

Building of an arrest houses network ensuring execution of punishment

Sergey Korneev ^{1*}, *Evgeniy Prys* ¹, *Yuliya Mityukova* ¹ and *Yuliya Bystrova* ²

¹Academy of the Federal Penitentiary Service of Russia, 1, Sennaya st., Ryazan, 390000, Russia

²Orel State University names after I.S. Turgenev, 95, Komsomolskay str., Orel, 302026, Russia

Abstract. Since the adoption of the current Criminal Code of Russian Federation, arrest as a type of criminal punishment has not been reflected in law enforcement activities due to the lack of specialized state institutions on the territory of Russian Federation - arrest houses. The authors believe that this fact narrows the variability of the means of criminal legal influence of the state in the fight against crime and does not reveal the true potential of arrest. According to preliminary calculations, the number of those sentenced to arrest in Russian Federation may be approximately 60-70 thousand people a year. To accommodate them, it is necessary to build at least 140 arrest houses in the constituent entities of Russian Federation. The construction and maintenance of these houses with a filling limit of 500 people will cost the state about 75 billion rubles, which is not economically profitable. The purpose of the work is to formulate proposals regarding the optimization of application and legislative regulation of arrest as a measure of criminal law influence. To achieve the stated goal, following tasks are formulated and sequentially solved in the work: to conduct a retrospective analysis of arrest as a type of criminal punishment; to reveal doctrinal views regarding the declared measure of state coercion, presented on the pages of specialized literature; to identify the essential differences between arrest and other punishments related to the isolation of the convict from society; to determine the financial and economic feasibility of building arrest houses on the territory of Russian Federation.

1 Introduction

Humanization of current criminal legislation is a modern vector for the development of criminal policy of Russian Federation. The declared process is expressed in the economy of measures of criminal repression, decriminalization of a number of acts that have lost their public danger, expansion of institute of other measures of a criminal law nature, consolidation of types of exemption from criminal liability, implementation of measures of state coercion that are not related to isolation from society and, as a result, partial waiver of punishment in the form of imprisonment.

* Corresponding author: kornei_lam@mail.ru

Despite the presented trend, the authors believe that an excessive bias towards the imposition of punishments without isolation from society is unlikely to contribute to the achievement of the final results of the measures of state coercion regulated by Art. 43 of Criminal Code of Russian Federation. It seems that in order to achieve the objectives of Criminal Code of Russian Federation, as well as the goals of punishment, the system of measures of criminal law impact needs an alternative punishment to deprivation of liberty. This is a short-term, but at the same time repressive measure in the form of arrest.

Since the publication of the text of current Criminal Code of Russian Federation, arrest as a type of criminal punishment has not been reflected in law enforcement activities due to the absence of specialized state institutions in Russian Federation - arrest houses. We believe that this fact narrows the variability of means of criminal legal influence of the state in the fight against crime and does not reveal the true potential of arrest. The foregoing serves as the basis for conducting a comprehensive study regarding the optimization of use and legislative regulation of arrest as a measure of criminal law influence.

2 Methods

The construction of single-industry real estate has repeatedly been the subject of a number of doctrinal studies, including those of a fundamental nature. Thus, the methodological issue of managing the construction of single-industry real estate objects in advanced development areas was developed by M.A. Lunyakov [1]. E.A. Malkevich devoted her works to the development of an organizational and economic mechanism for managing investments in the construction of complex development facilities [2]. Organizational and economic aspects of management systems for integration transformations in construction were singled out by D.V. Borisov [3].

Theoretical and applied issues of implementation of arrest as a type of criminal punishment in general and the feasibility of developing (constructing) a network of arrest houses in particular were considered by such scientists as A.S. Gusev, A.I. Astakhin [4], N.A. Zavyalova, Yu.V. Starshikov [5], I.A. Podroikin [6], V.M. Stepashin [7], A.K. Teokharov, A.V. Chestnov [8] and many others.

Despite the substantial amount of research presented, some of the current issues remain without due attention. First of all, the authors are talking about optimizing the application and legislative regulation of arrest as a measure of criminal law influence.

The methodological basis of this study is represented by both general scientific and particular methods of scientific knowledge: system-structural, inductive, deductive and content analysis.

3 Results

1. Arrest is a short-term measure of state coercion, characterized by harsh conditions of detention of convicts.

2. The implementation of the arrest is fully consistent with modern criminal policy and does not conflict with the concept of humanization of current criminal legislation.

3. The construction of arrest houses on the territory of Russian Federation is materially costly and economically unprofitable. Thus, according to preliminary calculations, the number of those sentenced to arrest in Russian Federation may be approximately 60-70 thousand people a year. To accommodate them, it is necessary to build at least 140 arrest houses in the constituent entities of Russian Federation. The construction and maintenance of these houses with a filling limit of 500 people will cost the state about 75 billion rubles.

4. The economy of criminal repression measures in terms of choosing a measure of restraint in the form of detention, imposing a sentence in the form of deprivation of liberty, reducing the number of convicts in the country were the reason and condition for launching a parallel mechanism in the Federal Penitentiary Service.

We are talking about the partial abolition of correctional colonies and pre-trial detention centers of the Federal Penitentiary Service of Russia, as well as their conversion into correctional centers that ensure the execution of punishment in the form of forced labor in accordance with the concept of development of penal system of Russian Federation approved by the Government of Russian Federation for the period up to 2030.

5. The expediency of re-profiling the abolished institutions of Federal Penitentiary Service of Russia (figures 1-2) into arrest houses with the lowest economic costs has been proved.

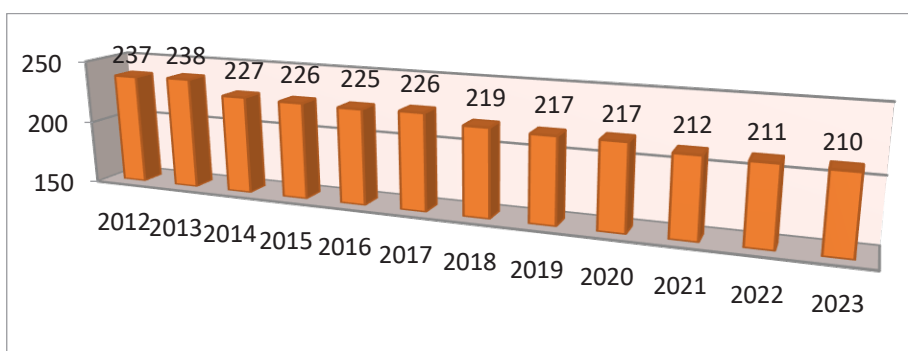


Fig. 1. Number of pre-trial detention centers of Federal Penitentiary Service of Russia in the period from 2012 to 2023

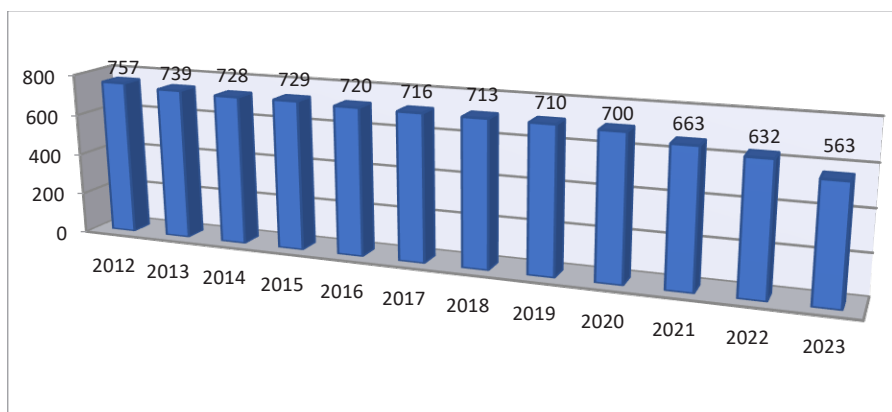


Fig. 2. Number of correctional colonies of Federal Penitentiary Service of Russia in the period from 2012 to 2023

4 Discussion

The norms of the current criminal law from the moment of its adoption determined the provision on arrest, however, its practical implementation was delayed until 2006, which was due to the entry into force of the Penal Code of Russian Federation, and the creation of necessary conditions for execution [9]. The Government of Russian Federation, after

eliminating the stated reasons, was instructed during 1997 to prepare and approve the Regulations on arrest houses and the standard for their staffing [10].

Eight years later, in 2005, contrary to the stated order, a draft law was submitted to the State Duma of Federal Assembly of Russian Federation, excluding provisions on punishment in the form of arrest. As a justification for this decision, the explanatory note to the bill contained conclusions regarding:

- the sufficiency of expanding the measures of criminal law impact that are not related to isolation from society;
- the complexity of the differentiation of criminal responsibility;
- the repressiveness and severity of arrest in comparison with punishment in the form of deprivation of liberty;
- ascertaining the utopian nature of retaining the arrest in the criminal law for economic reasons [11].

The bill was adopted in the first reading on March 10, 2006 and sent to higher authorities for approval and preparation of amendments. However, twelve years later, on July 4, 2018, it was rejected by the State Duma of Federal Assembly of Russian Federation.

Authorized representatives of state power, in general supporting the initiative to exclude arrest from criminal and penitentiary legislation, came to the conclusion that it was impossible to implement this decision. The reason for this was the fact that military servicemen (Part 3, Article 54 of the Criminal Code of Russian Federation) who were found guilty of committing crimes could be arrested, which was not taken into account in the text of the proposed bill. Thus, the exclusion of arrest from the system of punishments will create difficulties for military courts in terms of individualizing the punishment when it is imposed [11]. In the future, the issue of exclusion from the list of punishments of arrest was not documented.

During the period of consideration of the proposed bill (from 2005 to 2018), the news about the construction of the first arrest house in Russia was presented in the official media [12]. According to the publication, the Federal Penitentiary Service has decided on the choice of a site for the construction of a specialized state institution that ensures the execution of criminal punishment in the form of arrest in Moscow. At the same time, a new type of detention house should be fundamentally different from the usual pre-trial detention centers and prisons in the direction of humanity. Unfortunately, the decision of the penitentiary service was never implemented.

It seems that the question of exclusion or "reanimation" of punishment in the form of arrest has not been finally resolved. As a result it is difficult to overestimate its relevance of a theoretical and applied nature at the present time. The authors believe that the solution to this problem is possible only taking into account the doctrinal studies presented on the pages of legal publications.

Supporters of the measure of state coercion under consideration, pointing to the shortcomings of its legal regulation, emphasize its necessity in modern society. Representatives of this group argue their position by stating the fact of the viability and effectiveness of arrest in domestic (pre-revolutionary period) and foreign law enforcement practice, the execution of arrest against military personnel, the likelihood of further state funding and, as a result, the construction of arrest houses, a possible change in the vector of penitentiary policy [8, p. 58].

Another group of researchers, having purely opposite views, believe that the exclusion of arrest from the system of criminal penalties is a reasonable and logical decision. This position is based on the following arguments:

- the lack of funding for the construction of arrest houses or the conversion of existing institutions and bodies of the penitentiary system [4, p. 66];

- inconsistency of the arrest with the vector of development of penitentiary policy [6, p. 68], the principles of criminal law [5, p. 64], the purposes of punishment [7, p. 276];
- competition between arrest and short-term imprisonment, which generally destabilizes the system of punishments [13, p. 131];
- the lack of educational and labor impact on the convict sentenced to punishment in the form of arrest and, as a result, the prevention of crime [14, p. 136].

The authors believe that most of the presented views are debatable. Indeed, the trend in the development of criminal justice in Russia is its liberalization (humanization). The declared process finds its expression in the economy of measures of criminal repression against the person who committed the crime. Thus, the prerogative is given to measures of criminal procedural coercion and punishments that are not related to the isolation of a person from society and, as a result, the refusal, to the extent possible, of detention and punishment in the form of imprisonment, respectively. However, it seems that an excessive bias towards the imposition of punishments without isolation from society is unlikely to achieve the goals of punishment. Obviously, the complete exclusion of isolation measures for a person found guilty of a crime is impossible. In this regard, we believe that arrest, the essence of which lies in short-term isolation deprivations and restrictions, fits into the general outline of humanization of current criminal legislation.

The issue concerning the legislatively defined goals of criminal punishment, their achievability or utopianity, in the authors' opinion, belongs to the category of philosophical and widely discussed in the theory of criminal law since the beginning of the modern criminal law. Without going into scientific controversy on the merits of this issue, the authors believe that in view of the clear legislative regulation of final results of punishment in general and arrest in particular, the imposition of a short-term isolation measure of state coercion in relation to a person found guilty of a crime is aimed at restoring social justice, correcting convict and prevention of new crimes.

It is difficult to refute the position regarding the competition of punishments in the form of arrest and short-term imprisonment. According to A.N. Tarbagaev, the reduction of the minimum term of imprisonment to two months contributed to the loss of practical significance of arrest as an alternative isolation punishment [15, p. 77]. At the same time, the fundamental difference between the considered measures of state coercion is the punitive (repressive) potential.

Arrest ranks ninth in the system of criminal penalties. This fact testifies to its increased severity in relation to punishments that are not associated with isolation from society and leniency in comparison with imprisonment and the death penalty, which, according to some researchers, is not entirely true [4, p. 66].

Comparing the stated punishments, the authors note their fundamental differences.

First, there are the terms of punishment. Arrest is imposed for a period of one to six months (Article 54 of the Criminal Code of Russian Federation), while the minimum term of imprisonment is two months (Part 2 of Article 56 of the Criminal Code of Russian Federation).

Secondly, the conditions for serving the sentence. In accordance with the criminal executive legislation, persons sentenced to arrest serve their sentences in arrest houses in locked cells (by analogy with the general regime in a prison) (Article 69 of the Penal Code of Russian Federation). They are not allowed to meet (except for meetings with a lawyer), it is not allowed to receive education, parcels, travel without an escort, while those sentenced to deprivation of liberty enjoy these rights in the manner prescribed by law (Articles 89-90, 108, 125 of the Criminal Code of Russian Federation), etc.

And finally, the replacement procedure. Arrest, unlike deprivation of liberty, cannot be replaced by anything (Article 80 of the Criminal Code of Russian Federation).

Thus, arrest is a short-term isolation measure of state coercion, characterized by increased severity in comparison with deprivation of liberty for a certain period, which is quite reasonable and natural. The authors believe that arrest is an effective tool in the fight against crime. Its appointment as a punishment is due to the intimidation of the criminal. A person who has violated a criminal law prohibition is in complete, but at the same time short-term, isolation from society. In this regard, the impact of a special contingent, the prison subculture is excluded, the goals of punishment and the tasks of criminal law are achieved.

Based on the foregoing, the idea of excluding arrest from the system of criminal penalties does not look flawless. First, as was noted by representatives of the highest bodies of state power, arrest can be ordered by military personnel. At the same time, there is no need to build arrest houses, since this measure of state coercion is served in a guardhouse. Secondly, the exclusion of arrest narrows the variability of the criminal law impact of the state represented by the competent authorities in the fight against crime. Thirdly, the true essence of arrest as an effective and efficient measure of state coercion is not disclosed.

Of course, the issue of execution of arrest in relation to citizens found guilty of committing a crime has not yet been resolved due to the lack of arrest houses, as well as funding for their construction. According to preliminary calculations, the number of those sentenced to arrest in Russian Federation may be approximately 60-70 thousand people a year. To accommodate them, it is necessary to build at least 140 arrest houses in the constituent entities of Russian Federation. The construction and maintenance of these houses with a filling limit of 500 people will cost the state about 75 billion rubles [11]. Moreover, it is necessary to build these institutions before 2030, i.e. simultaneously with the implementation of the concept for the development of penal system of Russian Federation for the period up to 2030, approved by the Government of Russian Federation, which provides for the development of a network of correctional centers that ensure the execution of punishment in the form of forced labor.

Creation of correctional centers is planned on the basis of following property:

- objects belonging to the penal system, using the property complexes of liquidated institutions;
- provided for free use by organizations for the purpose of employment of persons sentenced to forced labor;
- subjects of Russian Federation, transferred to the operational management of the territorial body of penal system.

Thus, the authors believe that the way out of the difficult financial and economic situation associated with the construction of arrest houses is the conversion of the institutions of the Federal Penitentiary Service of Russia to other needs. The systematic reduction in cases of choosing a measure of restraint in the form of detention, economy of criminal repression in terms of sentencing in the form of deprivation of liberty, and reduction in the number of convicts in the country were the reason and condition for launching a parallel mechanism in the Federal Penitentiary Service. Thus, the half-empty institutions of the penitentiary system were transformed into correctional centers, and some were completely liquidated (figures 1-2).

5 Conclusion

Arrest is a short-term measure of state coercion, characterized by harsh conditions for convicts. The implementation of the declared punishment is fully consistent with modern criminal policy and does not conflict with the concept of humanization of current criminal legislation. Obviously, the complete exclusion of isolation measures for a person found

guilty of a crime is impossible. In this regard, the authors believe that arrest is the most effective alternative to punishment in the form of deprivation of liberty.

The construction of arrest houses on the territory of Russian Federation is financially costly and economically unprofitable. Realizing this fact, the authors consider it expedient to convert the abolished institutions of the Federal Penitentiary Service of Russia (figures 1-2) into arrest houses, which will not require significant material investments.

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