal system; Federal Penitentiary Service of Russia; public administration.

5.1.2. Public law (state law) sciences

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Introduction

Nowadays, there is no unified approach to administrative discretion either in domestic legal science or legislative activity. This circumstance substantiates the necessity to consider this doctrine, which, according to many scientists, "is in its infancy and basically boils down to a somewhat confused statement of its ex-

istence, as well as laconic remarks about the need to restrict it by law" [1].

The quote we presented is taken from an article prepared by K.V. Davydov in 2017. The author of the paper refers to the works of 8 Russian researchers, written in the period from 1968 to 2014. We believe that the selection of works conducted by K.V. Davydov is not representative and unjustifiably random. So, the scientist refers to I.S. Samoshchenko, A.P. Korenev, A.N. Zherebtsov and some others, but "forgets" about V.N. Dubovitskii, Yu.A. Tikhomirov, Yu.N. Starilov, Yu.P. Solovei, O.N. Sherstoboev, P.P. Serkov, O.V. Korablina, T.G. Slyusareva, A.V. Girvits and many other reputable scientists.

It seems that the ideas of 8 researchers mentioned in the article, with all due respect to each of them, hardly reflect the full richness of the palette of views on administrative discretion, which is already available to the domestic administrative and legal science. However, K.V. Davydov writes "et al" at the end of the footnote, thus alluding to some other scientists working on the issue, including those we have highlighted.

When analyzing the article by K.V. Davydov, we cannot but note that he refers to the article "Discretion, Arbitrariness, Persuasion: Linguistic, Doctrinal and Legislative Approaches", prepared by by S.G. Shevtsov and published in the Eurasian Law Journal. S.G. Shevtsov comes to a conclusion that "the question of the correlation of legal categories of discretion and arbitrariness has not yet been unambiguously resolved" [2, p. 50].

In its own way, K.V. Davydov's reference to the article "The Principle of Expediency in the Activities of Executive Authorities" written by a student of the Saratov State Law Academy A.S. Cheremisina, published in the journal "Administrative Law and Procedure" and occupying only two journal pages [3] is also interesting. Without detracting from the student's ability to express her position on a complex and debatable issue, we will only note that in this article there are no indications of the lack of the administrative discretion doctrine formation. But the reason lies in another: the article is devoted to a completely different issue.

It is worth mentioning that K.V. Davydov's ideas were seriously criticized by Yu.P. Solovei, noting that the issue stated hangs in the air, is not disclosed in detail, not sufficiently proved, and not compared with other researchers' point of view. Undoubtedly, one can argue with such a statement, but the disputing person turns out to be in a more unfavorable, a priori losing position, since the author of this statement can always state that in fact he meant something completely different than what has just been refuted.

Based on the above, it should be stated that at the present time, various views on the legal nature of administrative discretion and its importance in public administration have been formed in the scientific community.

Research methods

Our research is based on the dialectical method of scientific cognition. General scientific methods of cognition, special methods of legal science and individual methods of social sciences were applied when writing the article.

General scientific methods used in the work include the following: induction and deduction, comparison and analogy, synthesis and generalization, statistics and system analysis. To solve the research tasks, private scientific methods in the field of jurisprudence, such as comparative legal and normative logical, were widely used. Some problems were considered as intersectoral, existing at the junction of branches of law, which was due to the tasks of a comprehensive analysis of relations within the framework of the topic under analysis.

Discussion

Discretion, in general, and administrative discretion, in particular, are interdisciplinary (interscientific) categories, so they should be freed from semantic and meaningful "layers" of other sciences. It is always necessary to be aware of how significant the mistake in choosing a particular decision or behavior can be. We will consider the importance of this statement for the Federal Penitentiary Service as well.

A legal researcher should clearly understand that the same institution can simultaneously be legal, social, economic, philosophical, ethical, etc., however, he/she can use only legal tools in the study. Accordingly, not to study the psychological side of the issue with the help of the formal dogmatic method, it is necessary first to "separate the wheat from the chaff", that is to separate psychological and legal aspects of the debated problem. The above fully applies

to other social sciences and humanities, whose representatives demonstrate a scientific interest in the exercise of discretionary powers.

To clarify the nature of administrative discretion, it would be obviously insufficient to simply demonstrate which its aspects are the subject of legal study and which are the subject of other sciences (philosophy, economics, sociology, history, etc.). It is equally important to answer an elementary, at first glance, question: which branch of legal knowledge (both fundamental, sectoral, and applied) administrative discretion belongs to? Does it belong only to administrative law and administrative process or, perhaps, to public law in general? And even at this stage of the discussion of the topic raised, a serious foundation for scientific discussion is formed.

On the one hand, representatives of some branches of legal science unequivocally classify everything related to the exercise of discretionary powers by executive authorities and their officials as their "patrimony". For example, L.A. Sharnina in her doctoral dissertation notes that "in constitutional law, along with a special constitutional discretion inherent only to it, there are traditionally distinguished types of discretion – judicial and administrative" [4, p. 123].

This stance is unusual, but even more unusual is the stating intonation of the sentence, which is further enhanced by the use of the adverb "traditionally". At the same time, the author does not make references to works with the corresponding concept, which gives grounds to imply that this concept has long been a common issue of constitutional and legal science.

This year we will celebrate the 30th anniversary of the Constitution of the Russian Federation. It can be firmly argued that the largest constitutionalization of public relations in Russian history has taken place since 1993. So, it would probably be accurate to say that all domestic legal and somehow related institutions have long had either direct or indirect constitutional content. However, it does not follow from this that, for example, fiduciary transactions or murder for hire fall within the subject area of constitutional law.

In Russian legal literature, there is another categorical approach that also attracts attention: when a branch scientist declares that in his/her branch of law there cannot be (should not be) administrative discretion by definition.

Thus, a representative of one of the schools of financial law O.N. Gorbunova writes that "it is impossible to regulate financial activities of the state with the help of administrative law norms in any case", because "discretion and voluntarism will immediately appear in such regulation", and in financial law "every norm ... is based on its economic content which is objective and does not depend on the will of people" [5, p. 87]. This point of view has a very rational argumentation, but still we cannot but object to O.N. Gorbunova: what about financial planning in this case, whether there is no room for discretion in it?

To sum up the stated above, we can conclude the following.

First, Russian researchers have tried to differentiate various components of administrative discretion, such as philosophical, economic, ethical, etc., leaving in it only those elements that are directly or indirectly related to law. It should be emphasized that this work is not finished at the moment, but it was not started yesterday either.

Second, not only representatives of administrative and legal, but also constitutional and legal, financial and legal and other branch sciences have certain views on administrative discretion. In addition, discretion is considered in fundamental studies of legal theorists, which we do not focus on [6]. Thus, for the time being, Russian legal science demonstrates not confusion in front of a problematic category, but ontological and methodological confidence, sometimes reaching extremes.

The next natural step for the formation of the administrative discretion doctrine is to differentiate this type of discretion from its other types. In order to understand, for example, how to exercise control over activities of judicial and executive authorities, it is very important to determine (both theoretically and practically) similarities and differences between administrative discretion and judicial one. Undoubtedly, both types have been considered by Russian legal scholars [7–9], but judicial discretion in more detail.

So, the following conclusion suggests itself: there is no unified Russian doctrine of administrative discretion due to a great number of them. Some authors (for example, Yu.P. Solovei) can claim that specific doctrines are as-

sociated exclusively with their name. And these doctrines are not "in their infancy", but at that wonderful age when they can successfully fight for a place in the sun.

When discussing this issue, we cannot but recognize the fact that all the issues discussed earlier are largely trivial in nature, since administrative discretion was studied in the Russian Empire, then in the Soviet Union and finally in post-Soviet Russia. Taking into account the traditionally high level of domestic jurisprudence and Russian lawyers, it is strange to even assume that during this gigantic period of time, our legal thought has not developed any ideas on the debated problem at all. Of course, this thesis does not correspond to objective reality, and we have briefly demonstrated the reasons.

Concluding a brief analysis of the doctrine of administrative discretion, we briefly note another equally important aspect of the problem – the problem of implementing administrative discretion in practice. Let us take, for example, emergency administrative and legal regimes.

So, in March 2020, in order to prevent the spread of a new coronavirus infection (COVID-19), a high-alert regime was introduced in Moscow, the Moscow Oblast, as well as in regions of the Far East, Siberia, the Urals, and the Volga Oblast. Could the authorities introduce any other regime, for example, an emergency regime? Undoubtedly, they could. What was the reason for introducing the high-alert regime, and not another one? There is no answer.

We believe that it is not worth looking for any conspiracy reasons for this, since they can be explained by the authors' incompetence or ignorance. In the examples given, we are dealing with administrative discretion expressed in a managerial discretionary decision, the motives of which are still hidden from the general public. Why is this important? Because every emergency administrative and legal regime restricts the rights, freedoms and legitimate interests of a significant number of Russian citizens.

Researchers believe that motives of each discretionary decision should be made public sooner or later (better sooner than later), but in practice this does not always happen. The task of science in this situation is not to open any new horizons, but to offer real legal guarantees to ensure the rights of the population when public authorities exercise their discretionary powers. The decision-maker should clearly understand legal consequences of a decision, anticipate possible mistakes and understand the extent of his responsibility.

Let us turn to the example of the application of administrative discretion in activities of the Federal Penitentiary Service. The identified problem has already been raised earlier, so we will briefly focus on some most significant works. First of all, it is necessary to mention the article by P.V. Golodov, "Administrative Discretion in the Management Practice of Institutions and Bodies of the Penal System" [10]. This article contains interesting theses related to the exercise of discretionary powers by institutions and bodies of the Russian penal system. At the same time, another article "Law Enforcement Risk in the Management Practice of Institutions and Bodies of the Penal System" by P.V. Golodov devoted to the issues under consideration is also of great interest [11].

A certain contribution to the problem is also found in the article by E.V. Naumov "Administrative discretion as a corruption determinant at execution of punishments" [12]. There are other works, but we will not dwell on them separately. Let us just note that, in our opinion, these works are clearly insufficient compared to the scale of corruption both in our country as a whole and in the penal system in particular [13].

Indeed, there is a common and, in general, fair opinion in the administrative discretion doctrine that administrative discretion is one of the main sources of administrative arbitrariness and corruption. However, discretionary powers allow executive authorities and their officials to respond to threats arising in their activities as flexibly and promptly as possible. So, discretion is a general legal phenomenon. In view of the above, we cannot but refer to E. Schmidt-Assman, who presents discretion as "administrative weighing of correctness criteria while observing the purpose of the law" [14, pp. 205–207].

From the ontological point of view, this is the dualism of administrative discretion [15], especially characteristic of the penal system: its implementation can lead to both positive and negative consequences. In addition, the same action performed within the framework of administrative discretion can generate both minor negative and significant positive results, and vice versa.

In the articles written by P.V. Golodov, this idea seems to be recognized, but somehow implicitly, between the lines, while in our opinion, it is the main doctrinal prerequisite for any reasoning about the discretion of executive authorities, and even more so about the discretion of officials of institutions and bodies of the penitentiary system, who often have to act in extreme conditions.

Scientists and practitioners should understand that in some cases it is impossible to fulfill one duty without violating another, or to protect one right without breaching another. Therefore, the main task of a law enforcement officer in such situations is to first weigh risks, and only then make a decision.

It is enough to pay attention to how often decisions taken by public authorities in the conditions of COVID-19 went beyond the legal framework, violated the constitutionally established rights and freedoms of citizens (introduction of high-alert regimes, establishment of administrative responsibility with the help of technical means of fixation, etc.). At the same time, we observed positive consequences of the decisions taken. We dare assume that they allowed us to cope relatively easily with consequences of the spread of COVID-19 and to prevent mass deaths of people for this reason?

It is well-known that the essence of criminal liability lies in the obligation of the guilty person to undergo certain hardships for committing a criminal act. In turn, bodies and institutions of the penal system are called upon to ensure the implementation of criminal liability, thereby limiting the rights and freedoms of convicts. The decision-making process in the field of public administration is always focused on making the most optimal decision to achieve the goal, taking into account available resources and limitations. In the executive authorities of a positive orientation, discretion is mainly expressed in finding the best solution, while in the system of the Federal Penitentiary Service – in choosing the least worst solution. This is the fundamental difference between the "ordinary" administrative discretion and "penal" discretion, which, unfortunately, has not been paid attention to until now.

In particular, in 2020, the Chief State Sanitary Doctor of the Federal Penitentiary Service introduced a temporary ban on long and short-term visits to convicts (the Resolution of the Chief State Sanitary Doctor of the Federal Penitentiary Service No. 15 of March 16, 2020 "On the introduction of additional sanitary and anti-epidemic (preventive) measures, aimed at preventing the emergence and spread of a new coronavirus infection (COVID-19)"; Order of the Federal Penitentiary Service No. 196 of March 19, 2020 "On urgent measures to prevent the spread of coronavirus infection (COVID-19) in the Federal Penitentiary Service"). The establishment of this type of restrictive measures was dictated by the sanitary and epidemiological situation not only in the Russian Federation, but also in the world, caused by the COVID-19 pandemic, and urgent measures to prevent the spread of coronavirus infection [16, p. 113]. At the same time, the quarantine measures taken in the form of a ban on the provision of visits in penitentiary institutions, on the one hand, violated the right of convicts to communicate with their loved ones, but, on the other hand, allowed to restrain and, in some cases, even prevent the mass spread of COVID-19 among convicts and save their lives, since the conditions of isolation would not allow to fully comply with all necessary preventive measures, in particular, to ensure the necessary social distance among convicts.

At the same time, the adoption of such decisions should exclude administrative arbitrariness on the part of the authorities. As Lord Thomas Bingham points out, "when exercising state powers, a certain discretion on the part of public officials is necessary, but at the same time such discretion should be necessarily controlled" [17]. In particular, the need for judicial verification of possible violations of fundamental rights and freedoms committed by administrative authorities was indicated by A.W. Bradley and K.D. Ewing [18, pp. 630–631]. At the same time, elements of discretion are also not excluded in activities of the judicial authorities [19].

Why are these circumstances recognized as extremely important? Since it is precisely when exercising discretion in the implementation of negative public management activities that risks must be put at the forefront, that is, such factors that will inevitably entail negative consequences. This is the essence of the risk-based approach. And in this regard, P.V.

Golodov quite rightly refers to the topic of law enforcement risk (another question is that he probably should have used a different, narrower and more relevant term to the problem under discussion, such as "administrative and legal risk"). Any law enforcement risk, according to G. Braban, should be implemented "in strict accordance with the law, even if it is a matter of discretion" [20, pp. 192–195].

Thus, administrative and legal risks are the most important problem in the exercise of discretionary powers of the Federal Penitentiary Service, which, combined with the dual nature of administrative discretion, makes them one of the most difficult problems of administrative law and the administrative process as such.

Results

Administrative discretion is an important element of public administration, which makes it possible to make managerial decisions aimed at protecting public interests promptly, taking into account the current situation and on the basis of current legislation.

It should be stated that without discretion, the effective achievement of managerial goals in any sphere of public relations is impossible, but it should not be unlimited and uncontrolled, despite the fact that it is aimed at the optimal solution of managerial functions, taking into account public interest, legality and expediency.

We cannot but take into account the positive consequences of the application of administrative discretion measures by subjects of public administration: administrative discretion helps flexibly respond to specific unforeseen situations that constantly arise in life, the resolution of which cannot be fully regulated by law.

Considering the most important and most relevant characteristic of administrative discretion in activities of the Federal Penitentiary Service of Russia, we can conclude that the subject of administrative and legal risks allows us to emphasize the intersectoral character of administrative discretion in activities of the Federal Penitentiary Service of Russia. Administrative discretion has obvious genetic links with administrative and administrative procedural law, as well as with criminal, criminal procedural and penal law. However, in terms of activities of the Federal Penitentiary Service, another important category appears, which is directly affected by the discretionary powers of employees of this service, we are talking about the constitutional rights and freedoms of man and citizen. Administrative discretion in intra-organizational relations needs deep scientific and legislative elaboration due to the dynamism and lack of systematic legislation regulating these relations. Therefore, the constitutionalists' interest in administrative discretion is quite understandable and justified.

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INFORMATION ABOUT THE AUTHOR

SERGEI A. STAROSTIN – Doctor of Sciences (Law), Professor, professor at the Department of Administrative Law and Procedure of the Kutafin Moscow State Law University (MSAL), Moscow, Russia; professor at the Department of Administrative and Legal Disciplines of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, SASTAROSTIN@msal.ru, https://orcid.org/0000-0002-0108-7916

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Prevention of Professional Destructions of Penal System Employees as a Factor of Successful Professional Activity

VITALII E. LAPSHIN
Vladimir State University named after Alexander and Nikolay Stoletovs, Vladimir, Russia
Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
ve_lapshin@mail.ru, https//orcid.org/0000-0002-6243-9532

NIKOLAI V. SHAMANIN
Vladimir State University named after Alexander and Nikolay Stoletovs, Vladimir, Russia, shamanin_1983@mail.ru, https//orcid.org/0000-0001-8735-7536

Abstract

Introduction: this article is devoted to the study of professional destructions of penal system employees, their prevention and relationship with success. This problem is particularly relevant, since professional activities of penal system employees are associated with difficult working conditions that require increased responsibility, psycho-emotional stability and high stress tolerance. *Purpose*: on the basis of theoretical and empirical research to determine directions of preventive measures to alert professional destructions of penal system employees as effective performance factors. *Methods*: psychodiagnostics with the use of the following techniques: V.V. Boiko's method of diagnosing the emotional burnout level, K. Maslach's method of diagnosing the professional burnout level, Yu.V. Shcherbatykh's stress tolerance test, A.B. Leonova's questionnaire "Degree of chronic fatigue", A.V. Batarsheva's questionnaire "Integral work satisfaction", the method of expert assessments. *Results*: the article suggests that professional destructions of penal system employees have a number of features due to the specifics of professional activity. These problems are of particular importance for employees who work for a long time. It is this category of employees that is most at risk of professional destructions. Risks of professional destructions are revealed both in the professional activity of penal system employees and outside it. However, the relationship between the occurrence of professional deformations and the effectiveness of professional activity of penal system employees is proven. *Conclusion*: since professional destructions in the most general form are realized

in all spheres of a person's life, it is not correct to consider them separately from personal characteristics of a particular employee. Prevention of the occurrence of professional destructions should not be situational in nature, but should be regular and comprehensive. Prevention of professional destructions is more effective when it is implemented in various spheres (cultural, sports, creative, etc.), since it should be, on the one hand, large-scale and, on the other hand, personalized. Optimization of work tasks and harmonization of free time of penal system employees also reduce risks of professional destructions.

Keywords: professional activity; professional destructions; mental burnout; emotional burnout; employees of the Federal Penitentiary Service; activity effectiveness; prevention.

5.3.9. Legal psychology and security psychology.

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Introduction

Professional activity of penal system employees imposes special requirements on their personal and professional qualities. Of course, the distinction between personal and professional is rather conditional, since a personality undergoes various transformations in the process of life. Some personality traits develop, others deform. Mutual influence of personal and professional qualities is obvious.

Professional activity of penal system employees refers to conventional types of activities. This type of activity assumes its clear structuring, efficiency and conservatism in decision-making. Consequently, the approach to solving emerging problems is often stereotypical, practical and concrete. Thus, constant solution of the same tasks in professional activity leads to professional fatigue, decreased variability of ways of performing activities, loss or deformation of professional skills and abilities, as well as lower efficiency. All this inevitably leads to the emergence of professional destructions, the key element of which is an increasing sense of exhaustion of the emotional resources of a professional [1].

S.P. Beznosov considered professional deformations as an objective phenomenon, the negative effects of which could be eliminated only through other, non-professional factors [2].

According to E.F. Zeer, professionally conditioned destructions are gradually accumulated changes in the existing structure of the activity and personality that negatively affect labor productivity, interaction with other participants in this process, as well as development of the personality itself [3].

A.K. Markova, having generalized studies of violations of professional personality development, identified the following trends of professional destructions:

– lagging and slowing down of professional development in comparison with age and social norms;

– disintegration of professional development, breakdown of professional consciousness and, as a result, unrealistic goals, false meanings of work and professional conflicts;

– low professional mobility, inability to adapt to new working conditions and maladaptation;

– inconsistency of individual links of professional development, when one area seems to be getting ahead of itself, and the other is lagging behind (for example, there is motivation for professional growth, but the lack of a holistic professional consciousness is an obstacle to it);

– weakening of previous professional skills, professional abilities and professional thinking;

– distorted professional development, appearance of previously absent negative qualities, deviations from social and individual norms of professional development that change the personality profile;

– appearance of personality deformations (for example, emotional exhaustion and burnout), as well as a flawed professional attitude;

– termination of professional development due to occupational diseases or disability [4].

The professional activity of employees of the Federal Penitentiary Service is accompanied by various stress factors. These include danger, suddenness, uncertainty, novelty of means and methods of implementing activities in extreme conditions, an increased pace of action, as well as a shortage of time.

Based on the above factors, we can state that penal service is, in essence, extreme. In addition, the extreme nature of the service is associated with the possible use of weapons, which has a negative impact on the emotional state of employees, quality of social interaction, mental and somatic health, their psychological stability and professional performance. The professional activity of employees of the Federal Penitentiary Service is realized in objectively specified complex conditions that require a balance of diverse, often paradoxically combined personal qualities and properties, the formation and development of which is possible only in the process of long and laborious training [5]. In this regard, the improvement of personnel selection is of great importance. In this situation, a crucial role is played by the forecast of professional activity effectiveness, which is becoming increasingly dependent on internal capacities of the individual.

Nowadays, the problem of successful professional performance is being actively developed in psychology. In Russia this issue is presented in the works of A.A. Bodalev, V.A. Bodrov, K.M. Gurevich, I.A. Zhdanov, E.P. Il'in, L.A. Kopytova, M.A. Kotik, A.M. Emel'yanov, L.S. Nersisyan, O.A. Konopkin, A.A. Rean, V.I. Chirkov and others [6].

Various aspects of the problem under consideration are studied by psychologists of law enforcement agencies and reflected, as a rule, in special literature (V.S. Berdnikov, E.S. Kazurova, A.V. Kokurin, V.R. Safonov, V.N. Smirnov, etc.). It is shown that one of the most important factors of successful professional performance are human resource capabilities, which involve the use of self-regulation of states and activities, as well as the development of certain psychological qualities that actually determine the effectiveness of human activity and behavior in extreme situations [7].

The authors of the article try to identify the relationship between indicators of successful professional performance and components of professional destructions, as well as determine directions of preventive measures to alert professional destructions of penal system employees as factors of their performance.

Psychodiagnostics was conducted on the basis of the following techniques: V.V. Boyko's method of diagnosing the level of emotional burnout, K. Maslach's method of diagnosing the level of professional burnout, Yu.V. Shcherbatykh's stress tolerance test, A.B. Leonova's questionnaire "Degree of chronic fatigue", A.V. Batarsheva's questionnaire "Integral work satisfaction", method of expert assessments for studying effectiveness of professional activity (such parameters as efficiency of activity, speed of problem solving, absence of errors, emotional well-being, etc. were evaluated as criteria). Mathematical and statistical data processing was performed on the basis of MS Office Excel, IBM SPSS, and Statistica 10.0 (Pearson correlation coefficient).

Results and their discussion

The empirical part of our study involved 40 employees of the Federal Penitentiary Service aged 35–45 years with more than 5 years of work experience. According to Yaroslavl psychologist V.E. Orel, it is 5 years that is the period when the level of burnout manifests itself in professional activity. When studying emotional burnout of penal system employees, we used V.V. Boiko's methodology and got the following results (Table 1).

Table 1

Study of the emotional burnout development phases of penal system employees

Stress phase	Resistance phase	Exhaustion phase
75	55	40

The conducted research shows the stress phase has formed among the surveyed. This type of stress is a predictor of professional destructions appearance; it is not constant, but has a dynamic character. The resistance phase is in the process of formation, since the respondents strive to avoid psychological discomfort associated with the performance of routine everyday tasks and reduce the pressure of external circumstances with the help of possible means. The exhaustion phase is also in the process of formation, which, in our opinion, reflects the specifics of professional activity, since emotional protection in the form of burnout prevents implementation of professional activity.

It seems interesting to us to consider in more detail the severity of the symptoms of each phase in the structure of the burnout syndrome (Table 2).

Table 2

Study of symptoms in the structure of the emotional burnout development phases of penal system employees

Stress phase	Symptom of “experiencing traumatic circumstances”	18
	Symptom of “dissatisfaction with oneself”	14
	Symptom of “being trapped in a cage”	19
	Symptom of “anxiety and depression”	24
Resistance phase	Symptom of “inadequate selective emotional response”	14
	Symptom of “emotional and moral disorientation”	12
	Symptom of “expanding the sphere of saving emotions”	21
	Symptom of “reduction of professional responsibilities”	8
Exhaustion phase	Symptom of “emotional deficit”	12
	Symptom of “emotional detachment”	10
	Symptom of “personal detachment, or depersonalization”	10
	Symptom of “psychosomatic and psychovegetative disorders”	8

The qualitative analysis of the severity of symptoms in the structure of the burnout syndrome shows the dominance of the symptom of anxiety and depression of the stress phase. In our opinion, it is connected with the implementation of professional activity in particularly complicated conditions, prompting emotional burnout as a means of psychological protection. The specifics of professional activity of penal system employees can be a trigger of psychoemotional tension in the form of experiencing situational or personal anxiety, disappointment in oneself, profession or a specific type of professional activity. Also, the symptom of expanding the sphere of saving emotions indicates the transfer of professional relations to personal ones. The formation of this symptom indicates the need for preventive work not only in the professional aspect, but also in the context of the development of professionally important personal qualities.

To calculate the level of professional burnout, we used the Maslach Burnout Inventory. It was worked out in 1986 by C. Maslach and S. Jackson, adapted in Russia by N.E. Vodop’yanova in 2001, supplemented in 2007 with a mathematical model developed by the Saint Petersburg Bekhterev Psychoneurological Research Institute (E.I. Lozinskaya et al.). After conducting an empirical study, the following results were obtained (Table 3).

Table 3

Study of professional burnout of employees of the Federal Penitentiary Service

Emotional exhaustion	Depersonalization	Reduction of professionalism
27	10	13

The conducted empirical research reveals that emotional exhaustion dominates in the structure of the three-dimensional construct of professional burnout of penal system employees. It is manifested in a drop in emotional tone, mental exhaustion and affective lability, "satiety" with activities (professional and other), or refusal of this activity, as well as a decrease in life satisfaction in general. However, the indicators of depersonalization and reduction of professionalism are within the statistical norm.

To study stress resistance of penal system employees, we used the method of Yu.V. Shcherbatykh. It evaluates both the overall level of stress resistance and its individual components (Table 4).

Table 4

Study of the components of stress resistance of penal system employees

Circumstances	Increasing complexity	Psychosomatics	Destructive overcoming	Constructive overcoming
42	20	15	40	23

The results presented above show that penal system employees are characterized by a high orientation to circumstances, that is, they tend to react emotionally to circumstances that are difficult or impossible for them to influence. Besides, the indicators of destructive overcoming of stressful situations are high, that is, penal system employees prefer self-destructive forms of coping with stress. Undoubtedly, destructive overcoming is different, ranging from stress-induced snacking to alcohol consumption or smoking. Though the final integral indicator of stress resistance is normal, the qualitative analysis of scales allows us to draw conclusions about the need to prevent destructive ways of coping with stress and form constructive coping strategies.

To identify preclinical degrees of chronic fatigue of penal system employees, we used the questionnaire "Degree of chronic fatigue" by A.B. Leonova. For the convenience of graphical representation of the data, we will present them as a percentage expression of the scales from their maximum value (Table 5).

Table 5

Study of chronic fatigue of penal system employees

Symptoms of physiological discomfort	Decreased general well-being and cognitive discomfort	Disorders in the emotional and affective sphere	Decreased motivation and changes in social communication
35%	30%	75%	80%

When studying components of chronic fatigue of penal system employees, a decrease in motivation and changes in the sphere of social communication were found. These factors can significantly reduce employees' performance and sometimes lead to "refusal" to carry out activities. Also, the rates of possible violations in the emotional-affective sphere are high, which, despite the fact that they can ease tension, they are still destructive and can lead to conflicts. Therefore, timely diagnosis of chronic fatigue is extremely important to organize preventive and corrective measures for suppressing professional destructions and maintaining general human performance.

Based on the theoretical analysis of the literature, we considered the relationship between components of professional destructions and successful performance of penal system employees.

To describe effective performance of professional duties and achieve optimal results, the concept of professional effectiveness is used. However, the criteria for professional effectiveness in any kind of activity are not defined, since success for oneself and success for others can often be diametrically opposed.

A number of foreign psychologists, in particular American psychologists D. Verung, A. Makrimman and H. Schroeder, consider professional effectiveness through differentiation of abilities, knowledge, skills and abilities of employees that contribute to the qualitative performance of their professional duties and solving professional tasks. Other scientists, in particular, an American psychologist, specialist in the field of motivation J. Atkins, a leading representative of pragmatism and functionalism W. James, as well as a German and American psychologist, author of the concept of group dynamics and psychological field theory K. Lewin, pay attention to the phenomena of motivation to achieve success or avoid failure, as well as self-esteem and the level of claims.

There is no common understanding of effectiveness among representatives of the Russian psychological school. M.V. Teplinskikh, I.B. Khrapenko, I.V. Arendachuk, A.N. Elizarov, M.N. Boldinova and others determine effectiveness criteria and its content characteristics.

We back the definition of professional effectiveness proposed by E.A. Rodionova. It is a complex of high personal results acquired in the course of professional activity.

To study the integral satisfaction with professional activities, we used the method developed by A.V. Batarshev and the method of expert assessments.

Since maximum values vary in the subscales of A.V. Batarshev's methodology, we introduced a correction factor for each scale (for clarity of presentation of graphical data). The correction coefficient is 1 for scales 1, 3 and 4, 1.5 – for scales 2, 5, 6 and 7, and 3 – for Scale 8.

When studying the integral satisfaction with professional activities of penal system employees using the method of A.V. Batrashev, we obtained the following results (Table 6).

Table 6

Study of integral satisfaction with professional activities of penal system employees

Interest in work	Satisfaction with achievements in work	Satisfaction with relationships with colleagues	Satisfaction with relationships with authorities	Level of aspiration in professional activity	Preference for work performed to high earnings	Satisfaction with working conditions	Professional responsibility
2.4	2.2	3.4	2	3	2.4	2.6	2.8

Thus, when conducting professional activities, penal system employees are more satisfied with their relationships with colleagues. The level of aspiration is also worth mentioning. Penal system employees are least satisfied with the relationship with authorities and achievements in professional activities. However, it should also be noted that the integral satisfaction indicator is within the statistical norm.

As an expert assessment, we used an author's questionnaire with criteria of external and internal effectiveness. Employees' immediate supervisors were experts. As a result of the expert evaluation, the following results were obtained (Table 7).

Table 7

Study of professional activity effectiveness of penal system employees

Completely successful	Rather successful	Rather unsuccessful	Completely unsuccessful
15%	40%	40%	5%

The presented data show that most experts try to avoid categorical statements. In their opinion, only 15% of the penal system employees consider themselves fully successful in professional activities, 40% – rather unsuccessful and 40% – rather successful, and only

5% – completely unsuccessful. To determine the relationship between professional activity effectiveness and professional destructions, we used the Pearson correlation coefficient. This analysis helps establish direct relationships between variables by their absolute values. For n=20 r_{cv}=0.44 (at p≤0.05) and r_{cv}=0.56 (at p≤0.01).

As a result of the correlation analysis, we established the following significant relationships.

Indicators of interest in the work according to A.V. Batrashev's method positively correlate with indicators of constructive overcoming stress (r= 0.64) and negatively with indicators of anxiety and depression of the stress phase according to Boiko's method (r= –0.52). Satisfaction with relationships with employees inversely correlates with indicators of violations in the emotional-affective sphere according to A.B. Leonova's method (r= –0.58), indicators of emotional exhaustion according to K. Maslach's method (r= –0.49) and indicators of success according to expert assessment (r= –0.70). A positive correlation on this scale is observed with constructive overcoming of a stressful situation (r =0.50). The level of aspiration in professional activity negatively correlates with indicators of symptoms of being trapped in a cage (r= –0.44), expanding the sphere of saving emotions (r= –0.57) according to Boiko's method, reduction of professional responsibilities according to K. Maslach's method (r= –0.45), as well as circumstantial reaction to stress according to the method Yu.V. Shcherbatykh (r=–0.52).

The World Health Organization recommends the following strategies for primary prevention of burnout syndrome for medical workers, which, in our opinion, are also suitable for penal system employees:

1. Avoiding making too high demands on people who help other people.

2. Ensuring an even distribution of satisfying tasks among employees.

3. Training of employees in time allocation and relaxation techniques.

4. Modification of works that cause too much stress.

5. Promoting formation of support groups.

6. Encouraging employees to participate in decision-making affecting working conditions, etc.

Measures aimed at preventing professional destructions should cover personal, organizational and social aspects of each employee's activities. Key prevention directions are the following:

1) improving the quality of professional selection of employees;

2) educational activities aimed at increasing a conscious attitude to one's physical and mental health;

3) increasing stress resistance;

4) formation of a positive attitude to professional activity;

5) early diagnosis of the syndrome and correction of professional deformations;

6) optimization of joint activities and building favorable relationships in the team, etc.

In our opinion, it is possible to single out psychological, psychophysical and hygienic directions in the system of preventive measures.

The psychological direction of prevention is aimed at maximizing mental and personal health of penal system employees. Psychological prevention is aimed at admonishing possible deviations in the mental state, creating psychological conditions that are as favorable as possible for implementing professional activities. It includes psychological hygiene, psychological diagnostics, psychological counseling, psychological trainings, psychological education, and psychological correction. Psychological prevention of professionally conditioned destructions in the Federal Penitentiary Service is aimed at elaborating and implementing training programs to develop socio-psychological competence and psychological culture; working out and implementing psychological projects to prevent maladaptation and behavioral disorders. Conducting psychodiagnostics helps identify psychophysiological and personal characteristics of penal system employees and prevent development of profession-related personality deformations.

Psychophysical prevention is a complex of hygienic, pedagogical and socio–psychological measures to prevent profession-related destructions and eliminate risk factors for their occurrence. Current methods and means of psychophysical prevention are the following: psychophysical training and psychophysical exercises, relaxation gymnastics and other relaxation techniques, palming, autogenic train-

ing, yoga, breathing exercises, and physical exercises. Physical exercises for the prevention of professional deformities include exercises aimed at relieving tension in the shoulder girdle, exercises that promote blood circulation in the legs, exercises that normalize cerebral circulation, exercises that help relieve fatigue after prolonged work, exercises aimed at improving blood supply to the brain, exercises for various parts of the spine, as well as exercises for the eyes.

The reason for many professionally caused destructions is not compliance with the rules of a healthy lifestyle. Therefore, employees of the Federal Penitentiary Service should acquire knowledge, skills and abilities in organizing hygienic measures of healthy lifestyle. Hygienic means of prevention of professionally conditioned destructions are the following: prevention of bad habits, hardening of the body, self-massage, regular sleep and wake schedule, compliance with rational nutrition principles.

The main means of preventing profession-related destructions and increasing labor productivity during the working day is industrial gymnastics, that is, a set of physical exercises that are performed by penal system employees at the workplace and are included in the working day mode in order to increase efficiency, strengthen health and prevent fatigue. There are the following forms of industrial gymnastics: introductory gymnastics, physical training break, physical training minute, micropause of active recreation, health-improving and preventive gymnastics, restorative and preventive gymnastics.

Thus, technologies for the prevention of profession-related destructions of penal system employees include health-improving and preventive measures of psychological, psychophysical and hygienic orientation, as well as prevention of destructive professionalization during the working day.

Conclusion

The results of theoretical and empirical research confirm risks of professional destructions in the most general form. Since professional destructions are realized in all spheres of a person's life, it is not possible to consider them separately from personal characteristics of a particular employee. The empirical research shows significant relationships between various components of professional destructions and effectiveness of professional activity. Despite the fact that this relationship seems obvious, concretization of correlation of specific components seems to be a significant task. The importance of preventive measures to counteract professional destructions and, ultimately, boost performance of penal system employees is obvious. However, prevention of the occurrence of professional destructions of penal system employees should not be situational in nature, but should be regular and comprehensive. Prevention of professional destructions is more effective when it is implemented in various spheres (cultural, sports, creative, etc.), since it should be, on the one hand, large-scale and, on the other hand, personalized. Optimization of work tasks and harmonization of free time of penal employees also reduce risks of professional destructions.

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INFORMATION ABOUT THE AUTHORS

VITALII E. LAPSHIN – Doctor of Sciences (Pedagogy), Candidate of Sciences (Law), Associate Professor, professor at the Department of Psychology of Personality and Special Pedagogy of the Vladimir State University named after Alexander and Nikolay Stoletovs, Vladimir, Russia; professor at the Department of Psychology and Pedagogy of Professional Activity of the Vladimir Law Institute of the Federal Penitentiary Service of Russia, Vladimir, Russia; professor at the Department of Legal Psychology and Pedagogy of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, ve_lapshin@mail.ru, https://orcid.org/0000 - 0002-6243-9532
NIKOLAI V. SHAMANIN – Senior Lecturer at the Department of Psychology of Personality and Special Pedagogy of the Vladimir State University named after Alexander and Nikolay Stoletovs, Vladimir, Russia, shamanin_1983@mail.ru, https//orcid.org/0000-0001-8735-7536

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Development of Online Courses as a Means of Improving the Domestic Lifelong Learning System

MARIYA L. KOVALEVA
North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, ml.kov@bk.ru

DMITRII V. SHIBAEV
North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, 013600@inbox.ru

Abstract.

Introduction: the article considers a systemic nature of the modern educational process and the necessity to provide education not only on the basis of a direct teacher–student interaction, but also indirectly, i.e. through distance forms. However, there is a problem of the lack of certain rules and requirements for creating online courses as completed parts of a specific industry or subject that is being taught. *Purpose*: to analyze the effective tools available in theoretical research and practice for progressive development of the lifelong learning system in Russia in the conditions of digitalization of the society with regard to the possibilities of both full-time and correspondence education. The specifics of the formation and inclusion of online courses in the educational process of departmental universities are studied separately. *Methods*: comparative legal, statistical methods of description, and interpretation. *Results*: the authors present a model of the lifelong learning system. The article discusses development of online courses that are supposed to make a lifelong learning system in Russia more effective and accessible to all categories of citizens. Capacities of online courses are analyzed and the algorithm for designing online courses in relation to the system considered is developed. The authors highlight features of forming an online course system for departmental universities, programs and the training regime, which may differ significantly from civilian universities. *Conclusion*: the use of the proposed methodology will form a unified approach and requirements for forming online courses to implement them in the educational process.

Keywords: lifelong learning; design; online courses; digitalization; capacities; lifelong learning system; lifelong learning methods; use of online courses in a departmental university; limited access information.

5.8.1. General pedagogy, history of pedagogy and education.

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Introduction

Trends relevant to the education system as a whole, in the context of its transition to a new, digital format, contribute to the formation of a special mission of education – to adapt the population to conditions of the modern world [1]. This task can be fulfilled in case of introduction of such an education model that will give a modern person the opportunity to obtain flexible competencies for self-realization, regardless of age, location, financial condition, physical characteristics and other factors [2]. Russian and world experience demonstrate that the lifelong learning system as a unified educational system that considers education as a continuous process ensuring progressive development of a person's creative potential throughout the entire period of life is capable of comprehensive development and improvement of this personality [3]. At the same time, there is no clear methodology for the lifelong learning process, capacities of the tools to organize this process, in particular modern digital tools such as online courses, are not sufficiently disclosed. There are no recommendations for the development of online courses in the context of lifelong learning [4, pp. 36–38]. Thus, the relevance of the study is substantiated by the need to study online courses, since they are actively introduced into the lifelong learning system in Russia.

The idea of lifelong learning was already discussed by Confucius, Socrates, Aristotle, Plato, Voltaire, Rousseau and others. Nowadays, most world countries support the idea of lifelong learning [5]. In the context of global digitalization of society, implementation of lifelong learning is being updated, views on the process of education, its goals and forms are rapidly changing. To adapt a person to realities of the modern world, we need an education system that can quickly respond to all changes, form a person capable of self-education, willing and able to constantly learn.

Researchers agree that it is the system of lifelong learning that is potentially ready to solve these problems [6].

Lifelong learning system model

To determine a role of the lifelong learning system, we analyzed the Federal Law No. 273-FZ of December 29, 2012 "On education in the Russian Federation", analytical materials of the Ministry of Education and Science of Russia and the National Foundation for Personnel Training based on the results of the National Project "Education" [7]. We came to the conclusion that the classical education model assumes a linear educational trajectory (conditionally, kindergarten – school – university) with a ready-made organizational and managerial structure. In this case, the educational process, formed by the state, educational institution, teacher, assigns the student only the role of a passive participant in the educational process. In our opinion, the education model can be fundamentally new. The focus is on integrating the lifelong learning system into the classical model of the education system. Figure 1 shows a model of such a system. This model of the lifelong learning system clearly demonstrates that the blocks and levels of education are a single system, and the learning process can be represented as an educational trajectory. This will be facilitated by the inclusion of the additional education block in all other blocks and levels of the education system. For example, due to short-term training programs, people with higher education can master the basics of a new profession and retrain in a short time and, consequently, change the field of activity, have a new hobby, engage in income-generating activity, significantly expand a range of competencies, determine directions for further personal and professional growth, etc. [8].

It becomes important for students to be more independent when choosing areas for education, educational resources and self-education technologies.

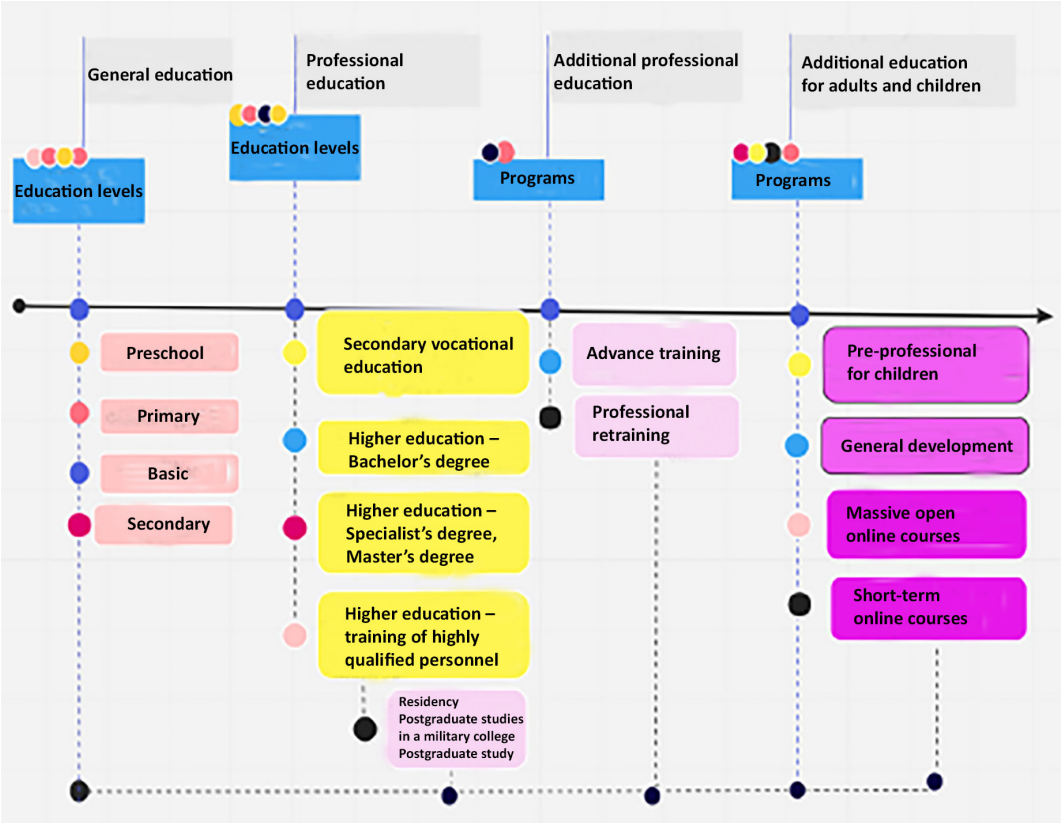

Figure 1. Lifelong learning system model

The presented model of the lifelong learning system assumes a practice-oriented approach to organizing the learning process with regard to the trends existing in the labor market. The model is open, i.e. the state, social institutions, educational organizations, as well as employers who are actively investing in the development of employees today are participants in the lifelong learning system. This allows to reduce staff turnover, makes it possible to adapt to new economic models. Openness and flexibility of the lifelong learning system forms a number of roles inherent in lifelong education in the structure of the classical education model, including: 1) the possibility to choose learning directions, forms, and conditions; 2) an open market of educational programs and modules instead of a pre-established standard; 3) enrichment of the education system with new principles, technologies and methods to individualize learning, as well as promising technical solutions; 4) adapting the education system to dynamically changing needs of the individual, society, economy; and 5) the possibility to build a long-term trajectory of individual self-development.

The latest tools and technologies are required to implement lifelong learning [9]. Remote interaction of all participants of lifelong education. This form makes the education process accessible, convenient, flexible, and is most often carried out with the help of online courses [10].

Nowadays, online courses are very popular. Analysts argue that, by 2025, the volume of investments in online education is to reach 1 trillion US dollars instead of 350 billion US dollars previously predicted [11].

Having analyzed reasons for the high demand for online courses among people of different ages and social status, we found out the following:

– they give people, for example, who have lost their jobs, the opportunity to learn a new, more stable and in-demand profession in a short time, and monetize their hobby;

– they provide an opportunity to receive a retraining or training certificate;

– they implement an individual learning trajectory through personalized learning, i.e. individual learning pace with regard to the level of abilities, competencies, and requirements of each student [1];

– there is a wide selection of relevant programs that solve specific tasks of students;

– they are economically feasible;

– the absence of restrictions on time and place of classes helps better balance work and study.

High demand for online courses in our country shows their capacities in the lifelong education system, since it creates the basis for a career throughout life [12]. Education becomes flexible, students are able to build individual educational trajectories, choose courses, and constantly update competencies [13]. In this context, we consider online courses as an educational resource.

In the course of the study, we analyzed online courses implemented by high-ranked edtech companies providing additional and business education and programs for children (Foxford, Uchi.ru, Skillbox, Yandex.Practicum, Like Center, Netology, SkillFactory). Online courses of the companies presented above are publicly available on the web resources. They are characterized by the following: a clear structure; the training material is divided into difficulty levels, modules, blocks, and individual classes, thus forming a system; a course program is built depending on the learning outcome; a student achieves a specific result; a course presupposes formation of skills, that is, it is practice-oriented; the training is accompanied by tutor and methodological support; the pedagogical design is clearly traced.

Algorithms for creating online courses

These parameters actualize the problem of developing an algorithm for creating online courses to simplify the choice of tools for preparing and replicating the course, reduce labor costs for its development, as well as unify online courses, preserving the specifics of the subject and innovation of the course developer. When working out an algorithm of online courses, we relied on works of O.N. Taranets [14] and G.A. Krasnova [15]. The algorithm for developing online courses in the system of lifelong learning (Table 1) is elaborated on the basis of the analysis of online courses provided by the edtech companies discussed above.

Table 1

Algorithm for the development of online courses in the system of lifelong education

Trends (blocks)	Stages	Measures	Implementation period	Expected result
1	*2*	*3*	*4*	*5*
BLOCK A Online course development	A1. Planning	A1.1. Development of the concept and visualization of the final result (goal) of the course	Individual, depending on the experience, competencies of course designers, technical support, complexity and volume of the course itself; Block A is implemented for a period of no more than 30 calendar days	Online courses of academic disciplines, massive open online courses are developed and presented
		A1.2. Study of the target audience		
		A1.3. Choice of the course format (online or mixed training)		
		A1.4. Choice of the information transmission format (synchronously, asynchronously)		
		A.1.5. Choice of methods (for example, inverted classroom, gamification, brainstorming, etc.)		
		A.1.6. Development of instructions on the use of IT products for students, training instructions in general: key dates, contact information, data security and protection, FAQ (frequently asked questions)		
	A2. Designing	A2.1. Development of the abstract and content of the course		
		A2.2. Development of the course structure		
		A2.2.1. Determination of the number of modules, topics, classes, total labor intensity of the course		

1	2	3	4	5
		A2.2.2. Development of course resources: video lectures, presentations, text docu-ments, electronic textbooks, examples, research results, tests, assignments, glossary, hyperlinks		
		A2.3. Choice of a technological system for “packaging” of the course (LMS) [16]. A2.4. Development of an assessment system and forms of control		
	A3. Launch	A3.1. Creation of a community		
		A3.1.1. Organization of a chat with students, for example in Telegram		
		A3.1.2. Creation of a course community for students, teachers, experts (for example, a group on a social network)		
		A3.2. Organizing student support (tutor support, consultations, chatbots)		
		A3.2.1. Monitoring student activity during classes in synchronous format, remotely in asynchronous format		
		A3.2.2. Checking homework, sending comments to the assessment (determination of growth points), for example, via e-mail		
		A3.3. Development of an encouragement system		
		A3.4. Feedback		
		A3.4.1. Conducting surveys before the start of the course		
		A3.4.2. Feedback in the form of a questionnaire after each lesson, in the middle and at the end of training		
BLOCK B Online course implementation	B1. Organizational preparation	B1.1. Study and elaboration of federal regulatory documents –regulatory framework for the use of distance education technologies and distance learning in the higher education system	Block B1 is implemented for a period from 7 to 14 days;	The university has defined the concept, goals and objectives, responsible persons (or structure), timing of online courses, implemented management decisions of the university management in accordance with regulatory documents to continue working on improving the process of developing and implementing online education at the university; regular professional development of teaching staff on the preparation and implementation of training with
		B2. Decision of the management (responsible) body of the university on approval of the Regulations on organizing the educational process with the help of distance education technologies, e-learning, introduction of additions and amendments to the existing local regulations in accordance with the approved Regulations		
		B1.3. Development of electronic information and educational environment, provision of technological means, information equipment		
		B1.4. Further development of local regulations and documents regulating forms of accounting for all types of classes of students in the electronic information educational environment, pedagogical load of teachers, procedure for current and intermediate certification		

1	2	3	4	5
	B2. Creation of a structure whose competence includes assistance in the design and implementation of online training (support service)	B.2.1. Organization of the work of the educational process management structure through an electronic resource, the functions of which, for example, consist in scheduling classes, electronic monitoring of academic performance, communication with participants in the educational process, etc.	Block B2 is implemented within 2 months, depending on the structure of the educational organization and the speed of implementation of management decisions;	the use of electronic distance learning technologies is carried out; cooperation agreements are signed and being implemented with other educational organizations in order to develop lifelong learning and exchange experience
	B3. Professional development of employees	B3.1. Organization of staff training in online course design technologies: conducting methodological seminars, trainings on the use of electronic systems	Blocks B3 and B4 have a prolonged action	
		B3.2. Certification of employees in proficiency in modern online learning technologies		
	B4. Cooperation	B4.1. Organization of network interaction of educational institutions of different levels of education, also orientation		
BLOCK C Online course quality expertise	C1. Comprehensive expertise of the online course	C1.1. A legal stage of the expertise is carried out on the basis of existing regulations, educational standards, establishment of copyright	Block C 1 is implemented for a period no more than 1 calendar week	Expertise of the online course quality is carried out to increase competitiveness of the university, maintain quality at a high level
		C1.2. A technical stage of the expertise includes a test check of the course, when the technical solutions embedded in the course, operability of the LMS system and services are checked [16, p. 25]		
		C1.3. A didactic stage of the expertise includes an assessment of the content of the course and its methodology, in terms of the compliance of the course with the Federal State Educational Standard of Higher Education, the work program of the discipline, reliability of the information provided about the course, the scientific level of educational materials, including their relevance, novelty and practical application		

Source: formed by the author on the basis of the conducted research

The presented algorithm for developing online courses can be applied to the courses currently implemented by general and higher education organizations, for example, to create courses of academic disciplines, modules, additional education (the article does not refer to mass open educational courses), can be used by specialists who develop online courses,

since it clearly demonstrates the planning process, analysis of possible shortcomings in the curricula of an educational organization, which allows avoiding, rather than solving, possible problems. Being a kind of a guide, the developed algorithm helps adjust activity areas to boost the efficiency and competitiveness of the educational organization as a whole, which is a structural component of the lifelong learning system.

In a departmental university, students can miss lectures and practical classes due to the need for internal service, sufficiently long business trips, field training sessions, etc. It actualizes the use of electronic learning technologies (including in the form of online courses) in the process of training and preparation for pass/learn exams.

So, a cadet can undergo in-service training and independently choose the time and pace of mastering the program convenient for him/her.

Besides, the choice of lifelong education methods and the use of online courses in a departmental university is predetermined by a significantly high probability of the study of issues related to state and other types of secrets. The use of online services, especially those related to servers outside the Russian jurisdiction, is prohibited. Consequently, the use of such technologies is possible only for the study of general education subjects with strict control of the information contained therein.

A thorough preliminary study of the material contained in the course is also important. If during classroom classes a teacher can use accumulated material, such as excerpts from monographs, scientific articles, statistical data, etc., and discuss it, an online course presupposes students' work with online libraries. Therefore, it is necessary to determine those online knowledge bases that will be available to a course listener and provide links to the recommended literature.

Another specific feature of this type of courses is the possibility of applying different types of control. Considering that cadets of departmental universities, as already indicated, in addition to studying, may be engaged in internal service, business trips and other types of additional duties, the use of distance forms of control (tests, submitting reports, filling out forms, and taking distance exams with the help of ProctorEdu) is an important and necessary part of this type of courses.

In the field of methodological purpose of the means of information and communication technologies, a number of authors [17] divide online courses into the following subtypes, each of which has an independent focus and learning outcome: 1) training (video lectures and practical classes); 2) simulators (tests, models, and tasks); 3) information retrieval and reference (reference legal systems, information aggregators, and databases); 4) demonstration (visualizers of the studied object or process); 5) simulation (tools simulating a real situation for practicing skills); 6) laboratory (distance experiment); 7) modeling (modeling, i.e. independent creation of the process as a result of studying the topic); 8) calculation (a means of automating calculations and various operations); 9) learning and play (creating educational situations that help students realize their activities while playing).

Combination of at least 4 elements from the proposed ones, depending on the planned training tasks and groups of students, will, in our opinion, make the educational activity complete.

Conclusion

Online courses actually have significant capacities as an effective means for organizing the process of lifelong learning. The algorithm for working out online courses described in the article corresponds to their specifics.

To realize lifelong education, it is crucial to create large platforms for self-education and mutual training of all categories of citizens, including foreign ones, develop a system for confirming qualifications obtained through the system of lifelong learning through online courses. At the state level, it is reasonable to carry out educational work that changes people's habits. Thus, the habit of learning throughout life, formed in childhood, turns into a skill of lifelong education, which is closely related to improving the quality of human life.

Further research can be focused on developing technologies that raise effectiveness of online courses and elaborating requirements for teachers' competencies who implement online courses in the lifelong learning system. At the state level, it is necessary to develop standards to assess the quality of professional competencies of employees and lifelong learning programs. At the same time, it is necessary to take into account the specifics of an educational institution, in particular, regime of the educational institution and types of information. Special attention should be paid to distance educational activities in the structure of departmental universities, taking into account their specifics of education – combining training with business trips and official duties, the inadmissibility of transmitting limited access information through communication channels, the complexity of working with additional sources of information for self-education. Control over the content of online courses and their distribution through open communication channels in departmental universities should be carried out by an authorized employee. If the educational program provides for the study of official, state or professional secrets, the use of an online course should be reviewed for the study of these issues exclusively in the classroom. At the same time, if the educational program can be interrupted by business trips and regime events, the use of online technologies is the means that will create the opportunity for a cadet to learn or revise the material at a convenient time.

These proposals will contribute to further improvement of the domestic lifelong education system, improvement of the level of digital literacy, general and special knowledge, accessibility and resource-saving educational activities.

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INFORMATION ABOUT THE AUTHORS

MARIYA L. KOVALEVA – Candidate of Sciences (Pedagogy), associate professor at the Department of Social and Humanitarian Disciplines and Legal Informatics of the North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, ml.kov@bk.ru

DMITRII V. SHIBAEV – Candidate of Sciences (Law), Associate Professor, Head of the Department of Social and Humanitarian Disciplines and Legal Informatics of the North-Western Institute of the Kutafin Moscow State Law University (MSAL), Vologda, Russia, 013600@inbox.ru

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Structure of Meso- and Microcycles of the Preparatory Period in the Shooter Technical Training Program

VITALII A. POGODIN
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, vital-pogodin2008@yandex.ru, https://orcid.org/0000-0002-5538-2056

EL'VIRA V. ZAUTOROVA
Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia
Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia
elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654

Abstract

Introduction: the article is devoted to the issues of sports training of shooters specializing in bullet shooting. The paper presents the means and methods of sports training and determines the load and amount of training effects on the athlete. *Purpose*: to confirm effectiveness of the bullet shooting training program for shooters by improving periodization of the training process. *Methods*: theoretical analysis of literary sources; methods of synthesis and generalization; the method of mathematical statistics is the nonparametric Man-Whitney criterion. *Results*: the annual cycle of shooting sports training traditionally contains three macrocycles, namely the preparatory, competitive and recovery periods. The main volume of training effects occurs during the preparatory period. Distribution of mesocycles and microcycles during the preparatory period helps regulate the volume and intensity of the means and methods of technical training. The ratio of the parameters of the training work of shooters determines the structure of the technical training program. At the end of the pedagogical experiment, the subjects of the experimental group demonstrated a mathematically reliable increase in the results of shooting at the control training compared with the control group. *Conclusion*: when planning sports training, it is necessary to determine the place of mesocycles in the preparatory period and the place of microcycles inside mesocycles, thus ensuring the effective choice of means and methods of influencing the athlete, amount of the load and its intensity.

Keywords: bullet shooting; technical training; preparatory period; periodization; sports cycles.

5.8.1. General pedagogy, history of pedagogy and education (pedagogical sciences).

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Introduction

Researchers consider the training process as structural units within which the effects on athletes are carried out [1–4]. Referring to the works of V.K. Bal'sevich, it is possible to formulate the basic rule of sports training, namely, the volume and intensity of training loads should correspond to current indicators of athletes' fitness and age [5].

The division of the training process into cycles is assigned to the section "periodization" of sports training [2]. In general, planning is necessary to prepare an athlete shooter for official competitions to achieve the highest indicators of athletic form [6]. When scheduling the training process, the coach relies on a calendar plan, a document that lists competitions at which the athlete will take part. It is approved at the end of the current year for the next year.

The need for periodization of sports training is determined by three phases of the development of competition form (formation, preservation and temporary loss) [7; 8].

The process of sports training has three periods:

– competitive – it is accompanied by peak values of sports form and is aimed at achieving the maximum sports result at official competitions;

– transitional – it starts at the end of the performance at competitions and is accompanied by a temporary loss of athletic form;

– preparatory – is characterized by the main impact on the athlete's body and the formation of athletic form (Figure 1).

The listed periods follow each other, have their own specific pedagogical tasks, which are solved as sports competitions approach [1].

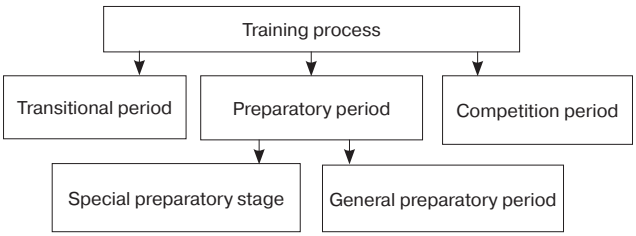

Figure 1. Periods and stages of the training process

The competitive period of sports training corresponds to the beginning of performance at official competitions. As a rule, this is one main start and 2–3 minor competitions. It is characterized by shooters' readiness to reach the peak of competition form and high athletic performance. Distribution of the load volume and intensity is characterized by its undulation. The load intensity dynamics consists of short rises to the maximum (the last training sessions before the competition and the competition itself) and temporary declines (after official competitions), followed again by a gradual rise (if secondary competitions are planned after the main start). The load volume, remaining at the same level, does not change [2].

The main task of the period is to achieve high results in performance at the main competitions. The duration of this period in bullet shooting is up to 1 month, although its duration largely depends on the competition calendar [9].

The transition period is an integral part of any athletic training, including bullet shooting. It is the link between the end of the competitive period (performances at official competitions) and the beginning of the preparatory period (get fit for the next competitions). During this period, athletes use means of active recreation, general physical training and rehabilitation activities. The most acceptable means of influence: cycling, fishing, skiing, swimming, hiking, non-contact sports and outdoor games, massage, balneotherapy, etc. Means are chosen with regard to either on athletes' desire, or the objective state of their health (concomitant diseases and injuries) [2, 10].

A trainer should ensure the maximum possible restoration of energy forces of the body and athletes' performance after competitive loads. The optimal duration of the stage in bullet shooting is 1–1.5 months [9; 11].

In order to increase indicators of athletic fitness, it is the preparatory period that is most interesting. There are enough studies in the modern scientific and methodological literature confirming this fact [12–16]. The preparatory period in bullet shooting has a duration of up to 3 months and consists of 2 stages: general preparatory and special preparatory [9].

At the general preparatory stage, the tasks of the technical training process are limited to the study of new techniques of motor actions in the chosen sports discipline and the improvement of previously studied movements. The volume and intensity of the load increases evenly and reaches a peak by its end. The positive effect of training is achieved through the use of various

means. Athletes can participate in secondary competitions, practicing new techniques and correcting mistakes [14; 17].

During the special preparatory stage, the tasks of technical training change. Means of special technical training already occupy more than 70% of the total training time. On the one hand, the negative aspect is the decrease in the variety of available means. On the other hand, the trainer's task is to make the training interesting and diverse within the framework of motor actions of a competitive exercise [18].

The load on the athlete increases mainly due to an increase in its intensity. Before the start of the competition period, which is marked by official competitions, the intensity of the load exceeds its volume and reaches peak values. At the maximum intensity level, it is recommended to conduct no more than three training sessions before official competitions [7].

Thus, it can be concluded that it is the preparatory period that is fundamental in the process of sports training of an athlete. During this period, various influences are exerted on the athlete, motor qualities are developed, and technical skills are improved.

The span of the impact within each training period determines duration of the structure of training. According to L.P. Matveev, there are small cycles or microcycles, medium cycles or mesocycles and large cycles (macrocycles) [3].

The microstructure of the training process is a separate training session or a series of classes for a short time period (up to a week), where the same tasks are solved, and the overall goal of training is achieved using the same training tools. Depending on the volume and intensity of the load on athletes, they can be impact, lead-up, restoration, competition, volume, etc. [7].

Mesocycles are rather long (from 4 to 8 weeks) and their content consists of microcycles. Their logical sequence largely determines the athlete's training process. Regarding their directed impact on athletes, the means used and the scale of the load, they can be preparation, basic, competition, intensive, restoration, lead-up, control, pre-competition, etc.

Arrangement of mesocycles in the macrocycle depends, first of all, on the type of sport and on whether the sport is seasonal or year-round. According to the 5-year calendar of official competitions in bullet shooting [19], most prestigious pneumatic weapons competitions are held in the autumn-winter period, while small-caliber weapons competitions – in the spring-summer period, and in autumn. At this time, a significant number of championships and Russian cups are held, which, due to comfortable weather conditions, take place on open shooting ranges [20].

Climatic features of Russian regions and a lack of open shooting ranges predispose to conducting training in a closed shooting range throughout the year. This fact negates the artificially created seasonality of bullet shooting [13].

The macrostructure of the training process implies longer periods of impact on the athlete's body. The one-year cycle of athletes' training is considered to be the longest (some authors also distinguish Olympic cycles). The structure of the large cycle contains mesocycles in a logical sequence relative to the tasks to be solved and the competition calendar.

When drawing up a training program for athletes, a number of methodological provisions should be taken into account. So, it is advisable to

1) occasionally revise its structural components during the training process;

2) change the content of cycles before control competitions;

3) rely on the athletic form development laws;

4) choose the content of mesocycles, volume and intensity of the load in accordance with the period of sports training.

Depending on the tasks of technical training and location in relation to the date of official competitions, mesocycles are divided into:

1) introduction – it is focused on preparing shooters for an increased load of special technical training. This mesocycles often starts with a microcycle of low load, and ends with a higher volume and increased intensity of load, thus contributing to the development of the shooter's athletic form;

2) basic – it is characterized by the predominant use of means aimed at active implementation of special technical actions, development of motor qualities necessary for the shooter, and enhancement of the athlete's comprehensive fitness;

3) control-preparatory – it ensures unification of the achieved indicators of athletes' technical readiness;

4) pre-competition – it is aimed at identifying and correcting deficiencies in equipment, errors in performing motor actions by the shooter. Special and contrasting microcycles can be used [9].

A prudent combination of mesocycles in the technical training program can significantly increase the effectiveness of performing a competitive bullet shooting exercise.

The content of mesocycles changes as official competitions approach. Each mesocycle consists of a number of small cycles. The duration of the microcycle varies from one training session to 7 days. The most common structure of planning the training process implies a duration of microcycles from 3 to 7 days.

There are the following types of microcycles:

1) introduction – it is characterized by a small volume and low intensity of the proposed load. Proposed exercises should be familiar to athletes and not difficult. The task of this cycle is to prepare the functional state of the athlete's body for a greater load in subsequent cycles. This microcycle, as a rule, opens a mesocycle.

2) impact or contrast – it is characterized by the greatest total volume and intensity of the load. In addition, athletes are offered to perform complex technical actions, including in adverse conditions and with the use of distractions. In this microcycle, the athlete's body acquires adaptability to the load [14].

3) restoration or fasting – it often finalizes a series of impact or competition microcycles in the training process. Gradual reduction in the load and use of outdoor activities contributes to the creation of favorable conditions for recovery processes in the shooter's body [18].

4) lead-up or specialized – it is used to create conditions close to the upcoming competitions and aimed at preparing shooters to perform in them. Means of performing a control shooting exercise or means aimed at solving the issues of restoring the psychological state of athletes are used.

5) competition – it is based on the program of official bullet shooting competitions. However, in addition to competitive shooting disciplines in which the athlete performs, it may also contain restorative means of rehabilitation.

Scientific and methodological literature also presents microcycles, such as basic general preparatory, basic special, control-preparatory, model, etc. [1; 3; 4].

The last training session in a weekly microcycle does not necessarily have to be conducted with the use of shooting exercises with weapons. To boost emotional intensity of lessons, V.A. Kinl' recommends using sports and outdoor games, exercises from other sports [9].

When drawing up the structure of athletes' training, researchers rely on the duration of the calendar week, because this is most effectively combined with the organization of labor and educational activities of the institution in which training is conducted. The content of microcycles, in turn, is based on the following factors: level of development of physical and technical readiness of shooters, gender and age of athletes, and nature of the tasks set.

Thus, there is no single and universal structure of both meso- and microcycles. Different combination of them can enhance athletes' results. A creative approach to the choice of exercises, changes in the regime of loads and rest, reliance on indicators of physical and technical readiness will ensure an increase in training of shooters at each training stage.

Organization of research

During the pedagogical experiment, a technical training program with the associated development of coordination abilities of young shooters in meso- and microcycles of the preparatory period was introduced into the educational process of the Vologda Youth Sports School. The experiment included athletes of training groups, aged 14–17 years who had a sports category not lower than 2 in the 40 meter rifle shooting. Only young men took part in the study. The sample size was 24 people. The athletes were divided into two groups – control and experimental, 12 people each.

At the stages of the preparatory period, we used all types of mesocycles. Each mesocycle is formed on average from 2 to 5 microcycles.

In the general preparatory stage of the preparatory period, three mesocycles were included: preparatory, basic and control-preparatory (Figure 2).

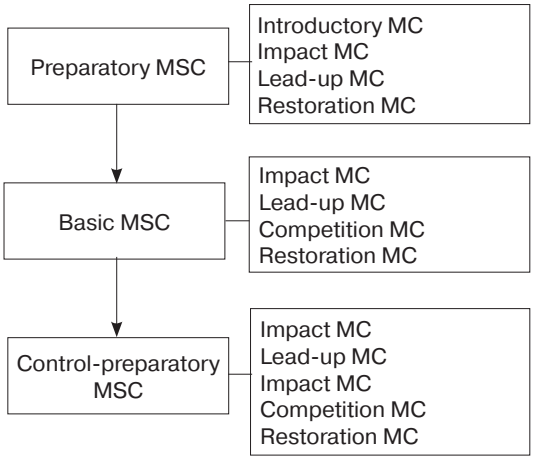

Figure 2. Scheme of building the training process at the general preparatory stage of the preparatory period

Alternation of mesocycles at the special preparatory stage of the preparatory period was as follows: basic, pre-competition and two control-preparatory (Figure 3).

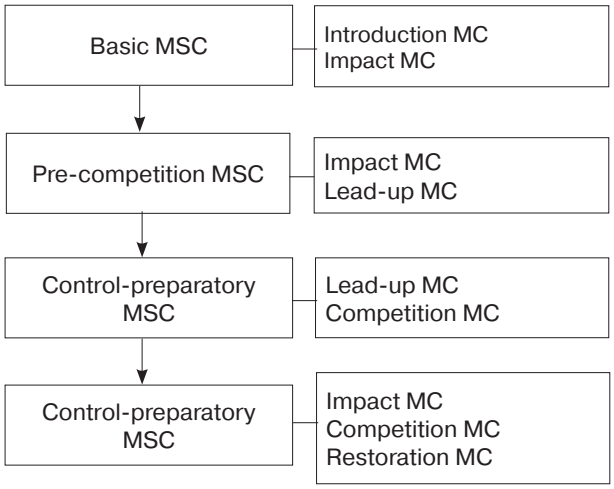

Figure 3. Scheme of the construction of the training process at the special preparatory stage of the preparatory period

Results

The effectiveness of the implemented program was tested during a control exercise – the 40-meter rifle shooting. The control exercise was carried out before the start of the experiment and at its end; shooting results were recorded in both cases (figures 4 and 5).

Applying the nonparametric Man-Whitney criterion and using indicators of the control group, the authors obtained the following results: U empirical (65), U critical (42, at $p<0.05$); therefore, the differences were not statistically significant.

The analysis of individual performance indicators of shooters shows the improvement in shooting among only 5 athletes at the end of the experiment.

Considering indicators of the experimental group, we used the nonparametric Man-Whitney criterion and found out the following: U empirical equaled to 42 and U critical – 42, at $p\leq0.05$. Therefore, the differences were not statistically veracious.

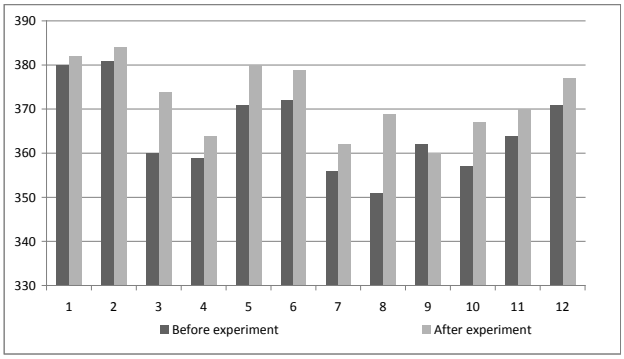

Figure 4. Results of the control training in the control group

The analysis of individual performance indicators of shooters in the experimental group reveals an improvement in shooting among 11 athletes at the end of the experiment.

In general, when comparing average results of control and experimental groups after the experiment, the following results were obtained: U empirical equaled to 39.5, U critical – 42, at $p\leq0.05$. Thus, a statistically reliable result was obtained by the end of the experiment.

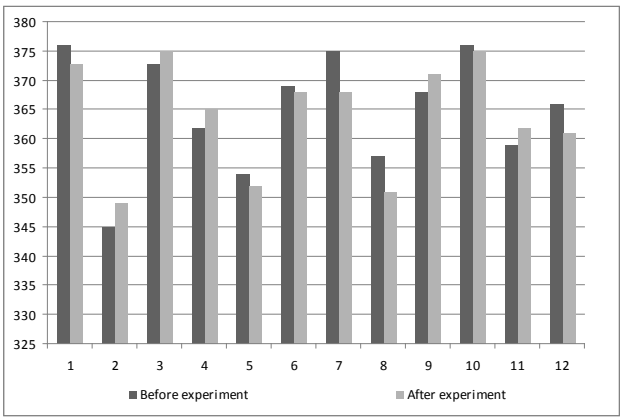

Figure 5. Results of the control training in the experimental group

Thus, in the course of our research there was a rise in shooting results in the experimental group. The technical training program was in-

troduced into the training process, coordination abilities of young shooters were developed in meso- and microcycles of the preparatory period. The reliability of the growth in the results is confirmed by the mathematical statistics method when comparing control and experimental groups before and after the experiment.

Conclusion

So, the planning of the training process is described. Periods of a sports training session are specified. It is revealed that during the preparatory period, the shooter is subject to various impacts aimed at developing motor qualities and improving technical skills of producing shots. Meso- and microstructures of the bullet shooting preparatory period are described.

The experiment shows that the developed technical training program with the associated development of coordination abilities of young shooters in meso- and microcycles of the preparatory period has a positive effect on the process of sports training, enhancing shooting results. The program is a strictly organized structure of meso- and microcycles in the preparatory period, the content of which is based on the means and methods of technical training, taking into account the alternation of loads and rest.

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INFORMATION ABOUT THE AUTHORS

VITALII A. POGODIN – Lecturer at the Department of Combat and Tactical-Special Training of the Faculty of Engineering and Economics of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, vital-pogodin2008@yandex.ru, https://orcid.org/0000-0002-5538-2056
EL'VIRA V. ZAUTOROVA – Doctor of Sciences (Pedagogy), Professor, Corresponding Member of the International Academy of Sciences of Pedagogical Education, Leading Researcher at the Research Center-2 of the Research Institute of the Federal Penitentiary Service of Russia, Moscow, Russia; professor at the Department for Legal Psychology and Pedagogy of the Psychology Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service, Vologda, Russia, elvira-song@mail.ru, https://orcid.org/0000-0002-1334-2654

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