Report

REALIZATION OF THE RIGHT TO PRIVACY OF PERSONS IN DETENTION FACILTIES IN RUSSIA

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List of abbreviations and terms used in the report

C

CAT - United Nations Committee against Torture

CC RF- Constitutional Court of the Russian Federation

CEC RF - Criminal Executive Code of the Russian Federation

Civil Registry Office - Body for recording civil status acts in the constituent entities of the Russian Federation

CoAP RF - Code of Administrative Procedure of the Russian Federation

E

ECHR - Convention for the Protection of Human Rights and Fundamental Freedoms (European Convention on Human Rights)

ECtHR - European Court of Human Rights

F

FC RF – Family Code of the Russian Federation

FKU IK - Federal State Institution correctional colony

"For official use" - a stamp that is installed on the regulatory acts of the department, available exclusively for employees of this department

FSIN RF - Federal Penitentiary Service of the Russian Federation

FZ - Federal Law

FZ-76 RF - Federal Law No. 76-FZ of 10 June, 2008 "On public control over ensuring human rights in places of detention and on assistance to persons in places of detention"

G

GUFSIN - Main Department of the Federal Penitentiary Service

H

HIV - Human immunodeficiency virus

HRC - Human Rights Commissioner

HR Committee - United Nations Human Rights Committee

I

ICCPR - International Covenant on Civil and Political Rights of the United Nations

IK - Correctional colony

IU - Correctional institution

M

MVD - Ministry of Internal Affairs

MJ RF - Ministry of Justice of the Russian Federation

O

OSUON - Strict conditions detachment of serving a sentence

P

PC - Public Council

PKT - Cell-type room in a correctional institution

PMC - Public Monitoring Commission for monitoring the observance of human rights in places of forced detention and assistance to persons in places of forced detention, formed in accordance with Federal Law of the Russian Federation No. 76

Preventive supervision - inclusion by the decision of the administration of the institution of a prisoner in a special register if there is reliable and verified information about his/her intentions to commit an offense or negative influence on other persons, as well as medical and psychological indications

PVR IU - Internal regulations of a correctional institution approved by Order No. 295 of the Ministry of Justice of the Russian Federation of 16 December, 2016

R

RF - Russian Federation

S

SC RF – Supreme Court of the Russian Federation

ShIZO - Penal isolation detachment in a correctional institution

SIZO - Pre-trial detention center

U

UFSIN - Regional Department of the Federal Penitentiary Service

UIS - Penal Enforcement System

UN - United Nations

Introduction

We present to your attention the report: "Realization of the right to privacy of persons in detention facilities in Russia", which was compiled based on the results of monitoring[1] and is the result of study conducted by 30 members of Public Monitoring Commissions (hereinafter PMC) and Public Councils (hereinafter PC) in 13 regions of the Russian Federation, in 76 detention facilities.

However, before we start analyzing the results of the study, we consider it important to explain to readers why we have devoted so much time, attention and energy to studying the implementation of the right to privacy, why we considered important this fragment of the daily existence of people deprived of their liberty, despite the fact that the Russian penitentiary system faces other, no less important problems.

It would seem that the right to privacy and places of deprivation of liberty are opposite and mutually exclusive concepts. Prisons, like other places of forced detention, are institutions where every step of a person is strictly controlled, his/her whole life is subject to a strict schedule and every minute passes in front of other people. *"The prison has no external side, no gaps; it cannot be suspended, except in cases when its task is fully completed... In prison, the authorities have the freedom of the individual and the time of the prisoner. ... Not one day, but a number of days and even years dictate to a person the time of wakefulness and sleep, activity and leisure, the number and duration of meals, the quality and quantity of food, the type and product of labor, the time of prayer, the use of the word and even thought".*[2] It is difficult to find a more accurate description of a person's life in places of deprivation of liberty. In such conditions the observance of the right to privacy becomes particularly important. Without much exaggeration, it can be argued that this right concerns almost every aspect of a prisoner's life: from physical integrity, contact with the outside world and to the ability to dispose of personal belongings and time. It is the essence of everyday life, one of the last bastions of preserving one's own identity and at least some of its autonomy. The degree of repressiveness of the penitentiary system largely depends on the observance of the right to privacy and restrictions in this area.

In our opinion, the right to privacy of persons in places of detention has long been outside the scope of public discourse. Perhaps this happened because we, the whole society, human rights defenders, employees of the penitentiary system and, finally, the prisoners themselves, simply got used to the presence of various kinds of restrictions in this area and considered them an integral element

[1] "Monitoring" and "study / investigation of the situation" in this report are interchangeable concepts

[2] M. Foucault "To supervise and punish. The Birth of prison", Moscow, Ad Marginem Press, 1999, 127 p.

of life in places of deprivation of liberty. And the habit lulls vigilance, creates a space for violations that are not necessarily the result of the evil will and intent of the employees of the penal enforcement system. Sometimes they are caused by the lack of a thorough analysis and serious discussion on the topic.

We have repeatedly encountered cases of violations of the right to privacy of persons in places of deprivation of liberty, as part of our work in non-governmental organizations as defenders of prisoners[3], representatives of the PMC and the PC. In their complaints, the prisoners raised problems related to the disclosure of personal data, conducting personal searches, organizing visits, correspondence, receiving parcels, having free time, and conditions for storing personal belongings. Each of these issues can be considered as a violation of a specific right of a person who is in places of deprivation of liberty, or a certain provision of the current legislation. Only a look at all these issues through the prism of the right to privacy protection allowed us to realize the scale of possible problems in this area.

With this report, we would like to initiate a broad discussion on the topic of respect for the right to privacy of persons in detention facilities in Russia, to disseminate information about the positive practices we use in our work, and also to draw attention to the problematic issues noted during the monitoring. Our goal, however, is not to identify those responsible for violations. We consider the identified problems as a starting point in the discussion process, the beginning of the search for their solutions and ways to prevent repetition.

We express our deep gratitude to everyone who contributed to the appearance of this report. Separately, we would like to thank the members of the PMC and the PC who visited places of detention and prepared regional reports, on the basis of which, in turn, this generalizing study was prepared. We thank all the organizations and institutions that responded to the requests of members of the PMC and the PC; employees of the penitentiary system; the convicts themselves and their family members who agreed to take part in the surveys and answer numerous questions that were asked to them. Without the participation of all these people, the implementation of this large-scale undertaking would have been impossible.

The Project Team

[3]For the purposes of this report, a prisoner is any person deprived of liberty and staying in a pre-trial detention center, colony, prison.

Right to privacy in international standards and national legislation

The purpose of observing the right to privacy is to protect the individual from arbitrary interference by the authorities; therefore it is regulated by the most important documents of international law. Article 12 of the Universal Declaration of Human Rights states: *«No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks»*[4]. Also, the International Covenant on Civil and Political Rights in Article 17 emphasizes the importance of the right to privacy: *«No one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence, nor to unlawful attacks on his honour and reputation. Everyone has the right to the protection of the law against such interference or attacks»*[5].

The UN Human Rights Committee, when interpreting Article 17 of the ICCPR, stressed that the right to privacy should be *«...supported by guarantees against any such interference and such encroachments, regardless of whether they are committed by state bodies, individuals or legal entities. The obligations arising from this article require the State to take legislative and other measures to effectively prohibit such interference and such encroachments, as well as to protect this right»*[6].

The HR Committee explained what the concepts of *illegal* and *arbitrary interference* mean from the point of view of the Covenant. The term *illegal* means that interference cannot take place at all, except in cases provided for by law. Interference authorized by the State can only be carried out on the basis of the law, which, in turn, must comply with the provisions, goals and objectives of the Covenant. The expression "*arbitrary interference*" may also apply to interference permitted by law. The introduction of the concept of arbitrariness is intended to ensure that even interference permitted by law must comply with the provisions, goals and objectives of the Covenant, and in any case would be justified in specific circumstances[7].

The right to protection of private life is also regulated by the European Convention for the Protection of Human Rights and Fundamental Freedoms. According to part 1 of Article 8, *"Everyone has the right to respect for his*

[4] Universal Declaration of Human Rights https://www.un.org/ru/documents/decl_conv/declarations/declhr.shtml
[5] International Covenant on Civil and Political Rights of the United Nations https://www.un.org/ru/documents/decl_conv/conventions/pactpol.shtml
[6] General comment No. 16-Article 17 (right to privacy) https://www2.ohchr.org/english/bodies/icm-mc/docs/8th/HRI.GEN.1.Rev9_ru.pdfhttps://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=INT%2fCCPR%2fGEC%2f6624&Lang=ru
[7] Ibid

personal and family life, his home and his correspondence"[8]. Thus, the purpose of this right is realized in four aspects of individual autonomy: *personal life, family life, protection of housing and correspondence*. The concept of private life in the decisions of the European Court of Human Rights is interpreted much more broadly than the concept of *personal life* and includes, among others, the sphere of establishing relations with the outside world, data collection and access to them, protection of reputation, physical and mental integrity, privacy in a public context, as well as the area affected during searches. *Family life*, in turn, in the understanding of Article 8, is not limited to families who have officially entered into marriage, and may include other actual relationships. A dwelling is defined as a place where a person lives permanently, or with which he has sufficient and strong ties. The secrecy of correspondence covers, in addition to traditional letters, phone calls and all information related to this, also emails and parcels[9].

The second part of Article 8 of the Convention prohibits interference with this right, except in cases provided for by *law* and necessary in *a democratic society* to achieve *legitimate goals*. In accordance with this provision, *legitimate goals* are considered:

- the interests of national security and public order, the economic well-being of the country;
- prevention of riots or crimes;
- protection of health or morals;
- protection of the rights and freedoms of others.

Following the meaning of Part 2 of Article 8 of the Convention, each interference with the right to privacy should be analyzed by asking three questions:

- Is it legal?
- Will it lead to the realization of a legitimate goal?
- Is it necessary in a democratic society to achieve this goal, i.e. is it not excessive, arbitrary or unfair?

Thus, officials should ask themselves these questions every time before carrying out an intervention regulated by Article 8 and make sure that they are not carrying it out unreasonably. It is this provision that is violated most often when performing official duties[10].

In the conditions of places of detention, the need to respect the right to privacy is included in the documents of the so-called "soft law", such as the United Nations Standard Minimum Rules for the Treatment of Prisoners (the

[8] European Convention for the Protection of Human Rights and Fundamental Freedoms https://www.echr.coe.int/Documents/Convention_RUS.pdf

[9] I. Roanya. Protection of the right to *respect for private and family life* within the framework of *the European Convention for the Protection of Human Rights*. *Manuals on human rights of the Council of Europe. Strasbourg, 2012, pp. 13-34.* https://rm.coe.int/16806f15ac

[10] European Convention on Human Rights, Toolkit, https://www.coe.int/ru/web/echr-toolkit/home.

Nelson Mandela Rules)[11] and European prison rules[12]. In addition, the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment (CPT) has repeatedly drawn attention to the implementation of various aspects of this right in places of deprivation of liberty. We will return to these standards more than once when discussing certain issues presented in this report.

At the national level, the right to privacy is protected by the Constitution[13], which has the highest legal force and direct effect on the entire territory of the Russian Federation[14]. Article 2 of the Constitution establishes the general constitutional duty of the State, which consists in recognizing and protecting the rights and freedoms of man and citizen. The principle of inviolability of private life is derived from the totality of constitutional provisions contained in several articles at once, the main of which are Article 23, Article 24, Article 25.

Article 23:

"1. Everyone has the right to inviolability of private life, personal and family secrets, protection of his honor and good name.

2. Everyone has the right to secrecy of correspondence, telephone conversations, postal, telegraphic and other messages. The restriction of this right is allowed only on the basis of a court decision."

Article 24:

"1. The collection, storage, use and dissemination of information about a person's private life without his consent is not allowed.

2. State authorities and local self-government bodies, their officials are obliged to provide everyone with the opportunity to familiarize themselves with documents and materials directly affecting their rights and freedoms, unless otherwise provided by law."

Article 25:

«The dwelling is inviolable. No one has the right to enter a dwelling against the will of the persons living in it, except in cases established by federal law or on the basis of a court decision."

In accordance with part 3 of Article 56, even with the introduction of a state of emergency, the inviolability of private life and its spheres provided for in part 1 of Article 23 and Article 24 are not subject to restriction.

The scope of protection provided by the constitutional provisions largely corresponds to the essence of Article 8 of the ECHR and its interpretation in the

[11] Standard minimum rules for the treatment of prisoners https://www.un.org/ru/documents/decl_conv/conventions/prison.shtml

[12] Council of Europe, Committee of Ministers, Recommendation Rec (2006)2 of the Committee of Ministers to the member States of the Council of Europe, adopted on 11 January 2006 http://base.garant.ru/70170038/

[13] The Constitution of the Russian Federation http://www.consultant.ru/document/cons_doc_LAW_28399/

[14] Part 1 of Article 15 of the Constitution of the Russian Federation

case law of the European Court of Human Rights[15], Article 17 of the ICCPR and Article 12 of the Universal Declaration. It is important to emphasize that according to Part 4 of Article 15 of the Constitution, "*the generally recognized principles and norms of international law and international treaties of the Russian Federation are an integral part of its legal system. If an international treaty of the Russian Federation establishes rules other than those provided for by law, the rules of the international treaty shall apply*", which is supplemented by Article 17 "*in the Russian Federation, the rights and freedoms of man and citizen are recognized and guaranteed in accordance with the generally recognized principles and norms of international law and in accordance with this Constitution*". All the international documents and precedents for the interpretation of international treaties mentioned in this report are sources of law in Russia, and the highest value and direct effect of human rights and freedoms, including the right to privacy, are guaranteed by the Constitution in Articles 2 and 18. It is human rights and freedoms that determine the meaning, content and application of laws, the activities of the legislative, executive, and local self-government[16], that is, they, like the Constitution as a whole, must comply with all other legislation and law enforcement practice from the point of view of the right to privacy, which will be discussed later.

A significant part of the norms protecting private and family life is contained in the industry legislation. It establishes specific grounds, conditions and procedures, for example, for obtaining information concerning personal and family secrets, which creates obstacles to arbitrary interference in private life, primarily by State bodies. Federal legislation also prohibits persons who have been confidentially entrusted with information relating to private life and affecting personal and family secrets, or who, due to their official or other position, have gained access to such information, from transmitting this information to the public.

Chapter 8 of the Civil Code of the Russian Federation contains a section "Intangible benefits and their protection", which has a separate article 152.2 "Protection of the private life of a citizen". A number of articles of the Criminal Code of the Russian Federation have introduced criminal liability for violation of the inviolability of private life, primarily referring to Article 137 "Violation of the inviolability of private life", Article 138 "Violation of the secrecy of correspondence, telephone conversations, postal, telegraph or other messages", Article 139 "Violation of the inviolability of the home". Specialized legislation has been adopted containing legal norms that guarantee the inviolability of private life and regulate the sphere of personal data protection. It includes such legal acts as the Federal Law "On Personal Data", the Federal Law "On Information, Information Technologies and Information Protection", the Federal

[15] as precedents for the interpretation of an international treaty and binding decisions in accordance with Article 46 of the ECHR

[16] Article 18 of the Constitution of the Russian Federation

Law "On Communications", the Decree of the President of the Russian Federation approving the "List of confidential information", etc.

The Constitutional and Supreme Courts have repeatedly addressed issues of private life in their decisions and rulings, which are important acts of interpretation of law[17]. Recognizing the need to implement international human rights standards in Russian law enforcement, the Supreme Court also generalizes the legal positions of interstate bodies for the protection of human rights and freedoms. In 2018, a summary was prepared on the protection of a person's right to respect for personal and family life[18], which should help judges and all other interested persons to understand the content of this right, the scope of its protection and the boundaries of non-interference.

The Constitution guarantees the right to inviolability of private life to everyone, regardless of their citizenship, gender, age, or other personal characteristics. At the same time, the legislation imposes certain restrictions on certain categories of persons, including those in custody, serving sentences in the form of restriction of liberty, arrest, deprivation of liberty or being under administrative supervision after release from a correctional institution (for example, Articles 15, 16, 18 of the Law "On the Detention of Suspects and Accused of committing Crimes"; chapters 2, 8, 10, sec. IV of the Criminal Executive Code; Article 12 of the Federal Law "On administrative supervision of persons released from places of deprivation of liberty"). These persons may be subject to special rules regarding the use of their free time, visits with relatives and other persons, correspondence, wearing certain types of clothing, etc.[19] Additional restrictions are introduced by departmental orders and instructions, often of a closed nature, as well as law enforcement practice, as demonstrated by the study. We will return to the analysis of the legality, validity and proportionality of the restrictions imposed on the selected elements of the right to privacy in relation to prisoners in the following sections.

The internal regulations of correctional institutions are more detailed in their norms, and employees are more guided by them, which is natural. The training of employees is carried out in such a way that they practically know by heart the departmental orders and instructions that are necessary for execution.

[17] See, for example https://rg.ru/2015/06/30/ksrf-dok.html, http://www.garant.ru/products/ipo/prime/doc/72092926/, http://www.consultant.ru/document/cons_doc_LAW_26325/

[18] Summary of the legal positions of interstate bodies for the protection of human rights and freedoms and special rapporteurs (working groups) acting within the framework of the UN Human Rights Council on the protection of the right of a person to respect for private and family life, housing (including the European Court of Human Rights) http://www.vsrf.ru/documents/international_practice/26427/

[19] http://constitutionrf.ru/rzd-1/gl-2/st-23-krf

Methodology of monitoring "Observance of the right to privacy in places of detention"

The monitoring was initiated by the team of the project "Strengthening civic monitoring of detention facilities in Russia", and its direct participants were members of Public Monitoring Commissions and Public Councils from 13 regions of the Russian Federation.

The basis for the study was the Constitution of the Russian Federation, Federal Law No. 76 "On public control over ensuring human rights in places of forced detention and on assistance to persons in places of forced detention", and other normative acts.

The purpose is to study the situation with respect for the rights of prisoners to private (personal and family) life, to develop and discuss recommendations for improving the implementation of this right in places of deprivation of liberty in Russia.

Main tasks:

• Study of the situation with the observance of the right to private (personal and family) life of prisoners in selected institutions of the Federal Penitentiary Service and the Ministry of Internal Affairs of the Russian Federation.

• Identification of problem areas related to ensuring the right to private (personal and family) life of prisoners in places of deprivation of liberty.

• Study of selected aspects related to the process of communication of prisoners with relatives and close people who can influence the observance of the right to private (personal and family) life.

• Preparation of reports based on the results of studying the existing situation with respect for the right to privacy of prisoners, including recommendations for responsible and interested institutions to improve the situation in places of detention, discussion of these reports and recommendations with representatives of the Federal Penitentiary Service, the Ministry of Internal Affairs, etc. within the framework of organized round tables and other interaction.

The study was conducted in the period from June 15 to September 30, 2019. The following areas affecting the rights of prisoners to private (personal and family) life were covered: personal space; the ability to have, use and store personal belongings; the presence/absence of free time; the process of receiving correspondence; the possibility of receiving telephone and Skype calls; the preservation of family and personal ties; selected aspects of communication with relatives and close people that affect the private and family life of prisoners; proportionality of the actions of the administration of institutions in relation to the selected elements of the right to private (personal and family life) of prisoners.

The monitoring tools were carefully developed by the project team, with the involvement of specialists in the field of international and national law, experts in the field of penal enforcement law and included:

- analysis of Russian and international law in the field of the implementation of prisoners' rights to private (personal and family) life, the secrecy of correspondence and telephone conversations, which is available for wide use (https://manandlaw.info/assistance/);
- analysis of the work of the PMC on this topic for the previous period (1.5-2 years), received complaints, applications and appeals, conclusions, actions and recommendations addressed to (G)UFSIN on the part of the PMC, as well as the response;
- requests to the regional departments of the Federal Penitentiary Service and the Ministry of Internal Affairs, heads of Federal penitentiary institutions, prosecutors for supervision of compliance with the rule of law in correctional institutions, Human Rights Commissioners of the regions participating in the monitoring;
- conversations (on specially developed questions) with the management of the visited institutions;
- interviews with employees, relatives, and prisoners themselves;
- filling in a special monitoring card.

The study involved 30 members of the PMC and the PC under the Federal Penitentiary Service and the Ministry of Internal Affairs from 13 regions of the Russian Federation, who were selected on the principles of voluntary and ready interaction with authorities, had knowledge of human rights, experience in visiting places of deprivation of liberty, communicating with prisoners and employees, skills in writing conclusions based on the results of visits.

The monitoring was carried out in the following regions of the Russian Federation: Altai Krai, Perm Krai, Primorsky Krai, Amur, Tyumen, Sverdlovsk, Tomsk, Kaliningrad, Ulyanovsk, Murmansk, Rostov regions, the Republic of Mari El and Kabardino-Balkaria.

Before starting the study, the members of the PMC and the PC received special training to study the observance of the right to privacy in places of detention, the basics of monitoring, got acquainted with the tools, with the opportunity to ask all the questions that arise to the developers about its use. Special attention was paid to the ability to conduct a conversation, conduct a survey and study on the monitoring map, compile a regional report, as well as the process of interaction with the authorities in order to discuss recommendations based on the results of the work done.

During the study, 76 institutions (places of forced detention) of the Federal Penitentiary Service of the Russian Federation were visited. They were 18 pre-trial detention centers, 48 correctional colonies of general and strict regimes (including women), 2 correctional colonies of special regime, 1 prison,

3 medical correctional institutions, 2 settlement colonies, 1 educational colony and 1 correctional center.

The criterion for choosing institutions was:

- presence of a women's colony in the region (it is important to comply with gender conditions, as well as to identify problematic issues of respect for the right to privacy in relation to female prisoners, since there are specifics regarding this category both in the conditions of detention and in interaction with the outside world);
- location: being in the capital of the region or in the immediate vicinity (in an institution frequently visited by society and inspection organizations, the rights of prisoners are most likely to be better observed);
- geographical location: remoteness or inaccessibility from the capitals of the regions (capital institutions, as a rule, are visited more often, changes in them occur more actively, but representatives of society get to hard-to-reach institutions less often, and there are more problematic issues there; the study was also used as an opportunity to visit the most vulnerable institutions);
- total number of detainees (in institutions with a large number of prisoners, problem areas may appear that are not typical of institutions with a low population).

During the study, 380 interviews were conducted with employees of the department. Among them are heads, medical workers, deputy heads for educational work, security and operational work, heads of departments of educational and operational work, inspectors and heads of detachments, employees of visiting rooms and receiving parcels. All the employees who were interviewed work directly with prisoners and influence the observance of their rights.

750 prisoners took part in the surveys. Among them: convicts with disabilities; foreign citizens; persons held in PKT, in ordinary and strict regime detachments; persons held in penal isolators (hereinafter - ShIZO); those who arrived at the institution from other regions; working prisoners. From the point of view of the project team, the categories selected for the survey made it possible to cover a wide range of problematic issues related to the right to privacy for different groups of prisoners. When choosing a respondent, the observers were guided by their own choice, as well as the principle of voluntariness and the prisoner's consent to the interview (after explaining to him the purpose and content of the survey). In some cases, when observers could not find a respondent on their own, they turned to employees for help. Interviews of prisoners in the correctional colony, as a rule, were conducted confidentially, without the presence of employees of the penitentiary system, which allowed us to conclude that reliable information was obtained, excluding pressure from the staff. Interviews in pre-trial detention centers (hereinafter - SIZO) were conducted in the presence of employees of the institution, in conditions of visibility and audibility of the conversation.

The study involved 230 visitors of institutions who came for a date or brought parcels to persons who were in places of detention of the Federal Penitentiary Service.

During the visit, conditions were monitored and recorded in rooms for long and short visits and reception of parcels, inspection rooms, residential detachments, cells, stay rooms, medical detachments, toilets, corridors, shower rooms, ShIZO cells - in correctional institutions, as well as in cells where prisoners live, punishment cells, telephone rooms, medical offices - in pre-trial detention centers.

This report is based on 13 regional reports submitted by participants of the network project "Strengthening civic monitoring of detention facilities in Russia", as well as the results of discussions of regional reports at round tables with the Federal Penitentiary Service, the Ministry of Internal Affairs and other interested parties held at the end of 2019 and in 2020.

System issues

Respect for the right to privacy of prisoners during searches and checks at the premises

Personal search, or personal check[20], is one of the areas regulated by human rights standards, which can be considered both from the point of view of the prohibition of the use of torture and other forms of inhuman or degrading treatment or punishment (Article 3 of the ECHR), and from the point of view of respect for the right to privacy (Article 8 of the ECHR). In the latter case, it is necessary to assess whether the interference with the law was lawful and necessary to achieve the goal of preventing crime.

In the case law of the ECtHR, cases of conducting searches of prisoners and cells, including conducting a personal check in the presence of a person of the other sex, accompanied by the need to strip naked and do squats (case "Valasinas v. Lithuania")[21], conducting a personal check without sufficient grounds and its disproportionate use in these circumstances (case "Iwanczuk v. Poland")[22], the arbitrary nature of decisions on conducting a personal search (cases "Frerot v. France"[23], "El Shennawy v. France"[24]) were recognized as a violation of Article 3. However, in the case of Milka v. Poland[25], the ECtHR pointed out that in the absence of serious and reasonable grounds for conducting a check, the case should be evaluated from the point of view of Article 8 of the Convention. In the Court's opinion, there is no doubt that the requirement to undergo a personal check with undressing, as a rule, constitutes an interference in accordance with Article 8 §1 and must be justified from the point of view of §2, namely, it must be provided for *by law* and necessary *in a democratic society* to achieve one or more legitimate goals listed in this paragraph. The concept of necessity implies that the intervention is due to an urgent social need and, in particular, is proportionate to the legitimate goal being pursued. The ECtHR noted that despite the need to ensure security in institutions where people are detained, measures that are characterized by a high level of interference and are potentially humiliating, such as personal checks and strip checks, require a convincing justification. The Court also noted that in the absence of an effective remedy to challenge the decisions to conduct a personal check, it is difficult to ensure that the requirement of sufficient justification for a

[20] "Personal search" and "personal check" are used interchangeably for the purposes of this report. There is no uniform application and interpretation of terms in Russian legislation on this issue. The convicts themselves and the premises in which they live are searched, and their belongings are checked (Part 5 of Article 82 of the Criminal Executive Code).
[21] Decision of 24 July 2001, application No. 44558/98.
[22] Decision of 15 November 2001, application No. 25196/94.
[23] Decision of 12 June 2007, application No. 70204/01.
[24] Decision of 20 January, 2011, application No. 51246/08.
[25] Decision of 15 September, 2015, application No. 14322/12.

personal check or a strip check is met.

Issues related to the method and legality of conducting searches and checks of prisoners and cells are also regulated in UN documents. The main point in this case is the need to conduct searches in such a way that respect for human dignity and the inviolability of the private life of the searched person is ensured, and the search is not accompanied by humiliation (Rule 50, Nelson Mandela Rules; paragraph 54.4, European Prison Rules). Searches shall not be used to harass, intimidate or unnecessarily intrude upon a prisoner's privacy (Rule 51, Nelson Mandela Rules).

National legislation should determine the situations in which searches are necessary, their nature, as well as the procedures that must be followed by personnel when searching: all places where prisoners live, work and gather; prisoners; visitors and their belongings; and staff (paragraphs 54.1 and 54.2 of the European Prison Rules).

Searches shall be conducted in accordance with the principles of proportionality, legality and necessity (Rule 50, the Nelson Mandela Rules).

The Nelson Mandela Rules also oblige the administration of institutions to keep relevant reports on searches and inspections, in particular on searches with full undressing and examination of body cavities and searches of cells, as well as to indicate the reasons for these searches, information about the persons who conducted them and the results (Rule 51, the Nelson Mandela Rules).

In addition, during preventive visits to places of detention, the CPT draws attention to issues related to conducting personal searches. The Committee's recommendations in this regard relate both to the legality of the inspections carried out and to the course and method of their implementation. In accordance with the standard developed by the CPT, personal searches should be carried out exclusively on the basis of an individual risk assessment, with respect for the dignity of the person against whom such actions are committed, and only by persons of the same sex. In addition, prisoners should not be required to take off all their clothes at the same time, for example, a person should be allowed to take off his clothes above the waist and get dressed before taking off any other clothes. Prisoners should be informed in advance about the possibility of undressing in stages. Personal search, combined with the need to undress, can in no case be considered and applied as an informal punishment[26].

According to the case law of the ECtHR, even in more severe conditions of detention in prisons, personal searches/checks cannot exceed a certain dose of causing concern (the case of Świderski v. Poland, 5532/10, paragraphs 60-61).

[26]See, for example: Denmark: Visit 2019, CPT/Inf (2019)35; Czech Republic: Visit 2018, CPT/Inf (2019)23; Norway: Visit 2018, CPT/Inf (2019)1; Slovak Republic: Visit 2018, CPT/Inf (2019)20; Estonia: Visit 2017, CPT/Inf (2019)31; Spain: Visit 2016, CPT/Inf (2017)34; Netherlands: Visit 2016, CPT/Inf (2017)1.

National legislation

The Criminal Executive Code is the main legislative act of the Russian Federation regulating the situation of persons in custody, part 5 of Article 82 establishes that *"convicted persons, as well as the premises in which they live, may be searched, and the belongings of convicted persons may be checked*[27]*"*. This provision is supplemented by two requirements for the procedure for conducting these control measures: *"A personal search is carried out by persons of the same sex as convicts. A search of residential premises, if there are convicts in them, is allowed in cases that do not tolerate delay."* The rest of the detailed procedure for conducting searches and checks, including their grounds, is contained not in the law, but in by-laws. The first publicly available document is the Internal Regulations of Correctional Institutions[28], where searches and checks are referred to in paragraph 7 *"A personal search of a convicted person is carried out only by a person of the same sex with him. The personal search of the convicted person is carried out in the correct form, excluding harm to the health of the convicted person, within the limits necessary for the detection of prohibited items and substances.*

In the presence of a medical worker, the convicts are examined for existing plaster stickers, prostheses, plaster and other medical dressings.

If a convicted person is found to have bodily injuries, a medical worker provides him with the necessary assistance, makes appropriate entries in the patient's medical record, informs the head of the IU or the person replacing him in writing about the fact of the detected injuries. The chief or the person replacing him gives an order to register the fact of bodily injuries in the Book of registration of reports of crimes and organizes an inspection in accordance with the criminal procedure legislation of the Russian Federation."

The second document is the Procedure for conducting searches and checks in correctional institutions of the penitentiary system and adjacent territories where regime requirements are established, approved by Order of the Ministry of Justice of the Russian Federation No. 64-for official use of 20.03.2015[29]. This is a departmental by-law that bears the stamp "for official use", which means closed access to its contents for prisoners, lawyers, relatives and all other persons who do not have a special permit obtained by virtue of their official position. This act is not available in open legal bases, there is no effective opportunity to appeal the procedure for conducting searches and checks, since the procedure for conducting them is unknown.

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[27] Criminal Executive Code of the Russian Federation, Article 82 Regime in correctional institutions and its main requirements http://www.consultant.ru/document/cons_doc_LAW_12940/0a3e0fedf5b3ee4ecfca9a7a7d7b256d2803690f/

[28] Internal Regulations of Correctional Institutions (approved by Order of the Ministry of Justice of the Russian Federation No. 295 of 16 December, 2016)https://www.garant.ru/products/ipo/prime/doc/71477278/

[29] Order of the Ministry of Justice of the Russian Federation No. 64-for official use of 20.03.2015 "On approval of the procedure for conducting searches and checks in correctional institutions of the penitentiary system and adjacent territories where regime requirements are established"

The same by-law regulates the search and check of persons who have arrived to visit relatives in a correctional institution.

It is worth noting that the previously existing Instruction on the supervision of convicts held in correctional colonies included part of the detailed procedures for conducting searches and checks, including elements of protecting human dignity: *"The personal search of convicts is divided into full (with undressing) and incomplete (without undressing). A personal search is carried out by a person of the same sex as the person being searched. The officers conducting the search are obliged to be vigilant, demanding, correct, observe security measures and not allow the humiliation of the human dignity of the searched person."*

The conduct of personal searches and checks of the belongings of suspects and accused of committing crimes held in pre-trial detention centres (SIZOs) is separately regulated. Their procedure is defined in section III of the Internal Regulations of Pre-trial detention facilities of the penitentiary system (hereinafter referred to as the Rules, PVR). The section contains 10 points describing when, under what conditions, for what purposes personal searches and checks of things are carried out, the reasons for which there are grounds for conducting full searches, the presence of a medical worker, etc. At the same time, some of the information requires specification and refinement for compliance with the above international standards. For example, there is no mention in the section that searches and checks should be conducted with respect for dignity, it does not assume a step-by-step undressing procedure, "a full search is accompanied by a thorough examination of the body of the searched person, his clothes, shoes, as well as prostheses. The suspects and the accused are invited to completely undress."

These Rules are available and do not have a stamp for official use. But even in this case, the regulation of serious interference in the sphere of human rights and freedoms of persons held in a pre-trial detention centres is determined by a subordinate departmental act.

The practice of conducting searches and checks in places of detention

There are two types of searches of prisoners in each institution: complete and incomplete.

Full ones, with undressing, are used at the departure/arrival of the prisoner to the institution, before and after a long visit, in order to exclude the possibility of carrying prohibited items. Full searches are carried out in a special room in which there is stationary video surveillance, or portable video recorders are used. According to the administration, searches are carried out only by authorized employees, who were not identified as a result of the study. Who are they, in what number are they present during the search and by what order are they appointed? These questions remained open. In some regions, it is recorded that a medical worker is present during the search, in others, the participation of

the head of the squad, employees of the regime department, the assistant on duty to the head of the institution is mandatory.

The practice of fixation in institutions is also different: in some cases, a privacy screen is used to undress prisoners, protecting them from a video camera, in others, the video camera captures the prisoner only partially when undressing, in others, the prisoner is completely visible in the field of view of the video camera as there are no privacy screens. It was not possible to find out which persons have access to the camera recordings. As a rule, this number includes the head of the institution and his deputies, as well as, according to the employees themselves, persons appointed by the order. Information about the employees who are present during the searches and have access to video surveillance is also contained in the order for official use and is not available to observers. It was not possible to find out how the process of undressing prisoners, completely or partially, one or several people at once, takes place. Only in two regions, according to employees, it was noted that prisoners do not take off their underwear during a full search. As for cavity searches, in one of the institutions, employees explained that they have not been used for 5-6 years.

Incomplete searches are carried out during the departure/return of prisoners to work, during the departure/return of prisoners to their cells, as well as in case of suspicion of possession of prohibited items. Incomplete searches can take place everywhere, including in front of other prisoners and the staff of the institution, they are recorded on a video recorder.

In some institutions, the latest technical means are used to conduct a search. During the monitoring, a similar fact was recorded in one of the pre-trial detention centers, where X-ray equipment was used during the search, which allows a search to be carried out without undressing and probing the prisoner. However, there is a question about the safety of its use for the health of prisoners. A person can be examined with the help of such an installation no more than 22 times a year without harm to health, and prisoners, in most cases, use this opportunity. It was not possible to establish how often an X-ray is used, and how the frequency of such a search is fixed.

In some regions, after interviews with prisoners, the observers found a dependence of the frequency of searches on the regime of detention of prisoners (offenders of PVR, held in ShIZO/PKT, are searched most often, OSUON – 2 times a day, PKT - 3 times a day, ShIZO-4 times a day), as well as on preventive supervision (as prone to suicide, arson, escape, etc.). At the same time, information about the types of supervision and rules of supervision is not available anywhere, this is internal information, marked with “for official use” stamp. Prisoners who are under preventive supervision are searched daily.

The observers noted that complaints about the incorrect treatment of employees during the search are of an isolated nature. This may be due to the fact that the prisoners are not familiar with the rules for conducting a search, the powers of the institution's employees due to the fact that this procedure is

classified[30]. Prisoners, in most cases, do not pay attention to the recording of the search process on a video camera and do not give this an assessment.

Scheduled checks of the premises, sleeping places and belongings of prisoners are carried out approximately once a month. Almost always, convicts are taken out of the premises for the time of check, only the day squad (in the detachments of the IU) or the cell attendant (in locked rooms, cells of the pre-trial detention centers) remains. All checks are recorded on a video camera. The facts of damage to personal belongings of prisoners after checks during the study were not recorded.

However, from the survey of prisoners, the observers revealed that the checks are carried out in the absence of prisoners, and things are sometimes carelessly thrown into a pile. The fact was noted when the staff of the institution threw the Koran on the floor. According to the prisoners, there are cases when employees are rude and use obscene language during searches.

Unscheduled checks are carried out with different frequency in cases where employees have information that there are prohibited items in the room. The prisoners are not informed about the reasons for the check. According to what rules this procedure should take place, it remains unknown, since the order for the check is contained in the order with the stamp “for official use”.

All persons who have arrived for short and long visits to the colony are subject to the check. During short-term visits, the check for the presence of prohibited items is carried out by a junior inspector at the checkpoint for the admission of persons to the security territory with the help of stationary and portable metal detectors in a specially equipped room. Persons arriving for long-term visits are subjected to a more thorough check, which is carried out in one of the rooms of long-term visits by an employee of the same sex with the visitor.

Visitors strip down to their underwear, which is also probed. If there is a suspicion of carrying prohibited items, as a rule, visitors themselves hand them over, in other cases (which rarely happens), employees resort to using service dogs or an X-ray machine. The use of this type of technical means for the check of relatives is recorded only in two regions. Conducting cavity examinations, according to employees, has not been used in institutions for about 6-7 years. These facts were confirmed by all the interviewed medical workers.

[30]In a correctional colony in one of the regions, inspectors forced the mother of a prisoner to undress completely before a long date. The woman fulfilled the requirements, fearing that she would not be able to see her son. Larisa Fefilova, the head of the Udmurt branch of NGO "For Human Rights", where the woman had addressed, sent a complaint about the actions of the colony's employees to the prosecutor's office. In response, representatives of the supervisory authority reported that the procedure for full check of relatives of prisoners was legalized by the order of the Ministry of Justice of 20 March, 2015 No. 64-for official use "On the procedure for conducting searches and checks in correctional institutions of the penitentiary system and adjacent territories where regime requirements are established". The document introduces a mandatory full check with taking off clothes before holding a long date. The document is marked with a stamp “for official use”.

As for the check of children, in some institutions this process is limited by probing clothes, in others it goes as far as undressing down to underwear, in others - the employees of the institution, according to respondents, are asked to unbutton the child's clothes and show the contents of the pockets. In some regions, it was noted that along with adult relatives, children come on dates quite often (about 1-2 times a week).

In the book of reviews of one of the institutions, a positive comment was left that an employee examined a child in the form of a game.

During conversations with members of the PMC, visitors reported that employees behave correctly during checks, outsiders and other persons do not participate in the process.

Conclusions

The detailed procedure for conducting searches and checks, including their grounds, is contained not in the law, but in subordinate acts, that is, the regulation of serious interference in the sphere of human rights and freedoms of persons held in pre-trial detention centers and colonies is determined by subordinate departmental documents. The same by-laws regulate the search and check of persons who have arrived to visit prisoners, as well as advocates.

Some of the documents are non-public, closed to prisoners, their relatives, defenders, and society as a whole: they are not in an open legal basis, there is no effective opportunity to appeal the procedure for conducting searches and checks, since the detailed procedure for conducting them is unknown.

There is no legal certainty, the text of the law is not specific, and the secret procedure of searches and checks excludes the possibility of understanding how control should take place and what powers the employees of the institution have, what the frequency of searches may be, etc. Information about employees who are present during searches and have access to video surveillance, how the video is stored, is also contained in the documents “for official use”, and respectively, is not available.

In such a situation, we can talk about serious systemic violations of both the right to privacy of prisoners and other rights, including obtaining information about rights and freedoms, the right to effective remedies and a fair trial.

Respect for the right to privacy - prohibition of disclosure of personal data

National legislation

Federal Law No. 152-FZ of 27 July, 2006 "On Personal Data" regulates the prohibition on disclosure of information about private life. Its effect should also apply to prisoners, but the situation in places of detention is also regulated by by-laws that contain norms that allow the disclosure of personal data of persons held in places of incarceration.

Article 4 of the Criminal Executive Code of the Russian Federation says that federal executive authorities have the right to adopt normative legal acts based on federal law on the execution of punishments. Such a by-law is the Order of the Ministry of Justice of the Russian Federation No. 295 of 16 December, 2016 "On approval of the internal regulations of the IU".

According to this Order, the full name, date of birth, the article under which he is serving his sentence, the beginning and end of the term are indicated on the bedside signs of each prisoner. The position of the Supreme Court of the Russian Federation supports this provision: *"The sample of the bedside sign provided for by the Rules does not violate the rights of the convicted person to personal inviolability, and its placement is due to the need to maintain the established order of serving the sentence, constant supervision, observance of the rights to personal security, the goals of operational investigative activities in the IU. These data reflect data on the identity of the convicted person, as well as information about the article of the Criminal Code of the Russian Federation under which he was convicted, the beginning and end of the term, which cannot be considered as disclosure of undesirable information for the convicted person."*[31] Until 16 December, 2016, information about the article and the term of serving the sentence was also contained on the badge, however, with the introduction of new PVR, unnecessary information was excluded.

At the entrance to the office premises (offices) or when contacting the administration of the IU (if an employee of the administration enters the squad), convicts are obliged to introduce themselves, give their last name, first name, patronymic, date of birth, articles of the Criminal Code of the Russian Federation under which they were convicted, the beginning and end of the sentence, the number of their squad (cell). This information is also voiced in the presence of other prisoners.

On the basis of Article 109 of the Criminal Code, which speaks about educational work with convicts, the "Instruction on the prevention of offenses

[31] In the decision of the Supreme Court of the Russian Federation No. GKPI07-2 of 29.03.2007 "On leaving without satisfaction the application for recognition of paragraph 10 of p. 14 and Appendix No. 2 to the Internal Regulations of Correctional Institutions approved by Order of the Ministry of Justice of the Russian Federation No. 205 of 03.11.2005".

among persons held in institutions of the penitentiary system" has been developed, which allows including prisoners into different types of preventive supervision.

The practice of the dissemination of personal data in Federal Penitentiary Institutions

In all 48 correctional institutions in 13 regions of the Russian Federation, the design of sleeping places is carried out in such a way that all prisoners of the detachment know for what crimes and for what period the prisoner was convicted. We are talking about bedside signs indicating the full name, date of birth, the article under which the sentence is served and the terms.

Stands with information about prisoners who are under various types of preventive supervision are placed on the territory of institutions: those who are prone to escape, alcohol and drug addiction, suicide, sexual assault, etc. The procedure for inclusion in the lists of persons under preventive supervision is unknown, since it is information exclusively for the official use of employees, is regulated only by departmental orders, is not brought to prisoners under their signature. The situation with preventive supervision requires additional study. By itself, the disclosure of this important information about a person is a violation of his right to privacy. As part of the study, cases were identified when this information was placed in places accessible to other prisoners, freelance employees, persons who came on a date: in the corridors of the duty unit and the medical detachment, in the offices of the heads of detachments, etc.

In some regions, additional marks were also recorded on the sleeping places of convicts. For example, a colored stripe was pasted on the bedside table of a convict in one of the regions. This is information for the staff of the law enforcement agency that she has any inclinations (escape, self-mutilation). Or a red cross was marked, which indicates that a woman is on the medical register for certain diseases, and special attention should be paid to her when going around during sleep.

The information that a prisoner is under preventive supervision is recorded in many institutions of the Federal Penitentiary Service in different regions of the Russian Federation in the form of a line of a certain color on the chest tag of clothing, despite the fact that neither the law, nor the PVR of the IU, nor Order No. 295 provides for this. Registration for various types of preventive supervision is not regulated by federal legislation, but is a widespread practice based on internal orders[32], despite the fact that it directly affects the personal rights of prisoners. The wording in the orders is very general, and the actual reason for the preventive supervision is, as a rule, the report of an employee of the institution.

In the framework of the study, various ways of placing lists of prisoners

[32] Order of the Ministry of Justice of the Russian Federation No. 72 of 20 May, 2013 "On approval of the Instructions for the prevention of offenses among persons held in institutions of the penal enforcement system"

subject to parole (conditional early release), ITR (correctional labor work), KP (colony-settlement) were noted. In some regions, they were located in public places; in others they were open only to employees. In one of the institutions, information stands with lists of persons who are under preventive supervision are covered with a special screen.

In one of the pre-trial detention centers, key rings of various colors were found on the cell doors, in accordance with one or another type of preventive supervision, which allows employees to classify prisoners. In another institution, the members of the PMC found a list of persons who are under different types of preventive supervision in the dentist's office. The staff explained that this was done in order for the medical worker to have an idea of what kind of convict came to him for an appointment, and what can be expected from him.

An important aspect that was covered as a result of the study is video surveillance and video recording, which are generally accepted practices. At the same time, there is a ban on monitoring prisoners in intimate places, offices of medical workers.

In two regions, cells were found in a pre-trial detention center with fully visible bathrooms (at the time of the visit, no one was kept in the cells). All video recordings, including recordings from stationary video cameras and video recorders, are stored on the institution's server for 30 days. According to the administration, a limited number of employees have access to the videos. It was not possible to find out who exactly is included in this circle, and how the selection is made. According to the employees, the convicts' access to this information is excluded.

In most cases, there is no video surveillance in bathrooms and washing rooms, in rooms for long visits, in rooms for living, in the shower and in toilets, but there are examples when video shooting in residential premises depends on the position of the institution's management.

Conclusions

Prisoners remain one of the most vulnerable groups of the population, from the point of view of disclosure of information about personal data: various kinds of information are available to many people: employees, other prisoners, civilians, relatives. In some cases, this may pose a threat to the life and health of persons in custody. Disclosure of personal information about the preventive supervision[33], the article and the term of serving the sentence, other personal data to other prisoners, as well as to an unlimited number of employees, including freelancers, and persons who come on dates, is a violation of the right to privacy. Such a practice can negatively affect the situation of a prisoner in an

[33]At the same time, a lot of questions from the point of view of compliance with human rights standards are caused by the grounds and the procedure of preventive supervision, but this is a topic for a separate report

institution, and lead, for example, to harassment or informal enrollment to a circle of people with a low social status, etc.

The permissibility of restricting rights in the by-law leads to further violations, as new instructions and orders appear, including for institutions, with additional information about convicts (for example, a red stripe - those who are prone to escape, arson, suicide, etc.). It is difficult to appeal against preventive supervision, since it appears according to operational information or immediately according to the facts directly indicated in the instructions. [34] You can appeal it within the frames of the Code of Administrative Procedure of the Russian Federation, but this is a very complex procedure that requires the mandatory participation of a professional lawyer.

There is a need to completely exclude video surveillance for intimate places and regulate the process of video surveillance in residential areas.

[34] Order of the Ministry of Internal Affairs of the Russian Federation No. 485 of 2 August, 1997 "On approval of the Instructions on supervision of convicts held in correctional colonies", registered by the Ministry of Justice of the Russian Federation on 26 September, 1997; Registration Number 1391

Observance of the right to privacy of prisoners – medical (doctor-patient) confidentiality

Paragraph 2 of Article 13 of Federal Law No. 323 "On the basics of protecting the health of citizens in the Russian Federation" states: *"It is not allowed to disclose information constituting a medical secret, including after the death of a person, by persons to whom they became known during training, performance of labor, official and other duties, except for the cases established by parts 3 and 4 of this article."*[35]

Medical documentation, especially primary, plays a fundamental role in the legal relationship between a patient and a medical organization, since it certifies facts and events that reflect the course of diagnosis, treatment, and other measures. The obligation to store medical documentation in accordance with paragraph 12 of part 1 of Article 79 of the Federal Law FZ "On the basics of protecting the health of citizens in the Russian Federation" is assigned to a medical organization. In accordance with part 1 of Article 17 of this Federal Law, organizations are required to ensure the safety of documents. Article 13.20 of the Administrative Code of the Russian Federation provides for administrative liability for violations of the rules for storing medical documentation. At the same time, there is currently no single regulatory legal act defining the procedure for storing medical documentation. Also, the procedure for storing medical documents in institutions of the Federal Penitentiary Service is not regulated by acts of the penal enforcement system.

The main law regulating the procedure for providing medical care and ensuring the rights of persons receiving medical care is FZ-323 "On the basics of protecting the health of citizens in the Russian Federation", which fully extends its effect to persons in custody. The law defines an exhaustive list of reasons when the provision of information constituting a medical secret, without the consent of a citizen or his legal representative, is allowed. In this list, there is no possibility of disclosing medical secrets without the consent of the prisoner in the conditions of medical visits of convicts in correctional institutions and pre-trial detention centers, in the presence of employees of the IU. Compliance with medical secrecy is the main principle of protecting the health of citizens in the Russian Federation (Article 4, Chapter 2 of the Federal Law-323). In the Order of the Ministry of Justice of the Russian Federation of 28.12.2017 No. 285 "The procedure for organizing the provision of medical care to persons in custody or serving a sentence of imprisonment", in paragraph 32, Chapter III, it is stated that medical examinations of convicted persons are carried out in accordance with the legislation of the Russian Federation in the field of health protection, i.e. in accordance with FZ-323. The only point of this

[35] http://www.consultant.ru/document/cons_doc_LAW_121895/

Order, paragraph 34, indicates how the reception of prisoners by medical personnel should be organized. *"In correctional colonies of general, strict, special regime, educational colonies and prisons, convicts arrive for an appointment with a medical worker or to perform procedures accompanied by employees of the institution of the penal correction system."* [36] The Order does not regulate where the employee should be during the visit to the doctor, whether the premises of medical offices should be equipped with bars, how security should be ensured during the visit.

Thus, since the regulatory acts of the Russian Federation do not explicitly prohibit the presence of employees who are not related to medical personnel during medical appointments, and there are exhaustive exceptional cases when an employee's stay becomes necessary, various scenarios of employee behavior are possible, including total control of medical examinations, which may lead to a violation of the right to privacy in terms of disclosure of medical (doctor-patient) secrets.

The practice of storing medical records and conducting medical examinations

Almost all observers noted that medical documents are stored in the medical part of institutions, in specially equipped cabinets or safes, under lock and key. Only medical professionals have access to them. However, in one region it was noted that the medical records of prisoners are stored in special rooms of medical units, but it should be taken into account: if prisoners do not work in medical units in the pre-trial detention center, then prisoners can be employed in the corresponding rooms of the colonies. This allows them to access the medical records of other prisoners, since the card storage rooms are not closed.

In some regions, employees indicated that there was no direct access to medical documents, but at the same time there was an opportunity to demonstrate them and tell some confidential information without the consent of prisoners, which was a confirmation of a direct violation of medical secrecy.

In one of the regions, the monitoring participants noted a positive practice: during the transfer of prisoners, a prescription is given in the accompanying sheet without indicating the diagnosis.

In some institutions, it is recorded that medical workers do not distribute diagnoses of prisoners, except in cases when the disease may pose a threat to others. For example, in a pre-trial detention center in one of the regions, employees are aware of which cells contain prisoners with an open form of tuberculosis, since they are obliged to use additional means of medical protection when interacting with them. Persons who have a disease that is dangerous for the spread of the disease should be kept in isolated rooms, or in

[36] https://base.garant.ru/71874866/

prison or civilian hospitals. Those cases where prisoners are kept in ordinary cells require additional study. As another example, in one of the women's colonies, certain types of diseases were indicated by the presence of a red cross on the bedside tags of convicts, this information was available to all prisoners.

In institutions of many regions, it is noted that along with medical workers, during the medical visits, there are also employees of the penal enforcement system, in order to ensure security, including in cases when a medical worker is separated from a prisoner by a lattice. In some cases, it is recorded that the employee is in the room during the medical examination, but behind a screen. There were also examples when during medical examinations, employees of the institution were in the medical unit, but in the corridor room, while the doors remained open. Moreover, in one of the regions, the doctor himself chose in which cases they should be closed, and the convict had the right to request a private conversation with the doctor if the issue was personal.

The separation of a prisoner from a doctor by a special grating is recorded in many regions. In some institutions, stationary video surveillance is conducted in the medical part, in others, the process of medical examination is recorded on portable video recorders.

The prisoners themselves treat the presence of employees during medical examinations in different ways. The majority of respondents answered that it does not matter much for them. Others said that they asked the employee to move away when they wanted to inform the medical worker of confidential information, and in some cases they agreed to do it, in others they refused. The employees themselves explained that this measure is dictated solely by the issue of security: often medical workers themselves require the presence of employees. However, the question remains open why it is necessary to be present during the medical examination of all prisoners without exception. On this fact, a single complaint was received from a prisoner of one of the institutions. All the others simply took the fact of the employee's presence during the medical examination as a given, the actions of the employees were not disputed.

Conclusions

Despite the absence of an officially regulated procedure for storing medical records, the administrations of the medical units of the IU try to ensure the confidentiality of information in order to preserve medical secrecy. However, there are examples illustrating the possibility of getting acquainted with the medical documents of persons who are not related to the medical staff, which can be regarded as a violation of the right to privacy.

With an unambiguous interpretation of the Federal Law "On the basics of protecting the health of citizens in the Russian Federation" in terms of the inadmissibility of disclosure of information constituting a medical secret, there

are periodically facts of disclosure of this kind of information in relation to prisoners by employees. This indicates the need for systematic educational work with the staff, including training in the field of human rights, including the standard of respect for private and family life.

The protection of medical secrecy requires that persons who are not related to the medical staff are not allowed to participate in the examination process. In this general rule, there may be an exception to cases related to the safety of medical personnel and a real threat of attack.

Observance of the right to secrecy of correspondence and telephone conversations in places of detention

National legislation

The right of persons sentenced to imprisonment to telephone conversations is provided for in Article 92 of the Criminal Executive Code of the Russian Federation.

In the absence of technical capabilities, the number of telephone conversations may be limited to six per year by the administration of the correctional institution. The duration of each conversation should not exceed 15 minutes. Telephone conversations are paid for by convicted persons at their own expense or at the expense of their relatives or other persons.

Upon arrival at the correctional institution, as well as in the presence of exceptional personal circumstances, the administration of the correctional institution provides the prisoner with the opportunity to have a telephone conversation at his request.

For convicted persons who are in strict conditions of serving a sentence, as well as serving a measure of punishment in penal isolators, disciplinary isolators, cell-type rooms, single cell-type rooms and single cells, a telephone conversation may be allowed only under exceptional personal circumstances.

The telephone conversations of convicts can be monitored by the staff of correctional institutions. The procedure for organizing telephone conversations is determined by the federal executive authority under the jurisdiction of which the correctional institution is located.

The procedure for providing a telephone conversation to persons sentenced to deprivation of liberty is regulated by section XV of the Internal Regulations of Correctional Institutions approved by Order No. 295 of the Ministry of Justice of the Russian Federation of 16.12.2016 (hereinafter referred to as the PVR).

Thus, according to paragraph 85 of the PVR, a telephone conversation, including using video communication systems, if there are technical capabilities, is provided by the head of the correctional institution, the person who replaces him, or the person responsible for the correctional institution on weekends and holidays, upon a written application of the convicted person, which specifies the surname, first name, patronymic, address of residence, telephone number of the subscriber and the duration of the conversation, not exceeding 15 minutes, as well as the language in which the telephone conversation will be conducted.

Telephone conversations, including those using video communication systems, can be monitored by the administration of the correctional institution. If it is necessary to translate the conversation of convicts into the state language of the Russian Federation, the administration of the correctional institution

invites an interpreter at the expense of the federal budget (p. 86 of the PVR).

As stipulated in Part 4 of Article 92 of the Criminal Executive Code of the Russian Federation, telephone conversations between prisoners held in correctional institutions are prohibited. In exceptional cases, with the permission of the head of the correctional institution, a telephone conversation with a relative serving a sentence may be allowed.

The legislation provides for grounds for early termination of a telephone conversation. Thus, in accordance with paragraph 91 of the Internal Regulations of correctional Institutions, a telephone conversation may be terminated prematurely in the event of an attempt to transmit information about a crime or other offense being prepared, about the security of a correctional institution, the administration of a correctional institution, methods of transferring prohibited items; conducting a telephone conversation in a different language than was specified in the application of the convicted person; at the insistence of one of the persons participating in the telephone conversation.

The Russian legislation regulating the right to telephone conversations is constructed in such a way that a number of additional restrictions of the right are contained not in the Law (the Criminal Executive Code), but in a by-law, which is the Internal Regulations of the IU.

In addition, the law contains excessive restrictions on the right to telephone conversations that are not justified for the purposes of protecting national security, public order, the economic well-being of the country, preventing riots or crimes, protecting health or morals, and protecting the rights and freedoms of others.

An excessive restriction is the restriction on the prohibition of telephone conversations with the family to persons who are in detachments with strict conditions of serving sentences, PKT and EPKT detachments, where prisoners are deprived of the right to talk to close people for six months or more.

It is excessive to prohibit telephone conversations with family members who are in another correctional institution, as well as to control all telephone conversations without exception, including with close family members, even without reasonable suspicions about a crime or other offense being prepared, about the security of a correctional institution, the administration of a correctional institution, methods of transferring prohibited items.

An excessive restriction is the requirement to obtain consent in a written form for a telephone conversation by the convicted person, since communication with relatives is a right, and it should not have a permissive nature.

The second additional restriction is the indication in the application for the permission of the conversation of the last name, first name, patronymic, address of residence, telephone number of the subscriber and the duration of the conversation (not exceeding 15 minutes), as well as the language of the conversation. The convicted person simply may not know, for example, the

address of the person he wants to call. In addition, the indication in the application of the full name and address of the relative when filling out the application for a call also violates the requirements of the legislation on the protection of personal data, since the relative of the prisoner did not consent to their storage, processing.

The possibility of conversation of convicts in their native language (Chechen, Udmurt, Mari, Tatar, Roma, etc.) is insufficiently regulated by law. The PVR allows interrupting a telephone conversation if it is not conducted in the language specified in the application. The administration of the institution has the right to monitor the conversation and listen to everything that the prisoner says. According to the rules, the translation of the conversation of a convicted person by the administration of a correctional institution at the expense of the federal budget with the invitation of an interpreter is carried out only into the state language of the Russian Federation, which is Russian. To do this, the prisoner writes an application, and the administration must find and pay for an interpreter, which is not always possible, since there are no funds in the budget for this, or it is not possible to find qualified specialists.

There is another departmental document that excessively restricts the rights to telephone conversations: the instruction of the Federal Penitentiary Service of Russia of 24.11.2017 Ref. No.03-79653, according to which telephone conversations that do not take place in Russian must be interrupted (through a special program or manually).

In the pre-trial detention center, suspects and accused persons in custody can exercise the right to paid telephone conversations only with the permission of the court or the person handling the criminal case. At the same time, in any case, such calls are allowed only if there is a technical possibility and under the control of the administration of the institution (paragraph 6 of part 2 of Article 17 of the Law on Detention).

On 22 October, 2020, the State Duma of the Federal Assembly of the Russian Federation received bill No. 1042392-7 "On amendments to Articles 17 and 18 of the Federal Law "On the detention of suspects and accused of committing crimes", according to which the right to telephone conversations will not depend on the desire of the investigator, and will allow the accused to communicate with their relatives.

The opportunity to send and receive correspondence for prisoners is provided for by Article 91 of the Criminal Executive Code of the Russian Federation. Persons sentenced to imprisonment are allowed to receive and send letters, postcards and telegrams at their own expense without limiting their number. At the request of the convicted persons, the administration of the correctional institution notifies them about the transfer of letters, postcards and telegrams to the communication operators for their delivery by affiliation. Letters, postcards and telegrams received and sent by convicts are subject to censorship by the administration of the correctional institution, with the

exception of the cases specified in Part 4 of Article 15 of the Code.

The period of censorship is no more than three working days, and if letters, postcards and telegrams are written in a foreign language, no more than seven working days. The procedure for sending correspondence is regulated by p.54 of the PVR of the IU. The receipt and sending of letters, postcards and telegrams by convicts at their own expense without their restriction is carried out only through the administration of the IU. For this purpose, mailboxes are placed in each isolated section of the IU, from which correspondence is withdrawn for dispatch daily, except on weekends and holidays, by authorized employees of the IU. In prisons, ShIZO, EPKT, PKT, TPP, solitary cells, being in safe and special regime places[37], convicts give all the correspondence for sending to the administration of the IU. Persons sentenced to imprisonment are allowed to receive and send letters, postcards and telegrams at their own expense without limiting their number. Correspondence between convicts held in different penitentiaries is carried out with the permission of the administration in accordance with the established procedure.

The subordinate regulatory act introduces an additional excessive restriction of the right to correspondence - sending letters to convicted persons to another correctional institution only with the permission of the administration. Also, the administrations of correctional institutions are charged with the obligation to censor all private letters without exception, which contradicts the principles of respect for the right to privacy, which implies an exhaustive list of situations when letters should be censored, for example, the presence of reasonable suspicions of the preparation of a crime or offense by a convicted person.

The practice of providing telephone conversations and sending correspondence

The study found that in all institutions, prisoners have the opportunity to exercise the right to make a phone call with any subscriber, with the exception of one region, where phone calls with persons who are not relatives are provided with the permission of the chief.

In most cases, at the time of the visit, there were serviceable telephone sets available to prisoners for external communication with relatives and other persons.

In some regions, devices for carrying out conversations of prisoners are usually located next to each other in the corridors of the detachment or in the corridor of the duty units. In others, they are placed in the offices of the heads of the detachment, and the probability that during the conversation the prisoner

[37]The room where the convicted person is placed in order to ensure his safety in cases where the administration of the institution has reason to believe that the presence of the convicted person in the former place threatens his life, health or dignity

will be left alone in the office where the official documentation is stored is small. In addition, there are difficulties in accessing the telephone in the evening or on weekends, when the head of the detachment is absent from the workplace. Thus, the confidentiality of negotiations is excluded in both cases.

Only in two regions–participants of monitoring, it was established that telephones are placed in separate rooms. However, in one of them, there were no partitions between the phones, and this again does not ensure the secrecy of a conversation in the presence of two or more prisoners.

Information about the procedure for providing telephone conversations is located on the stands of institutions.

In one region, observers noted a queue for telephones, indicating that there are not enough of them.

The case of refusal in a telephone conversation was revealed only once: for a mother and daughter who are in different correctional institutions.

In some regions, relatives are given the opportunity to make video calls. Equipment for this is provided in many institutions of the Federal Penitentiary Service of Russia, however, according to employees and prisoners, this service is practically not in demand due to the high cost of communication (from 150 rubles per minute), except for one region where conference communication is often used (more than 900 video calls were recorded only in 2019), which is an excellent positive practice and requires study. The reason why the prices for video conferencing are too high is also necessary to find out.

The study participants noted that in almost all regions, prisoners are forced to conduct conversations in Russian, which restricts their right to communicate with their relatives in their native national language.

According to representatives of the administration, this situation arises due to the lack of funds to pay for the work of an interpreter or the inability to find a specialist with knowledge of rare languages. Employees of some institutions shared information that in the near future, an automatic telephone system is planned to be installed in the detachments using a special program that will interrupt the conversation when using obscene language, as well as other languages other than Russian.

In some regions, the administration attracts other prisoners who speak the language necessary for the conversation of two subscribers to listen to conversations, which, in fact, is the disclosure of private information to third parties. First of all, this applies to convicts from national regions[38] and foreign convicts.

According to the results of the study, it was concluded that telephone conversations in the native language with the participation of an interpreter are provided only in one region. Also, only in one region prisoners have the

[38] This refers to regions where the population speaks another state language, in addition to Russian (for example, the Republic of Mari El, Kabardino-Balkaria).

opportunity to talk on the phone in their native language. At the same time, the conversation is recorded, which, if necessary, can be translated to clarify the content. On the one hand, this is a positive example, on the other hand, the conditions for storing these records and the possibility of access to other persons are unknown.

During the monitoring, prisoners received complaints related to difficulties in maintaining family relations due to the ban on speaking their native language.

In the pre-trial detention center, telephone conversations are carried out in a special room, where prisoners are brought one by one.

Sending correspondence from the IU is carried out by installing closed mailboxes in each detachment, the seizure of which is carried out daily.

In some colonies-settlements there are no such mailboxes, and prisoners give their letters directly to the hands of the staff on duty.

All personal letters are censored, without exception. Postal items are dropped into mailboxes or transferred to the administration of the IU in an unsealed form. None of the interviewed convicts / prisoners reported that their letter did not pass censorship.

In some institutions, the "FSIN-letter"[39] system is installed, but convicts practically do not use it. In some cases, it turned out that such a service is not available.

In the ShIZO, EPKT, PKT, when they are on a special regime, the boxes are not installed, and the correspondence is sent by convicts through the employees of the IU.

In one of the regions participating in the monitoring, cases were recorded (according to prisoners) when suspects, accused, convicted persons did not have the opportunity to purchase postal supplies (envelopes, stamps) in the store of the IK, pre-trial detention center.

In another region, it was revealed that the persons under investigation and convicted could not send and receive letters in their native (non-Russian) language.

In some cases, complaints have been recorded about the quality of the correspondence sending process itself, when letters do not reach the addressee. However, the administrations of institutions in such cases always refer to the shortcomings of the work of the Russian Post.

In one of the institutions, complaints were recorded about the non-issuance of receipts for accepting letters for sending.

Conclusions

An excessive restriction of the right to privacy is the total censorship of all private letters sent from closed institutions. It is necessary to exclude the

[39] A system by which a prisoner can send and receive an email.

possibility of such control and introduce an exhaustive list of circumstances that allows censoring letters.

It is also an excessive restriction to control all telephone conversations without exception, including with close family members, even without reasonable suspicions about a crime or other offense being prepared, about the security of a correctional institution, the administration of a correctional institution, methods of transferring prohibited items. It is necessary to exclude the possibility of monitoring all telephone conversations with the introduction of a clear distinction between those prisoners whose conversations can be tapped. It will also create conditions for lifting the restriction on the right of prisoners to use their native language during telephone conversations.

From the difference in approaches to creating conditions for confidential conversations of prisoners, it can be concluded that the administrations of institutions do not pay due attention to the issue of observing the right to secrecy of telephone conversations of prisoners, although there is such a possibility. In addition, there are no conditions that would exclude cases when some prisoners can hear the telephone conversations of others. A number of restrictions on the right to telephone conversations are contained in by-laws, which even more severely restrict the exercise of this right than is provided for by laws. It is excessive to restrict telephone conversations with the family to persons who are in strict conditions of serving sentences, PKT and EPKT detachments, where people are deprived of the right to talk to close family members for six months or more. The ban on telephone conversations with family members who are in another correctional institution is also excessive.

The dependence of the conversations of persons in the pre-trial detention center on the bodies that are conducting a criminal case may limit the possibility of communicating with relatives for several years, which is also a violation of the right to personal and family life.

Other areas of respect for the right to privacy explored during the study

Respect for the right to private and family life in upholding the right to visits

National legislation

The right to visits is provided for in Article 89 of the Criminal Code of the Russian Federation. Persons sentenced to deprivation of liberty are provided with short-term visits of four hours and long visits of three days in the territory of the correctional institution. In some cases, convicts may be granted long visits with accommodation outside the correctional institution for a period of five days. Short-term visits are provided with relatives or other persons in the presence of a representative of the administration of the correctional institution. Long-term visits are granted with the right to live together with a spouse, parents, children, adoptive parents, adopted children, siblings, grandparents, grandchildren, and with the permission of the head of the correctional institution - with other persons. The list of other persons is not regulated by national legislation, which allows the head of the correctional institution to act at his discretion. This creates a threat of violating the prisoners' right to privacy by using various kinds of manipulations.

In the detachments of normal conditions, 4 short-term and 4 long-term visits are provided per year, in the facilitated conditions - 6 short-term and 6 long-term visits, in the detachments of strict conditions - 3 short-term and 3 long-term visits. In the PKT and the EKP, only 1 short-term visit is possible for 6 months, and only with the permission of the administration of the correctional institution. Visits to persons sentenced to deprivation of liberty, placed in a penal isolation cell, are prohibited.

P.71 of the PVR – the permission to meet is given by the head of the IU, the person who replaces him or the person responsible for the IU appointed by the order of the head of the IU, on weekends and holidays at the request (including by electronic recording) of the convicted person or the person who arrived to meet him.

In pre-trial detention facilities, long visits for persons in custody are not provided for by law, despite the fact that the period of detention can reach three years or more.

In accordance with Article 18 of Federal Law No. 103-FZ of July 15, 1995 "On the detention of suspects and accused of committing crimes", suspects and accused held in a pre-trial detention center have the right to short-term visits with relatives and other persons.

Currently, suspects and accused persons in custody can exercise the right to a meeting only with the written permission of the person or body in charge of the criminal case. No more than two visits per month with relatives and other

persons, lasting up to three hours each, can be provided. In order to get a meeting, the prisoner must apply to the investigator or the court with a corresponding application. The grounds for refusal are not spelled out in the law, so there may be situations when visits with relatives are not provided to the prisoner for years. Everything depends, in many respects, on the will of the official under whose consideration the case is, and his attitude to the accused. Based on the opinion expressed by the members of the PMC, advocates, human rights defenders and the prisoners themselves, it can be concluded that the investigators give permission to visit, as a rule, in the form of encouragement for the admission of guilt and assistance provided, and in other cases they can easily refuse. It is quite difficult to appeal against such a refusal[40].

On October 22, 2020, the State Duma received a bill on amendments to Articles 17 and 18 of the Law "On the detention of suspects and accused of committing crimes", which, we hope, will create a reasonable balance between the interests of the preliminary investigation and the principle of the inadmissibility of arbitrary violation of the constitutional rights to privacy, personal and family secrets. The bill provides that visits with those relatives who are not witnesses in the case will be possible without a special permit. In all other cases, as now, permission is required. It is assumed that the duration of one visit and the procedure for its conduct will be determined by the administration of the place of detention. At the same time, in part 3 of Article 18 of the Law on Detention, it is proposed to establish that one meeting cannot last less than three hours.

According to paragraph 143 of the Internal Regulations of the pre-trial detention center, meetings of suspects and accused persons with relatives and other persons are carried out under the supervision of pre-trial detention center employees in rooms specially equipped for this purpose through a dividing partition that excludes the transfer of any objects, but does not interfere with negotiations and visual communication. Negotiations of suspects or accused persons with persons who have arrived for a meeting are carried out through an intercom device and can be listened to by the staff of the pre-trial detention center.

There are no literal restrictions in the law "On detention..." and the PVR of the pre-trial detention center and the IU on communicating with relatives during visits in any language other than Russian.

But paragraph 143 of the PPR of the pre-trial detention center says that the negotiations of suspects or accused with persons who have arrived for a meeting are carried out through an intercom device and can be listened to by the pre-trial

[40] In the spring of 2019, an interview with Plotnikov P.V., the ex-mayor of Yoshkar-Ola, was published in the media, where he reported that during his three years in the pre-trial detention center, he was not allowed to have a single meeting with his wife and children of 8 and 12 years. The second accused was in the pre-trial detention center of Yoshkar-Ola for more than a year and could not get a meeting with his father.

detention center employees. [41]

P.147 of the PVR of the pre-trial detention center establishes an exhaustive list of cases when a meeting can be terminated prematurely. The use of a language other than Russian is not included in this list. Neither the law nor the PVR contain any obligations to provide an interpreter.

The practice of providing visits

In all the correctional institutions visited, it is possible to get a long-term visit with relatives.

Visits are provided both on weekdays and on weekends, which is a positive practice and demonstrates the care of the administration to respect the right of prisoners to privacy, despite the fact that there is no clear obligation to allow visits on holidays and weekends. Long-term meeting rooms are located on the first or second floors. In all the institutions visited, they include rooms for living and a kitchen with equipment (stove, refrigerator, dishes). The use of the kitchen is free of charge. Also in all rooms there are showers, toilets, smoking rooms.

In the rooms for living, as a rule, there is a bed, a table, a wardrobe, a chair. In some regions, there are rooms where children's beds are placed (in other cases, children's furniture is brought from the warehouse at the request of the prisoner). Video surveillance in the living rooms, showers and toilets is not carried out.

Almost all institutions have paid additional services (electric kettle, TV, air conditioning, etc.), payment for which is made according to the established price list. According to the interviewed relatives, these services are not mandatory, they are not imposed by the staff of the visiting room. Visitors are aware of the right to use the room for free, and the prices for additional services, according to their estimates, are moderate.

All institutions have rooms for children's leisure. They contain toys, books, pencils, etc.

There are walking yards in long-term visiting rooms only in three regions, and then only in one institution of each region. Neither the legislation nor the practice of providing visits in institutions provides for walking yards in the rooms of long-term visits, while the opportunity to go outside is one of the components of a normal lifestyle - even in locked rooms, the possibility of a daily walk is provided, and there is no such opportunity here, which is important, especially for children. The duration of the meeting is 3 days, and all this time the prisoners and relatives are there without the possibility of going

[41]This paragraph was appealed to the Supreme Court of the Russian Federation, where they asked to invalidate it. The Supreme Court of the Russian Federation put it this way:" The Federal Law does not establish any rights of suspects and accused during personal meetings with relatives in conditions that exclude control by the administration, therefore the applicant's arguments about the violation of his rights to family secrecy and the secrecy of negotiations during a meeting are untenable." That is, if the law does not enshrine the right to communicate without listening by the administration, then there is no violated right.

outside.

In some institutions, there are houseplants, "pets' corners" in the rooms of long visits.

Conditions are not created everywhere for people with limited and other capabilities to stay there: there are no ramps, special devices in the toilet and shower, there are no signs in braille. In two regions, all long-term visiting rooms are located on the second floor, which completely excludes the possibility of visiting prisoners by relatives with musculoskeletal disorders, and creates difficulties, for example, for the elderly.

At the same time, relatives and convicts during surveys in any of the regions did not report incorrect behavior of employees. During the visits, the convicts are given the right to change into everyday home clothes, which is also a positive practice.

In one institution, queues were recorded when using common areas (kitchen, showers), as well as a shortage of meeting rooms, as a result of which the waiting for a visit can take up to 2 months. This is due to the large number of prisoners in places of detention.

There are problems with the provision of visits with other persons who are not relatives. In all institutions, the dependence of the provision of such visits on the prisoner's obligation to confirm the existence of a long-term family connection before incarceration (having common children, running a common household) is recorded. In some institutions, the information provided by the heads of the detachments is taken into account - about maintaining contacts through calls and letters of the prisoner with this person. The absence of such confirmation imposes a ban on the provision of a long visit. In one of the regions, in order to allow a long visit with persons who are not relatives, the management of institutions requests a certificate from the district police officer, or another document confirming the fact of cohabitation, and for accompanying children – a birth certificate, where the parents are indicated.

In one of the women's colonies, long visits with other persons are not provided, according to the explanations of the staff, because of the risk of an unwanted pregnancy of the convict. This restriction is arbitrary and has no grounds from a legislative point of view.

The very obligation to confirm family ties and the list of documents required for this are not provided for by any regulatory acts. Granting visits to other persons is the exclusive right of a prisoner, and in no way should depend on the will of the head of the colony, his principles, desires and views.

The relevance of this issue is also indicated by the statistics of prisoners' appeals to various state authorities. This problem is associated with the largest number of complaints. Thus, in 2019, based on the results of responses to requests, it was found that the territorial bodies of the Federal Penitentiary Service received 140 complaints about the refusal to provide visits from prisoners from 13 regions of the Russian Federation, 31 complaints to the

regional prosecutor's offices for supervision, 8 complaints to the Human Rights Commissioners.

In one of the institutions, for example, in addition to the above requirements, in order to obtain a long-term visit with a person who is not a relative, there is also a requirement for mandatory employment of a convicted person, which is an additional arbitrary restriction and has no grounds at the legislative level. The right to privacy implies the possibility of meeting with a loved one with whom there was not even a life together. The head of the institution must proceed from the right of the convicted person to private and family life. The meeting cannot depend on the behavior of the prisoner, it can be provided as an incentive, and the arguments for refusal can only be related to the fact that the person poses a certain danger, is capable of committing a crime, or this meeting may have a negative impact on him.

A long wait for a visit was recorded in one of the regions participating in the study. There, the waiting time is about 6-7 hours, which is primarily due to the lack of employees.

In pre-trial detention facilities, obtaining a short-term visit depends on the permission of the investigator conducting the criminal proceedings, or from the judge in whose proceedings the criminal case is being conducted. There were no obstacles to receiving visits from the employees of the detention centers.

In correctional institutions, short-term visits are provided to any person, regardless of the degree of kinship. Only in one institution it is recorded that short-term visits with persons who are not relatives are provided with the permission of the head, which is directly contrary to the law.

Rooms for short-term visits, in most institutions, provide a dividing glass between visitors and prisoners, excluding the possibility of tactile contact. In institutions where there is no dividing glass in the short-term visiting room, distancing is ensured by a large (1.5 - 2 meters) distance between the prisoner and the visitor. An employee of the institution is always present during the meeting. In this regard, the use of forms of visits that exclude contact can be regarded as an excessive restriction of rights, especially since the law does not provide for the obligation to establish certain restrictive measures in the law enforcement agency. Such a restriction is available only in the pre-trial detention center. Meeting through glass should be used only in exceptional situations that must be provided for by law.

As part of the study, the observers noted as one of the reasons leading to the delay in the process of obtaining a visit, an insufficient number of telephone sets. During the visits, all telephone conversations are listened to by an employee of the institution and can be stopped if the prisoner talks about the details of the criminal case and the investigation (in the pre-trial detention center), reports information about the security facilities of the institution or uses obscene language (both in the pre-trial detention center and in the IU). These powers of employees are provided by the PVR of the IU and the pre-trial

detention center.

If the separation between the visitor and the prisoner is ensured at the maximum level, then there is practically no distance between the neighbors. Many institutions do not provide isolated booths for people during a short-term visit, both from visitors and from prisoners. In most regions, the existing barriers do not provide confidentiality, and allow one prisoner to hear the conversation of another. Only in 4 subjects of the Russian Federation it was noted that the booths of short-term visits are completely isolated.

In one single case, a children's playroom and an outdoor playground were found in the premises for short-term visits, where children who arrived for a meeting with prisoners can spend time. This fact is undoubtedly a positive practice that requires dissemination.

Drinking water in the rooms of short-term visits for both parties is provided only in three regions participating in the monitoring. This practice should be disseminated. In some of the institutions visited, drinking water is provided during visits, but rarely, and there are cases when only visitors who have arrived for a visit are provided with water, and prisoners are not.

The practice that can be spread is the experience of three regions, where positively characterized convicts are given the opportunity to get a short-term appointment in a cafe on the territory of the institution. Here the visitor communicates with the prisoner without a partition, without listening, and it is possible to bring food and drinks with them.

In some cases, the short-term visiting room is a common room without partitions, where visitors are separated from prisoners only by a distance of about 1.5 meters, so that conversations are audible to everyone present.

In some regions, complaints from prisoners about the lack of the possibility of conducting visits in languages other than Russian have been recorded.

Conclusions

Granting privileges to persons who have earned positive characteristics, in the form of providing additional visits, is a practice worthy of spreading. However, it is of concern that in the legislation the right to have a visit is made dependent on behavior, on the one hand, and is a lever of punishment, on the other. The reduction in the number of visits in the strict conditions detachment, the dependence of the provision of a short-term visit on the exclusive will of the chief for persons placed in the PKT (for up to 6 months), in the EPKI (for up to 1 year), can be regarded as an excessive restriction of the right to privacy. People can be kept in cell rooms continuously for more than a year, up to several years, in the case of consistent application of this type of penalties to them.

This is a dangerous trend, which is confirmed by the practice of

introducing additional restrictions. Behavior may affect the form of conducting meetings (in person or through glass), and not the possibility of its implementation.

In all subjects of the Russian Federation, it is necessary to improve long-term visiting rooms, taking into account the needs of relatives (elderly people, people with impaired mobility, children) and the possibility of going out for walks.

Currently, the norm obliging to obtain the written consent of the investigator to meet with close relatives, even those who are not related to the criminal case, does not meet the requirements of predictability and does not define the circumstances in which visits can be refused, which is an excessive restriction of the right to privacy.

Visiting through glass or at a distance is also an excessive restriction, which does not positively affect the preservation of family ties and should be used only in exceptional cases, and not as a rule. Visits should be considered as a way of socialization, and restrictions that are not provided for by the law or the PVR do not correspond to this goal and should be leveled. During a visit, the possibility of tactile contact between people is important, especially if they are close relatives.

Seeing through glass can only be used in the IVS, and then not always, but only in exceptional cases when it comes to prisoners with the status of "especially dangerous", but certainly not as a punishment for bad behavior. The meeting is controlled by the presence of an employee, and the use of other forms that restrict contact is excessive.

Due to the fact that the possibilities for using a language other than Russian for communication of suspects and accused with relatives and friends are not regulated at the legislative level, in many regions this is an obstacle to the realization of the right to visits.

Departure from the colony for meetings with relatives for exceptional personal circumstances and on vacation

National legislation

Article 97 of the Criminal Executive Code of the Russian Federation allows convicted persons to leave correctional institutions: for a short period - up to seven days, not counting the time required for travel there and back, due to exceptional personal circumstances (death or serious illness of a close relative that threatens the life of the patient; a natural disaster that caused significant material damage to the convicted person or his family), as well as for preliminary resolution of issues of the prisoner's labor and household arrangement after release; for a long period - for the duration of annual paid leave; convicted women who have children in children's homes of correctional colonies may be allowed to travel outside of correctional institutions to place children with relatives or in an orphanage for up to 15 days, not counting the time required for travel there and back; convicted women who have a minor disabled child outside the correctional colony, as well as convicted men who have a minor disabled child and are the only parent, may be allowed four trips a year to visit the child for up to 15 days each, not counting the time required for travel there and back; convicted women who have a child under the age of 14 outside the correctional colony, as well as convicted men who have a child under the age of 14 and are the only parent, may be allowed two trips per year to visit the child for up to 10 days each, not counting the time required for travel there and back.

This right presupposes the possibility of its use by all prisoners, with the exception of particularly dangerous recidivists; convicts to whom the death penalty has been replaced by imprisonment by way of pardon; those sentenced to life imprisonment; patients with an open form of tuberculosis; those who have not undergone a full course of treatment for venereal disease, alcoholism, substance abuse, drug addiction; HIV-infected convicts, as well as in cases of anti-epidemic measures, recognized as malicious violators of the established order of serving a sentence; convicted of a crime against minors; convicted of crimes involving the implementation of terrorist activities, smuggling, hostage-taking, production, distribution and involvement in the use of drugs, for the crimes of attack on the seizure of power, armed rebellion, attempt on the life of a state or public figure, as well as persons and institutions enjoying international protection, as well as convicted persons for whom the postponement of serving a sentence was canceled by a court. This list is closed in nature.

Convicted persons suffering from mental disorders that do not exclude sanity, disabled persons of the first or second group and those who need outside care for health reasons, as well as minor convicted persons, are allowed to leave the correctional institution accompanied by a relative or other accompanying person.

The application of the convicted person for granting him a short-term trip outside the correctional institution in connection with exceptional personal circumstances must be considered within a day.

Permission is given by the head of the correctional institution, taking into account the nature and severity of the crime committed, the time served, the personality and behavior of the convicted person. If the convicted person is granted permission to leave the correctional institution, the administration immediately notifies the victim or his legal representative about this, if there is a copy of the court ruling or decision on notifying the victim or his legal representative about the departure of this convicted person outside the correctional institution in the personal file of the convicted person.

The time during which the convicted person is allowed to leave the correctional institution is counted in the term of serving the sentence.

The expenses of the convicted person in connection with leaving the correctional institution are paid by him from his own funds or by other persons. During the stay of the convicted person outside the correctional institution during a short-term departure, wages are not accrued to him.

The departure of convicted persons to the territory of another State is allowed in the manner and in the cases provided for by agreements with the relevant States.

The practice of providing trips outside the colony

Members of the PMC in the regions of the study found from the responses to requests that in 2019, 110 applications were submitted by convicts to leave the colony. Permission was obtained for 83 of them, and a refusal was issued for the remaining 27.

The observers noted that in comparison with 2018, the number of trips outside the colonies increased in 2019.

At the same time, refusals to grant leave are different: non – occurrence of the period for granting leave - 5; unsatisfactory social and living conditions at the place of stay on vacation – 8; failure to provide a response from law enforcement agencies about the place and conditions of vacation – 1; presence of a convicted person before arrest on the wanted list – 1; presence of a valid penalty – 1; negative characteristics – 7; long period till the end of the sentence – 1; 4 applications at the time of the study were under consideration by the management of the colonies.

Members of the PMC in the monitoring regions found that in 2019, 27 applications were submitted by convicts for short-term travel outside the institution in accordance with exceptional family circumstances. As a result, 18 of them were satisfied, and 9 were rejected. The grounds for refusal are as follows: absence of documents confirming the reason for departure - 3; category "particularly dangerous relapse" - 1; presence of violations of the PVR - 5.

The observers noted that the number of refusals to grant leave outside the

colony is directly related to the fact that this issue is agreed in advance between the prisoner and the administration on an individual basis. This is due to the minimum number of applications and such "trouble-free" statistics, as a result of which there is a false impression that there are not so many people who want to get a vacation outside the institution. These conclusions are made on the basis of confidential information received from employees.

Conclusions

The possibility for prisoners to see relatives during their vacation or to say goodbye to a close relative in case of death or serious illness is a very important element of respecting the right to family life. This possibility is provided by the Criminal Executive Code of the Russian Federation. In practice, the implementation of the right to short-term departure is of a single nature.

It should be noted that there has been a positive trend in the implementation of the right to grant leave outside the colony in recent years, which needs to be developed. The possibility of leaving for a convicted person can be a good reason for law-abiding behavior, work, and participation in various kinds of events organized in the institution; therefore, it is necessary to inform prisoners more widely about the possibilities of exercising this right.

The minimum number of permitted visits may be one of the symptoms that indicate that the penitentiary work with persons deprived of liberty in this institution is carried out improperly and requires revision, refinement and development.

Also, the very norm of the law regulating the possibility of departure requires improvement, for example, in relation to prisoners living with HIV, since there are no reasonable grounds for finding them in the list of those whose departure is prohibited.

The right of a convicted person should not depend on the will of the head of the institution, and the refusal to grant it should be motivated, based solely on the law, which requires clarification in by-laws.

The existence of various grounds for refusal is an excessive restriction of the right to family life, since the law states that this right is granted by the head of the institution in connection with the personality and behavior of the prisoner, and the list of travel bans is exhaustive.

Serving a sentence away from the region of residence

National legislation

The territorial principle of serving a sentence is stated in Article 73 of the Criminal Executive Code of the Russian Federation: *"Convicted persons, except for those specified in part four of this article, serve their sentences in correctional institutions within the territory of the region of the Russian Federation in which they lived or were convicted. In exceptional cases, due to the state of health of convicted persons or to ensure their personal safety, or with their consent, convicted persons may be sent to serve their sentence in an appropriate correctional institution located on the territory of another region of the Russian Federation. If there is no correctional institution of the appropriate type in a region of the Russian Federation at the place of residence or at the place of conviction, or if it is impossible to place convicts in existing correctional institutions, the convicts are sent, in coordination with the relevant higher management bodies of the penal enforcement system, to correctional institutions located on the territory of another region of the Russian Federation, in which there are conditions for their placement.* [42]"

However, serving a sentence outside the region of residence remains a problematic area.

On September 29, 2020, amendments to the Criminal Executive Code of the Russian Federation came into force regulating the transfer of a convicted person to serve his sentence to the region at the place of his residence or the residence of his closest relatives. Such a transfer is possible once for the entire term of serving a sentence by the decision of the Federal Penitentiary Service of Russia, if there are places in correctional institutions in the region to which the transfer is being carried out. If there are no places, the transfer for serving the sentence can be carried out to the neighboring region closest to the region of residence of the convicted person or his close relatives. By close relatives, the law means the parents, children of the convicted person, the wife, grandparents of the convicted person, or other relatives in the absence of these. The new law provides that the basis for transferring a prisoner to a correctional colony at the place of residence of relatives is the application of the convict himself, sent to the Federal Penitentiary Service of Russia, the application sent by his legal representative (lawyer), with the written consent of the convicted person for such a transfer, or the application sent by the relatives of the convicted person with the written consent of the convicted person for the transfer. At the same time, it is necessary to attach documents to the application, if it is a question of transfer closer to relatives (not at the place of residence of the convicted person), confirming the relationship, as well as the place of residence of

[42] http://www.consultant.ru/document/cons_doc_LAW_12940/468cf0b6c22313ab3ce167d13d485a05ab9f4489/

relatives[43].

In accordance with paragraphs 2, 5 of the Resolution of the Plenum of the Supreme Court of the Russian Federation No. 21 of 27.06.2013, the legal positions of the European Court of Human Rights, which are contained in the final decisions of the Court adopted in relation to the Russian Federation, are binding on the courts. Any restriction of human rights and freedoms must be based on federal law; pursue a socially significant, legitimate goal (for example, ensuring public safety, protecting morals, decency, rights and legitimate interests of other persons); be necessary in a democratic society (proportional to the goal being pursued). Failure to comply with one of these restriction criteria constitutes a violation of human rights and freedoms, which are subject to judicial protection in accordance with the procedure established by law. The European Court of Human Rights in its decision of 25.07.2013 (the case "Khodorkovsky and Lebedev v. Russia") in paragraphs 836, 837, 850 formulated the following significant approaches (guidelines): restrictions on contacts with other prisoners and family members established by prison rules were considered by the European Court as "interference" with the rights protected by Article 8 of the Convention. Thus, the placement of a convicted person in a particular prison may raise a question under article 8 of the Convention if its consequences for the applicant's personal and family life go beyond the "usual" hardships and restrictions inherent in the very concept of deprivation of liberty. The European Court in its decision indicated that it is aware of the difficulties associated with the management of the prison system, takes into account the situation in the Russian Federation, where historically correctional colonies were built in remote and deserted areas, far from the densely populated regions of Central Russia, and other arguments in favor of giving the authorities wide discretion in this area. However, the limits of discretion are not unlimited. The distribution of the prison population should not depend entirely on administrative bodies, such as the Federal Penitentiary Service. The practical implementation of this law in the Russian Federation may still lead to a disproportionate result. In the absence of a clear and predictable method of distributing convicts among correctional colonies, the system does not provide a measure of legal protection against arbitrary interference by public authorities, and this may lead to results incompatible with respect for the applicants' personal and family life.

The practice of serving a sentence away from the region of residence

[43] In more detail, the procedure for distributing convicts to correctional institutions of the Federal Penitentiary Service of the Russian Federation is prescribed in the Instructions on the procedure for sending convicts to prison to serve their sentences, their transfer from one correctional institution to another, as well as sending convicts for treatment and examination to medical-preventive and curative correctional institutions. The Federal Penitentiary Service of the Russian Federation has the exclusive right to distribute prisoners to correctional institutions by a court decision.

For the monitoring period, according to information received from responses to requests to regional departments of the Federal Penitentiary Service, at least 4000 people serving sentences outside their regions of residence were recorded in only 13 regions in 2019.

There is a positive trend towards a decrease in such statistics, which is confirmed by the results of a study of one of the regions with the largest number of prisoners. In 2018, 1653 prisoners from other regions of the Russian Federation served their sentences there, and in 2019 their number decreased to 593 people.

As part of the work on the project, the members of the PMC faced complaints from prisoners and their relatives about the facts of sending persons sentenced to imprisonment to other regions to serve their sentences or about a sudden transfer due to operational considerations.

Conclusions

Despite the territorial principle of serving a sentence and the desire of the Russian Federation to comply with it, in practice, prisoners themselves and their relatives still have serious difficulties in maintaining family ties due to the actions of officials of the Federal Penitentiary Service of the Russian Federation, whose exclusive competence is to decide on the selection of a specific correctional institution. The choice of the location of the colony does not always coincide with the place of residence of the prisoner. This creates obstacles in the implementation of personal contacts through visits with relatives, most of whom cannot afford to pay for long-distance travel.

Observance of the right to marry in detention facilities

National legislation

The possibility of marriage of persons in places of detention is regulated by Article 27 of the Federal Law "On Acts of Civil Status", the Family Code of the Russian Federation. There are no legal difficulties for getting married with persons who are in the IU.

A person who wants to marry a suspect or accused person who is in a pre-trial detention center applies to the registry office with an application for issuing a joint application form for marriage, which is provided in the pre-trial detention center. Since the suspect or the accused does not have the opportunity to be personally present at the civil Registry office, when submitting an application for marriage, the interested person, with the permission of the body (official) in whose proceedings the case is, must invite a notary to the pre-trial detention center, in whose presence the detained person fills out his side of the application form for marriage registration. The notary certifies the authenticity of his signature on the application, after which the notarized application for marriage is transferred to the other party for further registration in the registry office. The application form can be issued directly to the suspect or the accused by the administration of the pre-trial detention center at his request. The application is also filled out in the presence of a notary who certifies the authenticity of the person in the pre-trial detention center, after which this application is transmitted through the administration of the pre-trial detention center to the person with whom the suspect or accused wants to marry. At the same time, the administration of the pre-trial detention center informs the registry office, which is authorized to register this marriage. The civil registry office at the location of the correctional institution, having accepted a joint application for marriage, sets the date and time of marriage registration and notifies persons wishing to marry about it in advance. Article 11 of the Family Code of the Russian Federation establishes that the marriage is concluded in the personal presence of persons entering into marriage, after a month from the date of their submission of an application to the civil registration authorities, and if there are valid reasons, the term may be shortened or extended, but not more than a month. If there are special circumstances, such as pregnancy, the birth of a child, the presence of an immediate threat to the life of one of the parties, etc., the marriage can be concluded on the day of filing the application.

Registration of marriage with a convicted person is carried out in the presence of persons entering into marriage, in a room determined by the administration of the IU in agreement with the head of the civil registry office.

Registration of marriage with a suspect or accused serving a disciplinary penalty in a punishment cell can be made only after serving this penalty.

The practice of marriage in places of deprivation of liberty

There were no cases of a ban on marriage in any of the visited law enforcement agencies. In correctional colonies, to ensure this procedure, prisoners are given the opportunity to change into civilian clothes and get permission to take photos and videos if they have a written application. After the marriage procedure, as a rule, a three-day date is provided. It should be noted that there is a positive practice of marriage in churches located on the territory of correctional institutions[44].

In some regions of the Russian Federation, however, there are not so many marriages concluded in places of deprivation of liberty. According to the members of the PMC, this fact is connected exclusively with the national characteristics of the regions.

Conclusions

There is a positive practice in correctional institutions to facilitate the registration of marriages. Such an opportunity is freely provided to prisoners, including additional positive conditions described above.

As for the procedure for registering a marriage in a pre-trial detention center, it involves calling a notary and depends on the will of the investigator or other person in whose proceedings the case is, which may be an obstacle to the realization of the right to privacy.

The right to marry also cannot depend on the nature of the prisoner's behavior, when it takes the form of encouragement. This right should remain primarily a right, and it can be restricted only for a specific purpose, stipulated in the law.

[44] If there is a desire to marry. But the question remains with the possibility of getting married, taking into account the religious characteristics of those who profess a different religion than Orthodoxy.

Informing convicts about the illness or death of a close relative

The observers raised the question of who and how informs prisoners about the death or illness of a relative. In some regions, there is a positive practice in this regard, corresponding to the observance of the rights of prisoners, when an individual conversation is conducted by the head of the detachment or a psychologist.

Conversations of a psychologist with prisoners, in case of the death of a relative, and subsequent psychological support of prisoners are practiced in 4 regions that fell within the scope of the study.

Personal time, space and belongings of the prisoner

National legislation

The Criminal Executive Code of the Russian Federation does not contain the concept of a prisoner's personal space. With regard to personal time, paragraph 11 of the PVR[45] provides for the possibility for prisoners to dispose of personal time provided for by the daily routine, without violating the established rules of conduct; to join amateur organizations of convicts; to participate in cultural and sports events, use the library, board games at a certain time of the day. P.46 of the PVR also states that during their personal time, convicts can step out of line within an isolated area defined by the administration of the IU, and in the rest of the territory of the IU only accompanied by the administration of the IU. Personal time is set by the schedule of the IU; an approximate schedule is contained in the appendix to the PVR and is 2 hours of personal time per day.

The right to have personal belongings is provided for by the PVR of the IU. According to paragraph 6 of the Internal Regulations of the IC, convicts who have arrived at a correctional institution are subjected to a personal search, and their belongings are weighed and inspected. In accordance with paragraph 53 of the Rules, prisoners upon arrival at a correctional institution have the right to have things, objects and food products with a total weight of not more than 50 kg, of which 36 kg - directly at the place of residence in the dormitory of the detachment, and the remaining things, including those exceeding 50 kg, are placed in a warehouse for storage. [46] If necessary, they can be given to the owners, if they are not considered superfluous.

The property that is provided to convicts (a bed, bedside tables, tables, chairs, mattresses, bedding, etc.) for the period of serving a sentence is contained in a subordinate act of the Federal Penitentiary Service[47] and does not belong to personal belongings.

The practice of providing personal time and space, the ability to use personal things

The presence of personal space and personal belongings is an important right not only from the point of view of human rights, but also from the point of view of the rehabilitation of convicts. People live in colonies for years. It is very

[45]Order of the Ministry of Justice of the Russian Federation of 16.12.2016 N 295 (ed. of 29.01.2021) "On approval of the Internal Regulations of correctional institutions" (Registered with the Ministry of Justice of the Russian Federation on 26.12.2016 N 44930). http://www.consultant.ru/document/cons_doc_LAW_210064/

[46] Note to the Annex № 1 Приказа Минюста России от 16.12.2016 N 295 (ред. от 29.01.2021) "Об утверждении Правил внутреннего распорядка исправительных учреждений" (Зарегистрировано в Минюсте России 26.12.2016 N 44930).

[47] Order of the Federal Penitentiary Service of July 27, 2006 No. 512 "On approval of the nomenclature, standards of maintenance and terms of use of furniture, inventory, equipment and household items (property) for institutions executing criminal penalties in the form of imprisonment, and pre-trial detention centers of the penal enforcement system".

important that conditions are created for them aimed at positive changes that maintain a connection with their home.

During the study, it turned out that the approach to this issue differs in different regions and institutions.

For example, in some women's colonies, convicts have the opportunity to design premises, paint walls, improve and decorate the territory of the local site. This is a positive example, recommended for distribution.

In other regions, it is strictly prohibited to paste over the walls with paintings, clippings, drawings and any other decorative elements. At the same time, the employees of the institutions refer to the ban in the PVR of the IC, which does not exist as such, which indicates an arbitrary interpretation of the information.

As for the pre-trial detention center, there is a direct ban on pasting walls, cell equipment with paper, photographs, drawings, clippings from newspapers and magazines, putting inscriptions and drawings on them under the threat of prosecution. [48]

During the study, it was found that in all regions of the Russian Federation in institutions of the penal enforcement system, convicts use one bedside table for two; this is exactly what is indicated in the order of the Federal Penitentiary Service. [49] Thus, given that prisoners are in the colony for a long time, the bedside table cannot be considered the personal space of one particular person. It becomes a common space for two. According to the convicts, here they usually keep writing materials, documents, photos of loved ones, books, objects of worship. All these are quite personal things, which, in fact, are in the zone of visibility and access of another person, a neighbor on the bedside table. This is an excessive restriction of the prisoner's personal space, and is not justified by any necessity in a democratic society.

As for the pre-trial detention centers, they do not provide a bedside table at all. It is not included in the list of furniture items that cells are equipped with. [50]

The position of employees of institutions regarding the possibility of storing personal belongings on the surface of the bedside table, which can create comfort and positively affect adaptation, is also different. In two regions that fell within the scope of the study, there is no such ban, and prisoners use this opportunity, in other regions the situation depends on the position of the head of the IU, in some regions there is a complete ban on storing personal belongings

[48] Annex1 p. 3 to Приказу Минюста России от 14.10.2005 N 189 (ред. от 29.01.2021) "Об утверждении Правил внутреннего распорядка следственных изоляторов уголовно-исполнительной системы" (Зарегистрировано в Минюсте России 08.11.2005 N 7139).

[49] Order of the Federal Penitentiary Service of July 27, 2006 No. 512 "On approval of the nomenclature, standards of maintenance and terms of use of furniture, inventory, equipment and household items (property) for institutions executing criminal penalties in the form of imprisonment, and pre-trial detention centers of the penal enforcement system".

[50] Article 42 Приказа Минюста России от 14.10.2005 N 189 (ред. от 29.01.2021) "Об утверждении Правил внутреннего распорядка следственных изоляторов уголовно-исполнительной системы" (Зарегистрировано в Минюсте России 08.11.2005 N 7139).

on the bedside table. The employees explain the ban by the fact that Appendix 3 to the PVR of the IU contains a photo-sample of making beds, which shows a bedside table with an empty surface.

An important factor is that the prisoners themselves do not perceive the bedside table as a personal space, since they share it with another person. In some cases, there are no bedside tables in the detachments at all, and personal belongings are stored in bags.

Sleeping places in institutions are located mainly at a distance of 70 to 150 cm from each other. At the same time, it is a widespread practice to place beds close to each other so that they touch. As a result, it turns out that prisoners sleep at a distance of 10-20 cm from each other, which deprives them of personal space. This is the case in at least 6 regions.

It is also a common practice to use bunk beds, which, as it turned out, are available in all regions of the Russian Federation. At the time of the monitoring, each prisoner had his own separate sleeping place, both in the IC and in the pre-trial detention center.

During the study, it was revealed that in some regions there are still cells where the privacy of the sanitary unit is not ensured, which needs to be urgently eliminated.

In the closed list of items allowed for use[51] in the pre-trial detention center, there are no personal books, clocks, as well as a kettle. The necessity of these subjects was emphasized by the prisoners themselves during the study. It is very difficult to be in a cell without a clock, in a complete lack of understanding of time. The reason why the use of boilers is allowed, but there are no kettles, is also not entirely clear, given that the boiler is much more dangerous in terms of fire safety.

In the library of the pre-trial detention center, as a rule, prisoners have outdated literature at their disposal and it is rare to find books by modern authors, while the ability to have a personal book can be very important for a prisoner. There is no reasonable explanation for the imposition of restrictions on these items.

In correctional institutions, interest clubs are provided for spending free time (literary, sports, clubs for lovers of cinema, plant growing, design, wood carving, theater). According to the convicts, they join the clubs voluntarily, without coercion. When a convicted person is placed in a pre-trial detention center/PKT the opportunity to participate in the club is terminated. All convicts can play board games (chess, checkers, backgammon). All institutions have libraries with a large selection of books. Many prisoners are engaged in self-education. Sports activities (football, gym) are widespread. According to the prisoners, they choose their own ways of spending personal time, there is no

[51] Annex 2 to Приказу Минюста России от 14.10.2005 N 189 (ред. от 29.01.2021) "Об утверждении Правил внутреннего распорядка следственных изоляторов уголовно-исполнительной системы" (Зарегистрировано в Минюсте России 08.11.2005 N 7139).

pressure from the administration.

There is a positive practice of using premises in the "cafe" format for viewing sports broadcasts by prisoners who have distinguished themselves by good behavior and do not allow violations.

In the pre-trial detention center, prisoners spend their free time (according to the daily routine) mainly reading books, watching TV (if available). They spend a lot of time working with documents on a criminal case. There is no opportunity to engage in creativity in a pre-trial detention center.

Personal belongings (up to 36 kg) are stored by convicts in the detachments, refrigerator and special locked rooms, which are opened by the head of the detachment, the labor supervisor or the day worker, according to the daily routine. If necessary, prisoners can receive them. Things are stored in individual bags, to which an inventory is attached. In practice, a prisoner can take the necessary item from the storage room in a period of time from a few minutes to 2-3 hours from the moment of contacting the person responsible for storage. It should be noted that access to these things should be immediate, and a long wait may be an excessive restriction.

Warm clothes are handed over to the warehouse and are issued only upon a written application. In the case of a sharp change in weather conditions, there is a problem of receiving them in a timely manner, which leads to discomfort that can last for several weeks. There were cases when prisoners froze in light clothes, or, on the contrary, were forced to walk in winter shoes during the warm period of time, which led to the spread of various diseases.

Observers noted the unreasonableness of the ban on having e-books with them[52]. They do not provide for an Internet connection, and the information contained in them is easy to check. A rational answer about the reasons for the ban could not be obtained. In addition, e-books can be available to persons serving a sentence in a light regime detachment and in a colony-settlement (note 4 to Annex 2 of the PVR of the IU).

In locked rooms (ShIZO, PKT), things are stored in a separate room, these rooms are entered 1-2 times a day.

There were no cases of loss or damage of personal items from storage rooms during the study.

Prisoners have the opportunity to wash their underwear. Special rooms are provided for drying things in correctional institutions. There are no such premises in the pre-trial detention center, and prisoners are forced to dry things in the cell, sometimes this becomes the basis for a penalty, since it is prohibited to hang all over of a sleeping place by the PVR of the pre-trial detention center.

Prisoners receive personal belongings in parcels and through transfers. During the monitoring, the observers drew attention to the availability of

[52] P.12 of Annex 1 to Приказу Минюста России от 16.12.2016 N 295 (ред. от 29.01.2021) "Об утверждении Правил внутреннего распорядка исправительных учреждений" (Зарегистрировано в Минюсте России 26.12.2016 N 44930).

receiving parcels and the conditions under which this process is carried out.

The rooms for receiving parcels in all visited institutions are small ones in or near the administrative part of the institution. Inside there are tables for drawing up documents, places for sitting and waiting for receiving a parcel or a visit. In some regions, such rooms are very small in size; they do not accommodate all visitors at once, which is why they are forced to wait outside in all weather conditions. In exceptional cases, the necessary conditions for visitors, including chairs and toilets, were not available in the reception rooms.

The waiting time, according to surveys, ranges from 15 minutes to 1 hour. Queues were recorded only in two regions. In one of the institutions, a fact was revealed when the persons who delivered the parcel had to come again for this purpose, since they did not have time to transfer it before the reception room for parcels was closed. Stands with information about the procedure for receiving parcels in all institutions are quite detailed; pens and paper are available on request. In three regions, the reception rooms for parcels did not work on weekends.

The list of prohibitions on certain types of products in the Internal Regulations of the IU (Annex No. 1) is exhaustive. But in some cases, additional prohibitions were found that were not provided for by law. So, refined sugar, parsley, dill, spices, cakes, packaged tea were banned. It was not possible to get a reasonable explanation for the introduction of these restrictions from the employees, except for the fact that in the summer, according to the order of the sanitary doctor, a ban is imposed on the transfer of some perishable products.

There is a service "FSIN-purchase" - a resource on the Internet, with the help of which relatives and friends of a prisoner can order the necessary items and products for him. However, according to the information obtained during the research, this service is not popular. The reason for this could not be found out.

During the survey of prisoners, no facts of excessive spoilage of food were revealed. In all regions, they are delivered in the proper form.

Prisoners can keep food with them: in the pre-trial detention center - in a cell, in an acceptable volume, in the IU - in a room for eating (mainly, storage in transparent individual containers is practiced).

Also, prisoners in pre-trial detention centers and detention centers have the opportunity to purchase food and items in stores located on the territory of institutions.

Conclusions

The concept of personal space for prisoners is not defined by law, which in practice creates conditions for the complete restriction of the minimum possible personal space for a person necessary for the realization of the right to privacy: for example, sleeping places are in contact with each other, there are no places

for individual storage of personal belongings, for example, a bedside table for each convict, a ban on decorating one's personal space in some way, or the possibility of placing a photo of a loved one on the bedside table.

A number of prohibitions are excessive, do not meet the criteria of reasonableness and necessity even in prison conditions, and require revision. Some of the bans imposed in certain regions do not comply with both the law and by-laws.

Currently, the list of items and food products that convicts are prohibited from making, carrying, receiving in parcels or purchasing, as well as restrictions on the number of personal items, is contained in a by-law (Annex No. 1 to the PVR). It would be more correct if they were regulated by the Criminal Executive Code of the Russian Federation.

An important practice is the ability of prisoners to realize their personal interests, for example, to attend sports and cultural events, which should be developed and encouraged.

Respect for the right to privacy of individual groups of persons

Women prisoners with children, pregnant women and women with children outside the colony

The situation of this category of persons was not a separate topic for study, but it requires more detailed research in the future, since women with children, pregnant women and women with children outside the colony are among the most vulnerable groups.

The Federal Penitentiary Service of the Russian Federation has 13 colonies with children's homes, which contain about 500 children. This category of prisoners can be held in a pre-trial detention center. In all the institutions visited, there are special rooms for pregnant women and women with children, in which there is a shower, a rangette for cooking, a changing table, and toys.

According to civil society organizations that support women, there is a discriminatory approach towards women with children and pregnant women in detention. This is reflected in the approaches to working with pregnant women, placing children from colonies in families, etc. [53]

There are concerns that during childbirth, the human dignity of the woman in labor may be violated, unacceptable methods of control and restraint may be used. The project "Women. Prison. Society" showed several examples of problems from the lives of women who gave birth in prison and live with children in colonies. [54]

During the monitoring, cases were identified when a child was separated from his mother for up to 1 month after giving birth. The women did not have any information about their children at all during this time period. As a result, the consequences for both the mother and the child were enormous: moral and physical pain, loss of milk, psychological exhaustion, loss of precious moments of the first days of breastfeeding, loss of immunity.

Upon reaching the age of three, the child is taken from the prison orphanage and transferred to relatives, orphanages or foster families. A breakup is a very difficult process for a mother and child, and there is no proper preparation for it. In addition, there are cases when the foster family interrupts the communication of the child with the mother, which is unacceptable from the point of view of respecting the right to privacy.

It is also very important to maintain social ties of mothers in custody with children out of prison, the possibility of visits, telephone conversations, preparing mothers for family life with a child after release.

Special attention should be paid to migrant women. They have no documents, they do not receive social benefits. This category of women in

[53] Lawyers of NGO "Man and Law" have a case when a woman lost a child because she was not registered in the early stages of pregnancy and was not provided with support in custody, pregnancy was not taken into account during transferring, and she was traveling in terrible conditions.

[54] https://women-in-prison.ru

practice is considered unreliable and are always at risk of breaking up with children.

Conclusions

There are many questions about the detention of pregnant women, women with children and mothers who have children left out of prison, the topic requires mandatory separate study and may become the subject of the next study.

Prisoners from other regions and States

This category is also one of the most vulnerable in terms of maintaining family ties, since the arrival of relatives and friends for visits is associated with large financial costs, the availability of additional documents, as a result of which these prisoners see their relatives much less often.

Obstacles in telephone conversations in the native language do not contribute to the strengthening of personal ties. Even if the prisoner speaks Russian, his relative, with whom he is talking on the phone, does not understand his speech sufficiently to fully maintain communication, or does not know Russian at all.

Despite the fact that all institutions have a large library fund, there are very few books in foreign languages in them. Many languages are not represented at all, which hinders the prisoners' self-development, free choice of leisure, and maintaining contact with their native culture.

It is worth noting the situation in some regions, where many foreign citizens are kept in institutions, who for the most part do not speak Russian. For them, the difficulty lies in any communication with employees, with other prisoners, in understanding the requirements, internal regulations, information contained in the regulatory acts of the institution. Prisoners, in fact, are isolated from all the processes taking place in the institution. No additional actions have been taken to resolve this difficult situation yet.

Conclusions

It is necessary to continue to reduce the percentage of prisoners serving sentences in regions far from their place of residence, to replenish the library collections of places of deprivation of liberty with literature in the languages of people held in institutions, to look for ways to attract interpreters.

Conditions for visitors with reduced mobility

In most institutions, no special conditions have been identified for people with disabilities to stay on short-and long-term visits. Narrow passages and doorways, cramped rooms, the presence of steps in the rooms were noted in the rooms of short-term and long-term visits, rooms for receiving parcels in almost all the institutions visited. Conditions for visiting of low-mobility categories of citizens are created only in two subjects of the Russian Federation.

Conclusions

The presence of conditions for citizens with disabilities to visit UIS institutions (wide doorways, the absence of thresholds or low sloping thresholds, the presence of ramps, thresholds in the premises that can be overcome by a wheelchair, sanitary facilities are equipped with handrails, parking spaces for disabled cars are allocated in the adjacent parking lot) is a positive practice that requires dissemination in other institutions.

Systematization of complaints and statements about violations of the right to privacy by supervisory authorities and bodies protecting human rights in detention facilities

The responses of prosecutors for the supervision of human rights in correctional institutions illustrate only the general statistics of appeals from places of detention. The responses indicate that the Prosecutor's office does not keep separate records of appeals on issues of compliance with the right to privacy.

The same can be noted from the responses of the Human Rights Commissioners: the classification of incoming appeals is conducted on the general grounds of identifying and preventing possible violations of human rights in general. In most cases, the members of the PMC received answers, according to which it can be concluded that there is no separate statistics, categorization and planned work on appeals related to "violation of the rights of convicts to private and family life".

Conclusions

The prosecutor's office and the HRC bodies do not keep records of appeals, applications and complaints on issues of damage, loss of personal belongings, refusal to provide visits with relatives and other persons, violations during visits, a ban on providing telephone conversations and sending correspondence, refusal to provide conversations in their native language, violations during inspections and searches, disclosure of personal data and other violations of the right to privacy. The prosecutor's offices, some Human Rights Commissioners and the Federal Penitentiary Service departments do not keep separate statistics of appeals on these issues.

It seems that the topic of prisoners' private life is currently not considered by the FSIN, the Prosecutor's Office and some Human Rights Commissioners, as a vast area of prisoners' life that is important from the point of view of fundamental rights and freedoms and affects the process of resocialization of convicts.

Interaction of observers during the study with the bodies of the Federal Penitentiary Service, supervisory authorities and bodies monitoring the observance of human rights

During the study, no facts of opposition from the Federal Penitentiary Service were revealed in any region. When visiting institutions, observers were usually accompanied by an employee of the Department (in most regions they were assistants to the head of the regional FSIN for human rights), as well as an employee of the colony (most often the deputy chief acted in this role). The accompanying persons controlled the monitoring process, communicated with the observers, shared their opinion on certain legal norms, their own view on the degree of respect for human rights in the institution, etc. In most institutions, the staff were focused on interaction, openly engaged in dialogue, provided the requested information within their authority, tried to ensure the confidentiality of conversations with prisoners, accompanied visitors and provided access to all rooms necessary for studying within the framework of the study.

In a number of regions, however, the observers faced some difficulties. For example, in one institution, employees initially refused to participate in the survey, but later, according to the results of negotiations with the leadership of the Federal Penitentiary Service, the problem was solved.

In some cases, observers noted that participation in monitoring prompted the prisoners themselves, as well as employees of the penitentiary system, to study this section of rights more thoroughly. According to the reviews of the management of the colonies, after conducting surveys, prisoners were interested in such information and asked for it in libraries, and the staff had a more complete, comprehensive understanding of this section of prisoners' rights.

During the study, 13 requests were sent to the Federal Penitentiary Service (exhaustive answers were received for all of them), 40 requests were sent to the IK of the Federal Penitentiary Service in 13 regions of the Russian Federation (only 4 requests remained unanswered, and 1 indicated that it was not possible to provide the requested information due to the fact that it has a mark “for official use”).

In one of the regions, the responses from two IK came with a delay of one month due to the fact that the institutions, for an unknown reason, did not receive requests sent to the email address indicated on the official website of the department.

13 requests were sent to the heads of the pre-trial detention center from 13 regions of the Russian Federation (only 1 of them was ignored), 13 - to the regional HRC. Responses to the PMC came from all the human rights commissioners, but two of them contained a refusal, due to the fact that “there is no classification of incoming appeals, all appeals received by the HRC are considered in terms of identifying and preventing possible human rights violations.”

13 requests were sent to the Prosecutor's office for supervision of compliance with the rule of law in the institutions of the penitentiary system. Representatives of 11 regions gave exhaustive answers to the PMC. In one of the responses, it was stated that "the prosecutor's office does not belong to those departments and institutions in which members of the PMC can request information," in the other, the prosecutor's office did not respond on the merits.

Conclusions

The interaction of the FSIN and the PMC within the framework of the study was constructive, there was no opposition, the work was perceived positively, as aimed at solving common problems of observing the rights of convicts. Some difficulties were identified with requests for information, conversations with employees, but they were solved in a working manner. In some regions, there are currently difficulties in interacting with the HRC and the Prosecutor's Office for Supervision; they will have to be solved through interaction and joint work.

Recommendations on the results of monitoring and subsequent discussion of regional reports[55]

General recommendations

• It is necessary to improve the penal enforcement legislation and law enforcement practice in terms of compliance with international principles and standards of respect for human rights, including the right to private and family life, as well as compliance with the Constitution of the Russian Federation in this area.

• The regulation of serious interference in the sphere of human rights and freedoms of persons in pre-trial detention centers and colonies should be enshrined in laws, not by-laws. A number of departmental documents mentioned in the report define restrictions on human rights, including the right to private and family life to a greater extent than is provided for by federal laws, which is a violation of standards and requires revision.

• It is important to exclude the presence of legal uncertainty in the use of rights and freedoms, including the right to private and family life, arising from the closure of some documents with the stamp “for official use” regulating restrictions on human rights. It is necessary to specify the law, provide for an effective appeal procedure in case of violations, and leave only the minimum necessary for security purposes, which does not go beyond the legally defined intervention and does not replace the law, in closed subordinate, departmental acts.

Recommendations to the Ministry of Justice of the Russian Federation [56]

Consider the possibility of legislative changes related to

• the most complete description of the rights of prisoners, relatives who arrived at meeting with prisoners, the duties of employees, the procedure for checks and searches in the Criminal Executive Code of the Russian Federation;

In the Order of the Ministry of Justice of the Russian Federation No. 64-“for official use” of 20.03.2015 "On approval of the Procedure for conducting searches and checks in correctional institutions of the penitentiary system and adjacent territories where regime requirements are established", leave only those points that relate to the frequency of searches and checks, their causes, and that are directly related to the professional activities of employees, and do not relate to the rights of prisoners, or remove from this document the stamp “for official use”.

• introduction of a norm prohibiting the disclosure of personal information

[55] The recommendations presented in the report are a synthesis of proposals that appeared both in the regions covered by the study, and in the course of subsequent discussions with stakeholders during round tables, expert meetings and other events to discuss the results of monitoring. The recommendations are open to discussion.

[56] These recommendations may also be addressed to other entities with a legislative initiative.

(article, term of serving a sentence, registration for preventive supervision) to the Criminal Executive Code of the Russian Federation. This information should not be available to other prisoners, as well as to an unlimited number of employees, including freelancers, and persons who come for visits. Only those employees who directly interact with prisoners and are responsible for security can have it. This norm in the Criminal Executive Code, as well as all by-laws, must correspond to the Law of the Russian Federation of July 27, 2006 No. 152-FZ "On Personal Data", which guarantees a ban on the disclosure of information about private life.

• exclusion from the PVR of the IU of the possibility of distributing information about the personal data of convicts on bedside signs, except for the full name.

• introduction of a ban in the Criminal Executive Code of the Russian Federation on the total presence of employees during medical examinations. The presence of an employee should be regulated as an exceptional measure related to the behavior of the convicted person and an immediate threat to the staff.

• exclusion from the Criminal Executive Code of the Russian Federation of the possibility of total listening to all telephone conversations by employees of the IU; individual cases of deviation from this rule should be clearly spelled out and reasoned in accordance with existing standards.

• exclusion from the Criminal Executive Code of the Russian Federation of the possibility of total censorship of all correspondence of prisoners. Censorship should be of an exceptional nature, with clearly described grounds, in accordance with human rights standards.

• exclusion from the Criminal Executive Code of the Russian Federation of excessive restrictions on telephone conversations with family to persons who are in strict conditions of serving sentences, PKT and EPKT detachments, where people are deprived of the right to talk to family members and relatives for six months or more.

• exclusion from the Criminal Executive Code of the Russian Federation of excessive and unjustified restrictions on telephone conversations with family members who are in another correctional institution.

• amendments to Article 97 of the Criminal Executive Code of the Russian Federation: exclusion of the ban on vacation trips and trips for personal family reasons outside the colony of convicts with HIV, since there are no grounds for such a ban in relation to this group of people.

• exclusion from the Criminal Executive Code of the Russian Federation of the ban on the conclusion of marriage to persons placed in a punishment cell.

• exclusion from the law of the norm on the separation of the prisoner and the visitor by glass, the creation of opportunities for tactile contact in the pre-trial detention center, where the meeting is controlled by the presence of an employee, and the use of other forms that do not give contact, is excessive.

Visits through glass should only be used in exceptional situations, and not as a rule.

• exclusion from the Criminal Executive Code of the Russian Federation of the possibility of total listening to convicts during short-term visits in correctional colonies, exceptions should be clearly spelled out and have a closed character.

• exclusion from Annex 1, paragraph 3 to the Order of the Ministry of Justice of the Russian Federation of 15.10.2005 N 189 (ed. of 29.01.2021) "On approval of the Internal Regulations of pre-trial detention facilities of the penal enforcement system" (Registered with the Ministry of Justice of the Russian Federation on 08.11.2005 N 7139) of the ban on pasting walls, cell equipment with paper, photographs, drawings, clippings from newspapers and magazines.

It is proposed to support draft law No. 1042392-7 "On amendments to Articles 17 and 18 of the Federal Law "On the detention of suspects and accused of committing crimes", in which the right to telephone conversations will not depend on the permission of the investigator, and will allow the accused to communicate with their relatives.

Recommendations to the Federal Penitentiary Service of the Russian Federation

• To regulate the procedure for locating the medical documentation of convicts in the IU, so that it is not available to other convicts and other persons, but only directly to the medical staff and the convicts themselves - patients. Create a departmental order or instruction.

• To amend the Order of the Federal Penitentiary Service of July 27, 2006 No. 512 "On approval of the nomenclature, standards of maintenance and terms of use of furniture, inventory, equipment and household items (property) for institutions executing criminal penalties in the form of deprivation of liberty and pre-trial detention centers of the penal enforcement system", providing each convicted person with a personal storage place for personal belongings.

• To strengthen cooperation with JSC "Post of Russia" in ensuring the control of correspondence sent and received by convicts by simple mail. To conclude an agreement on the maintenance and bilateral signing of registers of correspondence transmitted and received by employees of FSIN institutions in communication offices.

• To regulate the procedure for the possibility of taking photographs when entering into marriage in places of detention.

• To cancel any instructions aimed at interrupting telephone and other conversations in languages other than Russian.

• To eliminate the practice of excessively restricting the ability of prisoners to use personal belongings, the number of which is already limited; it is important that they have constant access to them, excluding the waiting process.

All prohibitions and restrictions must be reasonable, justified and determined by law.

• Heads of institutions should pay attention to the organization of confidentiality of telephone conversations, ensure the possibility of using special booths for prisoners' conversations so that they cannot hear each other.

• To develop a positive practice of issuing a coupon to prisoners - a notification of the receipt of a letter for further sending.

• To develop and encourage the beginning positive trend in the realization of the right of convicts to the opportunity to leave the colony on vacation or for family reasons.

• To continue the practice of reducing the number of prisoners serving sentences in regions of the Russian Federation that are remote from the place of residence of relatives.

• To develop the established positive practices of marriage in places of detention (in a temple, in civilian clothes, with the possibility of spending time with a spouse after marriage, providing a long date, using photography, etc.).

• To create conditions in long-term visiting rooms for people with musculoskeletal disorders.

• To create conditions for walking in the fresh air during long visits: organization of walking yards in all institutions of the Federal Penitentiary Service on the basis of existing regional experience.

• In the rooms of short-term visits, the separation glass should be removed, which distances the convicts and visitors, and conditions for tactile contact should be created. These measures are not provided for by law and are an arbitrary additional restriction in the IU.

• To ensure the confidentiality of short-term visits from other prisoners in the IU and from other prisoners in the pre-trial detention center.

• To spread the positive practice of creating places for children to play in rooms for short-term visits and outdoor playgrounds for children who have arrived for short-term visits.

• To spread in all institutions of the Federal Penitentiary Service the positive practice of providing drinking water in the rooms of short-term visits for both visitors and prisoners, as well as the opportunity to go to the toilet for all persons who are on a short-term visit.

• To develop the practice of encouraging forms of meetings with relatives and friends for prisoners who are positively characterized ("Open Days", meetings in cafes).

• To spread in all institutions of the Federal Penitentiary Service the practice of individual conversations with the head of the detachment or a psychologist, in the event of the death of a relative, and subsequent psychological support of prisoners.

• To spread the practice in the IU, according to which prisoners are

allowed to design premises, paint walls, improve and decorate the territory of the local area.

• To oblige the Federal Penitentiary Service in all regions of the Russian Federation to check the privacy of sanitary facilities and the lack of video surveillance of these places in detachments and cameras.

• To provide the possibility of drying personal belongings in the pre-trial detention center.

• To organize access to personal belongings that convicts can keep with them, without waiting for 2-3 hours.

• To organize the possibility of quick access to summer / winter clothing, regardless of the time of year.

• To allocate the necessary funds to replenish the library fund of institutions with literature in the languages of persons who are kept in the institution.

• To provide an item of expenses for an interpreter in the budget of institutions, especially in those regions where there is the largest number of foreign citizens.

• To provide the opportunity to receive parcels and have visits on weekends in all institutions of the Federal Penitentiary Service.

• To expand the space of rooms for receiving parcels, provide them with seats, equip the rooms for receiving parcels with sanitary units.

• To provide institutions with rooms for long and short-term visits in an amount corresponding to the fullness, and eliminating the delay in the process of obtaining visits

• To develop encouraging practices for prisoners who are characterized by positive behavior.

• To provide the possibility for prisoners in pre-trial detention to engage in creativity and the provision of the necessary equipment for this for a certain period of time.

• To encourage the participation of various external institutions in the life of the colonies.

• To eliminate the practice of unjustified refusal to grant long-term visits for reasons not provided for by regulatory legal acts regulating these legal relations.

• To develop, prepare and introduce a mandatory training program for employees of FSIN institutions on the observance of human rights, the rule of law and international treaties in the field of the penitentiary system.

• To work with the medical staff of institutions to explain the inadmissibility of disclosing medical information to other persons without the consent of the convicted person, based on the fact that the actions of the Federal Law "On the basics of protecting the health of citizens" also apply to prisoners.

• To inform the heads of institutions that the prohibition of holidays

outside the colony and trips outside the institutions for personal family reasons is possible only on the grounds clearly specified in the law.

• To conduct explanatory work with employees of institutions that there is no ban on the possibility of storing personal items on the surface of nightstands. On the contrary, it creates conditions close to home, comfort, and has a positive effect on the adaptation of convicts.

• To work with the heads of institutions explaining that it is not allowed to introduce additional restrictions on food without a reasonable and justified explanation.

• To work with the heads of the FSIN institutions on the inadmissibility of not providing information to the members of the PMC that affects the rights of prisoners.

Recommendations to the Prosecutor's Office on monitoring the observance of human rights in places of deprivation of liberty

• To classify and analyze complaints and appeals of prisoners by areas of human rights, highlighting issues related to the right to privacy as a separate area of human rights.

• To treat the PMC as a full-fledged partner that promotes the humanization of the penal enforcement system and protects the rights of persons in custody. To respond carefully to their statements, requests and appeals.

Recommendations to the Human Rights Commissioners of the regions of the Russian Federation

• To classify and analyze complaints and appeals of prisoners by areas of human rights.

• To treat the PMC as a full-fledged partner that promotes the humanization of the penal enforcement system and protects the rights of persons in custody. To respond carefully to their statements, requests and appeals.

• To organize joint events on the protection of the rights of persons in custody.

Recommendations to the Public Monitoring Commissions

• To pay attention to all areas of prisoners' rights when visiting penal institutions.

• To identify the area of the right to privacy as a separate area of human rights compliance and use the experience and tools of this study in their work.

• To draw conclusions based on the results of visits to each institution.

• To put into practice the preparation of annual reports on the human rights situation in places of deprivation of liberty, including a separate chapter on the

right to privacy.

• To increase professionalism in the ability to conduct conversations with employees and prisoners.

Recommendations to NGOs working with the topic of human rights in places of detention and helping prisoners

• To pay attention to assistance to convicts in appealing against violations of the right to private and family life, in particular, refusals to leave the colony for vacation and trips for personal family reasons outside the colony on grounds not prescribed in the law, in order to change the law enforcement practice in institutions.

• To assist Federal Penitentiary institutions in organizing various events that promote respect for the right to private and family life, including cultural and sports events with prisoners.

• To pay special attention to the issues of keeping women with children; to promote the preservation of family ties, as well as ensuring the best interests of the child.