

Control and supervision over penitentiary systems in France and the USA

Bakulin V.

Kazan Federal University, 420008, Kremlevskaya 18, Kazan, Russia

Abstract

This article is devoted to the study of the institution of control and supervision over penitentiary systems in France and the USA. It is noted that this institution, especially in the European penitentiary systems, in general, is similar to the institution of control and supervision over institutions and bodies implementing criminal penalties in Russia. Firstly, this is due to belonging to two most recognized legal systems in the world - Anglo-Saxon (USA) and Romano-German (Russia, France). Secondly, this is due to using the international law in their domestic legal systems, although the forms of implementing the international norms have their own peculiarities. Thus, foreign specialists in the field of international law singled out two models in the mechanism of implementing the international legal norms within the national legal system - transformational (implementational) and adoptive (incorporative) (Vanek, 1949; Brownlie, 2003), which were used in the countries of the Anglo-Saxon legal system. A distinctive feature of the US legal system is the priority of US national legislation over the international treaties involving the USA. Thirdly, the relative uniformity of control and supervision over the penitentiary systems of France and the USA is due to the sufficient identity of the systems of criminal penalties and types of correctional facilities. Punishment in the form of deprivation of liberty forms the backbone of the system in almost all civilized countries of the world, and prisons are the eternal companions of almost any state in the world. Fourthly, the effectiveness of the institution of control and supervision over penitentiary system depends to a large extent on the institutional model of penal system existing in a given country both abroad and in Russia. The effectiveness of the institution of control and supervision over penitentiary system makes impact on the effectiveness of penitentiary system itself. The indicators of the system effectiveness are represented by the level of post-penitentiary relapse, that is, the number of persons having committed crimes after serving their sentence. The statistics, unfortunately, indicate that more than half of former prisoners commit the crimes again in the USA (Bykov, 2015), and the post-penitentiary relapse is up to 60% in the prisons in France (Utkin, 2016). From our point of view, the efficiency of penitentiary system is influenced by the institution of pardon, which is stipulated by French law (Articles 133-7, 133-8 of the Criminal Code of France) (Bakulina, Bakulin, 2015) and the US law. As a rule, pardons commit secondary offenses fewer times than just those released or amnestied.

Keywords

Departmental control, Effectiveness, Judicial review, Penitentiary system of France, Penitentiary system of the USA, Prosecutor supervision, Release on parole

References

- [1] Yu. V. Kalinin Yu.V. 1978."The Prison System of France," in Jurisprudence, V (1978), p. 59.
- [2] P. V. Teplyashyna, "The French Type of European Penitentiary Systems," in Bulletin of the Samara Juridical Institute of the Federal Penitentiary Service of Russia, I (2016), no. 19, p. 68.
- [3] S. M. Zubarev, Control over the Personnel Activities of the Penitentiary System in Russia, Moscow, Monograph, 2005, p. 89.
- [4] R. M. Zhylyayev, E. V. Pavlova, I. N. Medvedeva, 2014."A Brief Analysis of the Legislation of Foreign Countries Governing the Issues of Parole", in Criminal-Executive System in the Modern Society and Prospects for its Development (dedicated to the 135th Correctional System and the 80th Anniversary of the Academy of the Federal Penitentiary Service of Russia): Collection of the Speaking Notes of the Participants of the International Scientific and Practical Conference (Ryazan, November 2014): In 2 Volumes, vol. 1, Ryazan, Academy of the Federal Penitentiary Service of Russia, 2014, p. 399.
- [5] The Rome Statute of the International Criminal Court.-URL: [http://www.un.org/ru/law/icc/rome-statute\(r\).pdf](http://www.un.org/ru/law/icc/rome-statute(r).pdf), accessed on 12. 07. 2017.
- [6] A. Ashworth, Principles of Criminal Law, 3rd edition, New York; Oxford, Oxford University Press, 1999, p. 63.
- [7] US Department of Justice. [ru.wikipedia.org/wiki\](http://ru.wikipedia.org/wiki/), accessed 12. 07. 2017.
- [8] A. V. Babushkin, 2011. US Legal System. [av-babuskin.livejournal.com\5590.html](http://av-babuskin.livejournal.com/5590.html), accessed 12. 07. 2017.
- [9] Sexual Violence in Prison: Global Crisis of the Human Rights.\justdetention.org\wpcontent\uploads\2015\11\international.Summary/Russian.pdf., accessed 12. 07. 2017.
- [10] V. N. Dodonov, E. N. Primova, T. A. Reshetnikova, S. P. Shcherba, Organization and Activities of the Prosecution Authorities of Foreign Countries. Informational and Analytical Reference Book, Moscow, Yurlitinform, 2010, p. 180.
- [11] A. V. Babushkin, "The Prison Supervisory System in the USA"\livejournal.com\4709.html, accessed 12. 07. 2017.
- [12] Federal Bureau of Prisons. Official Web-Site of the FBI. URL: [http://www.bop.gov/about/agancy\](http://www.bop.gov/about/agancy/), accessed 12. 07. 2017.
- [13] Report of the Ministry of Foreign Affairs of the Russian Federation on the Situation on the Provision of Human Rights in the United States of America. Moscow, 2012. [www.gay.ru/miscldocs\o\105-938021.pdf](http://www.gay.ru/miscldocs/o\105-938021.pdf), accessed 12. 07. 2017.