

# МЕЖДУНАРОДНЫЙ ПЕНИТЕНЦИАРНЫЙ ЖУРНАЛ

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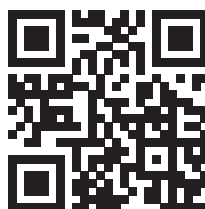
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# JOURNAL POLICY

## **Journal mission**

International penitentiary cooperation can and should help States to coordinate criminal and penal policy, practice of sentencing and execution of penalties, means, methods of treatment with convicts according to universally recognized principles and norms of international law, as well as standards developed over the years of cooperation in this field. International penitentiary journal is a dialogue platform for describing and discussing penitentiary systems' problems in all countries of the world. The publication is focused on the expansion of contacts between penitentiary systems of Russia and other States in scientific and practical fields. Such cooperation is important due to the need for mutual consideration of positive and other experience in the penitentiary sphere, joint efforts in ensuring human and social security, crime prevention, execution of criminal penalties, etc. The journal is not limited by only one direction of Penitentiary systems' activity. According to the Editorial Board's opinion, none of them can be considered secondary. For this reason, the journal focuses on any issues of penitentiary practice: the history of penitentiary bodies and institutions, problems of international standards application for treatment with prisoners, inter-sectoral research in the field of criminal penalties sentencing and execution, legal, psychological, pedagogical and economic foundations of penitentiary systems' development, ensuring the rule of law in their activities, personnel training for correctional institutions, etc.

## **Publication Frequency**

Triannually

## **Principles of editorial work**

scientifically proven approach to selection, review and publication placement;  
free and open access to research results, used data, which contributes to increasing of global knowledge exchange;  
compliance with international ethical editorial rules.

## **Publication fee**

Publication in the journal is free. The editors do not charge authors for preparation, placement and printing of materials.

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Authors who publish articles in the journal retain copyright and grant the journal the right to publish the material for the first time, which is automatically licensed after publication on the terms of [Creative Commons Attribution-NonCommercial-ShareAlike 4.0](#). It allows others to distribute this work with the obligatory preservation of references to the authors of the original work and the original publication in the journal.

## **Free access policy**

The journal provides direct open access to its content based on the following principle: free open access to research results contributes to increasing of global knowledge exchange.

# ПОЛИТИКА ЖУРНАЛА

## **Миссия журнала**

Международное пенитенциарное сотрудничество может и должно способствовать государствам координировать уголовную, уголовно-исполнительную политику, практику назначения и исполнения наказаний, средства, методы обращения с осужденными с общепризнанными принципами и нормами международного права, а также стандартами, наработанными за годы взаимодействия в данной сфере. Международный пенитенциарный журнал – это диалоговая площадка для описания и обсуждения проблем пенитенциарных систем всех стран мира. Издание ориентировано на расширение контактов между пенитенциарными системами России и других государств в научной и практической областях, необходимость взаимного учета положительного и иного опыта в пенитенциарной сфере, объединение совместных усилий в обеспечении безопасности человека и общества, предупреждении преступлений, исполнении уголовных наказаний и пр. Журнал не ограничен каким-либо одним направлением деятельности пенитенциарных систем. По мнению редакции, ни одно из них не может быть признано второстепенным. В силу этого в журнале внимание уделяется любым вопросам пенитенциарной практики: истории пенитенциарных органов и учреждений, проблемам применения международных стандартов по обращению с заключенными, межотраслевым исследованиям в области назначения и исполнения уголовных наказаний, правовым, психолого-педагогическим и экономическим основам пенитенциарных систем, обеспечению законности в их деятельности, подготовке кадров для исправительных учреждений и т. п.

## **Периодичность**

3 выпуска в год.

## **Принципы работы редакции**

научно обоснованный подход к отбору, рецензированию и размещению публикаций;

свободный открытый доступ к результатам исследований, использованным данным, который способствует увеличению глобального обмена знаниями;

соблюдение международных этических редакционных правил.

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## **Политика свободного доступа**

Журнал предоставляет непосредственный открытый доступ к своему контенту, исходя из следующего принципа: свободный открытый доступ к результатам исследований способствует увеличению глобального обмена знаниями.

# ARTICLE REQUIREMENTS

The Editorial Board accepts articles by e-mail [editor62@yandex.ru](mailto:editor62@yandex.ru) in Russian or English, with the observance of the following requirements.

## **Title**

Up to 10–12 words. Abbreviations and formulas in the title of an article are not allowed.

## **Information about authors**

*Names* are given in full, without abbreviations. The editorial office recommends the uniform spelling of names' transliteration in all articles of the author. The editors transliterate names according to the standard BSI from website <http://translit.net>.

*Affiliation.* Author's full affiliation (including position, name of the department, faculty and university, address and e-mail address). If the author affiliates him/herself with a public organization or institution, please, supply adequate information on the organization's full title and address.

*The position* is indicated in full, without abbreviations. Adjuncts, graduate students, doctoral students and applicants must indicate their status and the department to which they are attached, in full, without abbreviations.

*Academic title and degree* are indicated in full, without abbreviations.

*Individual numbers* of authors in the following database systems: ORCID, ResearcherID, Scopus Author ID.

## **An abstract**

250–400 words, determined by the content of the article. It includes the characteristics of the researched problem, objectives, research methods and materials of the study, as well as the results and main conclusions of the study. It is advisable to point out the main scientific result of the work. Unencrypted abbreviations, for the first time entered terms (including neologisms) are not allowed. For articles in Russian language it is recommended to use the Interstate standard 7.9–95 «Summary and abstract. General requirements».

## **Keywords**

5–10 words or phrases. The list of basic concepts and categories used to describe the problem under study.

## **Main body of the article**

*Structure.* The body of the text should be divided into meaningful sections with individual headings (1–5 words) to disclose the essence of this section. Every article should contain Conclusions, where the author(s) are expected to ground meaningful inferences. Implications for a future research might also find their place in Conclusions. The Editorial Board recommends using the IMRAD structure for the article. This structure is reference and can be adapted (expanded and (or) more detailed) depending on the characteristics and logic of the research.

## **Text of the article (design)**

The text may contain tables and figures, which should have separate numbering (one numbering system for tables; another – for figures). They should be placed in the text at the appropriate paragraph (just after its reference).

## **References in text**

References must be in Harvard style. References should be clearly cited in the body of the text, e.g. (Smith, 2006) or (Smith, 2006, p. 45), if an exact quotation is being used.

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At the end of the paper the author(s) should present full References in the alphabetical order as follows:

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Не более 10–12 слов. Не допускается использование аббревиатур и формул.

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*Фамилия, имя, отчество* приводятся полностью, без сокращений. Редакция рекомендует единообразное написание транслитерации ФИО. Редакция использует при транслитерации ФИО стандарт BSI с интернет-сайта <http://translit.net>.

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Объем: от 250 до 400 слов, определяется содержанием статьи. Включает в себя характеристику темы, объекта, целей, методов и материалов исследования, а также результаты и главные выводы исследования. Целесообразно указать, что нового несет в себе научная статья. Не допускаются аббревиатуры, впервые вводимые термины (в том числе неологизмы). Для статей на русском языке рекомендуется пользоваться ГОСТ 7.9–95 «Реферат и аннотация. Общие требования».

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5–10 слов и (или) словосочетаний. Должны отражать тему, цель и объект исследования.

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Объем от 40 000 до 60 000 печатных знаков с пробелами. Редакция рекомендует использовать структуру IMRAD для оформления статьи с выделением следующих частей: введение (Introduction); методы (Materials and Methods); результаты (Results); обсуждение (Discussion). Каждая часть должна иметь заголовок (примерно до 5 слов). Данная структура является опорной и может быть адаптирована (расширена и (или) более детализирована) в зависимости от особенностей и логики проведенной исследовательской работы.

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Dear colleagues!

Drafting process of our journal's each issue constitute search and selection of the most interesting and informative materials on the development of penitentiary theory and practice thematics. As before, we do not limit ourselves exclusively by research works and try to expand the content space of each of the new issues. The Editorial Board pays considerable attention to coverage of significant international scientific events, as well as memorable dates associated with outstanding scientific figures who have devoted themselves to penitentiary science.

From this point of view, the central material of the issue is an article about the results of the IV International Penitentiary Forum, which was organized on the base of Academy of the Federal penitentiary service of Russia in Ryazan on November 20–22, 2019. The forum was attended by representatives of 14 countries: the Republic of Azerbaijan, Kyrgyz Republic, Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Republic of Moldova, Mongolia, Uzbekistan, the Republic of South Ossetia, socialist Republic of Vietnam, the Federal Republic of Germany, the Republic of Finland, French Republic, Swiss Confederation. At the moment, we are working to expand the foreign audience of our periodical, as well as to deepen cooperation with authors from other countries. In this regard Editorial Board invites the organizers of major scientific and practical events related to penitentiary activities to cooperation. Materials with announcements and reports on these events will be displayed on the pages of our journal.

It is also worth noting the article by Vyacheslav Ivanovich Sileverstov about the life and scientific work of the outstanding Soviet and Russian jurist, ScD (law), Professor, honored scientist of the RSFSR Alexander Solomonovich Mikhlin. A significant part of his scientific activity was closely related to the problems of execution of criminal penalties. The editorial Board of the journal hopes that the publication of such memorable materials about life and work of famous scientists-martyrs will become traditional. We consider this important in terms of increasing the readership of the works of Soviet, Russian and foreign classics of penitentiary science. Reinterpretation and analysis of classical works taking into account modern realities, as well as international experience, has a significant potential for generating new knowledge, including of an interdisciplinary nature.

Once again, we note that translated English-language version of our periodical is primarily aimed at expanding the readership at the expense of foreign scientists, practitioners, students, undergraduates and postgraduates. At the moment, we are also working on an improved version of our website. We hope that the launch of a new Web-page will make it possible to improve communication with authors and, most importantly, readers of the journal.

The International penitentiary journal is a relatively new and young public research project. The release of the bilingual version and the ongoing work on improving our online platform proved to be an extremely time-consuming and complex process for the editorial Board. Our main priority was and remains the rhythmic release of new issues of the magazine in accordance with the approved schedule. At the same time, we apologize to those authors whose release dates did not meet their expectations.

*Alexey Vladimirovich Rodionov*  
Editor-in-Chief of International penitentiary journal,  
ScD (Economy)

### Уважаемые коллеги!

Подготовка каждого выпуска нашего журнала – это поиск и отбор наиболее интересных и содержательных материалов объединенных тематикой развития пенитенциарной теории и практики. Как и прежде мы не ограничиваемся исключительно исследовательским контентом. Редакция уделяет значительное внимание освещению значимых международных научных мероприятий, а также памятным датам, связанным с выдающимися научными деятелями, которые посвятили себя пенитенциарной науке.

С этой точки зрения, центральным материалом выпуска является статья о результатах проведения IV Международного пенитенциарного форума, который был организован на базе Академии ФСИН России в г. Рязани 20–22 ноября 2019 г. В форуме приняли участие представители 14 стран: Азербайджанская Республика, Кыргызская Республика, Республика Армения, Республика Беларусь, Республика Казахстан, Республика Молдова, Монголия, Республика Узбекистан, Республика Южная Осетия, Социалистическая Республика Вьетнам, Федеративная Республика Германия, Финляндская Республика, Французская Республика, Швейцарская Конфедерация. В данный момент мы работаем над расширением иностранной аудитории нашего журнала, а также над углублением сотрудничества с авторами из других стран. В связи с этим наше издание приглашает к сотрудничеству организаторов крупных научных и практических мероприятий, связанных с пенитенциарной деятельностью. Материалы с анонсами и отчетами о проведении данных мероприятий получают свое отображение на страницах нашего издания.

Стоит отметить также статью Вячеслава Ивановича Силеверстова о жизни и научной работе выдающегося советского и российского правоведа, доктора юридических наук, профессора, заслуженного деятеля науки РСФСР Александра Соломоновича Михлина, значительная часть научной деятельности которого была тесно связана с проблематикой исполнения уголовных наказаний. Редакция журнала выражает надежду, что публикация такого рода материалов о жизни и деятельности известных ученых-пенитенциаристов станет традиционной. Переосмысление и анализ классических работ с учетом современных реалий, а также международного опыта имеет значительный потенциал к генерации новых знаний, в том числе и междисциплинарного характера.

В очередной раз отметим, что переводная, англоязычная версия нашего издания прежде всего направлена на расширение читательской аудитории за счет иностранных ученых, практических работников, студентов, магистрантов и аспирантов. В данный момент мы также работаем над усовершенствованной версией нашего интернет-сайта. Надеемся, что старт работы новой страницы в сети даст возможность улучшить коммуникации с авторами и главное – читателями журнала.

Международный пенитенциарный журнал – относительно новый и молодой общественный научный проект. Выпуск двуязычной версии и продолжающаяся работа над совершенствованием нашей интернет площадки оказались крайне трудоемким и сложным процессом для редакции. Нашим основным приоритетом был и остается ритмичный выпуск новых номеров журнала в соответствии с утвержденным графиком. Вместе с тем, мы просим извинения у тех авторов, сроки выхода материалов которых не соответствовали их ожиданиям.

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**Shcherbakov A. V., Kolarov G. I.****Щербаков А. В., Коларов Г. И.**

## FOREIGN EXPERIENCE IN ENSURING PENITENTIARY SECURITY

ЗАРУБЕЖНЫЙ ОПЫТ ОБЕСПЕЧЕНИЯ  
ПЕНИТЕНЦИАРНОЙ БЕЗОПАСНОСТИ

**Abstract.** The article constructively examines the activities of penitentiary institutions of leading foreign countries to ensure penitentiary security, taking into account the possibility of its use in domestic practice. The general characteristic of the modern Penal system of Russia is given, the main stages of its reform are noted, the political line of humanization of the Penal sphere while ensuring security for society, citizens and the state is pointed out. The internal and external aspects of penitentiary security, their organic interrelation and its integral and complex character are noted. On the basis of comparative legal method, in combination with other methods of scientific knowledge, the foreign experience of ensuring security of penitentiary institutions by differentiating convicts and conditions of serving sentences, as well as taking into account the wide use of advanced technical means of control and supervision in the process of penitentiary activity, is considered. As a result of generalization of foreign experience and its comparison with domestic practice, the existing problems of legal regulation in terms of differentiation of convicts serving sentences with isolation from society, as well as in the use of technical means to ensure prison security, are identified, and amendments to the current Penal legislation are proposed. As a matter of discussion, taking into account the review of best foreign experience, issues relevant to domestic practice, concerning the peculiarities of ensuring prison security in emergency situations, the model of a private prison institution, and the development of forms of social control and supervision of persons released from prison institutions, are noted. In this regard, conclusions about the parameters of foreign experience use in domestic practice are formulated.

**Keywords:** Penal system, penitentiary security, Russia, foreign experience.

**Аннотация.** В статье конструктивно изучается деятельность пенитенциарных учреждений ведущих иностранных государств по обеспечению пенитенциарной безопасности, с учетом возможности ее использования в отечественной практике. Дана общая характеристика современной уголовно-исполнительной системы России, выделены основные этапы ее реформирования, указано на политическую

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линию гуманизации уголовно-исполнительной сферы при обеспечении безопасности для общества, граждан и государства. Выделены внутрисистемная и внешняя стороны пенитенциарной безопасности, отмечена их органичная взаимосвязь и ее целостный, комплексный характер. На базе сравнительно-правового метода, в сочетании с другими методами научного познания, рассмотрен зарубежный опыт обеспечения безопасности пенитенциарных учреждений посредством дифференциации осужденных и условий отбывания наказаний, а также с учетом широкого использования передовых технических средств контроля и надзора в процессе пенитенциарной деятельности. В результате обобщения зарубежного опыта и его сопоставления с отечественной практикой, выявлены существующие в настоящий момент проблемы правового регулирования в части дифференциации осужденных, отбывающих наказания с изоляцией от общества, а также в вопросе применения технических средств обеспечения пенитенциарной безопасности, предложены коррективы в действующее уголовно-исполнительное законодательство. В порядке обсуждения, с учетом обзора передового зарубежного опыта выделены актуальные для отечественной практики вопросы, касающиеся особенностей обеспечения пенитенциарной безопасности в условиях чрезвычайных ситуаций, модели частного пенитенциарного учреждения, развития форм социального контроля и надзора за лицами, освобожденными из пенитенциарных учреждений. В связи с этим сформулированы выводы о параметрах восприятия зарубежного опыта в отечественной практике.

**Ключевые слова:** уголовно-исполнительная система, пенитенциарная безопасность, Россия, зарубежный опыт.

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### Introduction

The fundamental transformations, carried out in Russia, aimed at modernizing and, at the same time, developing the Russian State and society; they are comprehensive and affect, among other things, the relations that arise and develop in the penitentiary sphere, including issues of penitentiary security. The Russian Federation proceeds from the need to constantly improve the system of ensuring public security; in this regard, the tasks and organizational and legal tools for creating a stable basis for increasing the economic, political, military and spiritual potential of the Russian Federation and increasing its role in the emerging polycentric world are now conceptually defined.

State policy in the sphere of national security and socio-economic development of the Russian Federation contributes to the implementation of strategic national priorities and effective protection of national interests. It should be noted that, firstly, penitentiary security genetically related to the overall system of national security, because it includes a set of legal and organizational forces and means aimed at countering threats to the normal development of the Russian state and society, and protecting the interests of citizens. Secondly, penitentiary security contains a significant specificity due to the peculiarities of its main threats (crime, criminal and prison subculture, penitentiary recidivism) and manifests itself in the organizational and legal tools to ensure it (Bykov, A. V. 2017, p. 57; Romashov, R. A. & Tonkov, E. N. 2014, pp. 266–267).

Penitentiary security is both intra-system and inter-system in nature, since intra-system threats cause danger to persons directly in the penitentiary environment, especially convicts and prison staff. In the field of inter-system relations, the penitentiary system itself should be considered as a source of penitentiary danger, whose activities constitute a certain threat to a «law-abiding» society. Thus, a legitimate question is about the two main

and organically interrelated areas of prison security: internal security as a system of means and methods of providing effective anti-malware threats in relation to the convicts and employees of penal institutions; external security as a system of means and methods to counteract threats coming from the prison system itself (Romashov, R. A. & Tonkov, E. N. 2014, pp. 266–267).

In the case of Russia, the special role of the Penal system in ensuring penitentiary security should be discussed. It should be explained that the term «the Penal system» is traditionally used in the Russian literature in the sense of a state-legal nature and appropriately organized institution intended for activities implementation in the field of criminal penalties execution, and performing in this regard significant functions for the state and society (Lelyukh, V. F. 2006; Smirnov, L. B. 2007). In turn, the dynamics of state-legal and social transformations is manifested in changes in the content of functions, specific tasks of the Penal system and its constituent bodies and institutions. For example, in the Russian Empire, the development and acculturation of new lands was carried out with the help of convicts (Smirnov, L. B. 2007, pp. 30, 33), in the USSR the GULAG was a powerful industrial and economic complex that took part in all large-scale projects of Soviet construction (Smirnov, L. B. 2007, pp. 57, 59–60). In modern conditions, the penal policy is undergoing radical changes. In connection with the establishment in modern Russia at the constitutional level of the provision on the recognition of a person, his rights and freedoms as the highest value (Article 2 of the Constitution of the Russian Federation), active and versatile participation of Russia in integration processes in the field of crime prevention, combating it and treatment of offenders has led to humanization of the Penal system, a revision of the priorities of its activities; the penitentiary direction is gradually replacing the punitive and its derivatives. It should be noted that the idea of humanizing the domestic Penal system in understanding

of its complex and integral nature was first voiced in the USSR in the Concept of reforming the Penal system, approved by the Board of the Ministry of Internal Affairs of the USSR in 1990 (Smirnov, L. B. 2007, pp. 66–67). At the same time, certain aspects of the penal sphere humanization were previously reflected in the works of domestic authors (Poznyshev, S. V. 1923; Belyaev, N. A. 1963).

The organizational structure of the modern Penal system of Russia is two-level and includes: the Federal penitentiary service of Russia and its subordinate territorial authorities in the subjects of the Russian Federation, which manage penitentiary institutions located on the territory of the relevant subject, in accordance with the Federal Penal legislation; according to the decision of the Government of the Russian Federation, the Penal system may include pretrial detention centers, enterprises specially created to support activities of this system, research, design, medical, educational and other organizations in connection with their participation in penitentiary activities implementation (its separate directions).

The main milestones that mark the process of humanization of the Penal system of Russia, observed in the modern period, include:

- adoption of laws in the sphere of organization and activity of the Penal system that take into account constitutional provisions and international standards in the penitentiary sphere (Law of the Russian Federation No. 5473-1 «On institutions and bodies executing criminal penalties in the form of deprivation of liberty» (adopted on 21.07.1993); Penal code of the Russian Federation of 1997);

- transferring of the Russian Penal system from the Ministry of Internal Affairs to the Ministry of Justice of the Russian Federation in 1997 (based on the Decree of the President of the Russian Federation adopted on 8.10.1997);

- formation of the Federal penitentiary service in 2004, which was given the functions of the Ministry of Justice of the Russian Federation to ensure the execution of criminal penalties, taking into account the

update of legislation and Russia's international obligations in the penitentiary sphere (based on the Decree of the President of the Russian Federation on 09.04. 2004);

- development, adoption and implementation of measures to implement the Concept of the Russian Penal system development until 2020 (approved by the Order of the Government of the Russian Federation No. 1772-R on 14.10.2010), where the general characteristics and current state of the Penal system, the main directions, forms and methods of improvement of the Penal system, taking into account international standards and requirements of social development, the goals and objectives related to the further humanization of penal sphere and raising the effectiveness of management of the Penal system, including through the introduction of modern technologies and technical means in the practice of punishments execution.

It is significant that the development of international cooperation with the penitentiary systems of foreign States, international bodies and non-governmental organizations is noted among these tasks. This direction is implemented in conjunction with Russia's international legal obligations arising from participation in universal (UN) and regional (in particular, the Council of Europe) international organizations.

The process of humanization of the Russian criminal Executive system is characterized by a reduction in the number of convicts serving sentences of imprisonment, and the search for alternatives to criminal penalties connected with isolation from society. Thus, for comparison, if in 2002 the number of convicts in correctional institutions located on the territory of Russia (places of deprivation of liberty) were 877,393 thousand people, in 2015 – 656,618 thousand people (Gorban', D. V. 2016, pp. 176–183). At the same time, the practice of assigning and executing alternative types of punishment is expanding. Currently, the system of criminal penalties provided for by the current Criminal code of the Russian Federation (Chapter 9)



is built on the principle of less severe, and, accordingly, not related to isolation from society (in particular, fines, correctional labor, forced labor) to more severe forms of criminal legal impact (imprisonment).

At the same time, the Penal inspections in Russia have to control sentences execution of increasing recidivist contingent, which, in turn, complicates their work and reduces its effectiveness (Degtyareva, O. L. 2015, pp. 3–6). Currently there is also rejuvenation and deterioration of criminological characteristics among convicts serving sentences with isolation from society in prisons of Russia, increasing the number of prisoners who are prone to various forms of destructive behavior, intensification of criminal leaders attempting to coordinate illegal actions of convicts (many of which dealt with organized crime), including disorganization of prisons and also attacks on employees of the Penal system (Kudryavtsev, A. V. 2013, pp. 20–23).

In general, the Russian Penal system is going through a complicated process interconnected with the movement of Russian society and the state and international cooperation in this area. Finally, another problem is in the fact that currently in Russia at the level of individual and collective consciousness, the prison environment is associated with hostile, which entails an absolute priority in tools for penitentiary security with measures of a forceful nature, implemented within the framework of conflict relations. Meanwhile, transition to the paradigm of civilizational culture in the context of prison security involves the implementation in practice of the Penal system of innovative tools and methods of social partnership, providing a combination of incentives that encourage the convicted person to correction with the use of effective means to prevent penitentiary crimes and its negative processes and phenomena (Romashov, R. A. & Tonkov, E. N. 2014, pp. 266–267).

In connection with these circumstances, the problem of studying the best foreign experience in ensuring penitentiary security and the

parameters of its use in the Penal system of Russia in modern conditions of functioning and development is updated. The purpose of this study is to identify positive elements of foreign experience in ensuring penitentiary security and prospects for its use in the course of the ongoing reform of the Russian Penal system in modern conditions.

The problem of ensuring penitentiary security is reflected in the scientific works of lawyers and representatives of other branches of scientific knowledge. The theoretical foundations of public security, an integral part of which is penitentiary security, were developed in the research of A. A. Ter-Akopov (1998), A. B. Antonov and V. G. Balashov (1996), M. M. Babayev and E. N. Rakhmanova (2003). In the context of the broader issue of safety, security and protection of individuals, society and the state from crime and its criminal criminogenic threats G. G. Gorshenkov (2009) substantiates the concept of anti-criminal security of the person, as well as the provisions of the state policy of ensuring anti-criminal security of the individual, a number of practical proposals and recommendations in this part. In the study of theoretical and methodological problems of cognition and prevention of the crime, conducted by I. V. Shalakhin (2011), a separate section is devoted to the promotion of criminological security of the person, where in conjunction with the main directions of anti-criminal policy sets strategic priorities and corresponding blocks of organizational and legal measures of criminological security for citizens: preventing (reducing the level of) criminal infection of citizens; minimizing the risk of becoming a victim of a crime (suicide associated with the action of criminal and criminogenic factors); restoring the person affected by crime. Among the works of foreign authors, we point to the study of the famous criminologist Michael Tonry (USA) (2001), who indicated the special importance of the model for building criminal justice, which assumes the priority of measures aimed at ensuring the safety of society, protecting it from crime.

Some authors address directly the problem of penitentiary security, its theoretical and applied aspects. In particular, B.B. Kazak (2002) in the monographic study paid attention to domestic and foreign penal theories and security models, identified system of safety factors in the Penal system, outlined the main components of security control in the prison system, described the main means of convicts' correction in the context of prison security (regime, socially useful work, educational training and professional training of convicts, social and educational work with them). In the monographic study of V. F. Chorny (1996) was the systematization of negative factors affecting the security status of convicts in places of liberty deprivation; he determined value, nature and content of prisoners' security as an important element in the mechanism of ensuring and protection of their rights and legitimate interests; the classification of legal norms regulating the security of convicts in penal institutions. R. Z. Useev devotes his research to the difficult and at the same time theoretically and practically significant issue of defining the paradigm of penitentiary security for the modern Russian Penal system. Based on the generalization of scientific and empirical material, he came to conclusions about the complex nature of penitentiary dangers and security of the Penal system, and the need for a conceptual definition of this concept at the legislative level (Useev, R. Z. 2015, pp. 56–61). Taking into account modern realities, A. F. Galuzin (2015) conducts a study of the penitentiary security of the Penal system, considering it in the context of the penitentiary function carried out by the state with the active participation of civil society; identifies and classifies the main sources of penitentiary dangers; notes the internal contradictory and conflicting unity of the penitentiary environment; characterizes measures to ensure internal and external penitentiary security, and concludes that, in fact, ensuring penitentiary security embodies humanism in the penitentiary sphere. The study of N. N. Kutakov (2014) is devoted to

the organizational and legal basis for ensuring safety of correctional personnel in Russia. It contains conclusions about determinants that affect safety of correctional personnel, justifies the author's methodology for evaluating the effectiveness of activities to ensure this safety, and proposes changes and additions to the legislation in force in the field of criminal penalties execution related to isolation from society.

Recognizing the theoretical and practical significance of these studies, it should be noted that they do not specifically point out the possibility of perceiving positive foreign experience in ensuring penitentiary security.

It should also be noted that foreign experience in the organization and functioning of penitentiary systems and ensuring penitentiary security in them is provided in a number of studies by domestic and foreign authors. In particular, an overview of the structure of penitentiary institutions of the prison type in a number of European countries, the order and conditions of serving sentences in them related to isolation from society, is given in the book of L. F. Pertli, A. M. Fumm, Yu. Yu. Zheleznyaya and T. V. Borisova (2012); the authors conclude that in the light of implementation of the Concept of the Russian Penal system development until 2020, the experience of European prisons can be applied in Russia in new types of correctional institutions. A fairly detailed review of the sphere of punishments execution in foreign countries (not only European, but also located in South-East Asia) is given in the works of V. A. Zhabskiy, A. I. Kochkarev, A. S. Rudenko (2013). The authors also make judgments about the possibility of perceiving certain elements of foreign experience in the course of the Russian Penal system reforming. The analysis of foreign experience in organizational and managerial activities of penitentiary systems of the member States of the Council of Europe is carried out in the work of A. V. Bykov (2017). In the scientific work of Swiss lawyers Marcelo F. Aebi, Christine Burkhardt, Rok Hacin, Mélanie M. Tiago (2016) a comparative legal analysis

of current trends and prospects for organizing the execution of prison sentences in Slovenia and other European countries from 2005 to 2014 was carried out. The authors note that despite the recent increase in the number of prisoners, Slovenia still has one of the lowest rates in Europe in this part and attribute this to the length of imprisonment. In addition, they analyze the structure of the Slovenian prison population, consider the correlation of legislative changes with the solution of problems of prison overcrowding, conflicts in penitentiary institutions, and summarize that, in general, the criminal law and penitentiary systems of Slovenia are more similar to their counterparts in Western Europe than in Central and Eastern Europe (Aebi, M. F., Burkhardt, C., Hacin, R. & Tiago, M. M. 2016, pp. 430–442). The analysis of foreign experience of penitentiary activity and research in this area was carried out by P. V. Golodov and B. A. Spasennikov (2015). The authors emphasize the importance of studying this experience, considering it as one of the necessary conditions for ensuring a scientific approach to the ongoing transformations of Russian penitentiary practice.

Certain aspects of penitentiary security in connection with foreign experience in ensuring it are reflected in the following publications. In the work of A.V. Bykov and M. A. Kaluzhina (2015) examines the USA penitentiary system and the main areas of security, noting that the issues of control and supervision of prisoners in the United States belong to the sphere of state interests and are considered from the standpoint of ensuring comprehensive security, the positive role of such approaches in terms of improving the efficiency of penitentiary institutions, and the expediency of taking this constructive approach when reforming the Russian Penal system. A. I. Glushkov (2013) examines the foreign practice of regulating law enforcement activities of institutions of the Penal system in case of emergency situations, at the same time, he justifies the need for the use of certain provisions of foreign normative legal acts in Russian legislation that

regulate the mechanism for implementing special conditions in emergency situations in institutions of the Penal system. Foreign practice of using the electronic monitoring system of controlled entities is considered by E. A. Timofeeva and O. A. Motin (2014). At the same time, it is compared with the Russian experience that is emerging in this area. The authors conclude that the use of advanced foreign experience will help to improve the technical, organizational and legal aspects of electronic monitoring in Russia and, in addition, significantly reduce the burden on the law enforcement and judicial systems, and will reduce the number of persons serving sentences in correctional institutions. In the book of Andrew Coyle (2002) he presented his progressive vision (a recognised specialist in the field of prison activities and prison studies) in terms of prison management, when the balance of prison security and prisoners' rights, the relationship of international standards and domestic prison rules the different levels of protection of prisoners, attention to physical and procedural measures to ensure prison security are discussed. Norwegian researcher Erich Saheim (2006) examines the main issues of personnel training for correctional institutions in Norway, evaluates this process from the point of view of the European prison rules, and specifies in this regard the requirements for personnel selection in terms of work experience, ethical and professional qualities, as well as motivation. The article by V. A. Utkin (2016) analyzes changes in the penal policy, law and directions for reforming the organizational foundations of the Penal system in the context of Russia's accession to the Council of Europe, as well as taking into account the new European penitentiary rules (2006). In particular, the author points to the current trend of changing the penal paradigm, consisting in the transition from «single-mode correctional colonies» to «hybrid» correctional institutions of «multi-mode security». In the works of S. Kh. Shamsunov (2016), E. A. Timofeeva (2017) foreign experience of creation and

functioning of private prisons is analyzed, judgments about the possibility of its selective use with careful study and consideration of the existing practice of corrections are expressed. In connection with the problem of penitentiary security (in its broad sense, covering the external aspect, the need to minimize the negative impact of the penitentiary environment on law-abiding society), E. A. Tokhova (2009) analyzes the foreign experience of social and legal control over persons released from correctional institutions, and she notes the well-established mechanism of socio-cultural resocialization of prisoners in a number of foreign countries, the valuable nature of foreign experience in social work with prisoners, penitentiary and post-penitentiary crime prevention in the course of reforming the Russian penitentiary system. Understanding of penitentiary security as a multidimensional phenomenon can be seen in the work of L. V. Brusnitsyn (2013), devoted to modern research of modern trends in victims' rights at the stage of sentences execution. The author, in conjunction with the study of advanced foreign experience, justifies the optimization of the current criminal procedure legislation in terms of giving the victim legal opportunities to influence the issue of parole of a person who previously committed a crime against this victim.

Valuable information about the structure and functioning of penitentiary systems in foreign countries, as well as reforms in the penitentiary sphere that affect, among other things, issues of penitentiary security, can be obtained from the following publications. In the work of O. G. Kovalev and M. V. Sheremet'eva (2013) the organization and current trends of the us penitentiary system, the classification of prison institutions, the institution of private prisons, the features of prison management, the gender and ethnic ratio of prisoners and staff are analyzed; the most acute problems (prison overcrowding, high recidivism, etc.) are identified and some ways to minimize them are provided. In the article of Martin Schmid and E. A. Ogrokhina (2013) the main distinctive

features and principles of the modern Swiss penitentiary system are examined, at the same time, it is concluded that it is transparent and has the potential to promote social integration of convicts and, in this connection, to minimize penitentiary and post-penitentiary recidivism. In the article of O. M. Chernysheva (2012) the process of transformation of penitentiary institutions in Germany within the framework of the «federalism reform» announced in 2006, which granted the Federal lands exclusive legislative competence in the field of execution of punishments is examined. In this connection, the problems of law-making and law enforcement are noted. In the article of A. V. Serebrennikova (2013) the experience of criminal law codification in Germany is examined. The main attention is paid to the law of Bavaria on the punishment execution in the form of deprivation of liberty and measures of correction and security related to deprivation of liberty. Thus the conclusion about the importance of studying this experience in reforming the domestic penal law is made. In the article of O. R. Gulina (2012) the legal registration of German penitentiary system and regulation of punishment execution of at the Federal and regional levels are examined, at the same time, special attention is paid to execution of preventive arrest after serving the main type of punishment – Sicherheitsverwahrung, and to the correlation of this type of punishment with the legal norms of the European Convention on human rights and the Basic Law of Germany; it is concluded that the modern prison system of Germany, like Russia, is undergoing large-scale reform, taking into account the proximity of continental legal traditions, the experience of Germany could be useful and significant for Russia, especially in the field of understanding and interpreting the rights of persons in custody. In the article of A. M. Fumm (2011) the emergence and development of the English progressive prison system, as well as its current state and its significance for the reform of the Russian penitentiary system are discussed. In the article of Professor Gorazd

Meshko and O. V. Druzhininskaya (2016) the situation in correctional institutions of Slovenia, in particular the limit of prison occupancy, based on statistical data, is analyzed; the authors identify the problems related to this, as well as financial and personnel difficulties, including those related to prison security, and suggests ways out of the current situation. In the article of M. Koski and O. V. Druzhininskaya (2015) the current state of the Finland Penal system, which was formed as a result of the reform in 2006, is examined; there is a positive trend of decreasing the level of prisoners and persons sentenced to public work, as well as the level of repeated offenses; the conclusion is made about the possibility of use of this experience in improving the Russian Penal system. In the article of T. F. Minyazeva and L. A. Bukalerova (2013) the experience of serving sentences in prisons in modern Norway is presented; the conclusion is made about the possibility of perceiving positive practices in the functioning of penitentiary systems in Norway and other Scandinavian countries in terms of humane treatment of prisoners and their resocialization.

However, we repeat: the whole issue of prison security, viewed through the prism of international experience influence on the Russian modern Penal system, parameters of use in domestic practice, in the course of the ongoing reforms in Russia, especially was not pointed out, and was not an independent object of scientific study.

### **Methodological basis of the study**

The methodological basis of this study is a comparative legal method that focuses on the comparison of different legal systems, socio-legal categories and phenomena (Bakhin, S. V. 2003; Ivannikov, I. A. 2013). The practical significance of the comparative legal method is to recognize the objective process of convergence among various national legal systems, characteristic of the modern world, and, in particular, in matters of ensuring penitentiary security, taking into account the existing typological differences

and national legal characteristics of a particular country. In this regard, a scientifically based assessment of the possibility and limits of foreign experience use in ensuring penitentiary security in the Russian Penal system is given. The comparative method is combined with other general scientific and special methods of cognition, namely:

- systemic (suggesting the need to consider penitentiary security as an integral, complex phenomenon, and its provision, respectively, as a process of prevention, detection and neutralization of threats and dangers emanating from the criminal and criminogenic penitentiary environment, in turn, correlating with intra-system and inter-system socio-legal factors);

- formal-legal (involving the use of the conceptual and categorical apparatus of jurisprudence, reference to the rules of law and materials of law enforcement practice in the field of penitentiary activities of the studied countries);

- structural-functional (allowing to identify the aspects of prison security and the main components of its provision in relation to the functioning and development of prison systems in modern States).

The research method consists in studying and comparing the basic characteristics of penitentiary systems of modern States, in the part related to the issues of penitentiary security. At the same time, the main attention is given to the penitentiary countries of Europe and the United States, taking into account the degree of penitentiary systems' development and positive experience in ensuring penitentiary security in the context of humanization of penitentiary activities in combination with its effectiveness. In addition, the experience of providing penitentiary security (within the framework of the organization and activities of penitentiary institutions, including in emergency situations, as well as in post-penitentiary control) in some other countries is given.

The theoretical basis of the study is the above-mentioned publications, as well as other publications of domestic and foreign authors,

which cover the organization and functioning of penitentiary systems in various modern States, and aspects of ensuring penitentiary security in them; in addition, in some cases, a comparison of domestic and foreign practices is carried out.

The legal, informational and empirical basis of the study is sources of current legislation on penitentiary activities, the practice of penitentiary activities cited in the special literature, statistical data and reference materials. In particular, based on special scientific and reference literature (Coyle, A. 1994; Aebi, M. F., Burkhardt, C., Hacin, R. & Tiago, M. M. 2016; Bykov, A. V. 2017; Bykov, A. V. & Kaluzhina, M. A. 2015; Pertli, L. F., Fumm, A. M., Zheleznaya, Yu. Yu. & Borisova, T. V. 2012; Yakovlev, K. L., Yakovleva, E. I. & Yakovleva, O. N. 2011) the article takes into account the provisions of the Code of Laws of the United States and the Official Guide of the Federal Bureau of prisons of the United States (2014), Law on prisons in Finland (2006), Law on enforcement of criminal sanctions in Slovenia (2000), the Criminal and Criminal Procedure Code of the Federal Republic of Germany (taking into account the reform that began in 2006), the Law on prisons (2009) and the Criminal Code of the French Republic, the Criminal Law of the Kingdom of Norway, etc. In the context of the topic under study, the Provisions of current Russian legislation are given: the Criminal Code (1996), the Criminal Procedure Code (2001), and the Penal Code (1997).

The comparison of foreign and Russian experience is carried out, taking into account the justified position about the existence of two main areas of penitentiary security, namely 1) internal security (in relation to the penitentiary institutions themselves) and 2) external (in relation to a law-abiding society). At the same time, the authors are aware of a certain proportion of the conditionality of this distinction, taking into account the noted holistic and complex nature of prison security and the organic relationship of its sides.

### **Ensuring internal security of penitentiary institutions by differentiating of convicts**

The study of special literature, devoted to the analysis of foreign experience in execution of criminal penalties in closed penitentiary institutions, allows to speak about the variety of approaches of different countries (taking into account the ongoing criminal and penal policy, the level of crime, socio-economic indicators, technical equipment, the structure of the penitentiary system and its management, and other factors), at the same time, certain general provisions concerning the differentiation of correctional institutions and the number of convicts, serving their sentences, are observed (they are also filled with specific content, taking into account the national legal specifics). The role of differentiation of convicts and conditions for serving sentences, in ensuring internal security of penitentiary institutions, is described in detail in the following data for specific countries.

The United States, which traditionally ranks first in the international ranking for the number of prisoners, has a diversified correctional system (Kovalev, O. G. & Sheremet'eva, M. V. 2013, pp. 19–22). Due to the dualistic model of federalism in the United States (Shumilov, V. M. 2013), legal, judicial, and penitentiary systems at the Federal level and within each individual state exist and function in parallel, however, regardless of the level of power, the activities of penitentiary institutions are based on strict compliance with the law, subordinated to the goal of internal security of the state and ensuring the effective functioning of public authorities and local self-government (Bykov, A. V. & Kaluzhina, M. A. 2015, p. 28). It is important to note that each penitentiary institution is assigned a security level, from 1 to 4, respectively:

– local correctional institutions have a security level of 1 or 2, and more than half of the convicts are allowed to leave the protected area for a certain period of time without escort for employment or training in a profession;

– prisons and other correctional facilities of the fourth and third security levels are under the jurisdiction of the States or the Federal government (however, these penitentiaries also have units with a more lenient regime corresponding to the second level (Kovalev, O. G. & Sheremet'eva, M. V. 2013, pp. 19–20)).

The differentiation of convicts and, consequently, the question of determining the necessary level of security of the penitentiary institution is not only based on the sentence (thus, if the court sentences the perpetrator to a term of imprisonment of up to one year, the convicted person is transferred to the district investigative prison or to one of the local correctional institutions to serve the sentence), but also in relation to the work of reception centers, diagnostics and classification of prisoners (in the case of persons serving imprisonment for more than one year) (Kovalev, O. G. & Sheremet'eva, M. V. 2013, pp. 19–20). In correctional institutions, there are various programs focused on the resocialization of the convicted person. In addition, the following facilities function in the United States:

– centers for the restitution (a «soft» alternative to imprisonment; convicts are sent there, if they committed an offense for the first time, but they are employable and mentally healthy, they do not have problems with drugs and alcohol, also by a court decision, convicts whose prison term is coming to an end can be also sent there; convicts undergo a socialization course, they are required to go to work and perform public works free of charge, they use earned money to pay for their accommodation in the center, court costs, and to compensate victims);

– involuntary treatment centers (there are people in need of treatment for alcoholism and drug addiction; the centers have educational programs and socialization programs; prisoners also receive professional training, and they are provided with qualified assistance in finding employment after their release);

– correctional camps (young healthy men, who have been sentenced for up to five years for non-violent crimes, are sent there for the first time, if they have such a desire; the convicts are involved in heavy public works, such as building roads, and are also required to complete an educational program and professional training course).

In Great Britain, due to the historical administrative division and different political status of its constituent territories, Scotland and Northern Ireland have their own systems of sentences execution, and England and Wales have a common system (England and Wales – 86230 convicts; Northern Ireland – 1460 convicts, Scotland – 7480 convicts). In the UK prison service, there are different categories of institutions for prisoners: men's and women's prisons, institutions for young offenders, institutions for juveniles, local prisons, prisons for persons with life sentences or life imprisonment centers, separately, there are so-called «Rasseivateli» (used for prisoners with the necessary high level of protection and especially dangerous criminals) (Yakovleva, E. I. & Yakovleva, O. N. 2011, pp. 142–143). There are four placement modes for adult men: category A prisons (highest security level); category B prisons (high security level); category C prisons (medium security level); and category D prisons (open mode). In the process of serving their sentences, many prisoners are placed in a lower security category, in accordance with the decision of the prison administration, which is based on an assessment of the convict's personality and behavior, and some prisoners are placed in a higher risk category than previously assumed (Yakovleva, E. I. & Yakovleva, O. N. 2011, p. 143). This approach to convicts' separation can be used in domestic practice, while taking into account the existing typological differences between the legal systems of Russia and Great Britain (in particular, the lack of codified legislation in the UK in the area of appointment and execution of criminal penalties).

In Germany (64 thousand 193 convicts) (Bykov, A. V. 2017) the execution of a sentence of imprisonment is carried out in open and closed penitentiary institutions (the latter prevail). Prisoners are sent to penitentiary institutions in different degrees of isolation, depending on the danger of their personality. It should be noted that in Germany, in conjunction with the ongoing reform (since 2006), execution of sentences is regulated by the legislation of the Federal States, it, however, does not change the main goals and principles of the organization of sentences execution, relating to protection of society from crime and resocialization of convicted persons.

In France, penitentiary institutions are divided into: detention houses (where people who are arrested are placed, as well as those who are sentenced to imprisonment for less than one year); Central prisons (5 prisons, one of which is women's, where the most dangerous convicts are held with a much stricter regime of detention and increased security measures); detention centers that are designed for convicts who, in the opinion of the administration, have the best chance of re-adaptation (where the detention regime is focused on the maximum possible communication of convicts with the outside world); penitentiary centers (mixed-type institutions that may have adjacent departments for both persons under investigation and convicts); semi-free autonomous centers (placed convicts have no more than one year left to serve and have reached a certain degree of correction) (Yakovleva, E. I. & Yakovleva, O. N. 2011, p. 150).

In Spain (as in Portugal), there are four categories of convict detention (closed, semi-open, open (overnight stay) and parole under house arrest), which can be applied by transferring from one correctional institution to another (so-called progressive punishment system) (Teplyashin, P. V. 2016, pp. 113–120).

In Finland, there are also different types of punishment regime related to isolation from society, taking into account the behavior of the convicted person, indicating his correction, there

are rules for transferring from a more strict to a less strict regime of detention (Tokhova, E. A. 2009, pp. 198–201). The distribution of places in correctional institutions in Finland is such that 69% are in closed prisons and 31% are in open prisons and prison cells. At the same time, prisoners who are able to adapt to conditions that are freer than those in closed prisons are placed in open prisons, and any convicted person is transferred to an open prison at the end of the sentence (Koski, M. & Druzhiniskaya, O. V. 2015, p. 92).

Slovenia has one of the lowest prison population levels (63 prisoners per 100,000 inhabitants), and at the same time there is a problem of overcrowding in prisons; determining a correctional facility for persons sentenced to deprivation of liberty, the security level and regime of the correctional facility (closed, semi-open and open institutions or blocks in a correctional facility) are also taken into account (along with sex, sentence, age of prisoners) (Meshko, G. & Druzhininskaya, O. V. 2016, p. 66).

In Norway (crime rates and prison rates are significantly lower than in other European countries; the prison population is 3,000 prisoners) convicts are placed in prisons with different levels of security based on individual risk and needs assessments, taking into account, among other factors, the impact of criminal environment on low-risk prisoners, as well as the importance of social rehabilitation work (Minyazeva, T. F. & Bukalerova, L. A. 2013, p. 88). The progressive system of punishment execution by means of differentiation of social elevators is consistently implemented in the Norwegian penitentiary system: convicts, depending on their motivations, serve their sentences on different floors and in different departments of the prison, which differ in their conditions of detention.

With regard to foreign experience outside the United States and European countries, there is an example of New Zealand, which ranks the third place in the international ranking in terms of imprisonment level. In New Zealand,



prisoners convicted for serious and especially grave crimes are placed in a high-security unit, where there is a clear division of prisoners into categories (Kurkina, I. N. 2013, p. 146). Along with completely closed correctional institutions in this country, there are open-type prisons (analogous of Russian colonies-settlements), where convicts are transferred for exemplary behavior (Bagreeva, E. G. 2012, pp. 21–24).

In Russia, institutions of the Penal system, that carry out sentences of imprisonment, include: colonies-settlement (convicts serving sentences primarily for careless crimes, in addition, for the first time convicted of minor crimes); educational colonies for juveniles; medical correctional institutions; correctional colonies of general, strict or special regime (the regime is determined taking into account the severity of the crime, as well as recidivism); prisons (their number is small, they contain persons who have committed especially grave crime, with a particularly dangerous recidivism, as well as transferred from correctional colonies on a court sentence in connection with a malicious violation of the order during serving a sentence) (Article 16, 74 of the Penal Code of the Russian Federation). At the same time, the domestic Penal legislation contains provisions on the separate detention of men and women convicted for committing crimes, first-time offenders and those convicts, who previously served a sentence of imprisonment (Article 80 of the Penal Code of the Russian Federation), as well as provisions on changing the type of correctional institution for positively characterized convicts (Article 78 of the Penal Code of the Russian Federation).

At the same time, it is obvious that there is potential for improving legislative provisions and practices, taking into account the positive foreign experience of differentiating the conditions of detention for persons sentenced to imprisonment. Taking into account the above examples, we are talking about two promising areas:

– differentiation of convicts based on the conclusions of specialized centers (which,

obviously, should include psychologists, sociologists, lawyers and representatives of other areas related to the study of the penitentiary system and its security) about the level of their danger and taken in conjunction with this decision to send a person (in some cases, also taking into account his consent) to the appropriate penitentiary institution (where there is a corresponding socialization program);

– possibility of transferring a convicted person, whose term of imprisonment is ending, to a penitentiary institution with a more «soft regime» with the simultaneous passage of appropriate adaptation and resocialization programs.

These provisions aimed at ensuring penitentiary security in the parameters of the adopted political line for the humanization of the Penal system of Russia should be reflected in the domestic Penal legislation, specifically, in Article 78 (Changing the type of correctional institution) and in Article 87 (Conditions for serving sentences by convicted persons to imprisonment) of the Penal Code of the Russian Federation.

### **Technical component of penitentiary security**

In the context of ensuring the security of penitentiary institutions, the important role of the technical component should be pointed out (this applies primarily to economically developed countries). For example, in the Netherlands, places of detention are equipped with video cameras that constantly monitor prisoners (prisoners have almost no personal space, except for a toilet and shower) (Kurkina, I. N. 2013, p. 146).

In Spain, the security system of penitentiary institutions (including the means of its technical support) correlates with the type of institution. At the same time, social integration centers that are not closed and operate on the basis of the principle of trust in convicts (the latter have the opportunity to work and undergo treatment outside of these institutions) have an effective

security system that allows to control convicts using electronic GPS monitoring bracelets, blood alcohol indicators, and personal voice detectors (Teplyashin, P. V. 2016, pp. 113–120).

The most advanced system of technical equipment for prison security exists in the United States, where:

- an important tool for the implementation of operational control of the criminal environment is centralized record, which allows to collect, accumulate, store, systematize and issue operational information (informational analytical automated program for monitoring the behavior of individuals and criminal communities; the main objects of accounting are prisoners with high criminal activity, manifesting themselves in violation of the order of serving a sentence and supporting persons who violate it, having stable links with criminally active persons outside, and so on.);

- a modern method of optimizing the implementation of control and supervision, increasing the level of ensuring the order and conditions of execution and serving a sentence in the form of imprisonment is the possibility of using technical and special means (including the latest audio-visual, electronic and other technical achievements), in particular, to prevent escapes and other crimes, violations of the established procedure for serving sentences, as well as to obtain the necessary information about the behavior of convicts (Bykov, A. V. & Kaluzhina, M. A. 2015, pp. 28–32).

In general, the use of computer technologies with the use of digital control and monitoring systems allows:

- to effectively implement the tasks of complex control on the territory of penitentiary institutions;
- to prevent cruel treatment of prisoners by correctional institutions' staff;
- to promptly respond to emergency situations and thus ensure security within the prison.

This aspect, of course, should be taken into account and, if possible, (taking into account the development of the national scientific and

technical base and its implementation in the field of law enforcement) implemented in the framework of ensuring safety in correctional institutions.

It should be noted that according to Article 83 of the Penal Code of the Russian Federation, the administration of correctional institutions has the right to use audio-visual, electronic and other technical means of control and supervision in order to prevent escapes and other crimes, violations of the order of serving a sentence, and is obliged to notify convicts on receipt of the use of technical means of control and supervision.

According to the authors of this article, taking into account the importance of technical means for ensuring penitentiary security, it should not be a question of the right, but a duty to use such means, at the same time, in addition to the designated purposes of their application, it is also necessary to indicate the purpose of ensuring the personal safety of convicts and correctional institutions' staff. It is important to emphasize that the list and procedure for the use of technical means of control and supervision should be provided for by legal acts. In this regard, it is necessary to make appropriate adjustments to Article 83 of the Penal Code of the Russian Federation.

As a matter of discussion, we note a number of topical issues of ensuring internal and external aspects of prison security.

### **Peculiarities of penitentiary institutions functioning and ensuring security in them in emergency situations**

As reasonably noted in the special literature, these features include: establishment of a special legal regime; creation of temporary structural entities; creation of a temporary management and communication system; the use of special tactics (including special operations, the involvement of significant forces and resources of Internal Affairs and internal troops, as well as other law enforcement agencies, the use of special tools and weapons). In this regard, it is appropriate to cite foreign

experience, including neighboring countries. For example, in correctional institutions of the Republic of Belarus, when a special status regime is introduced, visits and other contacts of convicts with the outside world may be restricted by the decision of the head of the institution, at the same time, under this regime, prisoners, who organize or provoke group illegal actions, are isolated within this institution or transferred to another one (Glushkov, A. I. 2013, pp. 28–30).

It should be noted that in foreign penitentiary practice, rather strict measures are applied to prisoners who violate the security of a penitentiary institution. So, in the UK, prisoners who participated in mass riots, disobedience, hostage-taking and attacks on administration staff in places of detention are transferred to a strict isolation prison; when such actions are committed in prison, they are placed in security category «A» cells (at the same time, they are deprived of their personal allowance and are subject to the strictest control: weekly searches are carried out both in person and in the cells where they are held.) (Coyle, A. 1994, p. 96).

### **Private prisons**

The first version of a private closed-type prison was tested in the United States in the 1980s. Currently, private prisons are available in 27 States and are operated by 20 private companies; their capacity is 4.4% of the place limit of all American prisons (Shamsunov, S. Kh. 2016, pp. 25–28). Their positive aspects include the ability to provide prisoners with more fair, safe, humane and constructive living conditions, reducing the burden on the state for the maintenance of the prison system, and simultaneously resolving issues with the employment of prisoners (at the same time, the economic activities of private prisons make a real contribution to the national economy), improving the relationship between convicts and staff; on the other hand there is a lack of experience among the staff of such institutions in work with a contingent of convicts, in addition, with the privatization of prisons attributed the

rise in the number of inmates (and therefore increasing the cost of maintenance, as well as overcrowding in prisons), abuse of forced labor in prison. It should be noted that the model of private penitentiary institutions (with various modifications) is becoming widespread in a number of foreign countries, while some countries (for example, Germany) have begun to stop privatizing prisons (Gulina, O. R. 2012). The Russian special literature suggests the possibility of gradual use of foreign experience in this area in Russia and, at the first stage (as part of an experiment), to think through and legislate a project to attract private Russian investors to the Penal system to participate in the construction, reconstruction and maintenance of pre-trial detention facilities, providing them with various preferential tax conditions (Shamsunov, S. Kh. 2016, p. 28).

As it seems to the authors, the question of introducing a model of a private penitentiary institution in the Penal system of Russia, taking into account its positive and negative aspects, as well as taking into account the current conditions for the functioning and development of this system, it requires very careful study with involvement of a wide range of authoritative domestic experts in the field of penal law and related fields of scientific knowledge, as well as practitioners.

In any case, its introduction may be, first, gradual (from individual pilot projects, provided that they not only bring economic benefits to the state, but also comply with all relevant requirements established by legislation and other regulatory legal acts for the organization and functioning of a correctional institution (including security issues), to the possible practice expansion of such institutions creation), and secondly, formalized by law.

### **The external side of prison security**

Describing the external aspect of penitentiary security and foreign experience in this regard, we will outline some institutions and measures used in foreign practice, some

of which have prospects for adaptation to the modern Penal system of Russia.

First, a system of social control exists and is developing dynamically abroad for persons released from correctional institutions, especially those who are at risk of recidivism (Veldhuis, T. M. 2015). In this regard, probation should be viewed positively (as a form of social control and supervision), the services created within it and other structures that perform the function of supervision of parolees, as well as the functions of resocialization and adaptation. For example, in the United States, more than half of those, who are registered in law enforcement authorities, are under the supervision of the probation service (Kvashis, V. E. & Vavilova, L. V. 1996, pp. 98–99). It is also necessary to pay attention to the peculiarities of post-penitentiary supervision in relation to certain categories of persons who have served their sentence (taking into account the nature of the committed crime). In England, there is strict supervision of those who have been convicted of sexual offences (Smirnov, G. G. 2004, p. 38).

Second, certain foreign countries provide for criminal legal instruments that apply to persons who have committed especially grave crime and have served prison sentences. In particular, we speak about the so-called preventive arrests (*Sicherheitsverwahrung*) applied within the German prison system to persons convicted for especially grave crime of a violent nature (Gulina, O. R. 2012, pp. 136–142). At the same time, it is necessary to pay attention to the reform of this institution, including under the influence of decisions of the European court of human rights (*Reform der Sicherungsverwahrung. Bund und Landern konnten sich nicht einigen* 2011). In general, it seems to the authors that this institution raises questions in terms of its legitimacy.

The current legislation of the Russian Federation provides for administrative supervision of persons released from prison (Federal law of 06.04.2011), the period of administrative supervision for committing a grave or especially grave crimes, and also at

relapse of crimes is established from one year to three years, but not exceeding the period established by the legislation of the Russian Federation for repayment of a criminal record (this refers to Article 86 of the Criminal Code of the Russian Federation). In this regard, the domestic approach is more in line with the general law principle of legality. At the same time, it is clear that this statement does not deny the possibility to improve directly the forms of administrative supervision in order to prevent repeat offenders from committing new crimes and other offenses. The effectiveness of administrative supervision can be achieved if systematic monitoring is carried out for the supervised persons. In addition, an important role is played by an innovative component, namely, the creation of electronic records of supervised persons and access to it by all law enforcement agencies. And in this regard, the importance of advanced foreign experience and its use seems obvious.

Third, there is a tendency to increase the role of the victim of a crime in solving the issue of parole (Brusnitsyn, L. 2013, pp. 89–95). In particular, in the UK, the Parole Service is required to consult with victims of sexual and violent crimes about the possibility of criminal's early release, in this case, if it is used, in order to ensure the safety of the victim, the released person may be restricted to places of residence, work and movement (Kvashis, V. E. & Vavilova, L. V. 1996, pp. 46–48). In the United States, a decision on parole from prison institutions is currently made by special Commissions that privately request the opinion of victims about the possibility of this act, and the victim has the right to be heard by the Commission (Kvashis, V. E. & Vavilova, L. V. 1996, p. 57). A similar procedure applies in Canada.

In the special literature, including the analysis of recommended international legal documents, a positive assessment of this practice is expressed and a recommendation is formulated about its use in Russia, taking into account the security (personal, family members

and close people) from the threats of the person who committed the crime (Brusnitsyn, L. 2013, pp. 89–95), the authors generally share this approach.

### Conclusions

The research conducted on the basis of a comparative legal method and involving other methods of scientific knowledge has a significant novelty, since it attempts to scientifically substantiate the parameters of advanced foreign experience use in ensuring penitentiary security in the modern Penal system of Russia. The research is based on the idea that the parameters of foreign experience use should be correlated with the type of domestic legal system and the needs to reform the Penal system of Russia, taking into account the adopted political course on humanization of penitentiary activities. At the same time, penitentiary security is considered as a complex, integral phenomenon that includes the internal and external sides that are interconnected.

According to this vision, as a result of the comparison of the basic characteristics of the penitentiary systems of a number of modern foreign States and the Penal system of Russia, the provisions of advanced foreign experience that are promising for use in domestic legislation and practice are identified, and recommendations regarding the forms of this use are formulated.

In modern conditions, one of the priorities for ensuring the internal security of penitentiary institutions that carry out sentences related to isolation from society is the differentiation of detention conditions for convicts. In this regard, on the basis of generalization of best foreign experience, the conclusion is based on the reflection in the Penal legislation of Russia (articles 78, 87 of the Penal Code of the Russian Federation) of methods of differentiation of convicts used in foreign penitentiary practice based on the conclusions of specialized centers about the level of their danger and the possibility of transferring the

convicted person, whose term of imprisonment ends, in a penitentiary institution with a more «soft regime» with the simultaneous passage of appropriate adaptation and resocialization programs.

The importance of technical means for ensuring penitentiary security, confirmed by the best practice of penitentiary activities, raises the question of improving the technical equipment of correctional institutions and other institutions and bodies that execute criminal penalties, and also assumes reflection in the current Penal legislation (Article 83 of the Penal Code of the Russian Federation) of obligation of correctional institutions administration to use such means in order to ensure the personal safety of convicts and correctional staff in accordance with the procedure, established by legal acts.

The humanization of penitentiary activities does not negate the adequate response of the penitentiary system to threats posed by penitentiary crime and other factors that disrupt the activity of penitentiary institutions. In this regard, domestic practice should take into account foreign experience in the operation of penitentiary institutions in emergency situations, including the establishment of a special legal regime in the parameters of current legislation.

Assessing the foreign practice of creating private closed-type penitentiary institutions, as well as the possibility of its use in domestic practice, the authors proceed from the fact that this process can be phased, at the same time complying with all relevant requirements established by legislation and other regulatory legal acts for organization and functioning of a correctional institution (including security issues).

The development of forms of social control and supervision of persons released from penitentiary institutions (especially recidivist) has prospects in Russia in the parameters provided for by the Federal law on administrative supervision of persons released from prison (2011). At the same time,

the effectiveness of work in administrative supervision implementation can be ensured, if systematic monitoring is carried out for supervised persons, with the introduction of electronic records of supervised persons and ensuring access to it for all law enforcement agencies, using best foreign experience.

The authors share the approach found in foreign practice and reflected in the special literature, according to which it is necessary to involve the victim in the decision on parole more fully, taking into account the safety of the victim (his family and close people).

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## THE PENAL LEGISLATION OF UZBEKISTAN: CONDITION, PROBLEMS AND PROSPECTS

## УГОЛОВНО-ИСПОЛНИТЕЛЬНОЕ ЗАКОНОДАТЕЛЬСТВО УЗБЕКИСТАНА: СОСТОЯНИЕ, ПРОБЛЕМЫ И ПЕРСПЕКТИВЫ

**Abstract.** The article is devoted to reforms of the Penal legislation in the Republic of Uzbekistan. The goal is to formulate an opinion and an idea about the events taking place in the country among penitentiary scientists in order to formulate proposals for the legislation improving. Methodology is theoretical methods and systems approach. Results are in-depth analysis of the current state of the Penal legislation to determine the development directions and prospects. The conclusion is the need to reform criminal, penal and criminal procedure legislation of Uzbekistan to improve domestic policy and integration into the world community.

**Keywords:** resocialization of convicts, humanization of criminal penalties, penal system, introduction of international standards in the penal system.

**Аннотация.** Статья посвящена реформированию уголовного законодательства в Республике Узбекистан. Цель – анализ событий, происходящих в стране, мнений пенитенциарных ученых для формулирования предложений по совершенствованию законодательства. Методология – теоретические методы и системный подход. Результаты – углубленный анализ современного состояния уголовно-исполнительного законодательства с целью определения направлений и перспектив его развития. Выводы – необходимость реформирования уголовного, уголовно-исполнительного и уголовно-процессуального законодательства Узбекистана для совершенствования внутренней политики и интеграции в мировое сообщество.

**Ключевые слова:** ресоциализация осужденных, гуманизация уголовного наказания, уголовно-исполнительная система, внедрение международных стандартов в уголовно-исполнительную систему.

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The Penal Code of the Republic of Uzbekistan consists of its General and Special Part. Legal engineering and the design of its norms and institutions as a whole do not differ from the legal engineering of the construction of the Penal legislation in Russia, in other states of Central Asia. At the same time, the Penal Code of the Republic of Uzbekistan (hereinafter – PC RUz) does not include a glossary with a list of used normative structures<sup>1</sup>.

In the Republic of Uzbekistan, the activities of the National penitentiary system are regulated with participation of the norms and institutions of the Penal legislation. The basis of this legislation is the current PC RUz (adopted on 25.04.1997), which includes subsequent amendments and additions. This Code, as well as the legislative acts of other Central Asian states devoted to the sphere of punishments execution and adopted at the turn of the XX–XXI centuries, retains the structure of the previous legislation of the Soviet era and some novelty reflecting the state of the penal policy of the state development.

Certain provisions of the legislation of the Republic of Uzbekistan have been developed in the works of J. Pohl (2019), B. Muminov (2016), E. Santen (2018), H. Azim, T. Khurshid and K. Tunis (2019). In the modern English-language literature of free access, indexed in international citation databases, the problem of improving the penal legislation of the Republic of Uzbekistan has not received significant development.

The current PC RUz is the key source of legal regulation of relations for sentences execution and other measures of criminal legal influence. In terms of its content and significance, it is a law of the “transition period”, which, on the whole, has exhausted its potential in the conditions of democratic changes in society and the state in modern Uzbekistan. The Code

has fulfilled its historic mission of preserving the continuity of legal institutions, traditions of legal techniques bringing together the post-Soviet states of Central Asia, in combination with separate norms implementing the principles of International legal acts on the treatment of convicts.

At the same time, many provisions of the PC RUz are outdated conceptually and do not correspond to the needs of democratic development of the country, the political course to strengthen the image of Uzbekistan as a dynamically developing modern state. First of all, these are provisions relating to ensuring human rights in sentences execution, the implementation of various forms of control in the activities of the penitentiary system, the use of alternative sanctions tools, the creation of legal conditions for the implementation of modern forms and methods of educational influence as the basis for the resocialization of convicts.

Penal law is by its very nature a branch with a decisive predominance of procedural rules and institutions. In fact, this is the law procedure where procedural mechanisms should work clearly. This is just not enough in the current PC RUz. Many of its provisions, especially those devoted to the rights of convicts, monitoring the activities of the penitentiary system, are declarative, not having a mechanism for implementation, which greatly reduces their practical meaning.

The passion of the legislator for legal casuistry and the incompleteness of implementation of international human rights standards have in some cases led to inconsistencies between the provisions of the PC of the Republic of Uzbekistan and recommendations of these standards. Violations of legal equipment have led to the fact that the rules on the use of physical force, special means, firearms by the staff of the Penal system are wording to allow broad interpretation of the grounds for such use, which not only does not comply with the key provisions of International UN standards and creates a risk of abuse in the process of using force and special means, but also damages the

<sup>1</sup> The tasks of the penitentiary authority are to regulate the procedure and conditions for execution and serving sentences, the definition of remedies for convicts, the protection of their rights, freedoms and legitimate interests, the release of convicted assistance in social adaptation.

image of state bodies, with which the use of physical force and special means is personified. The same applies to the regulation of the use of special means for mentally ill prisoners. Unfortunately, in the PC RUz there are no provisions implementing the rule of the Nelson Mandela Rules that "...the prison administration is recommended to use, as far as possible, conflict prevention mechanisms, mediation or any other alternative dispute resolution methods to prevent disciplinary violations or conflict resolution" (Rule 38). The presence of such an implementation in the "letter" or "in the spirit" would make it possible to consolidate the grounds for the use of force, special means, and especially firearms, as truly exceptional, dictated by extreme necessity.

The current PC RUz pays insufficient attention to procedural issues of handling and resolving complaints of convicts, but little affects the possibility of judicial appeal of disciplinary punishments by convicts, refusal to leave correctional facilities due to exceptional circumstances, which does not help minimize conflicts between convicts and the prison administration.

Unfortunately, the peculiarities of ensuring decent conditions for serving sentences of imprisonment by convicted persons of vulnerable categories are not reflected in PC RUz (Norms about minors, about women prisoners, about people with disabilities, about people with mental disorder). There are presented and described, however, they very incompletely reveal the problems of these persons. There are also no real guarantees for the protection of female prisoners from sexual and other violence. It should be noted that these are not only the problems of the PC RUz, but also the Penal codes of other Central Asian states. But in the PC RUz some categories of vulnerable prisoners are not mentioned at all. This, in particular, HIV-infected and AIDS patients. If we assume that such persons, even in small numbers, are held in penitentiary institutions, there is a risk that they are attributed (can be attributed) to convicts suffering from infectious

diseases, and subjected to discriminatory isolation from other convicts to imprisonment.

The current PC RUz, as noted earlier, proclaims the consideration of generally accepted norms and principles of international law, the priority of international treaties over the norms of the National Penal legislation. However, the most important provisions of international standards relating to the protection of human dignity, the inadmissibility of torture and ill-treatment are practically not mentioned in the foundations of the legal status of convicts in articles of PC RUz regulating various legal restrictions and coercive measures, carried out by prison officers in correctional institutions.

In the current PC RUz there is no legal basis for exercising public control over the activities of penitentiary institutions, which does not correspond with the recommendations of UN international legal acts, but also with the experience of many modern States in the implementation of public control, which justifiably allows improving the correctional and preventive activities of penitentiary institutions.

The current PC RUz practically does not contain the norms devoted to the regulation of educational influence on those sentenced to punishment without imprisonment. There is no algorithm for participation in this process (and in a wider context – the process of resocialization) by civil society institutions and its resources, including those related to the social, cultural and spiritual traditions of the society in Uzbekistan. In PC RUz there are no criteria for correcting convicts, and no tools are used to create conditions for resocialization of convicts, taking into account the world experience in applying parole. This does not contribute to the effective application of criminal law. With regard to the resocialization of convicted persons, in case of punishments and other measures (that are alternative to imprisonment) using, it is necessary to qualitatively strengthen the Penal legislation.

Certain shortcomings of the legal technique and content of the context in the current PC RUz, which are considered in this expert



study, can be eliminated “article by article” by making changes and additions to the current Penal code. However, conceptual changes and the adoption of the new PC of the Republic of Uzbekistan are more preferable.

The best available experience of penal regulation in Uzbekistan should be preserved as well as the established traditions of legal technique, language and style of law. At the same time, in the process of drafting a new PC of Uzbekistan, it is advisable to refuse the provisions of “yesterday”, impeding the dialogue of civil society institutions, establishments and bodies of the Penal system, effective educational and preventive effects on prisoners, their resocialization, respect for and protection of fundamental human rights in terms of execution of punishments and other measures of criminal and legal impact.

The democratic choice of Uzbekistan development and the priority of ensuring and protecting human rights and freedoms on the basis of the rule of law consistently leads to humanize National penal law.

Our society at the turn of the XXI century has undergone a gigantic transformation, due to both socio-political and economic transformations in the state. The transformation that took place in society has affected all spheres of public life, including the country’s penitentiary system, and demanded the reorganization of all state structures, including a change in the methodological foundations of their activities. In this aspect, numerous transformations were carried out and a new model for managing the penitentiary system was built.

By the Decree of the President of the Republic of Uzbekistan on February 7, 2017, the “Action Strategy for the Five Priority Development Areas of the Republic of Uzbekistan in 2017–2021” was adopted. In accordance with the decree, one of the priorities for improving the system of state and social construction is “ensuring the rule of law and further reforming the judicial system”, including the improvement and liberalization of criminal and criminal procedure legislation, decriminalization of individual criminal acts,

humanization of criminal penalties and the procedure for their implementation (clause 2.3 of the “Strategy for Action”), as well as “the development of modern forms of implementation of public control, increasing the efficiency of social partnership”, which implies interaction, cooperation of state bodies and civil society institutions; the need to develop civil society institutions, increase their social and political activity (Section 1.3).

“The state program for implementation of the Action Strategy in the five priority areas of development of the Republic of Uzbekistan in 2017–2021”, in 2018, among other things, was tasked: “Introduction of additional mechanisms to ensure the rights of prisoners, widespread introduction of international standards in the system of punishments execution” (Para. 59), providing for the development and approval of the concept of the Penal legislation for 2018–2021.

So, to further strengthen measures to improve the penitentiary system, systematize and harmonize the norms of the Penal legislation, the “Concept of improvement of the penitentiary legislation of the Republic of Uzbekistan in 2019–2021” was adopted by the resolution of the President of the Republic of Uzbekistan on 7.11.2018. The main Concept’s tasks are:

- expanding the base of normative legal acts based on the inventory of the Penal legislation for its compliance with international standards;
- exclusion of rules that allow different interpretations or manifestations of corruption or require clarification on their application, as well as a complete transition to the practice of applying direct laws;
- clear definition and ensuring a uniform application of the legal meaning of terms and concepts used in the Penal legislation;
- improvement of legal mechanisms for ensuring public control over activities of institutions and bodies executing punishments and other measures of legal influence;
- further improvement of principles, procedure and conditions of criminal legal impact, taking into account modern approaches,

advanced international standards and foreign practices;

- creation of a system for automated registration of convicts in penitentiary institutions;

- determination of the legal framework for functioning of probation units, mechanisms and authorities for implementation of their assigned tasks and functions;

- introduction of the order for the chamber type of convicts' detention in institutions for punishments execution alternative to collective form of detention;

- development and implementation of criteria for evaluating the activity of employees in probation units and penitentiary institutions;

- unification of the norms of the Penal legislation.

The final result of the Concept's implementing should be the correction of convicts, prevention of their criminal activities, as well as the organization of an effective preventing system for crimes commission other persons.

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REVIEW OF YU. A. KASHUBA'S MONOGRAPH  
«SUSPENDED SENTENCE (RELEASE)  
WITH MANDATORY INVOLVEMENT IN LABOR»  
UNDER THE SCIENTIFIC EDITORSHIP  
OF THE LAUREATE OF THE GOVERNMENT  
OF THE RUSSIAN FEDERATION IN THE FIELD  
OF SCIENCE AND TECHNOLOGY,  
PHD (LAW), SCD (ECONOMICS),  
PROFESSOR N. D. ERIASHVILI

РЕЦЕНЗИЯ НА МОНОГРАФИЮ Ю. А. КАШУБЫ  
«УСЛОВНОЕ ОСУЖДЕНИЕ (ОСВОБОЖДЕНИЕ)  
С ОБЯЗАТЕЛЬНЫМ ПРИВЛЕЧЕНИЕМ К ТРУДУ»  
ПОД НАУЧНОЙ РЕДАКЦИЕЙ ЛАУРЕАТА ПРЕМИИ  
ПРАВИТЕЛЬСТВА РОССИЙСКОЙ ФЕДЕРАЦИИ  
В ОБЛАСТИ НАУКИ И ТЕХНИКИ,  
КАНДИДАТА ЮРИДИЧЕСКИХ НАУК,  
ДОКТОРА ЭКОНОМИЧЕСКИХ НАУК,  
ПРОФЕССОРА Н. Д. ЭРИАШВИЛИ

**Abstract.** The article presents a review of a monograph on the problems of penal law “Suspended sentence (release) with mandatory involvement in labor”. The monograph was published in “UNITY-DANA: Law and Right” in 2018 ISBN 978-5-238-03062-3. The author is Yuriy Anatol’evich Kashuba, DSc (Law), Professor, professor of penal law department at the Academy of the Federal penitentiary service of Russia. The monograph is recommended for publication by the Research Institute of Education and Science, as well as the International Educational and Methodological center “Professional textbook”. The monograph is devoted to Institutes of probation with mandatory involvement in labor and conditional release from places of liberty deprivation with mandatory involvement

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of the convict in labor. These institutions were founded since the decrees adoption of the Supreme Soviet Presidium of the USSR “About parole from places of imprisonment for convicts, who have embarked on a way of correction, for work on constructions of national economy enterprises” (adopted on 20.03.1964), “About probation with mandatory involvement of convicted persons in labor” (adopted on 12.06.1970). After liquidation of the USSR, they were canceled in 1993. Later, the legislator introduced new types of punishment – restriction of freedom, and later – forced labor that borrowed many elements from probation with mandatory involvement in labor (Article 24.2 of the Criminal Code of the RSFSR) and parole with mandatory involvement of convicted persons in labor (Article 53.2 of the Criminal Code of the RSFSR). The monograph can be used in improving the norms of criminal, criminal procedural and penal legislation, in the activities of the Penal system, in the process of teaching criminal and penal law and other related disciplines.

**Keywords:** probation, release with mandatory involvement in labor, work of parolees, educational work with parolees, collective of parolees, criminological characteristics of parolees.

**Аннотация.** В статье представлена рецензия на монографию по проблемам уголовно-исполнительного права “Условное осуждение (освобождение) с обязательным привлечением к труду”. Монография опубликована в Издательстве “ЮНИТИ-ДАНА: Закон и право” в 2018 г. ISBN 978-5-238-03062-3. Ее автором является Юрий Анатольевич Кашуба, доктор юридических наук, профессор, профессор кафедры уголовно-исполнительного права Академии ФСИН России. Монография рекомендована к изданию Научно-исследовательским институтом образования и науки, а также Международным учебно-методическим центром «Профессиональный учебник». В монографии рассматриваются институты условного осуждения к лишению свободы с обязательным привлечением к труду и условного освобождения из мест лишения свободы с обязательным привлечением осужденного к труду. Указанные институты возникли со времени принятия указов Президиума Верховного Совета СССР от 20 марта 1964 г. «Об условном освобождении из мест лишения свободы осужденных, вставших на путь исправления, для работы на строительстве предприятий народного хозяйства», от 12 июня 1970 г. «Об условном осуждении к лишению свободы с обязательным привлечением осужденного к труду». После ликвидации СССР они были отменены в 1993 г. Позднее законодатель ввел в перечень наказаний новые виды – ограничение свободы, а еще позднее – принудительные работы, заимствовавшие немало элементов из условного осуждения с обязательным привлечением к труду (ст. 24.2 УК РСФСР) и условного освобождения из мест лишения свободы с обязательным привлечением осужденного к труду (ст. 53.2 УК РСФСР). Монография может быть использована при совершенствовании норм уголовного, уголовно-процессуального и уголовно-исполнительного законодательства, в деятельности уголовно-исполнительной системы, в процессе преподавания уголовного и уголовно-исполнительного права и других смежных дисциплин.

**Ключевые слова:** условное осуждение, освобождение с обязательным привлечением к труду, труд условно осужденных, воспитательная работа с условно осужденными, коллектив условно осужденных, криминологическая характеристика условно осужденных.

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Родионов, А. В. Рецензия на монографию Ю. А. Кашубы «Условное осуждение (освобождение) с обязательным привлечением к труду» под научной редакцией лауреата премии Правительства Российской Федерации в области науки и техники, кандидата юридических наук, доктора экономических наук, профессора Н. Д. Эриашвили / А. В. Родионов // *Международный пенитенциарный журнал*. – 2019. – Т. 1(1–3), № 3. – С. 197–200. – DOI : 10.33463/0000-0000.2019.01(1-3).3.197-200.



Ю.А. Кашуба

**Условное  
осуждение  
(освобождение)  
с обязательным  
привлечением  
к труду**

Монография



**Author of monograph**

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The problem of convicts' work organization in modern conditions is of significant importance. This is largely due to the fact that socially useful work for a long time remains one of the most effective means of convicted criminals' correction. The humanization of criminal and penal policies has a significant impact on reducing the number of persons in places of liberty deprivation. Increasing the number of persons sentenced to punishments not connected with deprivation of liberty, as well as persons who received conditional release. At the same time, the complex of problems related to attracting this category of people to socially useful work requires special attention from the scientific community.

It should be noted that the search for new legal and organizational and economic means of using labor as a means of correction is an important task due to the fact that the structure of convicts in the context of their crimes is changing significantly. It should be also noted that economic parameters of functioning of newly established correctional centers also determine the need to review existing models of labor organization for persons sentenced to non-custodial sentences.

The reviewed monograph is prepared on a topic that has a direct application value. We can agree with the author that, despite the fundamental difference between the institutions of probation and conditional release

with mandatory employment in the system of legislation, both of them are aimed at limiting the use of liberty deprivation, and arose in connection with the search for new means of convicts' correction, as well as preventing commission of new crimes.

The author pays special attention to the retrospective analysis of legal acts of the Soviet and post-Soviet periods. The monograph analyzes the following issues: social orientation and nature of the institutions of probation and conditional release from prison with mandatory involvement of the convicted person to work; determining the procedure and conditions for their application; determining the system of bodies that execute conditional sentences and release with mandatory involvement of the convicted person to work; identification of features of implementation of basic means of correction for conditionally released persons with obligatory involvement in work

The conclusions obtained by the author can be used for the development of theory of penal law, as well as taken into account when improving modern penal legislation.

The reviewed monograph is a complex, new, original scientific work, which raises a significant field of problematic issues, as well as identifies promising areas for their solution. This work makes a significant contribution to modern penitentiary science, and its publication is a significant event for the scientific, practical and professional community.

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**Shcherbakov G. V., Parshkov A. V., Machkasov A. I.**

**Щербаков Г. В., Паршков А. В., Мачкасов А. И.**

IV INTERNATIONAL PENITENTIARY FORUM  
«CRIME, PUNISHMENT, CORRECTION»  
AS A DISCUSSION PLATFORM ON THE PROBLEMS  
OF CRIMINAL PENALTIES EXECUTION

IV МЕЖДУНАРОДНЫЙ ПЕНИТЕНЦИАРНЫЙ ФОРУМ  
«ПРЕСТУПЛЕНИЕ, НАКАЗАНИЕ, ИСПРАВЛЕНИЕ»  
КАК ДИСКУССИОННАЯ ПЛОЩАДКА  
ПО ПРОБЛЕМАМ ИСПОЛНЕНИЯ УГОЛОВНЫХ НАКАЗАНИЙ

**Abstract.** The article is devoted to the IV International Penitentiary Forum “Crime, punishment, correction”, held in the Academy of the Federal Penitentiary Service of Russia on November 20–22, 2019. The event was organized by the Federal Penitentiary Service, the Academy of the FPS of Russia, the Board of Trustees of the Penal system, the Association of Legal Education, the Association of Lawyers of Russia, Research and Educational Institutions of the FPS of Russia. The purposes of the forum are: to create an international dialogue platform for representatives of Russian and foreign Penitentiary Services and the Scientific Community on criminal penalties execution; to develop and improve research and practical activities in the field of criminal penalties execution; to study the state of the world penitentiary experience and search for promising forms and methods of work with convicts; to promote the development and deepening of inter-state penitentiary cooperation. The forum was attended by more than 1000 participants, including 52 foreign participants from 14 countries (Azerbaijan, Kyrgyz Republic, Republic of Armenia, Republic of Belarus, Republic of Kazakhstan, Republic of Moldova, Mongolia, Republic of Uzbekistan, Republic of South Ossetia, socialist Republic of Vietnam, Federal Republic of Germany, Republic of Finland, French Republic, Swiss Confederation), including 5 heads of Penitentiary Services. The range of participants made it possible to ensure the high status of this international event. A specific feature of the forum was the combination of traditional (plenary session, conference, round table) and original forms of work, for example, the organization of master classes, presentations of scientific literature, open lectures by leading scientists and specialists, etc. During the 3 days of the forum, more than 45 scientific events were held in the format of international conferences,

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round tables, master classes, presentations of scientific and educational literature, open lectures, etc.

**Keywords:** International Penitentiary Forum, international cooperation, inter-state penitentiary cooperation, execution of criminal penalties, experience in penitentiary activities.

**Аннотация.** Статья посвящена IV Международному пенитенциарному форуму «Преступление, наказание, исправление», проведенному на базе Академии ФСИН России 20–22 ноября 2019 г. Организаторами мероприятия выступили Федеральная служба исполнения наказаний, Академия ФСИН России, Попечительский совет уголовно-исполнительной системы, Ассоциация юридического образования, Ассоциация юристов России, научно-исследовательские и образовательные организации ФСИН России. Цели проведения форума: создание международной диалоговой площадки представителей российской и зарубежных пенитенциарных служб, научного сообщества по вопросам исполнения уголовных наказаний; развитие и совершенствование научно-исследовательской и практической деятельности в сфере исполнения уголовных наказаний; изучение состояния мирового пенитенциарного опыта и поиск перспективных форм и методов работы с осужденными; содействие развитию и углублению межгосударственного пенитенциарного сотрудничества. В работе форума приняли участие более 1000 человек, в том числе 52 иностранных участника из 14 государств (Азербайджанская Республика, Кыргызская Республика, Республика Армения, Республика Беларусь, Республика Казахстан, Республика Молдова, Монголия, Республика Узбекистан, Республика Южная Осетия, Социалистическая Республика Вьетнам, Федеративная Республика Германия, Финляндская Республика, Французская Республика, Швейцарская Конфедерация), в их числе 5 руководителей пенитенциарных служб. Круг участников позволил обеспечить высокий статус проведенного международного мероприятия. Специфической чертой форума стало сочетание традиционных (пленарное заседание, конференция, круглый стол) и оригинальных форм работы, например, организация работы мастер-классов, презентаций научной литературы, открытых лекций ведущих ученых и специалистов и др. В течение 3 дней работы форума было проведено более 45 научных мероприятий в формате международных конференций, круглых столов, мастер-классов, презентаций научной и учебной литературы, открытых лекций и пр.

**Ключевые слова:** Международный пенитенциарный форум, международное сотрудничество, межгосударственное пенитенциарное сотрудничество, исполнение уголовных наказаний, опыт пенитенциарной деятельности.

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Щербаков, Г. В. IV Международный пенитенциарный форум «Преступление, наказание, исправление» как дискуссионная площадка по проблемам исполнения уголовных наказаний / Г. В. Щербаков, А. В. Паршков, А. И. Мачкасов // Международный пенитенциарный журнал. – 2019. – Т. 1(1–3), № 3. – С. 201–211. – DOI : 10.33463/0000-0000.2019.01(1-3).3.201-211.

For the fourth time in Ryazan, a unique event in the field of penitentiary science and practice was held at the Academy of the Federal penitentiary service of Russia (hereinafter – the Academy of the FPS of Russia). This event brings together leading experts in this field and provides an excellent opportunity to exchange experience, meet colleagues from other countries, study the world’s penitentiary systems, discover common problems, and try to find solutions to them. The name of this phenomenon is the International Penitentiary Forum “Crime, punishment, correction”.

In the period from 20 to 22 November 2019, the largest Russian scientific event for specialists in the field of criminal penalties execution was held. It allowed attracting the attention of leading prison experts from Russian regions and foreign countries, as well as taking the position of an international discussion platform on the problems of criminal penalties execution.

Experience was always of particular value – the unity of knowledge and skills that can be

shared with others. This was the goal of the forum. Such events allow the participants for a short period of time to discuss a wide range of issues in the field of criminal penalties execution. According to the participants’ view, it saves time when developing a common position on a particular issue, and provides an opportunity to discuss pressing issues in person, rather than at a distance.

The idea of the penitentiary forum was born in the Academy six years ago. In December 2013, the first forum was held, where it was decided to hold it once in two years. Since then, the number of its organizers has been constantly growing. This year the organizers were the Federal Penitentiary Service, the Academy of the FPS of Russia, the Board of Trustees of the Penal system, the Association of Legal Education, the Association of Lawyers of Russia, Research and Educational Institutions of the FPS of Russia, the All-Russian sports and public organization “All-Russian Sambo Federation”, the Regional Public Organization “Union of criminalists and criminologists”,



Foreign participants of the forum

and the public Association “Law and Order Foundation”.

It is symbolic that in 2019 the forum coincided with the celebration of the 140th anniversary of the Penal system of the Russian Federation and the 85th anniversary of the educational institution – the Academy of the FPS of Russia. Traditionally, the forum was aimed at ensuring a constructive dialogue between representatives of state authorities of the Russian Federation, the Federal Penitentiary Service of Russia, and other law enforcement agencies with representatives of Foreign Penitentiary Services, educational organizations, and the scientific community in order to develop proposals for improving the state policy in the field of criminal penalties execution.

The main topic of the fourth forum was the discussion of topical issues of convicts' correction in Russia and abroad as a basis for their resocialization and social adaptation.

Over the years of its existence, the forum became a tool for helping to understand the

penitentiary problems, a place to meet new people who study issues of penitentiary science and practice. In this regard, the number of participants is constantly increasing from year to year and this year it amounted to more than a thousand people, which is twice the number of participants in the first forum.

The fourth forum was attended by heads and representatives of Federal Government Agencies, Scientific and Educational organizations of ministries and departments of the Russian Federation, Public organizations, more than 120 Doctors of sciences, Professors, including well-known scientists in Russia and abroad, as well as more than 50 foreign participants from 14 countries, including five heads of foreign penitentiary services.

The list of participants allowed us to ensure the high status of this International event.

Its business programme was formed in the best traditions of past forums: it includes presentations by highly qualified speakers-experts, the availability of high-quality participants, the use of modern technologies,



Opening speech of the Director of the FPS of Russia A. P. Kalashnikov

various formats for communication and exchange of views on issues relevant to the professional prison community.

Thus, along with traditional forms of views exchange (plenary session, conference, round table), the forum organizers offered its participants original ways of working, such as master classes, presentations of scientific literature, open lectures by leading scientists and specialists, etc. Over the course of three days, more than 45 similar scientific events were held for guests, participants, employees and cadets of the Academy of the FPS of Russia. In particular, with their help, the students were able to communicate live with outstanding scientists and practitioners in the field of legal, psychological, pedagogical and economic sciences.

In total, more than 70 events were held within the framework of the forum, including five international scientific and practical conferences, 14 round tables, training sessions, a meeting of the Presidium of Association of Legal Education, and others.

On November 20, 2019, five international scientific and practical conferences were held on the main activities of the Penal system, as well as the VII Interuniversity training and methodological meetings of the faculty and senior staff of educational organizations of the Federal penitentiary service of Russia.

The reports of well-known penitentiaries and practitioners, presented at the conferences, will undoubtedly contribute to the development of penitentiary science and practice, national legislation, and modernization of penitentiary systems in general.

Participants of the events were able to discuss a wide range of topical issues related to the Concept of Russian Penal system's development until 2030: execution of punishments that are an alternative to deprivation of liberty and other measures of a criminal legal nature at the present stage; educational, social and psychological work of the Penal system; topical issues of logistics support, production, financial and economic activities of the Penal system; interaction of



Opening of the gallery of heads of the educational institution

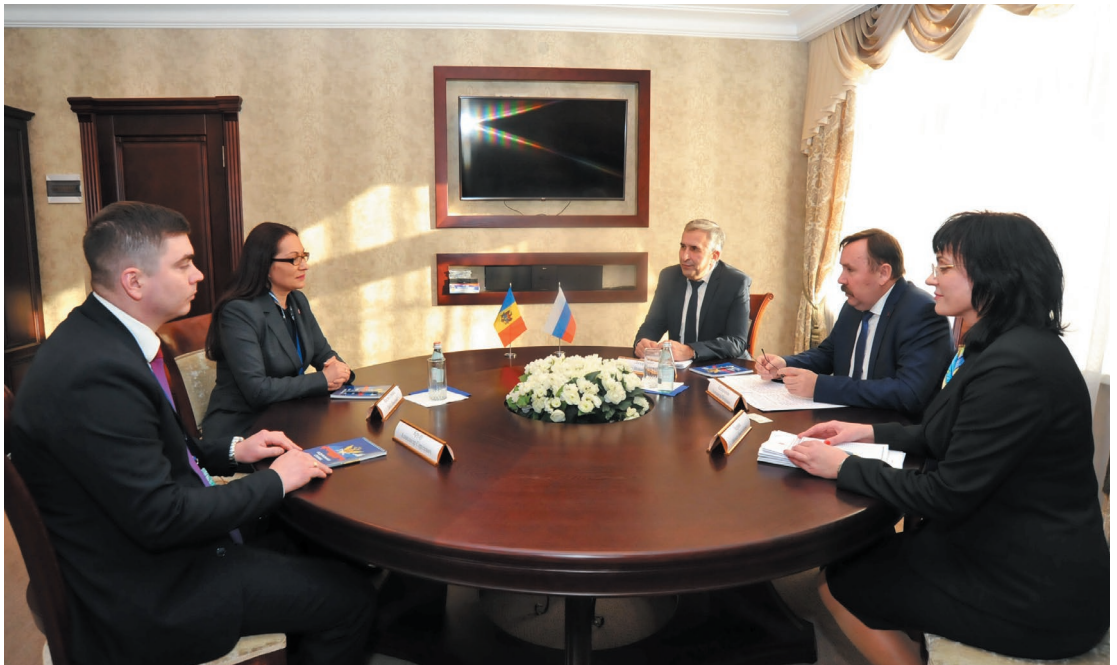
security and law enforcement agencies of the Russian Federation in the development of Sambo in law enforcement agencies; problems of applying security measures in institutions and bodies of the Russian Penal system and foreign countries.

Within the framework of these events, participants demonstrated to forum guests their skills and abilities obtained by constantly skills improving. So, the cadets in the specialty 56.05.01 “Logistics”, demonstrated practical skills in the organization of technological processes of cooking, test preparation technology, drawing up the layout of products, filling out the act of control and demonstration cooking, acceptance and examination of food and non-food products. Future specialists conducted full-scale and simulation experiments in order to confirm their skills in working with laboratory equipment, computer equipment and measuring equipment. On the same day, a round table “Problems of applying security measures in institutions and bodies of the Russian Penal system and foreign

countries”, as well as a meeting of the physical training sub-section of the training section of fire, tactical, special and physical training, organized by the Personnel Department of the FPS of Russia, were held.

In the framework of the VII Inter-university educational-methodical meetings of faculty staff and superiors of educational institutions of the FPS of Russia the final stage of the competition on professional skills among pedagogical workers of Institutions of Higher Education of the FPS of Russia took place, an official meeting was also held with employees of educational organizations subordinated to the FPS of Russia and territorial bodies of the FPS of Russia.

On November 20, 2019, in addition to scientific events, a number of celebrations were held. The Academy’s faculty of law opened a gallery of heads of the educational institution. The “Hall of professors” began its work in the library, it is equipped with modern multimedia interactive technical means and meets cultural and aesthetic requirements.



Working meeting of the Director of the FPS of Russia with the delegation of the National Penitentiary Administration of the Ministry of justice of the Republic of Moldova

The main day of the forum was November 21, 2019, when the opening ceremony and plenary session took place.

The plenary session was opened by the Director of the Federal penitentiary service of Russia A. P. Kalashnikov, who in his speech agreed with the opinion of forum guests, noted that the forum is the most ambitious Russian scientific event for professionals working in the field of criminal penalties execution, it attracts the attention of leading experts – penitentiaries from Russian regions and foreign countries and takes the position of a National discussion platform to discuss prison issues.

A welcoming speech to forum participants was made by representatives of the Committee of the Federation Council of the Federal Assembly of the Russian Federation on Defense and Security, Ministry of justice of the Russian Federation, the Commissioner for human rights in the Russian Federation, the Prosecutor General's office of the Russian Federation, the Government of the Ryazan region, the Department of punishments

execution of the Ministry of justice of the Swiss Confederation.

The plenary session reviewed domestic and foreign experience in criminal penalties execution. The speakers discussed the current state and prospects for the penitentiary system development, issues of penitentiary periodization and correction of convicts, the role of M. N. Galkin-Vraskoy in forming the management foundations of the Russian Penitentiary system, issues of scientific support for the Concept of the Russian Penal system's development until 2030, typology of criminals and problems of separate detention of convicts, criminological problems of penitentiary activity, sociological aspects of resocialization of persons released from correctional institutions, etc. The participants of the plenary session made significant conclusions that formed the basis for recommendations on forum result.

After the opening ceremony, the Director of the FPS of Russia held working meetings with foreign delegations, during which A. P. Kalashnikov noted that the tasks of



The exhibition of products samples of the FPS of Russia

penitentiary agencies around the world are very similar in their areas and key points, and in order to address these issues more effectively, it is necessary to continue studying the experience of colleagues from other countries. This will first of all allow our experts to choose the most priority areas and effective methods of work for their direct activities.

In November 21 in accordance with the program of the forum an extended meeting of Presidium of the Association of Legal Education was held in the Ryazan Regional Duma, in which members of the Presidium of the Association, representatives of the Government of the Ryazan region, Administration of Ryazan city and Ryazan Regional Duma, Heads of Educational Institutions of the FPS of Russia took part. The participants of the meeting summed up the results of work for 2019 and discussed prospects for development in 2020.

Established cooperation with the Association of Legal Education, implementation of joint projects, productive work and constant interaction with leading Law Universities of

Russia allowed the Academy of the FPS of Russia to host meetings held by the Association twice in the past five years.

On the same day, a round table on work with juvenile convicts, organized by the Information center of the FPS of Russia and the Academy of the FPS of Russia, was held. The round table was attended by Experts from France, as well as representatives of structural divisions and territorial bodies of the FPS of Russia, Leading scientists from Scientific and Educational Institutions of the FPS of Russia and the Ministry of Science and Higher Education of the Russian Federation.

The second day of the forum ended at the Ryazan State Circus. A large staff of the Academy of the FPS of Russia, the forum participants and guests attended the gala concert dedicated to the 85th Anniversary of the Institution. The creative program “We are all in one formation” United about 1,700 people under the dome of the Circus. The event was held by famous Russian artists I. A. Bronevitskaya and V. R. Manucharov.



Performance of the State folk dance ensemble “Ingushetia”

The third day of the forum was no less intense; the work was continued in the format of round tables on main directions of the Penal system's activities, meetings of heads of Scientific and Educational Institutions of the FPS of Russia and the meeting of Coordination and Methodological Council of the FPS of Russia.

Within the framework of 12 round tables, various areas of activity of institutions and bodies of the Penal system were considered: from official activities of special units of the Penal system for convoy to the prevention of corruption offenses.

On the same day there were a match friendly meeting on Sambo "Team of the Academy of the FPS of Russia – Team of the Ryazan region", educational and methodological conference devoted to topical issues and prospects for improving educational activities in personnel training for the Penal system, as well as awarding the winners of the competition on professional skills among pedagogical workers of Institutions of Higher Education of the FPS of Russia.

On the meeting of heads in Scientific and Educational organizations of the FPS of Russia the problems of organizing educational work with cadets were discussed; certain aspects of work with the reserve of senior personnel in scientific and educational organizations of the FPS of Russia; qualification requirements for service experience in the Penal system or work experience in the specialty, education, professional knowledge and skills of the employee necessary for filling positions in the Penal system; issues of financing certain events in 2020 and others.

The work of the Coordination and methodological Council of the FPS of Russia was aimed at improving the efficiency of Scientific and Educational organizations of the FPS of Russia, as well as addressing perspective issues of scientific support for the FPS.

The third day of the forum was closed by the final plenary session, where the main results of

its work were determined. As part of summing up the forum, the Academy of the FPS of Russia was awarded the "Badge of the Grand Prince Oleg of Ryazan" for exceptional services in training highly qualified personnel for Penal system, great achievements in educational and scientific activities.

In closing speech, the first Deputy Director of the FPS of Russia Lieutenant General of internal service A. A. Rudy recognized the forum held at a high level and thanked the staff of the Academy for coherence and good organization of all without exception events. Then accompanied by music of the Central orchestra of the FPS of Russia employees of the Academy were awarded by the FPS of Russia.

In addition to the business part of the forum, a wide excursion program was provided for its participants, including a visit to the Ryazan Kremlin and the State Museum-reserve of S. A. Esenin, a sightseeing tour of attractions of Ryazan, examination of the permanent Museum exhibition on the history of the Penal system and of the Academy of FPS of Russia, the Museum exposition Hall of fame and the Hall of sports achievements of the Academy, the concert program with involvement of the Central orchestra of the FPS of Russia, the State ensemble of folk dance "Ingushetia" (Republic of Ingushetia), dance theatre "Russian patterns" (Pskov), other regional bands and artists.

On November 20–22, 2019, guests and participants of the forum were able to get acquainted with the exhibition of the FPS of Russia, which presented samples of products manufactured by the Penal system's enterprises, demonstrated new technologies in the field of information support and information processing in institutions and bodies of the FPS of Russia. The hardware and software complex of standardized verbal questioning based on an anthropomorphic social interface (robot-android) RiskControl aroused particular interest among the visitors of the exhibition, which can be used in the activities of psychological



service of the Penal system for conducting a survey, formalized interview, psychological testing or lie detection.

The program was quite rich for our foreign colleagues. In addition to participating in scientific events, they were provided with working meetings with the Academy's management, during which they discussed interaction within the framework of participation in research projects on topical issues of penitentiary systems of Russia and foreign countries, preparation of joint scientific articles in the Academy's journals and foreign scientific publications, participation in international scientific and other events, preparation of joint educational and methodological publications and subsequent implementation of the prepared scientific developments in practical activities.

In general, the forum guests expressed their gratitude for the opportunity to participate in such an event, they highly appreciated the qualified speakers who did not ignore the urgent issues, and considered various practical situations with illustrative examples. It was important for everyone to get recommendations from professional colleagues with extensive experience in the penitentiary sphere.

In conclusion, it should be noted that the forum turned out to be a very representative event, and this, in turn, gives hope for further scientific and practical cooperation with our colleagues not only from other state authorities and public organizations, but also from foreign countries—partners of the Federal penitentiary service, as well as for the formation of new business contacts.

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**Seliverstov V. I.**

**Селиверстов В. И.**

SCIENTIST, MENTOR, TEACHER  
(FOR THE 90TH ANNIVERSARY  
OF ALEKSANDR SOLOMONOVICH MIKHLIN'S BIRTH)  
[16.02.1930–30.10.2007]

УЧЕНЫЙ, НАСТАВНИК, ПЕДАГОГ  
(К 90-ЛЕТИЮ СО ДНЯ РОЖДЕНИЯ  
АЛЕКСАНДРА СОЛОМОНОВИЧА МИХЛИНА)  
[16.02.1930–30.10.2007]

**Abstract.** This article is dedicated to the memory of ScD (Law), Professor, Honored scientist of the RSFSR Aleksandr Solomonovich Mikhlin and to the 90th anniversary of his birth. Aleksandr Solomonovich Mikhlin was born in Moscow on February 16, 1930. In 1951, he graduated from the Moscow law Institute, after which he worked as a legal adviser in the system of the Ministry of Railways. In 1954, he entered the full-time postgraduate course of the All-Union Institute of Legal Sciences of the Ministry of Justice of the USSR. In 1959, he defended his PhD thesis on the topic “Consequences of crime in Soviet criminal law” (under the scientific supervision of a well-known scientist in the field of criminal and correctional labor law, ScD (Law), Professor B. S. Utevskiy). After the defense, he worked for some time as a legal adviser, and in 1962–1965 as a scientific Secretary of the Research Institute of Technology and Chemistry. In 1965 he joined the All-Union Scientific-Research Institute of public order protection at the Ministry of public order of the RSFSR, which later was reorganized into All-Union Scientific Research Institute of the MIA of the USSR (all-Russian Research Institute of the MIA of Russia), where he worked the rest of his life. Since the end of the 60s (with the participation and also under the leadership of A. S. Mikhlin) for 30 years (in 1970, 1975, 1979, 1989, 1994, 1999) the work to prepare and conduct special censuses of convicts was carried out. A huge amount of unique information was obtained on persons sentenced to various punishments, as well as on suspects and accused for committing crimes in custody. Based on the materials of a special census in the late 60s, A. S. Mikhlin began working on his ScD thesis, which was defended in 1974 on the topic “The Identity of convicts sentenced to imprisonment and the problems of their correction and re-education”. After 1997 A. S. Mikhlin became

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involved in interpretation and explanation of newly adopted legal acts. Under his scientific supervision and direct participation, scientific and practical comments of the Criminal Code of the Russian Federation, the Penal Code of the Russian Federation, the Federal law on detention of suspects and accused for committing crimes, and the Criminal Procedure Code of the Russian Federation were prepared and published. Thematic judicial collections of current decisions of the Plenums of the Supreme Courts of the USSR, the RSFSR, and the Russian Federation, as well as textbooks on criminal law, penal law, and criminal procedure, were very popular. Three editions of the monograph on the death penalty were also published (in Moscow in 1997 and 2000, and in London in 1999, in English). In total, Professor A. S. Mikhlin published more than 550 scientific papers, more than 1000 printed pages, including more than 100 monographs, textbooks, commentaries, manuals on criminal and correctional labor (penal) law in various publications in Russia, the former Soviet Union Republics, as well as in the United States, Great Britain, Canada, Belgium, Romania, Czechoslovakia, Hungary, Germany, and Bulgaria.

**Keywords:** Aleksandr Solomonovich Mikhlin, biography, correctional labor law, penal law.

**Аннотация.** Настоящая статья посвящена памяти доктора юридических наук, профессора, заслуженного деятеля науки РСФСР Александра Соломоновича Михлина и приурочена к 90-летию со дня его рождения. Александр Соломонович Михлин родился в г. Москве 16 февраля 1930 г. В 1951 г. окончил Московский юридический институт, после чего работал юрисконсультom в системе Министерства путей сообщения. В 1954 г. поступил в очную аспирантуру Всесоюзного института юридических наук Министерства юстиции СССР. В 1959 г. защитил кандидатскую диссертацию на тему «Последствия преступления в советском уголовном праве» (под научным руководством известного ученого в области уголовного и исправительно-трудового права доктора юридических наук, профессора Б. С. Утевского). После защиты некоторое время работал юрисконсультom, а в 1962–1965 гг. – ученым секретарем Научно-исследовательского технолого-химического института. В 1965 г. поступил на работу во Всесоюзный научно-исследовательский институт охраны общественного порядка при Министерстве охраны общественного порядка РСФСР, который впоследствии был реорганизован во Всесоюзный научно-исследовательский институт МВД СССР (ВНИИ МВД России), где и работал всю оставшуюся жизнь. С конца 1960-х гг. с участием (а также под руководством А. С. Михлина) на протяжении 30 лет (в 1970, 1975, 1979, 1989, 1994, 1999 гг.) проводилась работа по подготовке и проведению специальных переписей осужденных. Был получен огромный объем уникальной информации о лицах, осужденных к различным наказаниям, а также о содержащихся под стражей подозреваемых и обвиняемых в совершении преступлений. На основе материалов специальной переписи в конце 1960-х гг. началась работа А. С. Михлина над докторской диссертацией, которая была защищена в 1974 г. на тему «Личность осужденных к лишению свободы и проблемы их исправления и перевоспитания». После 1997 г. А. С. Михлин включился в работу по толкованию и разъяснению принятых новых законодательных актов. Под его научным руководством и с его непосредственным участием были подготовлены и опубликованы научно-практические комментарии Уголовного кодекса Российской Федерации, Уголовно-исполнительного кодекса Российской Федерации, Федерального закона о содержании под стражей, подо-

зреваемых и обвиняемых в совершении преступлений, Уголовно-процессуального кодекса Российской Федерации. Большим успехом пользовались тематические судебные сборники действующих постановлений Пленумов Верховных Судов СССР, РСФСР, Российской Федерации, а также учебников уголовного права, уголовно-исполнительного права, уголовного процесса. Также вышло три издания монографии о смертной казни (в 1997 и 2000 гг. в Москве и в 1999 г. в Лондоне на английском языке). Всего профессором А. С. Михлиным опубликовано более 550 научных работ, объемом свыше 1000 п. л., в том числе свыше 100 монографий, учебников, комментариев, пособий по проблемам уголовного и исправительно-трудового (уголовно-исполнительного) права в различных изданиях России, бывших союзных республик СССР, а также в США, Великобритании, Канаде, Бельгии, Румынии, Чехословакии, Венгрии, Германии, Болгарии.

**Ключевые слова:** Михлин Александр Соломонович, биография, исправительно-трудовое право, уголовно-исполнительное право.

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**A. S. Mikhlin**

16.02.1930–30.10.2007

In the Research Institute and in many educational institutions of the Federal penitentiary service of Russia, portraits of famous scientists who worked on the problems of criminal penalties execution hang on the walls. Young employees, adjuncts and cadets see these portraits, but not everyone can imagine what the people depicted in them were like in life and work. People who made a significant contribution to the development of Soviet correctional labor and Russian penal science. With help of this article, prepared for the 90th anniversary of the birth of a remarkable man, scientist, mentor and teacher, ScD (Law), Professor, Honored scientist of the RSFSR Aleksandr Solomonovich Mikhlin, we would like to “humanize” the perception of the younger generation of our scientific idols.

Our acquaintance with Professor A. S. Mikhlin took place in 1978, it was in absentia. That year in Tomsk I had to prepare together with the future ScD (Law) S. A. Kapitonov for admission to the adjunct department of the Academy of the Ministry of Internal Affairs of the USSR.

In the process of preparation, an unclear but fundamental question arose about the procedure for sentences execution in special commandant’s offices of the Internal Affairs Bodies. We decided to call the Department of correction and re-education of convicts of the Academy, which at that time was headed by Professor G. A. Tumanov and where our countryman – Professor A. I. Zubkov already worked. We had phones, and soon I heard a very short message on the phone: “Mikhlin is listening.” It was hard to wish for a more qualified specialist at that time, we have just studied from cover to cover the famous work of A. S. Mikhlin and S. A. Miklin on special commandants. Aleksandr Solomonovich gave an exhaustive consultation to our question, regardless of time or the fact that he probably had other important things to do.

Then we met in person at the department of the Academy of the Ministry of Internal Affairs of the USSR, where Aleksandr Solomonovich, together with Professor I. V. Shmarov, taught at 0.5 rates. I was an adjunct of the department,

and Aleksandr Solomonovich was a well-known scientist, ScD (Law), and Professor. It was difficult to guess the further course of events, it seemed that Professor Mikhlin had already achieved everything that an inquisitive and creative researcher could wish for. However, it was not necessary to know Aleksandr Solomonovich well in order to draw a conclusion about his future creative destiny. The description of this creative asceticism is presented below. Our close creative cooperation and friendship allow me to make additions and some comments to it.

Aleksandr Solomonovich Mikhlin was born in Moscow on February 16, 1930. In 1951, he graduated from the Moscow law Institute, after which he worked as a legal adviser in the Ministry of Railways. In 1954, he entered the full-time postgraduate course of the All-Union Institute of Legal Sciences of the Ministry of Justice of the USSR. In 1959, he defended his PhD thesis on the topic “Consequences of crime in Soviet criminal law” (under the scientific supervision of a well-known scientist in the field of criminal and correctional labor law, ScD (Law), Professor B. S. Utevskiy). As the official opponents were ScD (Law), Professor A. A. Gertsenzon and PhD (Law) V. F. Kirichenko. After the defense, he worked for some time as a legal adviser, and in 1962–1965 as a scientific secretary of the Research Institute of technology and chemistry.

In 1965 he joined the All-Union Scientific-Research Institute of public order protection at the Ministry of public order of the RSFSR, which later was reorganized into All-Union Scientific Research Institute of the MIA of the USSR (all-Russian Research Institute of the MIA of Russia), where he worked the rest of his life.

The most significant problems developed by A. S. Mikhlin at this time were related to the execution of non-custodial sentences and release from punishment. The results of the research were books written individually and co-authored: “Correctional work and its effectiveness”, “Early release from punishment”, “Preparation for release of prisoners and

securing the results of their re-education”, “Problems of parole”, “The activity of the commandant’s office and execution of probation and parole with mandatory involvement in labor”, etc.

In 1970–1982, under the guidance of ScD (Law), Professor S. V. Borodin, A. S. Mikhlin participated in the study of the problem of suicides among different categories of the population (employees of Internal Affairs bodies sentenced to imprisonment, the population of the RSFSR, etc.), which resulted in the preparation of various reports to the Council of Ministers of the USSR and the Ministry of Internal Affairs of the USSR, which drew attention to the increase in number of suicides. As a result of the research, the monograph “suicide prevention” was published (authors: A. G. Ambrumova, S. V. Borodin, A. S. Mikhlin).

Since the end of the 60s (with the participation and also under the leadership of A. S. Mikhlin) for 30 years (in 1970, 1975, 1979, 1989, 1994, 1999) the work to prepare and conduct special censuses of convicts was carried out. A huge amount of unique information was obtained on persons sentenced to various punishments, as well as on suspects and accused for committing crimes in custody. The results of each census were published in the form of booklets and books, and were used and are now used in scientific and practical work. A number of theses, including ScD theses, were prepared on the basis of these censuses.

I was lucky enough to take part in the census of prisoners in 1999, mainly at the level of summarizing the results of the census and preparing scientific publications. Aleksandr Solomonovich took over all the organizational work for the census and did it masterfully! In 1998, when the criminal enforcement system was transferred from the Ministry of Internal Affairs to the Ministry of Justice of Russia, when interdepartmental relations were violated, and the leadership of the Ministry of Justice was not up to the census, and A.S. Mikhlin managed to conduct it within the established time frame. This can only be assessed by

following this path. In 2009, the eighth special census of convicted persons and persons in custody was conducted. It was held without the participation of Aleksandr Solomonovich, but its results in the form of scientific publications were dedicated to the founder of this method of sociological research in Russia – A. S. Mikhlin.

Based on the materials of a special census in the late 60s, A. S. Mikhlin began working on his ScD thesis, which was defended in 1974, on the topic “The Identity of convicts sentenced to imprisonment and the problems of their correction and re-education”. As opponents were well-known scientists – Professor S. S. Ostroumov, Professor N. A. Struchkov and Professor A. M. Yakovlev. A number of monographs and articles have been published on the topic of this thesis.

According to the materials of the dissertation and other topics, Aleksandr Solomonovich publishes works individually and co-authored: “Study of convicts’ personality in Correctional Labor Institutions”, “Work of convicts in amateur organizations”, “Amnesty is a new humane act of the Soviet state”, “Parole is an important stage in introducing convicts to an honest working life”, “Registration of convicts serving their sentence in a Correctional Labor Institution and persons in pre-trial detention centers”, “Management of bodies executing punishment”, “Personality of convicts sentenced to imprisonment and problems of their correction and re-education”, “The identity of especially dangerous recidivists and issues of differentiation of punishment execution”, “Problems of early release from serving a sentence”, “Malicious violators of the regime”, “Pardon of convicted persons”, “Procedure and conditions for sentences execution in the form of deprivation of the right to hold certain positions or engage in certain activities”, “Malicious disobedience to the requirements of the administration of a Correctional Labor Institution”, “Released from punishment: rights, duties, labor and household maintenance”, “Comment on the Criminal Code of the RSFSR”, “Comment on changes made to the Criminal Code of the RSFSR”, etc.

An important stage in the work of Professor A. S. Mikhlin was the participation in the work of commissions on draft fundamentals preparation of Penal legislation of the USSR and the Union republics (1987–1989), of the Penal Code of the RSFSR (1989–1991), the Penal Code of the Russian Federation (1992–1996) and the Model Penal Code of the Commonwealth of Independent States (1994–1996). A number of projects were published in the periodical press.

After 1997, A. S. Mikhlin became involved in the interpretation and explanation of new adopted legislative acts. Under his scientific supervision and with his direct participation, scientific and practical comments on the Criminal Code of the Russian Federation, the Penal Code of the Russian Federation, the Federal law on detention of suspects and accused for committing crimes, and the Criminal procedure Code of the Russian Federation were prepared and published. Thematic judicial collections of current decisions of the Plenums of the Supreme Courts of the USSR, the RSFSR, and the Russian Federation, as well as textbooks on criminal law, penal law, and criminal procedure, were very popular. Three editions of the monograph on the death penalty were also published (in Moscow in 1997 and 2000, and in London in 1999, in English). In total, Professor A. S. Mikhlin published more than 550 scientific papers, more than 1000 printed pages, including more than 100 monographs, textbooks, commentaries, manuals on criminal and correctional labor (penal) law in various publications in Russia, the former Soviet Union Republics, as well as in the United States, Great Britain, Canada, Belgium, Romania, Czechoslovakia, Hungary, Germany, and Bulgaria.

Many people envied Aleksandr Solomonovich’s enormous efficiency. To master a computer at the age of 65, to become managing editor and author of textbooks on criminal and penal law, comments to the Criminal Code, Code of Criminal Procedure, the Penal Code, to conduct such extensive research and teaching not only in Russia

but also in CIS countries, this is not given to everyone. We have a lot of jointly released educational and scientific publications, and I always was a malicious violator of the agreed schedule for preparing work, and Aleksandr Solomonovich managed not only to write everything, but also to prepare his section for the next edition.

I want to note one more thing about him: Aleksandr Solomonovich was always happy and ready, when he was offered a new creative project. This was the case when he was asked to draft a Federal law “On pardons in the Russian Federation”. This project was prepared and published, and the main responsible person in this work, as in other initiatives, was Professor A. S. Mikhlin.

Professor A. S. Mikhlin gave most of his creative life to the Institute of the Ministry of internal Affairs of Russia (USSR). In 1982, Aleksandr Solomonovich was awarded the academic title of Professor, in 1989—the honorary title of “Honored worker of science of the RSFSR”. For his achievements in science and educational activities, he was awarded the order of Honor in 1996 by presidential decrees, the 2nd class medal of the Order of Merit for the Fatherland in 2001, the Order of Friendship in 2006, and previously 8 medals of the USSR and the badge “Honored worker of the Ministry of Internal Affairs”.

In addition to the Research Institute of the Ministry of Internal Affairs of Russia, Professor A. S. Mikhlin worked as a part-time chief researcher at the Research Institute of the Federal Penitentiary Service of Russia. In addition, he combined his scientific activity with pedagogical work in All-Union Correspondence Institute of Law, in the Academy of management of MIA of Russia, at the law faculty of the Academy of National Economy under the Government of the Russian Federation, Moscow State Linguistic University, Moscow Academy of Economics and Law, Academic University of State and Law of Russian Academy of Sciences, Military University, International Law Institute, the

Academy of the Federal penitentiary service of Russia and other universities of the country.

He took an active part in the work of the expert Advisory boards of the security Committee of the State Duma and of the legislation Committee of the Federation Council, was a member of the scientific Advisory Board of the Supreme courts of the RSFSR and the Russian Federation, academic Council of the Research Institute of the MIA of Russia and the research Institute of the Federal penitentiary service of Russia, member of dissertation councils for defense of ScD theses of the Research Institute of the MIA of Russia, law faculty at Lomonosov Moscow State University, faculty of Economics and law at Moscow State Linguistic University.

A special feature of Professor A. S. Mikhlin is his attitude to his students. Under his scientific guidance and advice, more than 50 people defended their theses, a third of them – for the degree of ScD (Law).

It was necessary to see how respectfully his students treated Professor Aleksandr Solomonovich Mikhlin. There was so much attention that he often forwarded it to us. This was the case in Kyrgyzstan and Kazakhstan, where he has a large group of students, including ScD (Law). Aleksandr Solomonovich made a lot of efforts to establish legal science in these independent States. It should be said that Aleksandr Solomonovich took care of his students with special attention. In almost everyone, he saw makings of a future PhD or ScD, and he “inspired” them. Although there were some of them to whom he said his famous words: “It is not for you.” These were the most unpleasant words that could be heard from him. For his students and others (potential opponents), he liked to tell an anecdote about a graduate student—a hare and a scientific supervisor—a lion. The comparison was figurative, but, in my opinion, very true.

It so happened that the description of the creative path of Professor A. S. Mikhlin does not contain “criticism”. Indeed, no matter how much I forced myself to look in my memory



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for something that I could reproach Aleksandr Solomonovich with, I do not find it. A person of a very lively mind, subtle humor, open and friendly in communication, a master of all trades, whether it is scientific work, handicrafts, car repairs and much, much more. If a person is talented, then he is talented in many fields. This well-known truth was fully confirmed in the creative path and life of famous scientist, caring teacher, wise mentor, reliable friend and our colleague A. S. Mikhlin.

Aleksandr Solomonovich died suddenly on October 30, 2007 in Ryazan, in the building of the Academy of the Federal penitentiary

service of Russia, where he had come to participate in an International conference. The day before he left for Ryazan, Aleksandr Solomonovich called me and offered to go to the conference together. However, the rector's duties did not allow me to take advantage of his invitation. I arrived with my colleagues in Ryazan, when Aleksandr Solomonovich was no longer with us.

It so happened that the acquaintance with this amazing person, a scientist, the highest professional began with a telephone conversation and ended with a telephone conversation.

Научное издание

## МЕЖДУНАРОДНЫЙ ПЕНИТЕНЦИАРНЫЙ ЖУРНАЛ

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