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TÍTULO: Contra-extremismo ejecutivo penal.

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RESUMEN: Este artículo está dedicado al problema de combatir el extremismo en la Federación de Rusia con medios penales, y también sugiere soluciones para corregir a los condenados extremistas, para evitar la reaparición de crímenes de su parte tanto durante el cumplimiento de la condena como después de ser liberados de la misma. Los autores hacen sugerencias para mejorar la legislación en esta área. El artículo también considera la experiencia internacional en este asunto. Además, el artículo presenta las características personales de los delincuentes extremistas, así como los resultados de una encuesta a los condenados por estos crímenes.

PALABRAS CLAVES: extremismo, delito, condenado, derecho penal, recaída, corrección, personalidad del delincuente.

TITLE: Criminal Executive Counter-Extremism

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ABSTRACT: This article is dedicated to the problem of combating extremism in the Russian Federation with criminal means, and also suggests solutions to correct the convicted extremists, to prevent the reappearance of crimes on their part both during the execution of the sentence and after being released from it. The authors make suggestions to improve legislation in this area. The article also considers international experience in this matter. In addition, the article presents the personal characteristics of extremist criminals, as well as the results of a survey of those convicted of these crimes.

KEY WORDS: extremism, crime, convicted, penal law, relapse, correction, personality of the offender.

INTRODUCTION.

The current legislation of the Russian Federation provides a fairly wide range of measures aimed at countering extremist activities. These are, first of all, measures to prevent this activity [14] and measures of a criminal law nature [12]. Among them are criminal enforcement measures. The latter deserve special attention, since the practice of executing sentences against convicted extremists indicates that while serving their sentences, they not only do not reform, but also continue their extremist activities, involving other convicts in it.

One convict infected with religious extremism “is capable of attracting five to seven or more people in the ranks of his supporters in a short time” [5]. In other words: "planted one seed of radish, and as a result received a bunch of radishes".

DEVELOPMENT.

Research methodology.

The dialectical method of cognition made it possible to ensure the objectivity and completeness of the phenomena studied; in particular, the problems of countering extremism in the Russian Federation with penal means.

We used general scientific methods (systemic, structural-functional, concrete historical, comparative legal), general logical methods of theoretical analysis (analysis, generalization, generalization, comparison, abstraction, analogy, modeling, etc.) and private scientific methods (technical and legal analysis, concretization, interpretation, etc.) [Komarov, S.A. (2019), p. 32-40].

Study results.

An analysis of the practice of attracting persons accused of committing extremist crimes indicates that imprisonment prevails among the punishments imposed on him, and this is no coincidence.

According to their personal characteristics, they have significant differences from other categories of criminals. These include both the specifics of the worldview and the stability of existing views and beliefs, as well as their influence on other persons with the aim of engaging in extremist activities. Therefore, the importance of isolating such persons is not only a necessary condition for effective corrective influence on them, but also a measure that impedes their activities to involve citizens in extremist communities.

The law defines the main means of correction of convicts: the established procedure for the execution and serving of sentences, educational work, socially useful work, general education, vocational training and social impact (part 2 of article 9 of the Penal Code of the Russian

Federation). A study of the practice of their application to the category of convicts under consideration indicates the presence of certain characteristics due to their typical personal characteristics. So, the proportion of convicts - extremists, characterized by a negative, is 13.9% more than the similar share in the control group of convicts. These convicts, as a rule, do not take part in educational activities.

In the execution of criminal sentences, the use of basic remedies for convicted extremists, the motivation of the crimes committed by them should be taken into account. When questioning extremist convicts on the question “what important circumstances underlie extremist activity?” The answers were distributed as follows:

1) For leaders of organized groups: the desire for separatism and unification with the Islamic world - 24.5%; the desire to create separate states and independently solve issues of state and other policies within the framework of national traditions and customs - 25.5%; awareness of the inevitability of responsibility for what was done and attempts to get away from it, while maintaining the usual way of life - 25%; other - 25%.

2) In relation to rank-and-file members of organized extremist groups — participation in extremist organizations in the name of the victory of Islam in its various variants — 23.5%; otherwise - 76.5%.

Extremists are characterized by extreme intolerance of dissent and fanaticism generated by maximalist idealistic utopianism, hatred of the existing system, or a heightened sense of rejection. They are characterized by a firm faith in the possession of an absolute, unique and final truth, a messianic destiny, the highest unique mission in the name of the salvation or happiness of mankind. The indicated persons belong to the “closed” type of personality. It is “closed” because it excludes all critical thought, freedom of choice, despite the fact that it sees the world only in the light of a predefined, “only truth”, although it may have no connection with reality or has lost it long ago.

The logical consequence of "closeness" and fanaticism is a striking, sometimes paradoxical narrowness, one-sidedness, leading to the maximalist absolutization of the private, taken out of the general communication system. Because of this, the world as a result of transformation in such a consciousness loses its real shape, awareness becomes mythologized [Vityuk V.V., Efirov S.A. (1957), p. 257-259].

The personality of the convicted extremist is characterized by a negative worldview, which arises under the influence of a number of factors that determine among them: the mismatch between the image of the ideal model of the world and himself in real reality and the possibilities of self-realization. This contradiction with the ideal is transformed into subjective feelings of personal and social inadequacy.

The activity of an extremist assumes the character of destructive self-realization, and through negation a new speculative concept of confidence in one's rightness is born, which minimizes the possibility of a positive impact on the convicted extremist.

One of the most characteristic features of convicted extremists is that they are at a certain socio-psychological distance from society and its values, as if removed, alienated from them, isolated from small social groups (families, friends), distant from the "small" homeland . This creates a kind of motivation for behavior during the serving of sentences, determines the specifics of response to specific situations, the use of fixed remedies. Their criminal acts almost always indicate alienation from social values enshrined in moral and legal norms.

Most of them are characterized by extreme intolerance towards those who think differently, and fanaticism generated by the maximalist ideas of "saving" their ethno-religious group, its triumph and complete shame and destruction of the enemies they hate. They have a firm faith in the fact that they possess an absolute, unique and final truth and fulfill a supreme and unique mission in the name of "salvation" and the happiness of their nation or supporters of their faith.

The conviction in one's mission can be purely emotional, and can be based on "rational" ideological postulates, the sanctity of tradition, and the wisdom of leaders. Such a conviction distinguishes true extremists from "fellow travelers" who agreed to commit extremist acts for selfish reasons, and from dark, uninformed people who fell under someone's influence [Antonyan Yu. M., Kudryavtsev V. N., Eminov V. E. (2004), p. 227].

Based on the above and other signs characterizing the extremist, one can imagine his complete portrait: a man aged 28 years; has strong family ties; without certain knowledge; it has a positive attitude to religion, it is predominantly Muslim; during serving the sentence is characterized negatively; in educational activities does not participate; in the correctional institution in most cases does not work, does not study, as a rule, for objective reasons; does not plead guilty to a crime; has religious beliefs.

The above and other features of the considered category of convicts give every reason to consider the existence of an extremist type of personality of the convicted extremist. The presence of this type of personality of the convicted person necessitates realistically ensuring the implementation of the principle of differentiation and individualization of the execution of sentences of imprisonment (Article 8 of the Penal Code of the Russian Federation).

The specified features of the personality of the extremist cannot be ignored when organizing the execution of sentences, using the basic means of correction of convicts. It should be borne in mind that "straightforward and even more crude attempts to destroy their" closed defense "can lead to very undesirable results, make it impossible to have very trusting contacts with them" [Antonyan Yu.M., Kudryavtsev VN, Eminov V. E. (2004), p. 227-229].

The results of a study of the identity of the convicted extremist indicate that a category of persons has appeared in places of imprisonment that are qualitatively different from other convicts. Traditional remedies cannot be applied to them; therefore, other forms and methods are required.

There is a need for a kind of criminal executive breakthrough that would fundamentally change the ideology of penal correctional institutions, approaches to organizing the correctional process, as well as the alignment of forces and means used in the correction of convicted extremists, and the prevention of relapse of crimes as during serving punishment, so after being released from him.

Considering the fact that they are serving their sentences in a confined space (in a federal state institution), it is necessary to create conditions to neutralize the spread of their work experience for extremist purposes. This type of work with them is the most relevant, because they are in an antisocial environment, that is, in a society of people prone to commit crimes, and, therefore, can carry out preparatory activities in favorable conditions for them to train the rest of the convicts in extremist activity.

Based on this circumstance, the penal legislation provides for the execution of punishment in respect of persons convicted of organizing an extremist community (Article 282.1 of the Criminal Code of the Russian Federation), organization of activities of an extremist organization (Article 282.2 of the Criminal Code of the Russian Federation), in correctional institutions located in places specified federal body of the penal system (FSIN of Russia) (part 4 of article 73 of the PEC).

The category of convicts serving sentences in such places in 2018 was expanded to include individuals engaged in extremist activities while serving their sentences. According to Part 4 of Art. 73 of the Criminal Procedure Code of the Russian Federation as amended by Federal Law No. 548-Φ3 dated December 27, 2018 and convicts of “related” criminal activity, often combined with extremist activity, are sent to places determined by the Federal Penitentiary Service of Russia.

We are talking about those convicted of other crimes, for which there is information about their commitment to the ideology of terrorism, the practice, propaganda or dissemination by them of such an ideology (in the absence of sufficient data to solve the issue of initiating a criminal case) and rendering them in connection with this during the period of detention in custody, serving the

sentence corresponding negative impact on other accused (suspects), convicted. As you know, as a general rule, prisoners sentenced to deprivation of liberty serve their sentences in correctional institutions within the subject of the Russian Federation in which they lived or were convicted (part 1 of article 73 of the Penal Code of the Russian Federation).

The author's study confirms the need to serve sentences by convicted extremists outside the region where they committed a crime and where they were convicted. An interesting fact is that: 95% of the respondents convicted in correctional institutions of the Stavropol Territory consider themselves innocent of committing a crime. In correctional institutions in other regions remote from the Stavropol Territory, the number of convicted extremists who do not plead guilty to a crime is one.

It should be noted that they have a more active positive attitude towards fixed remedies. At the same time, this does not prevent them from spreading extremist ideas in the place of serving the sentence determined by the FSIN of Russia. Moreover, given the high criminogenic contagion of convicted prisoners in such regions, these ideas find the most favorable ground for distribution.

Among the convicts serving a sentence of imprisonment in places determined by the Federal Penitentiary Service of Russia: convicted of crimes under Art. 127¹; 205-206; 208-211; 275¹; 277-279; 281; part 1, 1¹ and 3 tbsp. 282¹; Part 1, 1 and 3 of Article 282²; Art. 317; part 3 of article 321; Part 2, Art. 360; Art. 361¹ of the Criminal Code; convicted of especially dangerous recidivism; sentenced to life imprisonment, sentenced to serving imprisonment in prison; convicts by whom the death penalty by means of pardon is replaced by imprisonment (part 4 of article 73 of the Penal Code of the Russian Federation).

In 2018, more than 600 thousand people were detained in correctional institutions, including: 2017 sentenced to life imprisonment and persons for whom the death penalty as a pardon has been replaced by imprisonment; 1413 people in prisons; 900 convicted of terrorist activities; 567

convicted for crimes of an extremist nature (including 378 in correctional facilities; 2 - in prisons; 65 - in pre-trial detention centers; 16 - in penal colonies; 5 - in medical correctional institutions).

In addition to the personality characteristics of these convicts, due to the nature of the crime committed, the criminal situation in these places is reinforced by such factors as the presence in them of an extremely pronounced criminal subculture of a significant number of convicts suffering from mental disorders, drug addiction and alcoholism; an increased number of persons who are malicious violators of the sentence serving regime, etc. [Tsipilov S.N. (2018), p. 87-92].

Therefore, sending convicts for these crimes to other places of serving a sentence does not remove the relevance of the issue of their isolation. The experience of foreign countries indicates that in solving this issue they are on the path to the complete isolation of such and similar convicts [13].

This idea also holds true in Russia. However, to date, it has not been realized under various pretexts. In the opinion of the authors, assurances about the practical impossibility of creating separate prisons, special colonies for such and or similar persons; the impossibility of carrying out certain activities of an operational nature ... are insolvent [Seliverstov V.I. (2018), p. 138].

It seems that there is no need to create special institutions for such convicts. To this end, it is quite possible to use existing correctional facilities, pre-trial detention centers, prisons, correctional colonies in which appropriate isolated sections can be created, as well as isolated sections functioning as a prison (Part 2 of Article 74 of the Penal Code of the Russian Federation).

A study of the work experience of Vietnamese correctional institutions shows the possibility of proper isolation in one correctional colony of various categories of convicts, even including men and women. Moreover, in conditions of isolation, not only persons convicted under articles 282, 282² of the Criminal Code of the Russian Federation, but also those who have committed other extremist crimes should serve their sentences [9].

Full isolation should also apply to those convicted of other crimes for which there is information about their adherence to the ideology of radical extremism, their professing, propaganda or dissemination of such an ideology (in the absence of sufficient data to resolve the issue of initiating a criminal case) and their rendering in connection with this during the period of detention, serving the sentence in custody, serving the sentence of the corresponding negative impact on other serving (suspected) convicted.

The current legislation and other regulatory legal acts, in addition to general preventive measures [8], provide for special measures for the prevention of offenses [10].

Among the latter, in relation to the prevention of extremist activity, attention should be paid to: preventive conversation; the announcement of an official warning about the inadmissibility of actions that create the conditions for committing offenses, or the inadmissibility of continuing antisocial behavior; preventive accounting; preventive supervision; for example, the announcement of an official warning about the inadmissibility of actions that create the conditions for committing offenses, or the inadmissibility of continuing antisocial behavior. It seems that this preventive measure may (should) precede the convict's placement in isolation from other convicts and sent to other places of punishment.

In sufficient detail, the prevention of extremist activity is regulated by a departmental regulatory legal act. In accordance with the instructions for the prevention of offenses among persons held in institutions of the penal system, approved by order of the Ministry of Justice of Russia dated May 20, 2013 No. 72 [3]. This instruction establishes that convicts who study, propagandize, profess or disseminate extremist ideology are put on preventive records (Pr.24). It determines the procedure for conducting individual crime prevention, including the indicated category of convicts (section IV).

In order to strengthen the role of preventive accounting in preventing the type of antisocial behavior being considered, according to the authors, such convicts who continue to commit these acts should be classified as malicious violators of the serving sentence regime (with the subsequent establishment of administrative supervision).

The intensification of measures to counter extremist activity in places of deprivation of liberty could be facilitated by the addition of Part 2 of Art. 288 of the Criminal Code of the Russian Federation as a qualifying sign: if the actions are aimed at inciting hatred or enmity, as well as humiliating the human dignity of a person or a group of persons on the grounds of sex, race, nationality, language, origin, attitude to religion, as well as belonging to some kind of social group, entailed actions, disorganizing the activities of institutions providing isolation from society.

One of the areas of an organizational and managerial nature aimed at improving the efficiency of the execution of sentences against extremist convicts is improving the training of personnel in correctional institutions in which these persons serve their sentences. The staff should know that this is a special category of convicts, which differs sharply from other convicts and has its own worldview, which is based on a deep faith in Sharia.

A correctional officer working with persons convicted of religious extremism should have such legal, philosophical and religious knowledge, psychological and pedagogical skills, and skills that are sufficient to convince prisoners that they have chosen the wrong path to transforming the world. Employees specially trained for this activity should be engaged in this [S. Hovhannisyan (2017), p. 101]. The indicated direction should be one of the main in the activities of assistants to the heads of territorial bodies of the FSIN of Russia in organizing work with religious convicts.

It should be assumed that, from the point of view of convicts of this category, extremism is far from always a crime. It should also be noted that in accordance with the European Prison Rules (Pr. 29), as amended in 2006, in the context of an increase in the number of prisoners with strong religious

beliefs (in this case, Sharia is meant), a detailed development of the form for implementing the relevant requirements is required.

Rule 29.2 requires prison authorities to promote respect for religious beliefs. In this direction, it is necessary to implement a number of steps. According to pr. 22, when drawing up the prisoner's menu, it is desirable to take into account his religious views. To the extent possible, in every penitentiary institution, prisoners of various faiths and religions should be provided with premises for worship and services. If the prison has a sufficient number of prisoners belonging to the same faith, then a representative of the religion should be appointed. If there are a sufficient number of prisoners and suitable conditions, such an appointment can be carried out on an ongoing basis. The designated religious representative should be able to conduct regular services, conduct work, and visit prisoners of the same faith. None of the prisoners may be denied access to the designated religious repose.

Project 29.3 specifies measures aimed at preventing the infringement of the religious rights of convicts. The fact that these issues are stipulated in the general part of this document emphasizes that the requirements for the observance of religious rights are not part of the prison program, but of the attention given to all prisoners.

CONCLUSIONS.

In conclusion, it should be noted that improving the implementation of criminal liability for crimes of an extremist nature should go along the path of further differentiating the execution of sentences of imprisonment by: creating conditions for the maximum isolation of convicts for their commission: convicts committed to the ideology of religious extremism, confession, propaganda or dissemination by them of such an ideology (in the absence of sufficient data to resolve the issue of instituting criminal proceedings) and rendering them in connection with this, during the period of

detention, serving the sentence, the corresponding negative impact on other accused (suspects), convicted; special staff training to work with such convicts.

Conflict of interest.

The authors confirm the absence of a conflict of interest.

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8. Pravovoye prosveshcheniye; pomoshch' litsam, postradavshim ot pravonarusheniy ili podverzhennym risku stat' takovymi, vneseniye predstavleniya ob ustraneni prichin i usloviy, sposobstvuyushchikh soversheniyu pravonarusheniya; sotsial'naya adaptatsiya; sotsial'naya

reabilitatsiya; pomoshch' litsam, postradavshim ot pravonarusheniy (ch. 1 st. 18 Federal'nyy zakon ot 23 iyunya 2016 g. № 182-FZ «Ob osnovakh sistemy profilaktiki pravonarusheniy v Rossiyskoy Federatsii»).

9. Prestupleniya, predusmotrennyye stat'yami 105, 111, 112, 115, 116, 117, 119, 150, 213, 214, 244, 280 Ugolovnogo kodeksa Rossiyskoy Federatsii, sovershennyye po motivam politicheskoy, ideologicheskoy, rasovoy, natsional'noy ili religioznoy nenavisti ili vrazhdy, libo po motivam nenavisti ili vrazhdy v otnoshenii kakoy-libo sotsial'noy gruppy.

10. Profilakticheskaya beseda; ob'yavleniye ofitsial'nogo predosterezheniya o nedopustimosti deystviy, sozdayushchikh usloviya dlya soversheniya pravonarusheniy, libo nedopustimosti prodolzheniya antiobshchestvennogo povedeniya; profilakticheskiy uchet; vneseniye predstavleniya ob ustranении prichin, sposobstvuyushchikh soversheniyu pravonarusheniya; profilakticheskiy nadzor (ch. 2 st. 17 Federal'nogo zakona № 182-FZ).

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12. Sm.: stat'i 105, 111, 112, 115, 116, 117, 119, 150, 213, 214, 244, 280, 282, 282.1, 282.2 Ugolovnogo kodeksa Rossiyskoy Federatsii.

13. Tak, naprimer, soglasno p. «i» ch. 3 st. 79 UIK Kirgizii izolirovanno ot drugikh osuzhdonnykh sodержatsya osuzhdonnyye za prestupleniya terroristicheskogo kharaktera i ekstremistskoy deyatel'nosti.

14. Sm.: Federal'nyy zakon ot 25 iyulya 2002 g. № 114-FZ «O protivodeystvii ekstremistskoy deyatel'nosti» //Sobraniye zakonodatel'stva Rossiyskoy Federatsii. 2002. № 30. St. 3031.

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3. Bulletin of the Ministry of Justice of the Russian Federation. 2013. No. 8.
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9. Crimes provided for in Articles 105, 111, 112, 115, 116, 117, 119, 150, 213, 214, 244, 280 of the Criminal Code of the Russian Federation, committed on the grounds of political, ideological, racial, national or religious hatred or enmity, either based on hatred or hostility towards any social group.

10. Preventive conversation; the announcement of an official warning about the inadmissibility of actions that create the conditions for committing offenses, or the inadmissibility of continuing antisocial behavior; preventive accounting; making a presentation on the elimination of the reasons conducive to the commission of an offense; preventive supervision (part 2 of article 17 of the Federal law No. 182-FZ).

11. See: Seliverstov V.I. (2018) Collection of penal means for responding to terrorism, criminal realities, responding to them and the law / Ed. A.I. Debt. Moscow. P. 138.

12. See: Articles 105, 111, 112, 115, 116, 117, 119, 150, 213, 214, 244, 280, 282, 282.1, 282.2 of the Criminal Code of the Russian Federation.

13. So, for example, according to paragraph. "And" h. 3 Article. 79 of the Kyrgyz Penitentiary Commission, isolated from other convicts, are convicted of crimes of a terrorist nature and extremist activity.

14. See: Federal Law of July 25, 2002 No. 114-ФЗ "On Counteracting Extremist Activities" // Collected Legislation of the Russian Federation. 2002. No. 30. Article 3031.

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