

169665

BW 2539 CAD6

WORLD FACTBOOK OF CRIMINAL JUSTICE SYSTEMS

Russia

Ilya V. Nikiforov

This country report is one of many prepared for the World Factbook of Criminal Justice Systems under Grant No. 90-BJ-CX-0002 from the Bureau of Justice Statistics to the State University of New York at Albany. The project director for the World Factbook of Criminal Justice was Graeme R. Newman, but responsibility for the accuracy of the information contained in each report is that of the individual author. The contents of these reports do not necessarily reflect the views or policies of the Bureau of Justice Statistics or the U.S. Department of Justice.

GENERAL OVERVIEW

1. Political System.

Russia is a federative state. The sources of law in Russia include the Russian constitution, Federal constitutional law, Federal laws, and laws of subjects of federation. Administrative bodies issue the acts that must comply with the laws.

The Constitution has the preeminent force and Federal laws cannot contradict Federal constitutional law. Although court decisions are not officially accepted as the sources of law in Russia, the explanatory rulings of the Supreme Court of Russia usually not only clarify the application of existing law but also create new legal rules. Lower courts usually comply in their practice with the Supreme Court rulings.

The penitentiary system and the law-enforcement bodies of Russia are headed by the Ministry of Internal affairs.

2. Legal System.

Russia is a federative state. According to Section 71 of the Constitution of Russia, criminal and criminal-procedure law are under the exclusive jurisdiction of Federal bodies. The assurance of public order and safety is a joint duty of the federation and its parts. It should be noted that acts issued by authorities of the regions and republics forming Russia cannot contradict the laws issued by Federal bodies.

The system of courts is governed by the Justice Ministry of Russia, which has territorial branches in the federation. This ministry primarily performs financial and administrative functions. Judges are independent and make their decisions according to the rule of law. Higher courts may affirm or repeal the decisions of the lower courts according to criminal procedure rules and may also grant writs of certiorari.

The most important laws originate from: the

Criminal Code, the Criminal Procedure Code, the Criminal Punishment Execution Code (in Russian it is called the Reforming Labour Code), Law on the Justice System, Law on the Militia, and Law on the Status of Judges.

3. History of the Criminal Justice System.

The criminal legislation of Russia has its deepest roots in the first known act, Russkaya pravda, issued in 11th century. The great codification of Russian criminal legislation called Sobornoe Ulozhenie occurred in 1649. Before the revolution the Ulozhenie o nakazaniyah ugolovnich i ispravitelnich was effective. Texts of these statutes can be found in Russian legislation of X-XX centuries. (See source 12).

The Soviet period had a great effect on the judicial system and up to the present day there are a number of major laws, including the Criminal Code and Criminal Procedure Code, that remain in force. In the summer of 1994, President Yeltzin approved a draft of the Criminal Code was passed in 1995.

Although the Criminal Code has been amended seven times since 1990, reforms in post-Soviet criminal legislation go rather slowly. For example, the distinction between State and private property was removed from the Criminal Code only in the summer of 1994. Prior to that, the Code called for more serious punishments for crimes against State property.

CRIME

1. Classifications of Crimes.

*Legal classification. There is no crime that is not indicated in the criminal code. This is the sole source of criminal legislation. The Code classifies crimes into two categories: major offenses, such as rape, kidnapping, treason, espionage, crimes against the justice system, serious violent crimes, and murder; minor offenses such as offenses against property, hooliganism, and offenses against the public order. This distinction is used to determine sentencing of offenders' and the type of correctional institutions to which they are sent.

*Age of criminal responsibility. The age of criminal responsibility is 16 years. Persons over 14 years old will bear responsibility only for murder, major bodily injury, rape, kidnapping, larceny, robbery, burglary, stealing of firearms and drugs, malicious hooliganism, and train catastrophe. The court may impose educational or reform measures instead of criminal punishment

on persons under the age of 18 who committed a crime.

*Drug offenses. The Criminal code includes a number of drug statutes which make illegal: 1)unlawful production, transportation, storage, mailing or distribution of drugs; 2)stealing drugs; 3)inclination to consume drugs; 4)unlawful obtaining and storage of a small quantity of drugs; 5)cultivation of poppy or hemp; 6)organization of haunts for consummation of drugs.

The list of illegal drugs was created by the Constant Committee for Drug Control of the Health Care Ministry of Russia in compliance with the Uniform International Convention on Drugs 1961. It contains more than 400 substances including opium, morphine, hemp, heroin, cocaine, and codeine. In addition, there is a list of drastic remedies and poisons that are illegal to produce, transport, store, or distribute.

2. Crime Statistics.

The following data were compiled by the Ministry of Internal Affairs for the years 1989-1993 on the basis of police reports. In 1993 2,799,614 crimes were reported; only 1,395,000 of them (50.6%) were investigated successfully. Major crimes constitute 17% of all reported crimes; crimes against property, more than 50%.

The definitions of crimes comply with the Criminal Code but are not available in this document.

	1989	1990	1991	1992	1993
Total number of crimes reported	1,620,000	1,890,000	2,200,000	2,700,000	2,800,000
Murder	13,543	15,566	16,122	23,006	29,213
Major bodily injury	36,872	40,962	41,195	53,873	66,902
Rape	14,597	15,010	14,073	13,663	14,400

*Drug offenses. There were 53,200 drug crimes reported in 1993, 1.8 times greater than in 1992.

*Crime Regions. No information available.

VICTIMS

1) Groups Most Victimized by Crime.

Russian researchers indicate that certain segments of the population are more victimized by crime than others. For example, youth and senior citizens are victimized more often than other groups. Men are more often the victims of

hooliganism and women, more often victims of fraud. In 81% of all crime and in 63.2% of major bodily injuries, the victims were relatives or friends of the offenders.

The occupations of individuals also effect whether or not they be a victim of crime. Taxi drivers, businesspersons or bank employees, militia officers, and cashiers are considered at risk in Russia.

In certain cases, some culpability belongs to the victim. For example, in 40% of all rape cases and 41% of all manslaughter cases alcohol was present in the victim's bloodstream.

2. Victims' Assistance Agencies. No information available.

3. Role of Victim in Prosecution and Sentencing.

A victim may participate in the trial. In certain cases, for example, in rape cases or in breach of author's rights cases, the prosecution can proceed only after a written declaration by the victim. There are, however, a few exceptions in which a prosecutor can initiate proceedings. In these cases a victim cannot stop the proceeding after the complaint is filed. In contrast, prosecution in slander and beating cases can be initiated and stopped by the victim.

4) Victims' Rights Legislation.

Article 30 of the Law on Property, adopted December 25th, 1990, provides that the state shall compensate material damage sustained by a victim from a crime. But in 1993 and 1994, the action of this provision was suspended because the budget did not allow for it. Legislation on the defense of persons participating in criminal procedure is pending in the Parliament.

POLICE

1. Administration.

The Militia is a public agency, a part of the executive branch of government. Its tasks are protecting life, physical health, rights and freedoms of citizens; protecting property, and the interests of the state and society from criminal and other unlawful infringements. The Militia is authorized to use force to perform its functions.

The Militia forms a part of the structure of the Ministry of Internal Affairs. It is subdivided into the Criminal Militia and the Public Security Militia. The Criminal Militia is subordinated to the Ministry of Internal Affairs of Russia and the ministries of internal affairs of the republics comprising the Russian federation. The Public

Security Militia is also subordinated to local authorities.

The Criminal Militia has the task of prevention, suppression, and exposure of criminal offenses that require a preliminary investigation; the organization of searches for persons who have escaped from bodies of inquiry; investigations under judicial bodies involving persons who avoid the execution of criminal punishment; investigation of missing persons and of other persons as the law prescribes.

The Public Security Militia or local militia has the task of ensuring the personal security of citizens; ensuring the public security; protection of public order; prevention and suppression of criminal offenses and minor delinquencies; the disclosure of criminal offenses that do not require a preliminary investigation; investigation of criminal offenses in the form of inquiry; the rendering of assistance to citizens, officials, businesses, establishments, organizations and public associations.

An independent police structure is the Department of Taxation Police. The Taxation Police are charged with the prevention, suppression, and exposure of taxation crimes and infringements; safeguarding taxation inspection, and protection of the department's officers.

2. Resources.

*Expenditures. Annual expenditure on the law enforcement system in 1994 was approximately 16,000,000,000,000 rubles (US\$7,000,000,000).

*Number of police. a) A Special Detachment of Militia is created for a city with a population exceeding 300,000 persons. b) A "Watching unit" with 8-12 officers is created for a town with a population exceeding 50,000 persons. The average size for a "watching unit" of a water or a railway transport internal affairs department is also 8-12 officers. c) The number of corrections officers employed in a penitentiary that houses people during pre-trial incarceration depends on the number of persons incarcerated:

Persons Incarcerated	Number of Officers
<25	8-11
26-50	13-16
51-75	17-20
76-100	21-25

d) There is one officer of inquiry for every 165 primary materials (or for approx. 50 cases) brought before the court. e) There is one juvenile delinquency inspector for every 4,000-5,000 persons under 16. f) There is one inspector per

3,000 vehicles in the automobile inspection unit.

3. Technology.

*Availability of police automobiles. Information not available.

*Electronic equipment. Information not available.

*Weapons The militia is authorized to use firearms, rubber batons, tear-gas, and firehoses. There is no information on the availability of bullet proof vests.

4. Training and Qualifications.

To join the militia, a person is required to pass professional training in specialized higher or secondary educational establishments of the Ministry of Internal Affairs or other state departments. To enter these establishments, a person must be 18-35 years old, have a secondary education and no previous convictions. An officer serves a probation period lasting from 3 months to 1 year.

5. Discretion

*Use of force. Officers of the militia are allowed to use physical force, special means, and weapons. Physical force, including special combat methods, can be used for prevention of offenses and delinquencies, detention of offenders, and overcoming resistance to lawful orders.

Special means include rubber batons, tear-gas, manacles, special light and sound diverting means, firehoses, special means for stopping transport, armoured cars, and patrol dogs.

The Militia can use firearms for defense of citizens, for self-defense, to gain the release of hostages, to detain offenders, and to suppress escapes. An officer must inform the chief of the militia department of every incident involving the use of firearms no more than 24 hours after the incident. In 1993, firearms were used by police officers 2,200 times and 376 criminals were killed.

The use of firearms and special means is forbidden against women, persons who are obviously disabled, and persons under the age of 18.

*Stop/apprehend a suspect. A body prosecuting an inquiry has the right to arrest an alleged offender if the relevant offense may be punished by imprisonment, provided that: 1) the person is detained during the crime or immediately after, or

2) eye-witnesses, including victims, indicate that the person is the offender, or 3) the suspect or his clothes bear the obvious signs of the crime, or such signs can be found with him or in his home, or 4) when reasons exist to suspect the person of committing the crime, provided that: (a) the person tried to escape, or (b) has no permanent domicile, or (c) cannot be identified.

*Decision to arrest. No information available.

*Search and seizure. If certain documents or items which are important for further investigation are known to be at a certain location or at the disposal of a certain person, investigators have the right to seize these items or documents.

An investigator can perform a search to find tools used for committing a crime, documents, valuables, persons, or dead bodies.

Approval by the prosecutor is required to perform a search, to seize documents which contain State secrets, or to seize postal and telegraph correspondence.

*Confessions. No information available.

6. Accountability.

A person can appeal against the actions of a militia officer to higher officers or militia bodies, to the prosecutor, or to the court.

PROSECUTORIAL AND JUDICIAL PROCESS

1. Rights of Accused.

*Rights of the accused at trial. The accused has the right: 1) to be informed of the nature and course of the accusation; 2) to give explanations in the course of accusation; to present evidence; submit petitions and appeals to the court; 3) to know the reasons and grounds for arrest; 4) to examine the materials introduced to the court to validate the charges; 5) to know the reasons and grounds for the extension of his incarceration; 6) to examine the records of pre-trial investigation; 7) to have a Counselor; 8) to reject individual judges or other trial participants and 9) at the end of investigation, to examine all materials pertaining the case and 10) to appeal the actions and decisions of an investigator, a prosecutor and or a judge.

A case can be examined by a court consisting of: 1) a Judge and two Assessors, 2) three Judges, 3) a Jury, or 4) a Judge alone.

The jury system was just introduced into Russian criminal procedure and the changes have

not yet taken effect. The jury will participate in the trial at the discretion of the offender if he is accused of serious crimes (malicious murder, treason, acts of terrorism, or offenses against justice). They will decide only questions of fact, not questions of applicable law or the sentence. With a few exceptions, every citizen from 25 to 70 years old can be a juror (Law of July 16th, 1993).

*Assistance to the accused. After the accusation against him is brought, an accused gains the right to have a Counselor who must be a member of the bar association. At the trial the accused can also have a Public Counselor who is a representative of the public association or labor collective where he has worked. Any person can act as Counsel for the defense, whose duty it is to protect the interests of the defendant in the court.

An accused can be released from paying counselor fees by the decision of the court or an investigator.

2. Procedures.

*Preparatory procedures for bringing a suspect to trial. There are two pre-trial stages: the institution of proceedings and the preliminary investigation. 1) The preliminary investigation consists of a) promulgation of court members; b) identification of the accused; c) control of attendance of participants in the trial; d) explanation of rights to participants in the trial; e) removing witnesses from the hall and f) examination of petitions. 2) Court investigation: a) evidence examination; 3) pleadings which consist of speeches delivered by the prosecutor, civil plaintiff, civil respondent, their representatives, counselors, and the accused defendant if he does not have a counselor. 4) Short second pleadings: all participants of the trial have the right to plea once more. 5) The final word of the defendant. 6) The participants in the trial present to the court their suggestions concerning the sentence. 7) Passing a sentence.

*Official who conducts prosecution. An accusation before the court is initiated by a prosecutor or a public prosecutor who is a representative of a public association or labor collective where the accused had worked.

*Alternatives to trial. Alternatives to going to trial include transferring the case to the juvenile commission, transferring it to comrades' court, use of an official reprimand, and release on bail.

If an accused is not mentally fit, a court can decide to use compulsory medical treatment instead of penal punishment; compulsory reformatory measures can be applied if an accused is under 18.

*Proportion of prosecuted cases going to trial.
No information available.

*Pre-trial incarceration conditions. Pre-trial incarceration can be used if the punishment for the alleged offense includes imprisonment of 1 year or more or because of the public danger of the offense. Approval of the prosecutor is required for pre-trial incarceration.

*Bail procedure. The accused or any other person can deposit money to guarantee attendance of the accused at the investigation and the trial. The size of the bail is determined by the investigator and approval of the prosecutor is required for use of bail. If the suspect or the accused fails to attend the trial, the bail is turned over to the State.

*Proportion of pre-trial offenders incarcerated. The proportion of pre-trial offenders who have been incarcerated by year:

1983 - 48%
1984 - 30%
1985 - 30%
1986 - 22%
1987 - 17%

JUDICIAL SYSTEM

1. Administration.

The highest judicial body of Russia is the Supreme or Higher Court of Russia. On the second level of the court system, are the supreme courts of the republics comprising the Russian Federation; courts of territories and regions; Moscow and St. Petersburg city courts. The third level of courts consists of the people's courts, located in the districts and small towns. These courts process the greatest number of criminal cases.

A separate system of military courts or tribunals is subordinated directly to the Supreme Court.

2. Judges.

*Number of judges. No information available.

*Appointment and qualifications. In order to become a judge, a person must be a citizen of

Russia, have a certificate of higher legal education, pass an appropriate qualification exam, and have a good reputation. He is required to reach the age of 25 years to be a judge of the People's Court; 30 years to be a judge of the court of second level; and 35 years to be a judge of the Supreme Court of Russia.

In order to become a judge of the court of second level a lawyer must have 5 years of practical experience in law. To become a judge of the Supreme Court, practical experience of 10 years is required.

A judge cannot be a member of the parliament or other body of State power. He also cannot be a member of any political party, engage in any for-profit activity, or have any other paid job except for artistic or creative work, scientific, or lecture work. First-time judges are elected for a 5-year period of probation and after that they are elected to a life term.

3. Special Courts.

Military courts and tribunals examine (1) cases that involve offenses committed by members of the military; by other persons during periodical military training; by officers; non-commissioned officers, and other ranks of State security bodies; (2) espionage cases; and (3) cases concerning malfeasance committed by officers of the penitentiary system.

PENALTIES AND SENTENCING

1. Sentencing Process.

*Who determines the sentence? According to the Criminal Procedure Code, the judge alone may decide a case where the person is accused of minor crimes, as well as cases where the punishment is not to exceed 5 years of imprisonment, as long as the accused agrees. Other cases are decided by a judge and two peoples' assessors who act as regular judges and have the same rights to participate in the determination of the sentence. The decisions are made by a majority vote in these cases. The trial may also be conducted by three professional judges if the accused agrees.

*Is there a special sentencing hearing? The court gives a sentence after having retired into a separate consulting room. A sentence is settled by a majority vote. If a judge has a special opinion on the case he can file his special opinion in writing, but is obliged to sign the sentence. This special opinion is not pronounced but is open to be read.

*Which persons have input into the sentencing process? Only members of the court participating in the current trial can be present at the room during debate.

2. Types of penalties.

*Range of penalties. The range of criminal punishments in Russia includes capital punishment, imprisonment, fines, reforming works without imprisonment, publicity, dismissal from office, deprivation of the right to hold certain positions or perform certain activities, restitution of financial damage, and additional punishments, such as confiscation of property and deprivation of special military or other ranks.

*Death penalty. According to the new Constitution of 1993, a capital sentence may be imposed only for serious violent offenses against human life. There have been 60 executions per year over the past few years. Execution is performed by firing squad.

PRISON

1. Description.

*Number of prisons and type. The penitentiary system consists of 764 reforming labor institutions, ispravitelno-trudovich colonii, and 13 prisons. There are 60 educational-labor institutions for juvenile criminals. Men and women are confined in separate institutions, as are adult and juvenile criminals.

*Number of prison beds. Information not available.

*Average daily/number of prisoners. At the beginning of 1994 there were over 600,000 persons in reforming labor institutions of which 21,600 were women and 19,100, juveniles. Of those in institutions, over half have been convicted of violent crimes and half are either alcoholics or drug addicts.

*Number of annual admissions. No information available.

*Actual or estimated proportion of inmates incarcerated. No information available.

2. Administration.

*Administration. The penitentiary system is governed by the Main Department for Reformation

Affairs which constitutes an integral part of the Ministry of Internal Affairs.

*Prison guards. No information available.

*Training and qualifications. The penitentiary system is guarded by Troops of the Ministry of Internal Affairs. The Internal Troops consist of all male persons who are called for military service or who voluntarily sign contracts for such service.

By 1996 the ministry is expected to organize special guardian divisions for the penitentiary system, so that the Internal Troops will no longer be used for this purpose.

*Expenditure on the prison system. No information available.

*Number of prisoners awaiting trial. There were 233,500 persons in prisons who were being detained while under investigation. In 1993, 437,700 men were detained as alleged offenders in the course of preliminary investigation and two-thirds of them were incarcerated.

3. Prison Conditions.

*Remissions. For good behavior and labor, the convict may be encouraged by premiums and given permission to spend additional money for food and everyday goods, permission for additional short visits up to 4 hours and long visits up to three days, and permission to receive additional mail and parcels. In 1993, over 55,000 prisoners were given the privilege of furloughs.

For excellent behavior and honest labor, prisoners may be released from part of their punishment or may be placed in less restrictive punishment.

*Work/education. Every prisoner must work. Prisoners are paid for their labor according to the quality and quantity of their work and in compliance with the national economy's standards and rates. Due to the economic situation in 1993, over 200,000 prisoners were unemployed - there was no job for them. The new Constitution prohibits forced work, but it is not clear whether these provisions are being enforced.

Juvenile prisoners study to complete the obligatory secondary education program. Other prisoners must study to comply with the 8-year secondary education standard. Those over 40 years old may study at their own discretion.

*Amenities/privileges. There are hospitals in the

penitentiary. The patients in these hospitals are treated in accordance with the health care legislation of the Russian Federation.

EXTRADITION AND TREATIES

*Extradition. To determine the extent of criminal jurisdiction, the Criminal Code of Russia uses both the rule of territory (all crimes committed on the territory of Russia) and the rule of citizenship (all crimes committed by citizens of Russia). The authorities of Russia adhere to a position that alleged offenders should be extradited to the country that initiated the proceedings, unless the offender is a citizen of Russia. The Constitution of the Russian Federation provides that extradition of alleged criminals and transfer of prisoners to other countries is possible on the basis of international agreements or laws of the Russian Federation. In no case shall Russia extradite a person who is accused for his political views or for actions that do not constitute a crime in Russia.

Russia has over 20 bilateral treaties regarding legal assistance in civil and criminal cases. They were concluded with most of the former socialist countries: Albania, Hungary, Poland, Romania, Yugoslavia, Germany, Bulgaria, Czechoslovakia, North Korea, Cuba, Vietnam, Mongolia, the Republics of Moldova and Azerbaïdgan as well as with Iraq, Tunisia, Cyprus, Finland, Greece, and Algeria. Some of these treaties have provisions regarding extradition.

In January of 1993, the Commonwealth of Independent States (CIS) countries signed a "Convention on legal assistance in civil and criminal cases". Russia ratified the convention on August 5th, 1994. The CIS now includes the Republic of Armenia, the Biëlarus Republic, the Republic of Kazakhstan, the Kirgiz Republic, the Russian Federation, the Republic of Tadgikistan, Turkmenistan, the Republic of Uzbekistan, Ukraine, the Republic of Georgia and Azerbaïdgan.

*Exchange of prisoners. On May 19th, 1978, a group of countries concluded the "Convention On the transfer of persons convicted for imprisonment to the country of their citizenship." This convention is currently in force for Russia. Current policy is to transfer prisoners to the country of their citizenship to serve their sentence.

*Specific conditions. No information available.

SOURCES

All sources in Russian.

Criminal Code of Russia with commentaries.
St. Petersburg. Severo-Zapad publishing
house. 1994.

Criminal Reformation Code of Russia. Moscow.
Juridicheskaya Literatura. 1986.

The report of the Ministry of Internal Affairs
// Rossiiskaya Gazeta, 1994, March 11.

Criminology. Publishing house of St. Petersburg
University. 1992.

USSR Supreme Court Bulletin // 1991. N 8.

Criminal activity and criminal offences in
USSR. Moscow. 1990. Editor: Smirnov.

Zhalinskiy A.E. Minkovsky G.M. Criminal
activity in USSR 1989: statistics and
commentaries // Soviet State and law. 1990.
N 6.

"Convention on legal assistance in civil and
criminal cases", (January 22nd, 1993) //
Vestnic Vyshego Arbitrazhnogo Suda.
1994. N 3.

Kurs Mezhdunarodnogo Prava. Moscow. Nayka
Publishing house. 1992. Vol. 6.

Mezhdunarodnoe Pravo v documentah. Moscow.
1982.

Collection of treaties on legal assistance in
the civil and criminal cases. Moscow. 1988.

Rossiskoe zakonodatelstvo X-XX vekov (Russian
legislation of X-XX centuries). Moscow.
1990-1994. vol 1-7.

Ilya V. Nikiforov
Faculty of Law, St.
Center for Legal Information
St. Petersburg, Russia
Tel: +7(812)152-5076
Fax: +7(812)277-7197