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On Certain Issues Arising in Consideration of Cases on Administrative Supervision over Persons Released from Confinement

In view of the issues raised by the courts in consideration of administrative cases on administrative supervision over persons released from confinement, the Plenary Session of the Supreme Court of the Russian Federation, guided by Article 126 of the Constitution of the Russian Federation, Articles 2 and 5 of Federal Constitutional Law No. 3 of 5 February 2014 “On the Supreme Court of the Russian Federation”, hereby rules to provide the following explanations:

1. In order to prevent the perpetration of crimes and other offences by persons released from confinement, to take individual prophylactic measures in their regard, to protect state and public interests in accordance with Federal Law No. 64 of 6 April 2011 “On Administrative Supervision over Persons Released from Confinement” (hereinafter referred to as the Law on Administrative Supervision, the Law), the courts establish temporary limitations of rights and freedoms of such persons, impose certain duties upon them (hereinafter – administrative limitation).

Internal affairs bodies monitor how the persons subjected to administrative limitations (hereinafter – supervised persons) comply with such limitations (hereinafter – administrative supervision).

Based on the foregoing, administrative limitation is not a punishment for a crime and (or) an offence, but is a measure aimed at prevention of repeated perpetration of crimes and (or) other offences by persons that have previous convictions for certain types of crimes, stipulated in the Law, through the exercise of administrative supervision (Item 5 of Part 3 of Article 1 of the Code of Administrative Judicial Procedure of the Russian Federation (hereinafter – CAJP RF, the Code), Article 2 of the Law).

Such cases are considered by courts in the manner stipulated in Chapter 29 of the Code.

2. Administrative cases regarding the institution, prolongation, early termination of administrative supervision, as well as regarding partial removal or supplementation of earlier established administrative limitations (hereinafter – cases on administrative supervision) are considered by district courts with due regard to the rules of territorial jurisdiction, stipulated in Parts 5 and 6 of Article 270 of the CAJP RF.

An administrative statement of claim for the institution of administrative supervision over a person, who is in confinement and is subject to release, is submitted to the court at the location of the correction facility.

If at the moment of release of the person from confinement no decision has been adopted in the case, the case is subject to adjudication on its merits by the court that accepted the corresponding administrative statement of claim for proceedings (Part 1 of Article 27 of the CAJP RF).

Cases regarding the institution of administrative supervision over persons released from confinement, as well as regarding prolongation, early termination of administrative supervision, supplementation or partial removal of administrative limitations earlier established for supervised persons are considered by courts at the place of residence or location of such persons.

An administrative statement of claim for the institution of administrative supervision over a person, for whom restriction of liberty was appointed as an additional type of punishment or for whom the remaining period of deprivation of liberty was replaced by restriction of liberty, is submitted by an internal affairs body at the place of residence or location of such a person (Parts 6 and 8 of

Article 270 of the CAJP RF, Article 53 of the Criminal Code of the Russian Federation (hereinafter – CrC RF).

If a person released from confinement is not registered at the place of residence or location, an administrative statement of claim is submitted to court at the place of that person's actual permanent residence (location), established on the basis of the body of evidence showing that the person has chosen the corresponding territory as the place of its prioritized daily life interests (e.g. the territory of an intracity municipal entity of a federal city, the territory of a municipal district, city circuit, city circuit with intracity subdivision, the territory of an intracity district, of a town or village settlement).

3. Administrative supervision is instituted by the court over adult persons being released or released from confinement, who have an unexpunged conviction for a grave or extremely grave crime, or for recidivism of crimes, or for a premeditated crime against an underage person (hereinafter – persons referred to in Part 1 of Article 3 of the Law on Administrative Supervision).

Administrative supervision is instituted over the aforementioned persons being released from confinement if they were recognized as persistent violators of the stipulated manner of serving the sentence (Item 1 of Part 3 of Article 3 of the Law).

Administrative supervision is instituted over the aforementioned persons released from confinement, if during one year since their release they commit two and more administrative offences against government procedures and (or) administrative offences against the public order and public safety and (or) against the public health and morals (Item 2 of Part 3 of Article 3 of the Law, Chapters 6, 19, 20 of the Code of the Russian Federation on Administrative Offences (hereinafter – CAO RF)).

Independent of the grounds stipulated in Part 3 of Article 3 of the Law, administrative supervision is instituted over adult persons being released or released from confinement, if they have an unexpunged conviction for a crime against the sexual inviolability and sexual freedom of an underage person or for a crime with dangerous or extremely dangerous recidivism of crimes, as well as over persons who, being over eighteen years of age, have committed a crime against the sexual inviolability of a person under fourteen years of age and are suffering from a sexual preference disorder (paedophilia) that does not exclude sanity

(hereinafter – persons referred to in Parts 2 and 2¹ of Article 3 of the Law on Administrative Supervision).

Based on provisions of Article 3 of the Law, administrative supervision may be instituted over persons who committed the aforementioned crimes when they were underage, if at the moment when the corresponding administrative statement of claim is filed they have reached the age of eighteen, except for persons referred to in Part 2¹ of the aforementioned Article.

Administrative supervision may be applied to foreign citizens or stateless persons if they legally reside (stay) on the territory of the Russian Federation, and also if a decision on readmission was adopted in their regard, unless they are placed into a special institution by virtue of a court decision.

4. Administrative supervision may be instituted over persons, conditionally released from serving a part of punishment in the form of deprivation of liberty, or over persons, for whom the unserved part of punishment in the form of deprivation of liberty was replaced by a lighter punishment not involving deprivation of liberty, during the period of serving the sentence not involving deprivation of liberty or during the period of fulfilment of duties pertaining to the conditional release, if such duties were imposed upon those persons in accordance with Part 2 of Article 79 of the CrC RF.

When the court is instituting administrative supervision, administrative offences referred to in Item 2 of Part 3 of Article 3 of the Law, which served as grounds for cancellation of conditional release with execution of the remaining unserved part of punishment in the form of deprivation of liberty or for the replacement of a punishment not involving deprivation of liberty with another type of punishment, are not taken into account (Item 2 of Part 3 of Article 3 of the Law on Administrative Supervision, Part 3 of Article 49, Part 4 of Article 50, Part 6 of Article 53¹, Article 54, Part 7 of Article 79 of the CrC RF, Part 2 of Article 29, Part 5 of Article 46, Part 5 of Article 58, Part 5 of Article 60², Article 60¹⁷ of the Code on the Execution of Sentences of the Russian Federation (hereinafter – the CES RF).

5. It should be taken into account that administrative supervision may be instituted, upon application of an internal affairs body, over an adult person, who, on the day of entry of the Law on Administrative Supervision into force, has an unexpunged conviction for a grave or extremely grave crime, for recidivism of crimes, a

premeditated crime against an underage person, and who has been released from confinement before entry of the Law into force, if during one year that person commits two or more administrative offences against government procedures and (or) administrative offences against the public order and public safety and (or) against the public health and morals. Administrative supervision cannot be instituted over this category of persons in other situations (Part 1 of Article 3, Part 2 of Article 13 of the Law on Administrative Supervision).

Independent of the grounds stipulated in Part 3 of Article 3 of the Law, administrative supervision is instituted, upon application of an internal affairs body, over an adult person, who, on the day of entry of the Law into force, has an unexpunged conviction for a crime against the sexual inviolability and sexual freedom of an underage person, in particular over a person, who, being over eighteen years of age, has committed a crime against the sexual inviolability of a person under fourteen years of age and is suffering from a sexual preference disorder (paedophilia) that does not exclude sanity, released from confinement before the entry of the Law into force (Parts 2 and 2¹ of Article 3, Parts 3 and 4 of Article 13 of the Law on Administrative Supervision).

6. Based on the interrelated provisions of Article 6 of the Law and Parts 7, 8 of Article 270 of the CAJP RF, a correction facility or an internal affairs body may apply to court with a statement of claim for the institution of administrative supervision, an internal affairs body – for the prolongation of administrative supervision and supplementation of earlier administrative limitations; an internal affairs body or the supervised person – for the early termination or partial removal of administrative limitations.

In the manner stipulated in Part 1 of Article 39 of the CAJP RF, a prosecutor may apply to court with an administrative statement of claim for the early termination of administrative supervision or partial removal of administrative limitations in order to protect the rights and freedoms of the supervised person, if such a person cannot apply to court on its own due to health, age or other good reasons.

7. An administrative statement of claim for the institution, prolongation, early termination of administrative supervision, partial removal or supplementation of earlier administrative limitations (hereinafter – administrative statement of claim pertaining to administrative supervision) and documents attached thereto must meet the requirements stipulated in Article 271, as well as in Articles 125 and 126 of the CAJP RF.

In particular, an administrative statement of claim of a correction facility or internal affairs body must be accompanied by the acknowledgment of receipt or another document confirming that the other persons participating in the case were served copies of the administrative statement of claim and of other documents that they did not have (Part 7 of Article 125, Item 1 of Part 1 of Article 126 of CAJP RF).

An administrative statement of claim for the early termination of administrative supervision, filed by an internal affairs body, must be accompanied by a document containing information about the victim or the victim's representative.

An administrative statement of claim of a correction facility or an internal affairs body must be signed by its head, another authorized person or by a representative (Part 8 of Article 54, Article 55, Item 1 of Part 2 of Article 56, Part 2 of Article 271 of the CAJP RF).

An administrative statement of claim of a supervised person regarding early termination of administrative supervision or partial removal of administrative limitations is signed by that person or its representative, if the representative has the corresponding powers (Part 1 of Article 54, Articles 55, 56, 57 of the CAJP RF).

8. Taking into account that an administrative statement of claim pertaining to administrative supervision is immediately accepted for proceedings, except when the court has no jurisdiction over it, such an administrative statement of claim may not be left without action. Defects of the aforementioned administrative statement of claim may be corrected during the preparation of the case for trial.

Herewith, where there are grounds stipulated in law, the court may return or refuse to accept the administrative statement of claim (Part 1 of Article 128, Items 2, 3, 4, 5, 6, 8 of Part 1 of Article 129 of the Code).

9. An administrative statement of claim for the early termination of administrative supervision may be submitted after at least a half of the period of administrative supervision stipulated by the court expires; if the court refuses to satisfy the statement of claim, a repeated administrative statement of claim may be submitted no earlier than six months from the day on which the court issues the decision to

deny early termination of administrative supervision (Part 6 of Article 270 of the CAJP RF, Parts 2 and 3 of Article 9 of the Law).

In this regard, the court returns the aforementioned administrative statement of claim, if it is submitted before the aforementioned time, as not all conditions for its submission are met (Item 8 of Part 1 of Article 129, Part 6 of Article 270 of the Code).

Simultaneously with accepting the administrative statement of claim for the early termination of administrative supervision for proceedings, the court informs the victim and (or) its representative about this in written form. If the victim files an application to enter the administrative case, the court draws him/her to participation in the case as an interested person (Article 47 of the CAJP RF, Part 2 of Article 9 of the Law on Administrative Supervision).

10. An administrative case on administrative supervision is considered within ten days from the day on which the court receives the corresponding administrative claim. Herewith, this term may not be prolonged under the rules of Article 141 of the CAJP RF.

The aforementioned cases are not subject to consideration in simplified (written) proceedings, as the time for their consideration is less than the term stipulated for consideration of cases in the manner of Chapter 33 of the CAJP RF.

It should be taken into account that proceedings in the case may be suspended where Articles 190 and 191 of the CAJP RF apply (e.g. if an administrative defendant, whose participation in the court session is deemed obligatory by the court, is in a medical institution).

11. Based on provisions of Parts 1, 3, 4 and 5 of Article 272 of the CAJP RF, the person, in whose regard the administrative statement of claim was filed, is notified about the date and time of consideration of the case on administrative supervision; so are the representative of the correction facility or internal affairs body that applied to court and the prosecutor.

Participation of the person being released from confinement, in particular when there is a motion for personal participation in the court session or when the court deems her/his personal attendance obligatory, may also be realized through videoconferencing.

The court may deem participation of a person released from confinement not obligatory, in particular when such a person submits written explanations, a motion for consideration of the case in her/his absence, or written evidence that does not preclude the consideration of the case in the absence of that person (Article 84 of the CAJP RF).

If the administrative defendant is absent at the place of residence (stay), and her/his actual place of stay is unknown, the court may appoint an advocate as a representative for such a person and consider the administrative case without the participation of the administrative defendant (Part 4 of Article 54, Article 272 of the CAJP RF).

If the attendance of a person, in whose regard an issue pertaining to administrative supervision is being resolved, is deemed obligatory, the court obliges the internal affairs body to ensure the appearance of that person in the court session (Part 1 of Article 272 of the CAJP RF, Item 6 of Part 1 of Article 12 of the Law on Administrative Supervision).

If the aforementioned request is not fulfilled, the court may apply measures of procedural compulsion to the administrative defendant, aimed at ensuring her/his appearance in the court session (Articles 120, 122 of the Code).

If there is sufficient evidence, the court may consider the case without participation of a duly notified administrative defendant released from confinement, whose appearance is not deemed obligatory, if the latter failed to appear in the court session and to inform of the good reasons for non-appearance.

12. The possibility of institution of administrative supervision over a person referred to in Part 1 of Article 3 of the Law and recognized as a persistent violator of the stipulated manner of serving the sentence depends on the fact of recognition of that person as a persistent violator as such and does not depend on the time of adoption of the corresponding decree by the head of the correction facility.

In this regard, if at the time of consideration of a case on administrative supervision the term, during which a person is considered as having a disciplinary punishment (which serves as grounds for recognizing her/him as a persistent violator of the stipulated manner of serving the sentence), has expired, this does

not preclude the institution of such supervision (Item 1 of Part 3 of Article 3 of the Law, Part 8 of Article 117 of the CES RF).

13. When considering a case on administrative supervision due to commission by a person, referred to in Part 1 of Article 3 of the Law, of administrative offences stipulated in Item 2 of Part 3 of that Article, the courts should proceed from the premise that in order for the administrative supervision to be instituted, prolonged or for earlier administrative limitations to be supplemented, the person must have committed two and more administrative offences during one year. This must be confirmed by effective decrees on holding that person administratively liable. The one-year term is subject to calculation from the day of commission of the first administrative offence.

If the term indicated in Article 4.6 of the COA RF, during which a person is regarded as subjected to administrative punishment for one or several administrative offences, has expired at the moment of consideration of a case on administrative supervision, it is not possible to take such an administrative offence into account as the ground for institution or prolongation of administrative supervision or supplementation of earlier administrative limitations.

If a person is freed from administrative liability due to the petty nature of the committed administrative offence, such an offence is not taken into account when resolving the issue of institution or prolongation of administrative supervision or supplementation of earlier administrative limitations (Article 2.9 of the COA RF).

14. Provisions of Part 2 of Article 4.4. of the COA RF stipulate that when a person commits one action (failure to act), which contains elements of several administrative offences, liability for which is stipulated in two or more articles (parts of articles) of that code and consideration of cases regarding which is within the competence of the same judge, body, official, the administrative punishment is appointed within the limits of the sanction stipulating the more severe administrative punishment.

When the court resolves the issue of institution of administrative supervision, it is necessary to ascertain whether the person released from confinement engages in constant socially dangerous conduct. In this regard, the fact that this person committed one unlawful action (failure to act), containing the elements of different offences, does not constitute the necessary feature of repeated administrative offences.

15. The court does not verify the lawfulness and substantiation of a decree of the head of a correction facility to recognise a person as a persistent violator of the stipulated manner of serving the sentence, as well as the lawfulness and substantiation of rulings in cases on administrative offences, indicated in Item 2 of Part 3 of Article 3 of the Law (which serve as grounds for the correction facility or internal affairs body to apply to court with a statement of claim for the institution or prolongation of administrative supervision or supplementation of earlier administrative limitations), in the manner of Chapter 29 of the CAJP RF.

Herewith, if the administrative defendant is recognised as a persistent violator of the stipulated manner of serving the sentence or is held administratively liable, this does not predetermine the court's conclusions on whether it is necessary to institute administrative supervision.

When resolving this issue, the court must take into account the whole body of evidence; the facts, on which the decree recognising a person as a persistent violator of the stipulated manner of serving the sentence is based, or the facts established by effective rulings in cases on administrative offences; the nature of the committed offences; the conduct of the person in the correction facility following its recognition as a persistent violator of the stipulated manner of serving the sentence; the time that passed from the moment on which that person was recognised a persistent violator of the stipulated manner of serving the sentence, as well as the facts that were not examined during the consideration of cases on administrative offences committed by that person.

16. In cases regarding administrative supervision, the court may accept the renunciation or acknowledgment of claim by the correction facility, internal affairs body or supervised person (Article 157 of the CAJP RF).

When resolving whether to take the aforementioned actions, the court should clarify the reasons for which the administrative plaintiff concluded it was necessary to renounce or acknowledge the claim, whether such actions contradict the law or violate the rights and freedoms of the general public, as well as of the supervised person.

Based on provisions of Parts 2 and 2¹ of Article 3 of the Law, the court cannot accept the renunciation of an administrative claim for the institution of administrative supervision over an adult person with unexpunged conviction for a

crime against the sexual inviolability and sexual freedom of an underage person, in particular over a person, who, being over eighteen years of age, has committed a crime against the sexual inviolability of a person under fourteen years of age and is suffering from a sexual preference disorder (paedophilia) that does not exclude sanity, as well as over a person that committed a crime with dangerous or extremely dangerous recidivism of crimes, if at the moment of consideration of the case the terms stipulated in Items 2 and 3 of Part 1 of Article 5 of the Law have not expired.

17. If the court sentence contains no indication of recidivism in the crimes of the person, over whom administrative supervision is being instituted, the court cannot establish these facts on its own within the framework of a case on administrative supervision.

If the court sentence contains information that the aforementioned person committed a crime with recidivism, but the type of recidivism is not determined, administrative supervision may be instituted where Part 3 of Article 3 of the Law applies.

18. Administrative supervision is instituted over a citizen of the Russian Federation, earlier convicted by a foreign court to deprivation of liberty and transferred to the Russian Federation for serving the sentence, being released or released from confinement, based on the information indicated in the court ruling on recognition and execution of the foreign court sentence (Article 472 of the Criminal Procedure Code of the Russian Federation, hereinafter – CrPC RF).

19. Administrative supervision may be instituted over an adult person being released or released from confinement with unexpunged conviction for a premeditated crime against an underage person, only if the aforementioned element is regarded as an element of crime (general or qualifying one) in the corresponding criminal law norm (e.g. Item “d” of Part 2 of Article 117, Part 2 of Article 121, Part 3 of Article 122, Item “b” of Part 2 of Article 127¹, Articles 150 – 151¹, 156 of the CrC RF).

20. If it is established in consideration of a case on administrative supervision that the criminal law applied to a person, in whose regard the issue of application of this measure is resolved, has been amended in a way that improves that person’s position (in particular, influences the type of recidivism, expungement of conviction, etc.), but the sentence was not brought into compliance with the acting

legislation in the manner stipulated in Item 13 of Article 397, Item 2 of Part 1 of Article 399 and Part 1 of Article 400 of the CrPC RF, the court should explain to this person his/her right to apply for review of the sentence and for bringing it into compliance with the acting legislation.

If such an application is filed, the court should suspend the proceedings in the case on administrative supervision by virtue of Item 4 of Part 1 of Article 190 of the CAJP RF, as it is impossible to consider this case until another case has been considered in criminal judicial proceedings.

If there is no application for review of the sentence and for bringing it into compliance with the acting legislation, or the person refuses to file such an application, the court leaves the administrative statement of claim without consideration (Item 5 of Part 1 of Article 196 of the CAJP RF).

The court must clarify it to the representatives of the correction facility or the internal affairs body that independent of whether the aforementioned person files such an application, they have the right to apply to court with their own application for review of the sentence and bringing it into compliance with the acting legislation.

21. If during the consideration of the case the administrative defendant is sentenced to deprivation of liberty, the court refuses to satisfy the administrative claim, as this circumstance constitutes grounds for termination of administrative supervision (Item 3 of Part 1 of Article 9 of the Law on Administrative Supervision).

A court sentence stipulating punishment not involving deprivation of liberty or stipulating a suspended deprivation of liberty is not listed in the Law among the grounds for termination of administrative supervision. Therefore these circumstances are taken into account during consideration of the case on administrative supervision.

If during the consideration of a case on administrative supervision a preliminary measure in the form of house arrest is selected in regard of the administrative defendant, or he/she is put into custody during proceedings in a criminal case, this does not preclude the consideration of the case on administrative supervision (Articles 107 and 108 of the CrPC RF, Item 3 of Part 5 of Article 5 of the Law).

22. A decision on institution of administrative supervision, on partial cancellation or supplementation of earlier administrative limitations must indicate the types of administrative limitations established by the court (Part 8 of Article 272, Part 3 of Article 273 of the CAJP RF).

Part 1 of Article 4 of the Law contains an exhaustive list of administrative limitations that may be applied to a supervised person.

Herewith it should be noted that if the court establishes an administrative limitation in the form of appearance for registration before an internal affairs body at the place of residence or stay, from one to four times per month, this limitation is obligatory and does not depend on application of other administrative limitations to the person (Part 2 of Article 4 of the Law on Administrative Supervision).

Administrative limitations cannot be selected arbitrarily and must be directed at the discovery and elimination of reasons and circumstances contributing to the perpetration of crimes or administrative offences, as well as at educating the persons in order to prevent the aforementioned offences or antisocial behaviour in the future. The establishment of administrative limitations must not unreasonably limit the right of the supervised person to labour, the rights to receive education, medical assistance, etc.

Taking into account the way of life of the person, the circumstances of the crime, the behaviour of the person during and after serving the sentence, the court may establish an administrative limitation in the form of prohibition to visit certain places. For example, if the person committed the crime under the influence of alcohol, the court may consider the issue of prohibiting the person from visiting public catering enterprises that serve alcoholic drinks.

When the court appoints an administrative limitation in the form of prohibition to visit mass and other events (which should be understood as sports, fitness and recreational, cultural and entertainment events of non-socio-political nature – competitions, skills contests, exhibitions, parades, festivals, etc., as well as certain public events – meetings, marches, demonstrations, picketing), the court may allow the person to attend and participate in certain events, taking into account the information about the life situation and the personal characteristics of that person, confirmed by the materials of the case.

When prohibiting a person from staying outside of housing or other premises, serving as his/her place of residence or stay, at a certain time of day, the court should take into account that “other premises, serving as a person’s place of residence or stay” may be premises not meeting the statutory requirements to housing, chosen by that person for constant residence and suitable for those purposes, and (or) premises at the address of which the person is subject to registration by the internal affairs bodies (Items 2 and 3 of Part 1 of Article 11, Item 2 of Part 1 of Article 12 of the Law on Administrative Supervision).

In this regard, a court may not prohibit a person from staying, at a certain time of day, outside of premises that do not meet the aforementioned requirements. Herewith, the court may establish other administrative limitations for the purposes of administrative supervision, e.g. prohibit a person from travelling outside of a certain territory.

When determining the time of day, during which the person is prohibited from staying outside the place of residence or stay, the court takes into account the timetable of the person’s labour duties and (or) studies and other significant circumstances, if corresponding evidence is provided.

If a person is prohibited from travelling outside of a territory designated by the court, the decision should, in particular, indicate the name of the constituent entity of the Russian Federation, of the municipal entity, the boundaries of which it is prohibited for the supervised person to leave during the time of administrative supervision.

It should be noted that for a person, in whose regard a decision on readmission is adopted, it may be prohibited to leave the territory designated by the court until the execution of the corresponding decision.

23. A court decision on institution or prolongation of administrative supervision must indicate the term of administrative supervision (a concrete period in days, months, years and (or) a term defined by the days of its beginning and expiration (e.g. from the day on which the court decision becomes effective and until the expungement of conviction).

If administrative supervision is prolonged, its term is calculated from the day following the day of expiration of term of the earlier instituted administrative supervision. This must be indicated in the operative part of the court decision.

If restriction of liberty is appointed as an additional punishment, as well as when the unserved part of punishment in the form of deprivation of liberty is replaced by restriction of liberty, the term of administrative supervision is calculated from the day on which punishment in the form of restriction of liberty is fully served (Item 1 of Part 3 of Article 273 of the CAJP RF, Part 4 of Article 5 of the Law on Administrative Supervision).

If administrative supervision was instituted over a person during its stay in a correction facility, and this person is granted conditional release, or the unserved part of punishment in the form of deprivation of liberty is replaced for this person by a punishment not involving deprivation of liberty, the term of administrative supervision is calculated from the day on which the term of the remaining part of punishment expires.

If during the consideration of a case on administrative supervision a preliminary measure in the form of house arrest is selected in regard of a person, or that person is put into custody during proceedings in a criminal case, the term of administrative supervision is calculated from the day on which such measures are cancelled or changed (Article 110 of the CrPC RF, Item 3 of Part 5 of Article 5 of the Law).

It should be noted that the term of administrative supervision cannot be longer than the term stipulated in the legislation of the Russian Federation for the expungement of conviction, except when administrative supervision is instituted over a person, who, being over eighteen years of age, has committed a crime against the sexual inviolability of a person under fourteen years of age and is suffering from a sexual preference disorder (paedophilia) that does not exclude sanity.

Administrative supervision is instituted over the aforementioned persons for the period of compulsory medical measures, but for a time not shorter than stipulated in the legislation of the Russian Federation for the expungement of conviction (Part 2¹ of Article 3, Item 3 of Part 1 of Article 5 of the Law on Administrative Supervision).

For a person, in whose regard a decision on readmission was adopted, the term of administrative supervision is stipulated until the execution of the decision on readmission, but for a time not longer than the term stipulated in Part 1 of Article 5 of the Law on Administrative Supervision.

24. It should be noted that administrative supervision may be instituted over an adult who has an unexpunged conviction for a grave or extremely grave crime or for recidivism of crimes, for a period from one to three years, but for no longer than the term stipulated in the legislation of the Russian Federation for the expungement of conviction (Item 1 of Part 1 of Article 5 of the Law, Articles 86 and 95 of the CrC RF).

Herewith, if at the moment of consideration of a case on administrative supervision the time left until the expungement of conviction of the aforementioned persons is less than one year, administrative supervision may be instituted for the time left until the expungement.

25. When a court determines – in years, months, days – the duration of administrative supervision over an adult with unexpunged conviction for a premeditated crime against an underage person or for a crime against the sexual inviolability and sexual freedom of an underage person or for a crime with dangerous or extremely dangerous recidivism of crimes, it should note that the period between the moment when the person served the sentence in full and the moment of institution of administrative supervision is not included into the period of administrative supervision stipulated by the court (Item 3 of Part 1, Part 2 of Article 3, Item 2 of Part 1 of Article 5 of the Law).

26. If a person being released or released from confinement has unexpunged conviction for crimes of different categories, the term of administrative supervision is determined based on the term of expungement of conviction only for that crime, in regard to which the administrative supervision is instituted (Part 1 of Article 5 of the Law, Article 86 of the CrC RF).

If there exist several grounds for institution of administrative supervision, it is instituted based on the grounds, for which the law stipulates the longer term of administrative supervision (Article 3, Part 1 of Article 5 of the Law).

27. In accordance with Part 8 of Article 272 of the CAJP RF, when establishing the term of administrative supervision over persons referred to in Items 1 and 2 of Part 1 of Article 3 of the Law on Administrative Supervision, the court is not bound by the grounds and arguments stated in the statement of claim of the correction facility or internal affairs body and may stipulate the term within the limits indicated in Item 1 of Part 1 of Article 5 of the Law.

When discussing the duration of administrative supervision over the aforementioned persons, the court should take into account the information characterizing the behaviour of the administrative defendant during and after the serving of punishment, the defendant's attitude towards studying and labour, the nature of actions performed and other facts significant for the case; information about this must be included into the statement of reasons of the court decision.

28. During the period of administrative supervision, the court, upon application of an internal affairs body or of the supervised person or its representative, taking into account the information characterizing the personality of the supervised person, in particular regarding the compliance with administrative limitations and the fulfilment of duties stipulated by the Law, as well as other significant circumstances, may partially cancel the administrative limitations (limitation), as well as supplement earlier stipulated administrative limitations upon application of the internal affairs body (Parts 1 and 3 of Article 4 of the Law).

When resolving the issue of partial cancellation of administrative limitations, the court may not establish new administrative limitations (limitation). Partial cancellation of administrative limitations may be realized through full cancellation of one or several earlier established limitations (limitation), as well as through decrease of their volume (e.g. decrease in the number of obligatory appearances for registration before internal affairs bodies at the place of residence or stay). The court may also cancel the administrative limitations (limitation), not indicated in the administrative statement of claim for the partial cancellation of administrative limitations.

Supplementation of administrative limitations may be realized both through establishment of new ones, as well as through specification of earlier administrative limitations (e.g. increase of the number of places, which the supervised person is prohibited from visiting).

In order to balance the public and private interests in consideration of a case for supplementation of earlier administrative limitations, the court may establish administrative limitations, which were not requested in the application of the internal affairs body, and simultaneously decide to cancel the administrative limitations, which the administrative plaintiff did not ask to cancel (Article 9, Part 8 of Article 272 of the CAJP RF).

29. If during one year the supervised person commits two and more administrative offences against government procedures and (or) administrative offences against the public order and public safety and (or) against the public health and morals, the court may prolong administrative supervision for up to six months, but for no longer than the term stipulated in the legislation of the Russian Federation for the expungement of conviction (Part 2 of Article 5, Article 7 of the Law).

When resolving the issue of prolongation of administrative supervision, the court may not establish new administrative limitations, unless such a claim was stated by the administrative plaintiff.

When considering the claims for prolongation of administrative supervision, the court is not bound by the opinion of the administrative plaintiff and may stipulate a shorter or longer term within the limits indicated in the Law or may refuse to satisfy the stated claims.

Herewith, under the corresponding circumstances, the provisions of the Law do not preclude repeated prolongation of administrative supervision for terms of up to six months within the term of expungement of conviction.

30. By virtue of Item 1 of Part 1 of Article 9 of the Law, the expiration of the term of administrative supervision entails its termination.

In this regard, the expiration of the aforementioned term during consideration of a case on prolongation of administrative supervision constitutes grounds for refusal to satisfy the corresponding statement of claim of the internal affairs body.

If the term of administrative supervision over a person referred to in Part 1 of Article 3 of the Law expires, this does not preclude its repeated institution until the day of expungement of conviction, if within one year that person commits two and more administrative offences against government procedures and (or) administrative offences against the public order and public safety and (or) against the public health and morals, which earlier did not constitute grounds for institution or prolongation of administrative supervision or for establishment of additional administrative limitations (Part 6 of Article 9 of the Law on Administrative Supervision).

Herewith, the aforementioned administrative offences may be committed by the person both during the period of earlier instituted administrative supervision and after its termination.

31. Administrative supervision may be terminated by the court upon application of the internal affairs body or of the supervised person or its representative after at least a half of the term of administrative supervision stipulated by the court expires, if the supervised person complies with the administrative limitations and fulfils the duties stipulated in the Law in good faith and receives positive characteristics at the place of work and (or) place of residence or stay (Part 2 of Article 9 of the Law on Administrative Supervision).

When considering cases of this category, the court terminates administrative supervision in full and adopts a decision to satisfy the claims or refuses to satisfy the claims.

When denying early termination of administrative supervision, the court may not supplement earlier administrative limitations or prolong the term of administrative supervision.

It should be noted that early termination of administrative supervision over a person that served punishment for a crime against the sexual inviolability and sexual freedom of an underage person is not possible (Parts 2 and 2¹ of Article 3, Part 4 of Article 9 of the Law).

32. If the supervised person is sentenced to deprivation of liberty and sent to the place of serving the punishment, this constitutes grounds for the termination of administrative supervision (Item 3 of Part 1 of Article 9 of the Law).

Herewith, as follows from provisions of Parts 2 and 2¹ of Article 3 of the Law, administrative supervision is instituted over the persons referred to in those Articles due to their unexpunged conviction for a crime of a certain category, independent of whether such supervision was terminated earlier.

In this regard, if after serving the punishment due to which administrative supervision was terminated the person still has an unexpunged conviction for a crime referred to in Parts 2 and 2¹ of Article 3 of the Law by virtue of the initial court sentence, administrative supervision is instituted anew. In such circumstances, the institution of administrative supervision within the timeframe of

the unexpunged conviction stipulated in the initial court sentence is not regarded as repeated institution of supervision.

Herewith, by implication of Items 2 and 3 of Part 1 of Article 5 of the Law, it is possible to apply for institution of administrative supervision over the aforementioned person only until the expungement of conviction.

33. Based on provisions stipulated in Sub-item 4 of Item 1 of Article 333³⁵, Sub-items 9 and 19 of Item 1 of Article 333³⁶ of the Tax Code of the Russian Federation, correction facilities, internal affairs bodies and the prosecutor are exempt from the state fee in cases on administrative supervision.

Tax legislation also stipulates no duty of supervised persons to pay this levy when submitting administrative statements of claim for termination or partial removal of administrative supervision or when appealing against judicial acts in cases on administrative supervision.

In this regard, when an administrative statement of claim of a correction facility or of an internal affairs body pertaining to administrative supervision is satisfied, the state fee is not recovered from the supervised person in the manner of Article 111 of the CAJP RF.

34. Due to adoption of this Ruling, Ruling of the Plenary Session of the Supreme Court of the Russian Federation No. 22 of 27 June 2013 “On Court Application of Legislation in Consideration of Cases on Administrative Supervision” is abrogated.

Chief Justice of the Supreme Court of
the Russian Federation

V.M. Lebedev

Secretary of the Plenary Session, Judge of
the Supreme Court of the Russian Federation

V.V. Momotov