

---

## State supervision in the People's Republic of China

---

VERA V. ZAKHARENKOVA

assistant of the department, criminal procedure and criminology, St. Petersburg State University.

---

**Abstract:** The choice of this topic was due to the desire of the author to highlight some of the provisions of the PRC Law "On Supervision", the provisions of the Constitution of the PRC regarding the creation of a state supervisory authority. The author touches upon the theme of the reform of the state supervision system, the purpose of which is to pool resources for fighting corruption, creating unified and effective state control with Chinese characteristics. The article also presents the amendments to the Criminal Procedure Code of the People's Republic of China, which took place in October 2018, among which it is said about the improvement of the mechanism of supervision in connection with the adoption of the Law of the People's Republic of China "On Supervision". In this paper, the author examines in detail the authority, composition, and responsibilities of the highest supervisory authority of the PRC - the National Supervisory Committee of the PRC (NSC). The article lists the officials who are supervised by the supervisory authority under the Law of the People's Republic of China "On Supervision". Special attention is paid to the detention of a person by the organs of the National Supervisory Committee of People's Republic of China, as a measure restricting the freedom of the individual. In the course of writing the work, the author concludes that the creation of a state supervisory authority was a great achievement for the PRC regarding the fight against corruption crimes.

**Keywords:** Law of the People's Republic of China "On Supervision", the CPC of the PRC, the system of state supervision in the PRC, the state supervisory authority, the National Supervisory Committee, amendments to the CPC of the PRC, amendments to the Constitution of the PRC, reform of the state supervision system.

---

### INTRODUCTION

On March 20, 2018, at the first meeting of the Thirteenth National People's Congress, the Law of the People's Republic of China "On Supervision" [2] was adopted, which entered into force from the moment of publication. This Law is divided into nine chapters and includes sixty-nine articles dealing with the objectives of the law, party leadership, guiding ideas and objectives, operating principles for oversight, oversight bodies and their responsibilities, scope and jurisdiction, oversight powers, oversight procedures, international cooperation in the fight against corruption, supervision and legal responsibility for supervisory authorities and other.

The PRC Law on Supervision is based on the PRC Constitution [1]. Prior to the adoption of the Law on Supervision, the National People's Congress adopted a constitutional amendment regarding state bodies, adding section 7, specifying that, according to the PRC Constitution, the oversight committee at all levels is a state oversight body (Article 123 of the PRC Constitution). It should be noted that, according to Mr. Li, Vice Chairman of the Standing Committee of the National People's Congress of China, the oversight committee is not an administrative, law enforcement or judicial body, but an authorized body exercising the functions of state supervision, which, in accordance with the law, performs the functions of "Independent" oversight [3].

The Law of the PRC "On Supervision" is the result of the reform of the political system, it reflects, confirms and consolidates the results of the reform of the state supervision system, the adoption of which marked the transition to a new stage in the development of the state supervision system, which can be carried out in full only in accordance with the law.

Thus, the adoption of the Law of the PRC "On Supervision" is one of the main measures aimed at implementing the decisions of the Party's Central Committee aimed at deepening the reform of the state supervision system. This deepening of the government oversight reform is part of an important political reform undertaken by the party's central committee, centered on Comrade Xi Jinping. The goal of the reform is to pool resources to fight corruption, strengthen the centralized and unified leadership of the party in the fight against corruption, create a unified, authoritative and effective system of government control with Chinese characteristics, and ensure full coverage of all government officials exercising government power. Deepening the reform of the state supervision system is an organizational innovation, an institutional innovation in order to overcome institutional barriers and create a new national institution of supervision. The development of the PRC Law "On Supervision" is an essential requirement and quite an important link in deepening the reform of the state supervision system. Secretary General Xi Jinping made this clear at the plenary meeting of the 18th Party

Central Committee, as well as the fifth, sixth and seventh plenary meetings of the 18th Party Central Committee. The Central Politburo, the Standing Committee of the Politburo and the Central Leading Group on Comprehensive Reform Deepening conducted a series of case studies on deepening the reform of the state oversight system, relevant to legislative issues of state oversight, identified the guiding principles, basic principles and basic elements for the development of the PRC Law on Oversight and also determined the directions, deadlines and action plan for the legislative work of state supervision. The PRC's Supervision Law is the national anti-corruption legislation. The adoption of the law on supervision and the follow-up to the implementation of the decisions of the Central Committee of the party aimed at deepening the reform of the system of state supervision, turning party claims into national will in accordance with legislative procedures, is of great importance and has far-reaching implications for innovation and improvement of the system of state supervision as well as to harmonize legislation with reform, as well as to conduct anti-corruption work in the spirit of the rule of law and the rule of law [4].

In the PRC, the Law "On Supervision" is called "the law of full coverage," "the law without a dead angle," meaning that supervision will be extended to all persons exercising state power. The most important goal of the Law "On Supervision" is the creation of a unified national system of control over the fight against corruption (Art. 2 of the Law "On Supervision").

For a long time, the disciplinary control bodies of the party, the departments of administrative supervision and the departments of the prosecutor's office for combating corruption and criminal acts were entrusted with the functions of combating corruption. This anti-corruption division of power led to a relatively dispersed supervisory force, in connection with which it was quite problematic to form a true anti-corruption.

In order to strengthen centralized and unified leadership in the fight against corruption and to ensure full coverage of all government officials exercising public authority, the Law "On Supervision" provides that government officials exercising public authority must have uniform control. In accordance with Art. 15 of the PRC Law "On Supervision", the supervisory authority oversees the following officials and associated personnel:

1. civil servants of the Chinese Communist Party, the People's Congress and its Standing Committee, the People's Government, supervisory committees, people's courts, people's prosecutors, etc., as well as persons in the civil service in accordance with the PRC "Civil Service Law";
2. personnel engaged in public affairs in organizations authorized by laws and regulations or authorized by public authorities in accordance with the law ;
3. management personnel of state-owned enterprises;
4. personnel engaged in management in the field of public education, scientific research, culture, medicine and health care, sports, etc.;
5. personnel involved in management of mass autonomous organizations;
6. other personnel performing public functions in accordance with the law [5].

The revision of the PRC Criminal Procedure Code in October 2018 was also aimed at deepening the reform of the judicial system. The amendments to the CPC of the PRC relate mainly to four aspects, namely: improving the supervision mechanism in connection with the Law on Supervision, adjusting the functions and powers of the People's Prosecutor's Office to conduct investigations, creating a criminal justice system in absentia, and improving the system of confession and punishment in criminal cases.

Article 4 of the Law of the People's Republic of China "On Supervision" enshrines the principle of independent supervision, according to which the supervisory authority, in accordance with the law, exercises supervision independently and is not subject to interference from administrative bodies, public organizations and individuals. Similar to this principle: the principle of the independent exercise of the right to trial is that the people's courts exercise their right to trial independently in accordance with the law and are not subject to interference by administrative authorities, public organizations and individuals. Also, the article enshrines the principle of mutual cooperation, namely: the supervisory authorities dealing with cases of official and service violations must cooperate with the judicial authorities, prosecutors and law enforcement agencies. In cases where assistance is required from the relevant authorities and units in their work, they are obliged to provide such assistance.

According to Art. 7 of the Law of the PRC "On Supervision", the supreme supervisory body of the PRC is the National Oversight Committee (NOC), also called the State Supervisory Board, but in this work we propose to use the abbreviation NOC. The PRC NOC, approved by the NPC, is responsible for the oversight at the national level. The PRC NOC includes: Chairman, Vice-Chairmen and NOC members. The NOC is accountable and controlled by the NPC and its SC.

In provinces, autonomous regions, municipalities directly subordinate to the central government, autonomous prefectures, counties, autonomous regions, cities and municipalities, oversight committees are created, which are responsible for control in their administrative regions. The local oversight committees at various levels are composed of the Chairman, Vice-Chairmen and members, who are elected by the People's Assembly at the respective levels, and the Vice-Chairmen and members of the oversight committee are appointed and removed from office by the Standing Committee of the National Assembly at the respective levels. Each term of office of

the director of the local oversight committee at all levels coincides with each term of office of the people's congress at the respective levels. Local oversight committees at various levels are accountable and supervised by the people's assemblies at their respective levels, their standing committees and oversight committees at a higher level.

Regarding the relationship between oversight committees at different levels, the NOC leads the local oversight committees at all levels, i.e. the oversight committee at higher levels leads the oversight committees at lower levels. This is consistent with the provisions on people's procuratorates, where the Supreme People's Procuratorate directs the work of local people's procuratorates at various levels and special people's procuratorates, and the people's procuratorates at higher levels direct the work of lower people's procuratorates.

The responsibilities of the oversight committees, according to the Law of the PRC "On Supervision", include:

1. educate public officials about honesty and integrity, supervise and verify that they are performing their duties in accordance with the law, exercise their rights in good faith, treat government policies in good faith, and be responsible for moral and ethical behavior;
2. investigate alleged corruption, bribery, abuse of office, neglect of official duties, waste of public funds and other official misconduct and offenses related to official duties;
3. make decisions on administrative punishment of public officials who violate the law; to hold accountable managers who do not fulfill their duties; transfer the results of the investigation to the people's prosecutor's office for examination and prosecution in accordance with the law in the case of alleged crimes; other powers.

Regarding territorial jurisdiction, supervisory authorities at all levels, in accordance with administrative powers, regulate matters related to supervision within their jurisdiction. In cases where there is a dispute between the supervisory authorities on issues of territorial jurisdiction, it is determined by their common superior supervisory authority. Supervisors at a higher level can deal with matters that are under the jurisdiction of supervisors at a lower level. Supervisors at a higher level can appoint supervisors at a lower level. If the supervisory authority considers that the supervisory issues under its jurisdiction are significant and complex and should be under the jurisdiction of the supervisory authority at a higher level, it may apply to the supervisory authority at a higher level (Articles 16-17 of the PRC Law "On Supervision").

The powers vested in the supervisory bodies are contained in Articles 18-40 of the Law of the PRC "On Supervision", among them:

1. the right to collect and receive evidence from the relevant units and individuals, as well as inform the relevant units and individuals about the situation (the relevant units and individuals must provide truthful information; supervisory bodies and their employees must keep state, commercial and personal secrets which they become aware of during the process of supervision or investigation; no unit or person can falsify, hide or destroy evidence);
2. independently or by instructing the relevant authorities or persons to conduct a conversation, request an explanation of the circumstances;
3. In the course of an investigation against a person suspected of violating the law, the supervisor may require him to make a statement of the alleged violation of the law and, if necessary, send a written notification to the person who is the subject of the investigation; supervisors can interrogate individuals suspected of corruption, bribery, negligence and other offenses related to official duties, and require them to truthfully confess in connection with the alleged crime;
4. during an investigation, supervisors may question witnesses and others;
5. detention of a person;

Since detention is a measure that restricts personal freedom and has serious consequences for the detainee and his family, the PRC Law "On Supervision" contains strict provisions regarding this power. In particular, in Art. 22 provides for cases of detention of a person when: the person is under investigation or the person is suspected of corruption, bribery, negligence and other serious offenses or crimes related to official duties, and it means that the supervisory body already has at its disposal some facts and evidence of the commission violations, as well as if there are still important points that require further investigation and clarification. Detention is also possible in the following cases:

- 1) significant and difficult circumstances;
- 2) the possibility of escape or suicide;
- 3) the possibility of concealing or destroying evidence, as well as their falsification;
- 4) the presence of other obstacles to the investigation.

Detention measures taken by the supervisory authorities are determined by collective discussions between the heads of the supervisory authorities. Subordinate supervisory bodies for municipal areas take arrest measures, which must be submitted for approval to the higher supervisory body. The provincial supervisory authorities that take arrest measures must report this to the NOC. The period of detention should not exceed three months. In exceptional cases, it can be extended once for a period not exceeding three months. In cases where the supervisory authorities believe that detention measures were taken inappropriately, they should be canceled in a

timely manner. Detention measures applied by the supervisory authorities can be brought to the attention of the public security authorities in accordance with their working needs. Public security agencies provide assistance in accordance with the law. (Article 43 of the Law of the PRC "On Supervision").

When taking measures to detain a person, within 24 hours, it is necessary to notify the unit to which the detainee and his family belong, unless this may lead to destruction, falsification, concealment of evidence, etc. After the circumstances that hinder the conduct of the investigation disappear, it is necessary to immediately notify the subdivision to which the detainee belongs and his family members about the detention of the person. Supervisors should ensure the food, rest and safety of detainees and provide medical services. The interrogation of the detained person must be reasonably organized with an indication of the time and duration of the interrogation, and the interrogation protocol must be signed by the interrogated person after reading it (Article 44 of the Law of the PRC "On Supervision").

6. search and freeze of deposits, money transfers, bonds, shares and other property. In cases where the frozen property is irrelevant, the freezing must be canceled and the property must be returned within three days after such establishment;

7. search (since the conduct of a search is associated with a possible violation of human rights and other interests, therefore the Law of the PRC "On Supervision" contains strict provisions, according to which:

a) search is used only in the investigation of malfeasance, it is not used in the investigation of malfeasance;

б) during a search, a search warrant must be presented, and during a search, it is necessary to ensure the presence of the person whose premises are searched, his family members or other witnesses;

в) a female body search must be carried out by female personnel);

8. retrieval and seizure of property, documents and electronic data used to prove that the person under investigation is suspected of committing a crime;

9. inspection check;

10. identification / research (during the investigation, supervisors can appoint and hire persons with specialized knowledge to identify specific problems in the case. After the expert carries out the identification / research, he must issue an opinion and sign it.);

11. use of technical and investigative methods of investigation;

12. putting a person on the wanted list (Article 29);

13. taking measures to restrict leaving the country;

14. making a recommendation to mitigate punishment (Articles 31, 32);

15. implementation of information verification procedures (in cases where it is necessary to conduct a preliminary verification of the collected information and to eliminate problematic issues, the supervisor should, in accordance with the law, follow the review and approval procedure and establish a verification team. After completion of the initial audit, the audit team prepares a preliminary audit report and makes recommendations for its processing. The relevant departments should provide their views on the classification of the information. Initial audit reports and views on the classification of the information collected are submitted for approval to the main person in charge of the supervisory authority);

16. initiation of a case (after preliminary verification, if a suspect in a crime related to his position is to be held accountable, then the supervisory authority should, in accordance with the prescribed powers and procedures, initiate a case. After the initiation of a case, in accordance with the law, a special meeting should be held, the investigation program should be studied and determined, and a decision should be made on the investigative measures to be taken. Some of the cases under investigation by NOC officials are mandatory for referral to the people's prosecutor's office for criminal prosecution after all evidence has been collected. Thanks to this procedure, the prosecutor's office is relieved of the obligation to investigate corruption cases - now it conducts additional investigation only in relation to those corruption cases that were received from the NOC);

17. investigation of the case (the authorities supervising crimes related to official and official crimes conduct investigations, collect evidence of whether the person being investigated has committed a crime or not, as well as identify facts of an illegal nature and form a chain of evidence. It is strictly forbidden to collect evidence through threats, temptations, deception and other illegal means, as well as insults, abuse, corporal punishment, etc.);

18. other powers.

In cases referred by the supervisory authority to the People's Procuratorate, the People's Prosecutor's Office, in accordance with the CPC of the PRC, may apply coercive measures against persons under investigation. In cases where the People's Prosecutor's Office, after checking the case materials, believes that the facts of the crime have been clarified, that the evidence is reliable and sufficient, it decides to initiate criminal prosecution. If, after conducting an inquiry, the People's Procuratorate considers that additional inquiry is required, it must return the case file to the investigating authority for further investigation. Additional investigation must be completed within one month. In cases where the People's Procuratorate does not prosecute in accordance with the CPC of the PRC, it decides not to prosecute with the consent of the People's Procuratorate at a higher level

in accordance with the law. If the supervisory authority considers that the decision not to prosecute is wrong, it can apply to the people's prosecutor's office at a higher level for a review.

The Law of the People's Republic of China "On Supervision" also provides for provisions governing international cooperation in combating corruption, rules for overseeing supervisory authorities and inspectors, establishes requirements for supervising personnel, defines responsibility for improper performance of their duties, and other provisions. In accordance with the PRC Law on Supervision, the Central Military Commission determines specific provisions regarding the supervision of the army and the armed police.

The system of state supervision with Chinese characteristics, created in accordance with the Law of the PRC "On Supervision", will undoubtedly have a significant impact on all aspects of a socio-political and economic nature. The emergence of a new independent and separate oversight body through which criminal cases concerning corruption crimes are initiated was a great achievement for the PRC. This is strikingly different from the structure that existed earlier, when only three bodies could influence the outcome of the criminal process. At the moment, the list of these bodies also includes the NOC.

## REFERENCES

1. The Constitution of the People's Republic of China [Zhōnghuá rénmin gònghéguó xiànfǎ] [Electronic resource].-URL: [http://www.npc.gov.cn/npc/xinwen/node\\_505.htm](http://www.npc.gov.cn/npc/xinwen/node_505.htm) (date of the application: 21.03.2021.) .
2. Supervision Law of the People's Republic of China [Zhōnghuá rénmin gònghéguó jiānchá fǎ] [Electronic resource].-URL: <http://www.znslaw.com/180326/000059.html> (date of the application: 21.03.2021.).
3. Interpretation of the Supervision Law of the People's Republic of China [Jiědú "zhōnghuá rénmin gònghéguó jiānchá fǎ"] [Electronic resource].-URL: [https://www.sohu.com/a/238855886\\_99918582](https://www.sohu.com/a/238855886_99918582) (date of the application 21.03.2021. ).
4. Xīnhuá Wǎng (Xīnhuá Wǎng) Explanation of the Supervision Law of the People's Republic of China (Draft) [Guānyú "zhōnghuá rénmin gònghéguó jiānchá fǎ (cǎo'àn)" de shuōmíng – 14.03.2018. [Electronic resource].-URL: [https://hk.lexiscn.com/law/articles-280341.html?newstype=3&expert\\_analysis\\_flag=1&act=detail&access=content\\_detail&keyword=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&t\\_kw=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&eng=1&lang=en&prid=e44e553e-f6af-5c87-2720-69b0a0093fcf&crid=614b4696-0514-4b31-8a52-26e6ad5a0c4b](https://hk.lexiscn.com/law/articles-280341.html?newstype=3&expert_analysis_flag=1&act=detail&access=content_detail&keyword=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&t_kw=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&eng=1&lang=en&prid=e44e553e-f6af-5c87-2720-69b0a0093fcf&crid=614b4696-0514-4b31-8a52-26e6ad5a0c4b) (date of the application: 21.03.2021.).
5. Shī Ruì (Shǐ Ruì) talks about mind-related compliance pre-service from the implementation of the Supervision Law [Cóng "jiānchá fǎ" shíshī tánxīn shì hé guī zhī qián zhì fúwù] – 25.01.2019. [Electronic resource].-URL : [https://hk.lexiscn.com/law/articles-318975.html?newstype=3&expert\\_analysis\\_flag=1&act=detail&access=content\\_detail&keyword=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&t\\_kw=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&eng=1&lang=en&prid=&crid=b9674112-e827-43cb-91cd-de28f8d4ced5](https://hk.lexiscn.com/law/articles-318975.html?newstype=3&expert_analysis_flag=1&act=detail&access=content_detail&keyword=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&t_kw=5Lit5Y2O5Lq65rCR5YWx5ZKM5Zu955uR5a%2Bf5rOV&eng=1&lang=en&prid=&crid=b9674112-e827-43cb-91cd-de28f8d4ced5) (date of the application: 21.03.2021.).