

COMPULSORY MEDICAL MEASURES IN THE CRIMINAL CODE OF THE RUSSIAN FEDERATION

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ABSTRACT

This paper presents an overview of the subject matter. Its purpose is to discuss the scope of the provisions on compulsory medical measures contained in the 1996 Criminal Code of the Russian Federation (referred to in Polish law as ‘preventive therapeutic measures’). The following methods were used in drafting this study: an analysis of legal sources, i.e. the 1996 Criminal Code of the Russian Federation, and an analysis of (legal) literature. The paper outlines the rationale for the use of compulsory medical measures, as well as their purposes and types. Particular attention is paid to the analysis of solutions associated with forced outpatient observation and psychiatric treatment, as well as forced treatment in a psychiatric hospital (which has a problematic history in Russia). The issues related to the modification of the use of these measures are also addressed. For the purposes of this article, the following hypothesis was adopted: ‘The scope of the provisions on compulsory medical measures contained in the 1996 Criminal Code of the Russian Federation is broad and includes numerous measures that are regulated in detail.’ The research, which partially confirmed this article hypothesis, shows that the scope of the analysed provisions on compulsory medical measures contained in the 1996 Criminal Code of the Russian Federation is not broad and has some shortcomings.

Keywords: compulsory medical measures, 1996 Criminal Code of the Russian Federation, compulsory observation and treatment by a psychiatrist in outpatient settings, compulsory treatment in a medical facility

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INTRODUCTION

According to the 1996 Criminal Code of the Russian Federation¹ (hereinafter referred to as 'the CC RF'), insane persons who commit crimes are not subject to criminal liability. Instead, they are required to undergo compulsory medical measures. In contrast, those who commit crimes and are sane but require treatment due to mental disorders that do not rule out their sanity are criminally liable. The measures indicated in the title of this paper may also be applied to them.

In the Soviet Union, psychiatric hospitals known as *psichushkas* (*психушки*) enjoyed a particularly bad reputation. In these closed institutions, psychiatry was used to repress people and to fight against political opponents and those inconvenient to the authorities. Such persons were 'diagnosed' with certain mental disorders and, on that basis, isolated in hospitals, which thus resembled prisons. Patients were placed there solely based on medical opinions, without a court ruling, for an indefinite period. In modern Russia, too, these institutions are used to fight political opponents. According to the media, a Siberian journalist and activist was sent to a psychiatric hospital in 2022 in connection with her trial for publishing fake news about the Russian military.²

In recent years, in Russia, the issue of the scope and practice of applying these measures has become increasingly relevant. This is because the number of patients diagnosed with a variety of mental disorders is increasing; for example, in 2018 more than 4 million were diagnosed, accounting for 2,951 people per 100,000 of the country's population.³ There has also been an increase in the number of acts committed by people with congenital or acquired mental illnesses. Nowadays, these people are increasingly considered vulnerable and in need of maximum protection of their human rights, including in the area of mental health (and, in some cases, the use of compulsory medical measures). It is also noted that Russian criminal law lacks a definition of this institution.⁴

The aim of this study is to determine the scope of the provisions on compulsory medical measures contained in the 1996 Criminal Code of the Russian Federation. An analysis will be conducted of the provisions of Articles 97–104 CC RF.

For the purpose of the analysis, the following research hypothesis was formulated: 'The scope of the provisions on compulsory medical measures set out in the 1996 Criminal Code of the Russian Federation is broad and includes numerous measures regulated in detail.'

¹ Ugolovnyy kodeks Rossiyskoy Federatsii ot 13.06.1996 N 63-FZ; http://www.consultant.ru/document/cons_doc_LAW_10699/ (accessed: 3 October 2024).

² *Onet.pl*, 'Rosjanie wsadzają do szpitala psychiatrycznego krytyków wojny w Ukrainie', 4 July 2022; <https://www.onet.pl/informacje/onetwiadomosci/rosjanie-wsadzaja-do-szpitala-psychiatrycznego-krytykow-wojny-w-ukrainie/j2d5mkh,79cfc278> (accessed: 10 October 2024).

³ Yu.S. Belik, 'Problemy primeneniya norm o prinuditel'nykh merakh meditsinskogo kharaktera', *Vestnik Moskovskogo universiteta MVD Rossii*, 2016, No. 1, p. 81; A.V. Vasselovskaya, 'Nekotoryye problemnyye voprosy ispolneniya prinuditel'nykh mer meditsinskogo kharaktera', *Vestnik Vladimirskego yuridicheskogo instituta*, 2019, No. 3, p. 54.

⁴ E.A. Trusova, 'Definitsiya, sushchnost' i inyye pravovyye osobennosti prinuditel'nykh mer meditsinskogo kharaktera', *Matters of Russian and International Law*, 2023, Vol. 13, No. 6A, p. 408.

THE CONCEPT AND FEATURES OF COMPULSORY MEDICAL MEASURES

As mentioned, both Russian criminal law and Russian doctrine provide no definition of compulsory medical measures.⁵ Accordingly, different authors provide different definitions of this concept. Some of them will be presented below.

Compulsory medical measures are:

'legally prescribed means of therapeutic (psychiatric and organisational-preventive) assistance and protection applied forcibly, as appropriate, in connection with a court order issued in relation to persons who have committed a socially dangerous criminal act or crime, who are suffering from mental disorders, in order to cure or improve their mental condition, as well as to prevent them from committing new acts that are dangerous to the public.'⁶

These are 'security measures adjudicated in relation to persons who have committed a crime or an act that is dangerous to the public, who are suffering from mental disorders and require psychiatric care.'⁷ It is a legal-medical institution built around the forced application of therapeutic measures under the necessary conditions, the basis for their application being provided for in the Criminal Code, the procedure for their application in the Code of Criminal Procedure, and the mode of their execution in the Penal Executive Code and other laws.⁸

These measures are compulsory, which means that they do not depend on the willingness or consent of the person on whom they are imposed. They are adjudicated by a court and constitute a manifestation of state coercion. They are not listed in the catalogue of punishments in the Criminal Code, are not adjudicated as punishments, and do not result in a conviction.⁹ However, they have some features that are shared with punishments (coercion, adjudication by a court, restriction of people's rights). They are characterised by distinct attributes regarding their objectives, grounds, and mode of execution.¹⁰ They do not fulfil the retributive aim of punishment or the aim of improving the offender as the purpose of a punishment.¹¹

In addition, their use guarantees safety of the person with a mental disorder and those around them during the treatment period, and their selection, extension, replacement, or termination depends on the state of the disorder, the level of danger

⁵ I.A. Yefremova, 'Ponyatiye i priznaki prinuditel'nykh mer meditsinskogo kharaktera', *Izvestiya Yugo-Zapadnogo gosudarstvennogo universiteta. Seriya: Istoriya i pravo*, 2021, No. 11, p. 55.

⁶ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo Rossii. Chasti obshchaya i osobennaya*, Moskva, 2017, p. 292.

⁷ A.I. Chuchayev (ed.), *Ugolovnyy kodeks Rossiyskoy Federatsii. Kommentariy s putevoditelem po sudebnoy praktike*, Moskva, 2019, p. 427.

⁸ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 294.

⁹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 427.

¹⁰ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Komentariy k ugolovnomu kodeksu Rossiyskoy Federatsii. Nauchno-prakticheskiy (postateynnyy)*, Moskva, 2016, p. 229.

¹¹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 427.

posed, and the prognosis for its development. The decision to impose these measures is made by a court, taking into account the opinion of psychiatrists.¹²

These measures are included in the 1996 Russian Criminal Code in Chapter VI titled 'Other measures of a criminal-law nature', in the section titled 'Compulsory medical measures'. Some scholars suggest that they should be renamed as 'therapeutic security measures in criminal law' or 'therapeutic criminal-law measures'.¹³ If this term were transferred into Polish law, they should be referred to as 'therapeutic protective measures'. However, the author of this paper will use the original term.

GROUNDINGS FOR THE USE OF COMPULSORY MEDICAL MEASURES (ARTICLE 97 CC RF)

Under Article 97(1) CC RF, compulsory medical measures may be ordered by a court against persons who:

- have committed the acts provided for in the Special Part of the CC RF in a state of insanity – in the case of such persons, these measures are the only criminal-law response to their acts;
- have committed a crime in a state of sanity, but after the perpetration of the crime have developed mental disorders that prevent the imposition or execution of a punishment – these measures are used to cure them or improve their condition, as well as 'to carry out the tasks of criminal legislation'. If such persons recover, the court imposes a punishment on them. If they do not recover, they do not incur criminal liability;
- have committed a crime in a state of mental disorder that does not rule out sanity – these measures are applied along with a conditional conviction;
- have committed a crime after reaching the age of 18 against the sexual inviolability of a minor under the age of fourteen and suffer from a sexual preference disorder (paedophilia) that does not rule out sanity – these measures are applied in conjunction with a conditional conviction.¹⁴

The rationale for imposing compulsory medical measures on the listed categories of persons is the possibility that they will cause other significant harm or danger to themselves or others (Article 97(2) CC RF).

According to Russian scholars, the use of the phrase 'that they will cause other significant harm', or more specifically the word 'other', as the criterion of danger is questionable. They call for a more precise definition of 'other harm'. They also raise concerns regarding the phrase 'causing danger'. They point out that suicide, which is not punishable, can also pose a danger. They suggest replacing this phrase with 'a real possibility (high level of probability) that this person will commit new acts provided for in the CC RF'.¹⁵

¹² V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., pp. 293–294.

¹³ *Ibidem*, p. 293.

¹⁴ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., pp. 429–430.

¹⁵ S.N. Shishkov, S.V. Polubinskaya, 'Zakonodatel'nyye problemy prinuditel'nykh mer meditsinskogo kharaktera', *Lex Russia*, 2019, No. 6, p. 165.

It should be noted that this provision consists of two parts. One relates to the categories of persons against whom the measures in question may be imposed, and the other relates to situations of danger arising from the behaviour of such persons.¹⁶ In practice, these measures are most often (80%) imposed on insane persons who have committed an act provided for in the Russian Criminal Code.¹⁷

The procedure for implementing these measures is determined by the penal enforcement legislation of the Russian Federation and other federal laws (Article 97(3) CC RF), in particular the 1992 Act on Psychiatric Care and Guarantees of the Rights of Citizens in its Provision.¹⁸

Pursuant to Article 97(4) CC RF, with respect to the three categories of persons mentioned consecutively above,

‘who do not present danger due to their mental state, the court may transfer the requisite materials to the public health bodies for the settlement of the question of medical treatment of these persons, or of sending them to mental and neurological institutions of social security in the order prescribed by the laws of the Russian Federation on public health.’

THE PURPOSES OF THE USE OF COMPULSORY MEDICAL MEASURES (ARTICLE 98 CC RF)

Under Article 98 CC RF, the purposes of the application of compulsory medical measures are:

- to cure the persons listed in Article 97(1) CC RF (i.e. to bring about their recovery through medical treatment or psychiatric therapy)¹⁹ as a result of properly adjudicated and appropriate compulsory medical measures.²⁰ Complete recovery of those who are often chronically ill (and who make up the majority of those referred for compulsory measures) is difficult or impossible;²¹
- to improve their mental state (i.e. enable partial recovery, sufficient for them not to pose a threat to others);²²
- to prevent them from committing new acts, as provided for in the Criminal Code (both during treatment and after the completion of these measures).²³ This means that these individuals cease to pose a threat to themselves and others;²⁴

¹⁶ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu kodeksu Rossiyskoy Federatsii (posteteynyy)*, Moskva, 2017, p. 332.

¹⁷ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu...*, op. cit., p. 231.

¹⁸ Zakon RF ‘O psikiatricheskoy pomoshchi i garantiyakh prav grazhdan pri yeye okazanii’ ot 02.07.1992 N 3185-1; http://www.consultant.ru/document/cons_doc_LAW_4205/ (accessed: 10 October 2024).

¹⁹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 431.

²⁰ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 296.

²¹ A.N. Batanov, in: Rogaleva G.I. (ed.), *Nauka v sovremennom mire. Materialy XXXI Mezhdunarodnoy nauchno-prakticheskoy konferentsii. Sbornik nauchnykh trudov*, Moskva, 2018, p. 186.

²² A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 431.

²³ Ibidem, p. 432.

²⁴ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 296.

- to protect society from dangerous, unlawful behaviour by people with mental health problems.²⁵

The purposes listed above are medical (the first two) and legal (the third).²⁶ It can be concluded that the primary purpose of the application of these measures is 'to bring about such a state of a person's psyche in which the possibility that the person will commit acts provided for in the Special Part of the CC RF is ruled out or reduced'.²⁷ Only therapeutic methods (without an element of punishment) are to serve this purpose. This applies to diagnosis and treatment.²⁸

Some scholars believe that 'guaranteeing the safety of society' and 'protecting the rights and legal interests of the mentally ill' should be recognised as the purposes of the application of these measures.²⁹

THE TYPES OF COMPULSORY MEDICAL MEASURES (ARTICLE 99 CC RF)

Article 99(1) CC RF provides for the following types of compulsory medical measures:

- mandatory observation and treatment by a psychiatrist in outpatient settings;
- compulsory treatment in a medical facility providing psychiatric care in inpatient (hospital) settings of a general nature;
- compulsory treatment in a medical facility providing psychiatric care in inpatient (hospital) settings of a specialised nature;
- compulsory treatment in a medical facility providing psychiatric care in inpatient (hospital) settings of a specialised nature, with intensive observation.

The first of these measures is not isolating in nature, while the others involve treatment in various medical facilities. The facility type depends on the person's health and the need for intensive treatment.³⁰ The specific characteristics of each are related to the method of treatment, its intensity, and the measures needed to ensure the safety of the person and their environment.³¹

The choice of measure depends on the threat posed by the ill person as a result of the disorder,³² the nature of the disorder, the person's mental state, and the nature and degree of the social danger posed by the act committed.³³

²⁵ F.Z. Radzhabova, A.M. Magomedadykova, Sh.S. Gadzhimagomedova, 'Tseli naznacheniya i primeneniya prinuditel'nykh mer meditsinskogo kharaktera', *Obrazovaniye i pravo*, 2023, No. 4, p. 94.

²⁶ N.R. Kosevich, in: Brilliantov A.V. (ed.), *Ugolovnoye pravo Rossii. Chasti obshchaya i osobennaya*, Moskva, 2015, p. 317.

²⁷ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 340.

²⁸ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 432.

²⁹ See A.N. Batanov, in: Rogaleva G.I. (ed.), *Nauka v sovremennom...*, op. cit., p. 187.

³⁰ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 433.

³¹ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu...*, op. cit., p. 233.

³² N.R. Kosevich, in: Brilliantov A.V. (ed.), *Ugolovnoye pravo...*, op. cit., p. 319.

³³ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 342.

The decision on the use of appropriate measures is made by a court after obtaining the opinion of expert psychiatrists. The court takes into account the recommendations of doctors, but also it independently analyses the behaviour of the person, the manner in which the act was committed, and the severity of its consequences.³⁴ In practice, there are often differences between the position of the judicial authorities and the psychiatrists' recommendations as to which compulsory medical measures should be imposed.³⁵

Keeping in mind the abuses mentioned at the beginning of the paper in the application of these measures, the literature emphasises the exclusive role of the court in their adjudication. It is noted that: 'Within the territory of the Russian state, only a court can restrict the human rights and the freedoms of the individual and the citizen guaranteed by the Constitution of the Russian Federation and implement coercion on behalf of the Russian state.'³⁶

With regard to persons convicted of crimes committed in a state of sanity, but requiring treatment due to mental disorders that do not rule out sanity, the court may, in addition to the punishment imposed, order the application of compulsory medical measures in the form of compulsory observation and treatment by a psychiatrist in outpatient settings (Article 99(2) CC RF).

This section of the paper will discuss the regulation of the measure of compulsory observation in outpatient settings and treatment by a psychiatrist (Article 100 CC RF) and compulsory treatment in a psychiatric hospital (Article 101 CC RF).

Under Article 100 CC RF, the grounds for the imposition by a court of compulsory observation and treatment by a psychiatrist in outpatient settings are those provided for in Article 97 CC RF (the commission of acts and crimes in a certain mental state and the possibility that the person will cause significant harm or pose a danger to themselves, or to others) in relation to a person whose mental state does not require them to be placed in a medical facility providing psychiatric care in inpatient (hospital) settings.

It should be noted that the ground formulated as 'if the person's mental condition does not require them to be placed in a medical facility providing psychiatric care in inpatient (hospital) settings' is not precise. The problem is identifying situations in which a person does not need to be placed in such a facility and the criteria for making such a decision. Certainly, in reality, this is difficult to determine, especially when both a psychiatrist and a lawyer participate in the decision-making process.³⁷

In practice, a decision to conduct observation is made by a committee appointed by the administration of the medical facility providing outpatient psychiatric care. Such decisions are made in relation to people who have committed acts that are dangerous to the public, who have not been held criminally liable but have been subjected to compulsory measures, and people who have serious mental disorders

³⁴ N.R. Kosevich, in: Brilliantov A.V. (ed.), *Ugolovnoye pravo...*, op. cit., p. 320.

³⁵ P.A. Kolmakov, 'O nekotorykh problemnykh situatsiyakh pravovogo regulirovaniya prinuditel'nykh mer meditsinskogo kharaktera', *Vestnik Udmurtskogo Universiteta*, 2017, Vol. 27, No. 2, p. 107.

³⁶ I.A. Yefremova, 'Ponyatiye i priznaki...', op. cit., p. 58.

³⁷ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 343.

leading to insanity.³⁸ This means that the measure can be applied in relation to a person who is capable of understanding its scope, is aware of the treatment being provided to them,³⁹ is able to assess their mental state, does not require constant medical monitoring, is able to function independently in social terms, and for whom there is a positive prognosis with regard to their condition.⁴⁰

When adjudicating this measure, the court takes into account the nature and severity of the mental disorder, the impact of the mental state on the person's behaviour, including the danger posed to themselves and to others, and the possibility of achieving the objectives of the measure.⁴¹

Their implementation requires mandatory observation, regular visits to a psychiatrist, treatment with medication, and rehabilitation.⁴² It also includes the provision of social assistance at the place of residence or at the place of execution of the punishment. However, it allows the person to function in their environment, perform paid work (if there are no contraindications), perform various duties, and interact with their family.⁴³

In practice, the implementation of the medical measure in question consists of the referral of the person by the court to a medical facility providing outpatient psychiatric care (e.g. to a psychoneurological outpatient clinic, i.e. a medical facility providing specialised treatment and preventive care).⁴⁴

On the other hand, the measure of compulsory treatment in a medical facility providing psychiatric care in inpatient settings, i.e. a psychiatric hospital, is more severe compared with the measure discussed previously. This is because it requires treatment that can only be arranged and ensured in a medical facility.⁴⁵

Based on Article 101(1) CC RF, the grounds for imposing this measure are provided for in Article 97 CC RF (the perpetration of acts and crimes in a certain mental state and the possibility of the perpetrator causing significant harm or causing danger to themselves or others) and apply to a person whose mental disorder is of such a nature as to require treatment, care, nursing, and observation in appropriate conditions. Such conditions can only be ensured in a medical facility that provides psychiatric care in inpatient (hospital) settings.

Thus, inpatient psychiatric hospital treatment is ordered only when the nature of a person's disorder requires it. It applies to both sane and insane persons.⁴⁶ During treatment at such a facility, such individuals are housed together with other patients.⁴⁷ They have rights such as obtaining information about their health,

³⁸ Ibidem, p. 344.

³⁹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 434.

⁴⁰ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu...*, op. cit., p. 234.

⁴¹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., pp. 434–435.

⁴² Ibidem, p. 435.

⁴³ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 297.

⁴⁴ S.Ya. Kazantsev, P.N. Mazurenko, *Ugolovnoye pravo*, Moskva, 2022, p. 194.

⁴⁵ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu...*, op. cit., pp. 235–236.

⁴⁶ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 436.

⁴⁷ M.M. Dayshutov, in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu...*, op. cit., p. 236.

filing complaints about treatment with various authorities (court, prosecutor's office), seeing a lawyer and a priest, and receiving wages (if employed during their treatment). However, depending on their health condition, some of those rights may be restricted, such as receiving visitors, using the telephone, etc.⁴⁸

Under Article 101(2) CC RF, the ground for the imposition of compulsory treatment in a medical facility providing psychiatric care in inpatient (hospital) settings of a general nature is the person's mental condition that requires inpatient treatment and observation but does not require intensive observation.

Treatment under these conditions takes place in hospitals and clinics where the movement of patients is restricted; for example, they are not allowed to leave the building without a pass and can only walk within and around the hospital premises.⁴⁹ In practice, they are housed in a segregated part of a psychiatric hospital where compulsory treatment is not the main function. Persons who are not expected to repeat violent behaviour, who have a positive therapeutic prognosis, and who have been transferred from specialised hospitals are placed in such facilities.⁵⁰

Under Article 101(3) CC RF, the ground for imposing compulsory treatment in a medical facility providing specialised psychiatric care in inpatient/hospital settings is the person's mental condition that requires constant observation.

Treatment under these conditions takes place in psychiatric clinics. As such patients pose a danger to others, they require specialised treatment and the involvement of specialised personnel.⁵¹ Their aggressive behaviour that endangers others or disrupts order and discipline in the facility (e.g. escapes, assaults on staff) must be monitored.⁵²

A psychiatric clinic provides the security and surveillance necessary for monitoring patients. Walks take place in isolated areas, and meetings with relatives are held in specific rooms that are properly equipped to prevent escape, in the presence of staff.⁵³

Under Article 101(4) CC RF, the ground for the imposition of compulsory treatment in a medical facility providing psychiatric care in inpatient/specialised hospital settings with intensive observation is the person's mental condition, which results in the person causing particular danger to themselves or to others, and therefore requires constant and intensive observation.

As such facilities house people with chronic mental disorders who tend to repeat behaviours that threaten their safety and the safety of their surroundings (assaults on staff, escapes),⁵⁴ their grounds and buildings are safeguarded. The patients are placed in separate single-sex rooms. They receive appropriate treatment, including observation during their walks and visits from relatives, as well as during therapy,

⁴⁸ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 347.

⁴⁹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 436.

⁵⁰ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 298.

⁵¹ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 437.

⁵² S.Ya. Kazantsev, P.N. Mazurenko, *Ugolovnoye...*, op. cit., p. 195.

⁵³ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 349.

⁵⁴ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 299.

with the aim of preventing suicide, escape, or committing new criminal acts.⁵⁵ Such facilities have their own security systems.⁵⁶ It should be noted that juveniles under the age of 16 are not ordered to be forcibly placed in such facilities.⁵⁷

As Russian scholars point out, treatment in a psychiatric hospital requires many restrictions, including those necessary to ensure the safety of both patients and staff. In their opinion, this is carried out with respect for the rights and freedoms of the patient.⁵⁸

EXTENSION, MODIFICATION, AND TERMINATION OF COMPULSORY MEDICAL MEASURES (ARTICLE 102 CC RF) AND CREDITING OF THE PERIOD OF THEIR APPLICATION (ARTICLE 103 CC RF)

Pursuant to Article 102(1) CC RF, at the request of the administration of a medical facility providing compulsory treatment or a penal-executive inspection supervising the application of compulsory medical measures, and on the basis of the opinion of a committee composed of psychiatrists, a court may decide to extend, modify, or terminate such measures.

Under Article 102(2) CC RF, in order to determine whether there are grounds for submitting a request to the court to revoke or modify a compulsory medical measure, the person on whom such a measure has been imposed must be examined by a committee composed of psychiatrists. This shall be carried out at least once every six months. The examination may be conducted at the initiative of the attending psychiatrist (if, in the course of treatment, they have come to the conclusion that the imposed measure should be modified or discontinued) or at the initiative of the person subject to the measure, their legal representative, and/or a close relative (upon request). The request must be submitted through the administration of the medical facility that provides compulsory treatment or the penal-executive inspection body, which carries out inspection of the application of compulsory medical measures, regardless of the time of the last examination. If it is determined that there are no grounds for terminating or modifying the measure, the administration of the medical facility providing compulsory treatment or the aforementioned penal-executive inspection body must submit a request to the court for the extension of the compulsory treatment. The first extension of the compulsory treatment may take effect six months after the start of the treatment, and thereafter it may be extended annually. It should be emphasised that neither the committee's decision to refrain from extending or modifying the application of compulsory measures, nor the opinion of the administration of the medical facility is binding on the court, which may make a different decision.⁵⁹

In the case of a person who committed a crime after reaching the age of 18 against the sexual inviolability of a minor under the age of 14 and suffers from a sexual

⁵⁵ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 350.

⁵⁶ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 437.

⁵⁷ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 299.

⁵⁸ N.R. Kosevich, in: Brilliantov A.V. (ed.), *Ugolovnoye pravo...*, op. cit., p. 320.

⁵⁹ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., pp. 300–301.

preference disorder (paedophilia) that does not rule out their sanity, the court, on the basis of a request filed no later than six months before the expiration of the term of execution of the sentence by the administration of the institution carrying out the sentence, orders a forensic psychiatric examination. Its purpose is to determine whether these measures should be applied to the offender during the period of early conditional release or while serving a more lenient type of sentence, as well as after serving the sentence. This is done regardless of the date of the last examination and of the decision to terminate the compulsory medical measure. On the basis of the forensic psychiatric examination, the court may order the application of such a measure in the form of compulsory observation and treatment by a psychiatrist in outpatient settings, or decide to discontinue such a measure (Article 102(2)(1) CC RF).

The grounds for the court to modify or discontinue the application of a compulsory medical measure are that the mental state of the person has changed to such an extent that the previously applied measure is no longer necessary, or that there is a need to order the application of another measure (Article 102(3) CC RF). A possible basis for modifying or discontinuing compulsory measures is the behaviour of the person, as a result of which, for example, they no longer pose a threat to others or this threat is reduced.⁶⁰

'In the case of terminating compulsory treatment in a medical facility providing psychiatric care in inpatient settings, the court may transfer the necessary materials concerning the person who was compulsorily treated to a federal executive authority in the field of healthcare or an executive authority of a subject of the Russian Federation in the field of healthcare in order to decide on the issue of treatment of this person in a medical facility providing psychiatric care or the referral of this person to an inpatient social care facility for persons suffering from mental disorders, in accordance with the procedure provided for in legislation on healthcare' (Article 102(4) CC RF).

This means that if a decision is made to discontinue the application of a given measure, and where there are medical indications for further psychiatric treatment under general rules in order to continue treatment (except for treatment in a medical facility providing psychiatric care in inpatient (hospital) specialised settings and treatment in a medical facility providing psychiatric care in inpatient (hospital) specialised settings with intensive observation), the person can be referred to another medical facility.⁶¹

As can be seen from the information presented, the application of compulsory treatment measures is subject to judicial control. It is the court that decides on their extension, modification, and termination. The court does not specify the duration of treatment, which depends on the patient's state of health.

Pursuant to Article 103 CC RF:

'In case of curing a person whose mental derangement commenced after the commission of a crime, and when punishment is imposed or its execution is resumed, the time during

⁶⁰ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 440.

⁶¹ V.K. Duyunov, in: Duyunov V.K. (ed.), *Ugolovnoye pravo...*, op. cit., p. 301.

which compulsory treatment was performed in a mental hospital shall be incorporated into the term of punishment at the rate of one day of stay in the mental hospital per one day of deprivation of liberty.'

The Criminal Code of the Russian Federation does not regulate the method of crediting the duration of the punishment in the case of non-custodial sentences.⁶²

COMPULSORY MEDICAL MEASURES COMBINED WITH SERVING A SENTENCE (ARTICLE 104 CC RF)

Pursuant to Article 104(1) CC RF, compulsory medical measures in the form of compulsory observation and treatment by a psychiatrist in outpatient settings, imposed on persons who are convicted of crimes committed in a state of sanity, but who require treatment for mental disorders that do not rule out sanity, must be carried out at the place of imprisonment, while in the case of persons sentenced to other types of punishment, they must be carried out in medical facilities of the state healthcare system providing psychiatric care in outpatient settings.

In practice, while the execution of such a measure in places of imprisonment takes place in penitentiary facilities, the execution of a sentence of restriction of liberty or compulsory work (due to the nature of these punishments) is problematic.⁶³

In the event of a change in the mental condition of a convicted person requiring inpatient treatment, they must be placed in a medical facility providing inpatient psychiatric care or in another medical facility in accordance with the procedure and rules provided for in healthcare legislation (Article 104 (2) CC RF).

Under Article 104 (3) CC RF, the period of stay in the above-mentioned medical facilities (...) is credited towards the sentence served.

The termination of a compulsory medical measure combined with serving a sentence is carried out on the basis of the opinion of a committee composed of psychiatrists. It is decided by the court at the request of the authority executing the sentence (Article 104(4) CC RF).

Some Russian scholars believe that it is inappropriate to 'transfer the leading role in solving these problems to (substantive) criminal legislation'. They believe that these issues should be resolved at the level of penal-executive legislation.⁶⁴

CONCLUSION

To conclude, it can be stated that the research hypothesis set at the beginning of the analyses has been partially confirmed, because, as was determined, the scope of the regulation of compulsory medical measures contained in the 1996 Criminal

⁶² A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu...*, op. cit., p. 358.

⁶³ A.I. Chuchayev (ed.), *Ugolovnyy kodeks...*, op. cit., p. 442.

⁶⁴ A.V. Zvonov, A.A. Savin, 'Problemy regulirovaniya zakonodatel'stva v chasti ispolneniya prinuditel'nykh mer meditsinskogo kharaktera', *Izvestiya Tul'skogo gosudarstvennogo universiteta. Ekonomicheskiye i yuridicheskiye nauki*, 2019, No. 4, p. 137.

Code of the Russian Federation is relatively narrow. Basically, it includes two measures: (1) compulsory observation and treatment by a psychiatrist in outpatient settings, and (2) compulsory treatment in a medical facility. Noteworthy is the diverse nature of the latter measure (general, specialised, and specialised with intensive observation). In practice, its extensive character can promote the use of isolation of the patient for non-medical purposes. It can also be surmised that the objectives of the use of compulsory medical measures, which include, in addition to prevention, the pursuit of improving the patient's health, are broad. It should be noted that these measures, against the backdrop of the frequent casuistry of the Russian Criminal Code, are regulated in relative detail. It appears that they take into account international human rights standards.

The legal provisions in question also have certain shortcomings. According to Russian scholars, due to the medical and criminal nature (substantive and executive law) of the measures in question, they should be consolidated and set out in a single act, which would, among other things, regulate the delivery of patients to medical facilities implementing these measures and define the legal situation of a person who has escaped from or evaded compulsory treatment.⁶⁵

In addition, in practice, compulsory medical measures incorporating elements of law and medicine pose problems for police officers and judges arising, *inter alia*, from the insufficient level of their medical knowledge. This issue should be resolved by the uniformity of jurisprudential practice, developed on the basis of the case law of higher courts.⁶⁶

Other practical problems are associated with the misapplication of legislation when adjudicating criminal cases involving compulsory medical measures. The most important of these relate to unjustified use or, on the contrary, failure to use such measures when necessary; violation of the psychiatric examination procedure or of its prescribed frequency; incompatibility of the chosen measure with the degree of social danger posed by the person in question or delay in modifying that measure; and exclusion of persons subjected to compulsory medical measures from participation in procedural activities without taking into account their state of health.⁶⁷

Indicative in this respect are the words of a contemporary Russian scholar: 'It is well known that the use of compulsory medical measures can serve the purpose of suppressing and eliminating political opponents or solving other non-medical problems, without a high-profile fair trial.'⁶⁸ Such abuses, as indicated at the outset of this paper, cannot now be ruled out.

⁶⁵ Ye.V. Shpynova, 'Prinuditel'nyye mery meditsinskogo kharaktera', *Aktual'nyye problemy rossiyskogo prava*, 2015, No. 4, p. 70.

⁶⁶ A.Ye. Leont'yeva, 'Prinuditel'nyye mery meditsinskogo kharaktera v uk RF', *Naukosfera*, 2021, No. 7, p. 325.

⁶⁷ A.L. Suvorova, 'Problemnnyye voprosy prinuditel'nykh mer meditsinskogo kharaktera v ugovolnom prave Rossii', *Science Time*, 2023, No. 11, p. 62.

⁶⁸ A.V. Brilliantov, in: Brilliantov A.V. (ed.), *Kommentariy k ugovolnomu...*, op. cit., pp. 338–339.

BIBLIOGRAPHY

- Batanov A.N., in: Rogaleva G.I. (ed.), *Nauka v sovremennom mire. Materialy XXXI Mezhdunarodnoy nauchno-prakticheskoy konferentsii. Sbornik nauchnykh trudov*, Moskva, 2018.
- Belik Yu.S., 'Problemy primeneniya norm o prinuditel'nykh merakh meditsinskogo kharaktera', *Vestnik Moskovskogo universiteta MVD Rossii*, 2016, No. 1.
- Brilliantov A.V., in: Brilliantov A.V. (ed.), *Kommentariy k ugolovnomu kodeksu Rossiyskoy Federatsii (posteteynyy)*, Moskva, 2017.
- Chuchayev A.I. (ed.), *Ugolovnyy kodeks Rossiyskoy Federatsii. Kommentariy s putevoditelem po sudebnoy praktike*, Moskva, 2019.
- Dayshutov M.M., in: D'yakov S.V., Kadnikov N.G. (eds), *Kommentariy k ugolovnomu kodeksu Rossiyskoy Federatsii. Nauchno-prakticheskiiy (postateyny)*, Moskva, 2016.
- Duyunov V.K., in: Duyunov V.K. (ed.), *Ugolovnoye pravo Rossii. Chasti obshchaya i osobennaya*, Moskva, 2017.
- Kolmakov P.A., 'O nekotorykh problemnykh situatsiyakh pravovogo regulirovaniya prinuditel'nykh mer meditsinskogo kharaktera', *Vestnik Udmurtskogo Universiteta*, 2017, Vol. 27, No. 2.
- Kosevich N.R., in: Brilliantov A.V. (ed.), *Ugolovnoye pravo Rossii. Chasti obshchaya i osobennaya*, Moskva, 2015.
- Leont'yeva A.Ye., 'Prinuditel'nyye mery meditsinskogo kharaktera v uk RF', *Naukosfera*, 2021, No. 7.
- Onet.pl*, 'Rosjanie wsadzaja do szpitala psychiatrycznego krytyków wojny w Ukrainie', 4 July 2022; <https://www.onet.pl/informacje/onetwiadomosci/rosjanie-wsadzaja-do-szpitala-psychiatrycznego-krytykow-wojny-w-ukrainie/j2d5mkh,79cfc278> (accessed: 13 February 2026).
- Radzhabova F.Z., Magomedmedsadykova A.M., Gadzhimagomedova Sh.S., 'Tseli naznacheniya i primeneniya prinuditel'nykh mer meditsinskogo kharaktera', *Obrazovaniye i pravo*, 2023, No. 4.
- Shishkov S.N., Polubinskaya S.V., 'Zakonodatel'nyye problemy prinuditel'nykh mer meditsinskogo kharaktera', *Lex Russia*, 2019, No. 6.
- Shpynova Ye.V., 'Prinuditel'nyye mery meditsinskogo kharaktera', *Aktual'nyye problemy rossiyskogo prava*, 2015, No. 4.
- Suvorova A.L., 'Problemnyye voprosy prinuditel'nykh mer meditsinskogo kharaktera v ugolovnom prave Rossii', *Science Time*, 2023, No. 11.
- Trusova E.A., 'Definitsiya, sushchnost' i inyye pravovyye osobennosti prinuditel'nykh mer meditsinskogo kharaktera', *Matters of Russian and International Law*, 2023, Vol. 13, No. 6A.
- Vasselovskaya A.V., 'Nekotoryye problemnyye voprosy ispolneniya prinuditel'nykh mer meditsinskogo kharaktera', *Vestnik Vladimirskego yuridicheskogo instituta*, 2019, No. 3.
- Yefremova I.A., 'Ponyatiye i priznaki prinuditel'nykh mer meditsinskogo kharaktera', *Izvestiya Yugo-Zapadnogo gosudarstvennogo universiteta. Seriya: Istoriya i pravo*, 2021, No. 11.
- Zvonov A.V., Savin A.A., 'Problemy regulirovaniya zakonodatel'stva v chasti ispolneniya prinuditel'nykh mer meditsinskogo kharaktera', *Izvestiya Tul'skogo gosudarstvennogo universiteta. Ekonomicheskoye i yuridicheskoye nauki*, 2019, No. 4.

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