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Sizov D. G.**Сизов Д. Г.****ENSURING THE PERSONAL SECURITY OF PRISONERS
IN PLACES OF DEPRIVATION OF LIBERTY:
SOME OF THE REGULATORY ISSUES****ОБЕСПЕЧЕНИЕ ЛИЧНОЙ БЕЗОПАСНОСТИ ОСУЖДЕННЫХ
В МЕСТАХ ЛИШЕНИЯ СВОБОДЫ:
НЕКОТОРЫЕ ВОПРОСЫ РЕГУЛИРОВАНИЯ**

Abstract. In this article the author considers ensuring the personal security of a convicted person who is in prison as a necessary condition for full, comprehensive observance and enforcement of human and civil rights and freedoms. The author analyzes the concept of “personal security of convicts”, as well as examines the legal framework governing this activity. At present, issues of ensuring the personal safety of prisoners in places of deprivation of liberty are becoming increasingly relevant, since crime in institutions of the penal system is one of the most dangerous criminogenic factors. Currently, in places of isolation there is a risk of committing illegal acts on the part of the convicts themselves, as well as on the part of other persons who visit such institutions for various reasons. The author concludes that convicts’ security in correctional institutions is a multidimensional activity and contains many factors. Security in correctional institutions is provided by the employees with mandatory interaction with other law enforcement and government agencies. In order for the state, represented by institutions and bodies of the Federal Penitentiary Service of Russia, to perform its direct duty to ensure the safety of convicts, it is necessary: constant and enhanced supervision of these persons; strict observance by convicts of the established rules in correctional institutions, the procedure for applying incentives and penalties to them; conducting educational activities; transferring convicts to a safe place, etc. All these measures are aimed exclusively at ensuring human and civil rights and freedoms in places of detention, which in turn is an additional factor that has a positive impact on the development of the state and society.

Keywords: state, convict, duty, correctional institution, personal security, problems of legal regulation, society, personality.

Аннотация. В настоящей статье автор рассматривает обеспечение личной безопасности осужденного, находящегося в местах лишения свободы, как необ-

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ходимое условие полного, всестороннего соблюдения и исполнения прав и свобод человека и гражданина. Проводится анализ понятия «личная безопасность осужденных», а также исследуется нормативно-правовая база, регламентирующая данную деятельность. В настоящее время вопросы обеспечения личной безопасности осужденных в местах лишения свободы приобретают все большую актуальность, так как преступность в учреждениях уголовно-исполнительной системы является одним из опаснейших криминогенных факторов. В настоящее время в местах изоляции имеет место риск совершения противоправных деяний как со стороны самих осужденных, так и со стороны иных лиц, посещающих такие учреждения по разным причинам. Автор приходит к выводу о том, что безопасность осужденных в исправительных учреждениях является многоаспектной деятельностью и содержит в себе множество факторов. Безопасность в исправительных учреждениях обеспечивается силами самих сотрудников при обязательном взаимодействии с иными правоохранительными и иными государственными органами. Для исполнения государством в лице учреждений и органов ФСИН России своей прямой обязанности по обеспечению безопасности осужденных необходимы: постоянный и усиленный надзор за данными лицами; строгое соблюдение осужденными установленного распорядка в исправительных учреждениях, порядка применения к ним мер поощрения и взыскания; проведение мероприятий воспитательного характера; перевод осужденного в безопасное место и пр. Все эти меры направлены исключительно на обеспечение прав и свобод человека и гражданина в местах лишения свободы, что в свою очередь является дополнительным фактором, положительно сказывающимся на развитии государства и общества.

Ключевые слова: государство, осужденный, обязанность, исправительное учреждение, личная безопасность, проблемы правового регулирования, общество, личность.

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Considering the concept of security retrospectively, the Law of the Russian Federation (adopted on 05.03.1992) № 2446-I “On security” under this concept fixed “the state of protection of the most important vital interests of a person, the state and society from internal and external threats”.

The analysis of the modern legal framework regulating the security of convicts allows us to formulate a definition of personal security of those sentenced to imprisonment, which should be understood as the state of protection of life, health and other significant interests of the convict from the possibility of harm to him and prevention of threats that arise during serving a sentence of imprisonment guaranteed by International normative legal acts and legislation of the Russian Federation.

In accordance with the Federal law (adopted on 28.12.2010) № 390 “On security”, the personal security of convicts sentenced to imprisonment involves the protection of the vital interests of these persons, which in turn fully meets the requirements contained in.

The Constitution of the Russian Federation is the basis of general regulatory legal relations, covering the entire legislative space and defining a single legal field, in turn, the regulation of public relations in a specific area is determined by industry legislation.

The Constitution of the Russian Federation guarantees the protection of human and civil rights and freedoms. Thus, the personal security of citizens is included in the list of duties of the state, as one of the fundamental ones. But, the fact is that personal security is a right for the individual and an obligation for the state.

In this regard, ensuring the safety of convicts serving sentences in places of deprivation of liberty is one of the basic duties of prison officers.

In view of the fact that human and civil rights and freedoms are the highest value in modern democratic States, the security of the individual is fundamental, as well as one of the conditions for the security of society.

By concluding international treaties and ratifying a number of international legal acts, the Russian Federation implements its direct obligations to ensure the safety of individuals and citizens, including convicted persons serving sentences in places of deprivation of liberty.

International normative legal acts regulating this activity are:

- Universal Declaration of human rights, adopted by the UN General Assembly on 10.12.1948 (Article 3 – “Everyone has the right to life, liberty and security of person”).

- Convention for the protection of human rights and fundamental freedoms adopted on 04.11.1950 in Rome (Article 2 – “Right to life”; Article 3 – “Prohibition of torture” and others).

- Standard minimum Rules for the treatment of prisoners (Chapter “Treatment of prisoners” (Articles 65–66); Chapter “Classification and individualization” (Articles 67–69) and others).

- The Code of conduct for law enforcement officials, adopted by UN General Assembly Resolution 34/169 on 17.12.1979 (Article 1 – “Law enforcement officials shall at all times perform their statutory duties by serving the community and protecting all persons from unlawful acts in accordance with the high degree of responsibility required by their profession”); Article 2 – “in the performance of their duties, law enforcement officials shall respect and protect human dignity and maintain and protect the human rights of all persons” and others).

- The set of principles for the protection of all persons under any form of detention or imprisonment, adopted on 09.12.1988. Resolution 43/173 of the 43rd session of the UN General Assembly and the European prison rules (principle 1 – “All persons subjected to any form of detention or imprisonment shall be treated with humanity and with respect for the inherent dignity of the human person”; principle 6 – “No imprisoned person shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment” and others).

– The United Nations standard minimum rules for the treatment of prisoners (the Nelson Mandela Rules) (Rule 1 – “All prisoners must be treated with respect because of their inherent dignity and their value as a human person. No prisoner should be subjected to torture or other cruel, inhuman or degrading treatment or punishment, all prisoners should be protected from them, and no circumstances can justify them. The safety and security of prisoners, staff, service providers and visitors must be maintained at all times”) (Novikov, A. A. 2014, pp. 44–45).

At the domestic level, the following system of normative legal acts regulating the security of convicted persons serving sentences in places of deprivation of liberty is in force:

1) Constitution of the Russian Federation (Articles 2, 20–23, 45, 46);

2) Normative legal acts in the field of labor legislation of the Russian Federation);

3) Criminal Code of the Russian Federation (Articles 7, 105, 107–119, 128–134, etc.);

4) Penal Code (Articles 10; 60, 82; 115, 116; Chapter 15; 86)

5) Law of the Russian Federation “on institutions and bodies that execute punishment” (Paragraph 4 of Article 13);

6) and others.

At present, issues of ensuring the personal safety of prisoners in places of deprivation of liberty are becoming increasingly relevant, since crime in institutions of the penal system is one of the most dangerous criminal phenomena.

Today, in places of isolation, there is a risk of committing illegal acts on the part of the convicts themselves, as well as on the part of other persons who visit correctional institutions for various reasons. The probability of committing crimes by convicted persons is complicated by a negative criminal atmosphere, which is accompanied by their unwillingness to comply with the requirements of the regime established by law, an obstacle to normal functioning of the institution (disorganization), etc. All of the above points to the expediency of taking timely and effective measures to ensure the personal

safety of any person who was on the territory of the correctional institution (Tsaplin, I. S. 2018, p. 92).

Based on the above, we can say that the security of convicts in the correctional institution is a multidimensional activity and contains many factors.

V. B. Shabanov, A. L. Santashov and A. L. Luk'yanovich believe that from the point of view of the security of convicts, the determining factors are those that characterize the internal processes of the social environment, which includes not only convicts, but also the relations that develop between them and in general in the penal sphere. In their opinion, this is due to the following circumstances:

– first, the community of convicts is heterogeneous in its main characteristics due to the large concentration of persons with different personal qualities;

– second, formal social relations between convicts are formed and regulated artificially, which allows them to change quickly;

– third, in our opinion, the existing informal norms in the community of convicts are divided into two groups (Shabanov, V. B, Santashov, A. L. & Luk'yanovich, A. L. 2017, p. 56).

We share the above-mentioned position of the authors, since the parameters that characterize the internal relationships of convicts are one of the main factors that determine the activities to ensure the safety of convicts.

However, there is another significant factor that determines this activity, namely, the organizational factor of the correctional institution administration, since much depends on the clear and complete performance of all employees' direct duties. All this determines the speed and quality of decisions made by the management of the correctional institution, both in regular and in emergency situations.

This position is confirmed by such authors as V. O. Milinova, Ya. V. Samiulina. In their opinion, “one of the means of ensuring security in a correctional facility is the preventive work

of operational units, security departments and other divisions. Prevention of offenses is aimed at identifying and eliminating the circumstances that contribute to their commission, as well as identifying the persons who are expected to commit offenses, and providing them with a corrective effect. Preventive measures may be tacit and carried out in accordance with the Federal law “on operational and investigative activities”, or they may be public and carried out by divisions of institutions and bodies that execute penalties, on the basis of 165 current legislative and departmental legal acts” (Milinova, V. O. & Samiulina, Ya. V. 2019, pp.163–166).

It should also be noted that security in institutions is carried out not only by the employees themselves, but also in mandatory interaction with law enforcement and other state bodies.

Thus, the execution by the state in the person of institutions and bodies of the Federal penitentiary service of Russia of its direct duties to ensure the safety of convicts include: constant and strengthened supervision of these persons, strict observance by convicts of the established order in correctional institutions, application of measures of encouragement and punishment to them, carrying out educational measures, if necessary, transfer of the convict to a safe place, etc.

All these measures are aimed exclusively at ensuring human and civil rights and freedoms in places of detention, which in turn is an additional factor that has a positive impact on the development of the state and society.

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