

Russian Law

Both D309.pdf and D310.pdf refer to two laws:

Article 45 of the Federal Law "On the custody of suspects and accused of committing crimes"
and
Article 30 of the Law of the Russian Federation "On institutions and bodies that carry out criminal penalties in the form of imprisonment"

Below is the translation of article 45. Note, that it does not approve the use of rubber batons but it does approve the use of handcuffs in the case 7), which is the case of Magnitsky.

Article 45 of the Federal Law "On the custody of suspects and accused of committing crimes".

The use of special means in places of detention.

Special means in places of detention may be used in the following cases:

- 1) to repel an attack by a suspect or accused on staff members of detention facilities and other persons;
- 2) to curb the riots or group violations of the established regime of detention;
- 3) to prevent unlawful actions of a suspect or an accused who defies the legal requirements of employees of places of detention in custody or other employees of institutions and bodies of the penitentiary system, as well as employees of internal affairs agencies engaged to ensure law and order;
- 4) for the release of hostages, captured buildings, premises, structures and vehicles;
- 5) in order to prevent the attempt of the suspect or the accused to escape from the place of detention or from the convoy;
- 6) to prevent the suspect or the accused from harming others;
- 7) to prevent the suspect or the accused from attempting to harm himself. <<<<<<

As special means can be used:

rubber batons - in the cases provided for by clauses 1-6 of the first part of this article; <<<<<<

handcuffs - in the cases stipulated by clauses 3, 5 - 7 of the first part of this article; in the absence of handcuffs, prison staff may use improvised means of binding;

light and sound devices of distracting effects - in the cases provided for by paragraphs 1-4, 6 of the first part of this article;

means of destruction of barriers - in the cases provided for by paragraph 4 of the first part of this article;
water cannons and armored vehicles - in the cases provided for by clauses 2 and 4 of the first part of this article;

service dogs - in the cases provided for in paragraphs 1-6 of the first part of this article.

The translation of Article 30. Note, that it does not approve the use of rubber batons, but it does approve the use of handcuffs in the case (8), which is the case of Magnitsky.

Article 30 of the Law of the Russian Federation "On institutions and bodies that carry out criminal

penalties in the form of imprisonment"

The use of special means.

The employee of the penitentiary system has the right, personally or as part of a unit (group), to use special means in the following cases:

- 1) to repel an attack on employees of the penitentiary system, convicted persons, persons in custody, and other persons;
- 2) to prevent crimes;
- 3) to prevent physical resistance offered by a convicted person or a person in custody to a member of the penitentiary system;
- 4) in order to curb disobedience or oppose the legal requirements of the staff of the penitentiary system, associated with the threat of violence threatening life or health;
- 5) to curb the riots in the penitentiary, the detention facility, at the facilities under the protection and supervision of the staff of the penitentiary system;
- 6) for the prevention of group violations, disorganizing the activities of the institution that executes the punishment, the remand prison;
- 7) for the release of forcibly held persons, captured buildings, structures, premises and vehicles;
- 8) in convoy, guarding or escorting convicted persons and persons in custody, supervising convicts serving sentences in penal colonies if they, by their conduct, give reason to believe that they intend to escape or harm others or themselves; <<<<<<
- 9) when attempting to forcibly release convicted persons and persons detained in custody from escort during convoy;
- 10) to arrest convicts, persons in custody, and other persons, if there are sufficient grounds to believe that they can offer armed resistance;
- 11) for the detention of convicts and persons in custody who have escaped from custody or from the institution that executes the punishment, as well as for the suppression of escape;
- 12) to protect protected objects of the penitentiary system, blocking the movement of groups of citizens committing unlawful actions in the territories of institutions that execute punishments, pre-trial detention centers, adjacent territories, where regime requirements are established.

The employee of the penitentiary system has the right to use the following special means:

- 1) special batons - in the cases provided for by clauses 1-7 and 9-12 of part one of this article; <<<<<<
- 2) special gas facilities - in the cases provided for by clauses 1-7 and 9-11 of the first part of this article;
- 3) handcuffs and other means of limiting mobility - in the cases provided for by clauses 2-6 and 8-11 of the first part of this article. In the absence of means of restricting mobility, the employee of the penitentiary system has the right to use available means of binding;
- 4) electroshock devices - in the cases stipulated by clauses 1 - 3, 4 (if the use of a special stick is impossible), 5 - 7, 9 - 11 of the first part of this article;
- 5) light-shock devices - in the cases provided for by clauses 1-7 and 9-11 of the first part of this article;
- 6) service dogs - in the cases provided for by clauses 1 - 3, 5 and 7 - 12 of the first part of this article;
- 7) light and acoustic special means - in the cases provided for by clauses 1-7 and 9-11 of the first part of this article;
- 8) means of forcibly stopping transport - in the cases provided for by clauses 11 and 12 of the first part of this article;

- 9) water cannons - in the cases provided for by clauses 1 and 5 - 7 of the first part of this article;
- 10) armored vehicles - in the cases provided for by clauses 5-7, 9 and 12 of the first part of this article;
- 11) means of destroying obstacles - in the cases provided for by clauses 5-7 of the first part of this article.

The employees of the penitentiary system have the right to use special means in all cases when this Law allows the use of firearms.

BOTTOMLINE: In accordance with BOTH LAWS referred to on forms D309.pdf and D310.pdf no rubber batons could be applied to Magnitsky

(Above prepared by Michael Thau and translator.)