



# Mediation in Russian Correctional Institutions: Present and Future

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### Case Report

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## Abstract

For anybody not a secret the fact that prisoners serving sentences in correctional institutions have a high conflict potential. It is not uncommon for conflicts to escalate into crimes. To prevent offenses and crimes arising from conflicts in places of detention, it is proposed to use negotiation tactics. Thus, mediation will serve as a means of correcting prisoners and serve as a tool for preventing crimes on the part of convicts.

**Keywords:** Convicts; Correctional institutions; Conflicts; Mediation; Crimes; Prevention

## Introduction

The modern development of society inevitably goes through various manifestations of conflict. The state of many spheres of public life is characterized by the emergence of new forms of conflict relations, manifested in economic competition, cultural modernization, and the increasing role and authority in the activities of numerous political parties and social movements.

Conflict processes are rarely approved, but it is not possible to avoid participation in them. It is noteworthy that in a conflict of processes, the parties are not just trying to get ahead of each other, be better, increase their importance, but also seek to impose their will on the opponent, change his behavior, including by physical violence or its elimination.

At the time of entry into force of Federal law No. 193-FZ of July 27, 2010 "On Alternative Dispute Settlement Procedure with the Participation of a Mediator (Mediation Procedure)" (hereinafter-the Law on Mediation) [1] few people believed that this law would be implemented. However, at present, the Institute has been successfully developing and functioning.

Moreover, if earlier the legislator saw the use of mediation only in civil, arbitration and family disputes, today the institution of mediation is becoming applicable in the criminal process and the penal system.

## Case Reports

One of the most important areas of mediation is the sphere of conflicts in the criminal Executive sphere, including in correctional institutions. The relationships that develop between people held in places of deprivation of liberty (convicts, a representative of the administration of the correctional institutions) are no exception.

The problem of conflicts in this environment is particularly acute due to its specificity. It is not uncommon for an ordinary conflict to flow into more serious forms with severe consequences.

31 January 2019 about 20 hours in correctional institution No. 7 UFSIN of Russia across the Saratov region, the group of prisoners serving a sentence of imprisonment, not wanting to comply with the lawful demands of the prison administration, using as weapons wooden sticks and metal

rods, used violence, not dangerous for life and health against 11 convicts, causing them injury of varying severity, the most disorganized activities of the institution [2].

In the medical and correctional institution No. 3 in the Nizhny Novgorod region, convicts started a mass brawl, which resulted in more than 20 people injured and one dead [3].

One of the clearest examples of violent conflict resolution is the incident in IK № 5 UFSIN Russia across the Samara region, which occurred in February of 2019. A scuffle broke out between the convicts, then bedding was set on fire. As a result of the conflict, more than 15 convicts suffered injuries of various degrees of severity [4].

## Discussion

In order to prevent and prevent violations of the regime in the colony, it is necessary to identify the presence of emerging contradictions in a timely manner, and apply effective methods to minimize them.

Researchers note that negotiations as a means of conflict resolution are becoming more and more popular. However, often none of the parties to the conflict, being in a high emotional state, can offer options for a balanced resolution of the dispute. Therefore, for such cases, it was proposed to conduct negotiations with the involvement of neutral intermediaries.

Some scientists believe that mediation is not only possible in correctional institutions, but also necessary. Mediation should demonstrate itself as a powerful positive means of influencing interpersonal relations among convicts, thereby acting as a mechanism for countering crime.

As noted by scientists, the value of mediation is seen in the fact that with the help of it, the disputing subjects have the opportunity to come to “relatively stable normal relations”, and in some cases even to “friendly” ones. It is important that the mediation process regulates and neutralizes, among other reasons, the emotional component of the conflict. Reduced emotional and cognitive tension conflictantes. At the end of the mediation procedure, not only is a mediation agreement concluded, but it is important to note the psychological component: a positive outcome from the negotiations and emotional satisfaction.

It is obvious that the main outcome of the conflict settlement will be a mediation agreement, but we should also note other secondary positive effects. Due to the specifics of the environment in which prisoners are held for a long time, it is very important to be able to distract from the

constant unchanging conditions of detention (closed space, limited communication, restrictions in various needs). In other words, it is possible to consider mediation as a kind of entertainment for convicts.

The next positive component of the institution in question is that it can be used as a means of preventing offenses and crimes.

It is no secret that penitentiary institutions are characterized not only by the presence of the problem of conflicts, but also by a high probability of their transformation into illegal actions – offenses and even crimes. At the same time, research shows that the parties rarely turn to the staff of institutions in order to resolve a conflict situation. This is due to the distrust of the latter, and the fear of unfair resolution, including by punishing even the innocent.

Due to these circumstances, when resolving the conflict, it is necessary to involve a third independent party, which will not be affiliated with representatives of the penal system.

It should be noted that the importance of mediation in correctional institutions should not be underestimated, since, on the one hand, it contributes to the training of prisoners to resolve conflicts in a more humane way, through conversations and concessions, and on the other hand, it instills in prisoners standards of lawful behavior, thereby increasing their level of legal culture and legal awareness.

It seems appropriate to say that today in the Russian Federation there is no legal framework that would regulate the organization and conduct of mediation in the penitentiary system. There is also no theoretical model of mediation procedures, where the parties to the conflict would be convicted persons serving a sentence of imprisonment.

The solution to such problems is seen in the fact that in the near future it will be necessary to eliminate existing gaps in the Russian penal enforcement legislation, supplementing it with rules on mediation for resolving conflicts between convicts. Such proposals were already announced in 2013 as part of the Report “on the reform of the Russian penal system” [5], but the situation has not changed for the better so far.

To date, the legal basis for the application of mediation in this area is the Federal law on mediation, the Concept of the development of the criminal Executive system of the Russian Federation until 2020 [6] and a number of other normative-legal acts.

Maksudov R. R. rightly points out that the basis of mediation is the organization of a dialogue between the

parties, which gives them the opportunity to get to know and understand each other better. Dialogue contributes to a change in relations – the transition from confrontation, prejudice, suspicion, aggression to positive relationships [7].

Since 2004, the center for assistance to criminal justice reform, in cooperation with the Federal penitentiary service of Russia for the Orel region, has been implementing a pilot project to train mediation officers and convicts in women's and educational colonies. Students of the Department of conflictology of Oryol state University are involved in the project [8].

The Irkutsk Youth Foundation of human rights defenders "Juventa" works with minors convicted in the Angara educational colony. The purpose of the training is to prevent crime and delinquency of minors, as well as to give teenagers the opportunity to understand the problems of their own behavior, the causes of aggression, and other negative emotions that contribute to conflict, or the Commission of a crime, and find their own ways to combat these emotions [9].

### Conclusion

Thus, it can be concluded that today Russian penitentiary mediation is in its infancy, despite the efforts of individual researchers. This situation is related both to the undeveloped theoretical issues of the organization of this procedure, the lack of a legal framework for mediation in correctional institutions, and to the conservatism of the penal system.

However, today measures to introduce mediation in the penitentiary system are taken so often and everywhere that the management of the penitentiary system can no longer ignore this process. Therefore, such experiments should in the near future acquire the status of a state pilot project, according to the results of which mediation in correctional institutions will be recognized both de jure and de facto.

It seems that in the future, mediation in correctional institutions can be successfully used both as a means of correcting convicts and as a tool for preventing recidivism.

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