

# International PJ Journal Penitentiary

## МЕЖДУНАРОДНЫЙ ПЕНИТЕНЦИАРНЫЙ ЖУРНАЛ

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Научный журнал  
Издается с марта 2015 г.  
Выходит три раза в год

Scientific journal  
Published since March 2015  
Triannually



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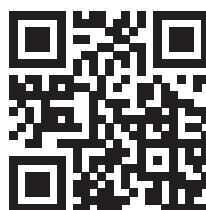
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## INTERNATIONAL PENITENTIARY JOURNAL

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# JOURNAL POLICY

## **Journal mission**

International penitentiary cooperation can and should help States to coordinate criminal and penal policy, practice of sentencing and execution of penalties, means, methods of treatment with convicts according to universally recognized principles and norms of international law, as well as standards developed over the years of cooperation in this field. International penitentiary journal is a dialogue platform for describing and discussing penitentiary systems' problems in all countries of the world. The publication is focused on the expansion of contacts between penitentiary systems of Russia and other States in scientific and practical fields. Such cooperation is important due to the need for mutual consideration of positive and other experience in the penitentiary sphere, joint efforts in ensuring human and social security, crime prevention, execution of criminal penalties, etc. The journal is not limited by only one direction of Penitentiary systems' activity. According to the Editorial Board's opinion, none of them can be considered secondary. For this reason, the journal focuses on any issues of penitentiary practice: the history of penitentiary bodies and institutions, problems of international standards application for treatment with prisoners, inter-sectoral research in the field of criminal penalties sentencing and execution, legal, psychological, pedagogical and economic foundations of penitentiary systems' development, ensuring the rule of law in their activities, personnel training for correctional institutions, etc.

## **Publication Frequency**

Triannually

## **Principles of editorial work**

scientifically proven approach to selection, review and publication placement;  
free and open access to research results, used data, which contributes to increasing of global knowledge exchange;  
compliance with international ethical editorial rules.

## **Publication fee**

Publication in the journal is free. The editors do not charge authors for preparation, placement and printing of materials.

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The journal provides direct open access to its content based on the following principle: free open access to research results contributes to increasing of global knowledge exchange.

# ПОЛИТИКА ЖУРНАЛА

## **Миссия журнала**

Международное пенитенциарное сотрудничество может и должно способствовать государствам координировать уголовную, уголовно-исполнительную политику, практику назначения и исполнения наказаний, средства, методы обращения с осужденными с общепризнанными принципами и нормами международного права, а также стандартами, наработанными за годы взаимодействия в данной сфере. Международный пенитенциарный журнал – это диалоговая площадка для описания и обсуждения проблем пенитенциарных систем всех стран мира. Издание ориентировано на расширение контактов между пенитенциарными системами России и других государств в научной и практической областях, необходимость взаимного учета положительного и иного опыта в пенитенциарной сфере, объединение совместных усилий в обеспечении безопасности человека и общества, предупреждении преступлений, исполнении уголовных наказаний и пр. Журнал не ограничен каким-либо одним направлением деятельности пенитенциарных систем. По мнению редакции, ни одно из них не может быть признано второстепенным. В силу этого в журнале внимание уделяется любым вопросам пенитенциарной практики: истории пенитенциарных органов и учреждений, проблемам применения международных стандартов по обращению с заключенными, межотраслевым исследованиям в области назначения и исполнения уголовных наказаний, правовым, психолого-педагогическим и экономическим основам пенитенциарных систем, обеспечению законности в их деятельности, подготовке кадров для исправительных учреждений и т. п.

## **Периодичность**

3 выпуска в год.

## **Принципы работы редакции**

научно обоснованный подход к отбору, рецензированию и размещению публикаций;

свободный открытый доступ к результатам исследований, использованным данным, который способствует увеличению глобального обмена знаниями;

соблюдение международных этических редакционных правил.

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## **Политика свободного доступа**

Журнал предоставляет непосредственный открытый доступ к своему контенту, исходя из следующего принципа: свободный открытый доступ к результатам исследований способствует увеличению глобального обмена знаниями.

# ARTICLE REQUIREMENTS

The Editorial Board accepts articles by e-mail [editor62@yandex.ru](mailto:editor62@yandex.ru) in Russian or English, with the observance of the following requirements.

## **Title**

Up to 10–12 words. Abbreviations and formulas in the title of an article are not allowed.

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*The position* is indicated in full, without abbreviations. Adjuncts, graduate students, doctoral students and applicants must indicate their status and the department to which they are attached, in full, without abbreviations.

*Academic title and degree* are indicated in full, without abbreviations.

*Individual numbers* of authors in the following database systems: ORCID, ResearcherID, Scopus Author ID.

## **An abstract**

250–400 words, determined by the content of the article. It includes the characteristics of the researched problem, objectives, research methods and materials of the study, as well as the results and main conclusions of the study. It is advisable to point out the main scientific result of the work. Unencrypted abbreviations, for the first time entered terms (including neologisms) are not allowed. For articles in Russian language it is recommended to use the Interstate standard 7.9–95 «Summary and abstract. General requirements».

## **Keywords**

5–10 words or phrases. The list of basic concepts and categories used to describe the problem under study.

## **Main body of the article**

*Structure.* The body of the text should be divided into meaningful sections with individual headings (1–5 words) to disclose the essence of this section. Every article should contain Conclusions, where the author(s) are expected to ground meaningful inferences. Implications for a future research might also find their place in Conclusions. The Editorial Board recommends using the IMRAD structure for the article. This structure is reference and can be adapted (expanded and (or) more detailed) depending on the characteristics and logic of the research.

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The text may contain tables and figures, which should have separate numbering (one numbering system for tables; another – for figures). They should be placed in the text at the appropriate paragraph (just after its reference).

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Не более 10–12 слов. Не допускается использование аббревиатур и формул.

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5–10 слов и (или) словосочетаний. Должны отражать тему, цель и объект исследования.

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Dear colleagues!

We present to Your attention a new issue of our journal. We are still working to expand the geography of our authors and invite to cooperation all specialists, who carry out scientific research in areas related to penitentiary activities.

The first issue of 2020 contains articles on various aspects of the implementation of criminal and penal policy in the Republic of Azerbaijan, the Republic of Belarus, the Republic of Kazakhstan and Qatar. The journal presents the results of a study on the organization of Probation Service in the Republic of Azerbaijan. The first results of this work are summarized and the prospects for the development of the analyzed structure are pointed out. The issue also includes an article, which authors study the crime of juveniles in the Republic of Kazakhstan and their criminal responsibility. This study was conducted on the basis of the new Criminal Legislation of the Republic of Kazakhstan adopted in 2014. The complex of problematic aspects in this area has received a new interpretation and argumentation from the perspective of the latest opportunities for study.

Special attention should be paid to the study of the main types of punishments not related to isolation from society, and their content under the Criminal Code of Qatar. The comparative legal analysis of the Qatar Legislation with separate norms of the Russian Legislation is one of the few works on this subject published in the Russian scientific periodical press.

In addition, there is a report on the annual Interuniversity scientific and practical conference “Current problems of Penal system bodies and institutions activities organisation and ways of their decision”, dedicated to the memory of the Honored scientist of the RSFSR, DSc (Law), Professor A. I. Zubkov and the Day of Russian science.

*Alexey Vladimirovich Rodionov*  
Editor-in-Chief of International penitentiary journal,  
DSc (Economy)  
Scopus ID 57194512706  
Web of Science Researcher ID E 5744-2016  
ORCID 0000-0002-9311-4896

### Уважаемые коллеги!

Представляем Вашему вниманию новый выпуск нашего периодического издания. Мы по-прежнему работаем над тем, чтобы расширить географию наших авторов и приглашаем к сотрудничеству всех специалистов, кто осуществляет научный поиск в сферах, связанных с пенитенциарной деятельностью.

В первом номере 2020 г. опубликованы статьи, посвященные различным аспектам реализации уголовной и уголовно-исполнительной политики в Республике Азербайджан, Республике Белоруссия, Республике Казахстан и Катаре. В журнале представлены результаты исследования, посвященного вопросам организации деятельности Службы пробации в Азербайджанской Республике. Подводятся первые итоги данной работы и указываются перспективы развития анализируемой структуры. Также в номере опубликована статья, авторы которой исследуют преступность несовершеннолетних в Республике Казахстан и их уголовную ответственность. Данное исследование проведено на базе нового уголовного законодательства Республики Казахстан 2014 г. Комплекс проблемных вопросов в данной сфере получил новую интерпретацию и аргументацию с позиций новейших возможностей для изучения.

Отдельного внимания заслуживает исследование основных видов наказаний, не связанных с изоляцией от общества, и их содержания по Уголовному кодексу Катара. Сравнительно-правовой анализ законодательства Катара с отдельными нормами законодательства России является одной из немногих работ по данной тематике, публикуемых в российской научной периодической печати.

Кроме того, в этом выпуске представлен отчет о проведении на базе Академии ФСИН России ежегодной Межвузовской научно-практической конференции «Актуальные проблемы организации деятельности органов и учреждений уголовно-исполнительной системы и пути их решения», посвященной памяти заслуженного деятеля науки РСФСР, доктора юридических наук, профессора А. И. Зубкова и Дню российской науки.

*Алексей Владимирович Родионов,*  
главный редактор Международного пенитенциарного журнала,  
доктор экономических наук  
Scopus ID 57194512706  
Web of Science Researcher ID E 5744-2016  
ORCID 0000-0002-9311-4896

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**Chistyakov A. A., Naurzalieva S. M.****Чистяков А. А., Наурзалиева С. М.****CRIMINAL LIABILITY OF JUVENILES  
IN THE REPUBLIC OF KAZAKHSTAN****УГОЛОВНАЯ ОТВЕТСТВЕННОСТЬ НЕСОВЕРШЕННОЛЕТНИХ  
В РЕСПУБЛИКЕ КАЗАХСТАН**

**Abstract.** The article reflects the study of juvenile delinquency in the Republic of Kazakhstan and their criminal responsibility. The scientific novelty of the research is that it was conducted on the basis of the new criminal legislation of the Republic of Kazakhstan in 2014. Therefore, the complex of issues, that were previously the subject of various studies in the light of modern realities and trends of criminal law policy of the Republic of Kazakhstan, has received a new interpretation and argumentation from the perspective of the latest opportunities for study. First, the new legislative structure for determining the basis of criminal liability (Article 4 of the Criminal code of the Republic of Kazakhstan) required a reinterpretation of the content of circumstances that lead to emergence of criminal liability among juveniles. Secondly, the legally updated content of grounds for criminal liability of juveniles in the Republic of Kazakhstan has led to an update of the quality of criminal law relations that arise between juvenile offenders and state bodies, which also need a new scientific reinterpretation. Third, the new legal concept of the basis of criminal liability presupposes the existence of a new, in relation to the previous, content of the basis for the implementation of criminal liability of juveniles. Finally, the new criminal legislation of the Republic of Kazakhstan, along with the previously existing one, has introduced new forms and types of implementation of criminal liability of juveniles, which need an updated scientific and legal analysis. Its results and conclusions, obtained personally by the author, can be regarded as having scientific novelty for the above reasons. In addition, on the basis of the theory and practice research of criminal responsibility among juveniles in the Republic of Kazakhstan, the paper formulated proposals for improving the criminal legislation of not only the Republic of Kazakhstan, but also the Russian Federation, which also have a novelty. The theoretical significance of the research is to increase and systematize knowledge about the criminal liability of juveniles due to the presence of a new basis of criminal responsibility that has not been previously developed by the Russian criminal law science. The results of scientific understanding of new forms and types of implementation of criminal liability of juveniles, introduced by the Criminal code of the Republic of Kazakhstan in 2014, such as the obligation

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to apologize to the victim and the establishment of probation control, have theoretical significance. The conclusions, suggestions and recommendations contained in this work enrich the scientific understanding of the features of criminal liability of juveniles in the Republic of Kazakhstan. The practical significance of the work is that the provisions and recommendations contained in it can be used both in the Republic of Kazakhstan and in the Russian Federation: in the process of standard-setting activities in improving the norms of Chapter 6 of the Criminal code of the Republic of Kazakhstan and the norms of Section V of Chapter 14 of the Criminal code of the Russian Federation; in the work of specialized inter-district courts for juveniles, considering cases against juveniles and assigning criminal penalties to them; by authorities and administration in the development of preventive measures.

**Keywords:** the Republic of Kazakhstan, juveniles, juvenile delinquency, criminal liability, grounds for criminal liability, juvenile justice, exemption from criminal liability and punishment.

**Аннотация.** В статье отражено исследование преступности несовершеннолетних в Республике Казахстан и их уголовной ответственности. Научная новизна исследования состоит в том, что оно проведено на базе нового уголовного законодательства Республики Казахстан 2014 г., а потому комплекс вопросов, ранее являвшихся предметом тех или иных исследований, в свете современных реалий и направлений уголовно-правовой политики Республики Казахстан получил новую интерпретацию и аргументацию с позиций новейших возможностей для изучения. Во-первых, новая законодательная конструкция определения основания уголовной ответственности (ст. 4 Уголовного кодекса Республики Казахстан) потребовала переосмысления содержательной стороны обстоятельств, влекущих возникновение уголовной ответственности несовершеннолетних. Во-вторых, законодательно обновленное содержание основания уголовной ответственности несовершеннолетних в Республике Казахстан повлекло обновление качества уголовно-правовых отношений, возникающих между несовершеннолетними нарушителями и государственными органами, что нуждается в новом научном переосмыслении. В-третьих, новое законодательное понятие основания уголовной ответственности предполагает наличие нового, по отношению к прежнему, содержания основания реализации уголовной ответственности несовершеннолетних. Наконец, новое уголовное законодательство Республики Казахстан, наряду с ранее существовавшим, ввело в действие новые формы и виды реализации уголовной ответственности несовершеннолетних, которые нуждаются в обновленном научно-правовом анализе. Его результаты и выводы, полученные лично автором, по вышеуказанным причинам могут быть расценены как обладающие научной новизной. Кроме того, на основе исследования вопросов теории и практики уголовной ответственности несовершеннолетних в Республике Казахстан в работе сформулированы предложения по совершенствованию уголовного законодательства не только Республики Казахстан, но и Российской Федерации, которые также обладают новизной. Теоретическая значимость исследования состоит в приращении и систематизации знаний об уголовной ответственности несовершеннолетних в силу наличия нового, ранее не разрабатываемого российской уголовно-правовой наукой, основания уголовной ответственности. Теоретической значимостью обладают результаты научного осмысления новых форм и видов реализации уголовной ответственности

несовершеннолетних, введенных Уголовным кодексом Республики Казахстан 2014 г., таких как обязательство принести извинения потерпевшему и установление пробационного контроля. Содержащиеся в работе выводы, предложения и рекомендации обогащают научные представления об особенностях уголовной ответственности несовершеннолетних в Республике Казахстан. Практическая значимость работы заключается в том, что содержащиеся в ней положения и рекомендации могут быть использованы как в Республике Казахстан, так и в Российской Федерации: в процессе нормотворческой деятельности при совершенствовании норм гл. 6 Уголовного кодекса Республики Казахстан и норм разд. V гл. 14 Уголовного кодекса Российской Федерации; в работе специализированных межрайонных судов по делам несовершеннолетних при рассмотрении дел в отношении несовершеннолетних и назначении им уголовных наказаний; органами власти и управления при разработке мероприятий профилактического характера.

**Ключевые слова:** Республика Казахстан, несовершеннолетние, преступность несовершеннолетних, уголовная ответственность, основание уголовной ответственности, ювенальная юстиция, освобождение от уголовной ответственности и наказания.

#### Information about authors / Сведения об авторах

**Aleksey Alekseevich Chistyakov**, DSc (Law), Professor of the department of criminal law, criminal procedure and criminalistics, Peoples' Friendship University of Russia, Moscow, Russian Federation, e-mail: [alex62-60@yandex.ru](mailto:alex62-60@yandex.ru).

**Алексей Алексеевич Чистяков**, доктор юридических наук, профессор кафедры уголовного права, уголовного процесса и криминалистики, Российский университет дружбы народов, г. Москва, Российская Федерация, e-mail: [alex62-60@yandex.ru](mailto:alex62-60@yandex.ru).

**Saule Mergenovna Naurzalieva**, PhD (Law), senior lecturer at the department of criminal law, criminal procedure and criminalistics, Peoples' Friendship University of Russia, Moscow, Russian Federation, e-mail: [n\\_saule\\_m@mail.ru](mailto:n_saule_m@mail.ru).

**Сауле Мергеновна Наурзалиева**, кандидат юридических наук, старший преподаватель кафедры уголовного права, уголовного процесса и криминалистики, Российский университет дружбы народов, г. Москва, Российская Федерация, e-mail: [n\\_saule\\_m@mail.ru](mailto:n_saule_m@mail.ru).

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### Introduction

The relevance of the research topic is determined by the fact that juveniles are a natural reserve of social development of any society, and their violation of the criminal law indicates the existing gaps in legal and moral education of the younger generation, insufficient conditions for the inclusion of young people in the life of society. The analysis of statistical indicators of juvenile delinquency, the prevalence of criminal offenses among persons of the youth age group, and the qualitative and quantitative characteristics of these phenomena can be regarded as predictive for the entire crime as a whole. It is no accident that reducing the level of juvenile delinquency is considered by the world community as the most important aspect of the fight against crime in society.

Today juvenile delinquency in the Republic of Kazakhstan acquires qualitatively new features due primarily to the adoption of the new Criminal code of the Republic of Kazakhstan (hereinafter – CC RK) and a course on the humanization of criminal policy concerning juveniles. For example, in the Republic of Kazakhstan in 2010 and 2011, 72 and 76 crimes out of every thousand were committed by juveniles or with their participation (in the Russian Federation for the same period, these figures were 65 and 63). By the end of 2014 (the last year of the previous CC RK), this figure fell to 40 criminal acts (in the Russian Federation for the same period – 54). For the period of the current CC RK (2015–2017), the considered indicators were 30, 28 and 27 crimes per thousand committed (in the Russian Federation – 52, 48, 44).

On the one hand, leading legal experts in Russia and Kazakhstan note the undoubted benefit and effectiveness of the new concept of criminal legislation of the Republic of Kazakhstan, which refers to some of the acts (previously referred to crimes) to criminal misdemeanors (Apenov, S. M. 2017; Golovko, L. V. 2017; Sarybekova, S. M. 2017). This circumstance, as mentioned above,

significantly affected the overall statistics and dynamics of juvenile crime in the Republic of Kazakhstan, since it is impossible to deny the obvious fact that a significant decrease in the quantitative and qualitative indicators of juvenile crime is a direct result of these qualitative changes in criminal policy in the Republic, associated with the introduction of new mechanisms for the implementation of criminal liability of juveniles.

On the other hand, according to the General Prosecutor's office of the Republic of Kazakhstan, about 2/3 of recidivists committed their first crime as teenagers (Ermuratov, D. 2014). In addition, according to the Head of the Department of the Penal system in Almaty, 20% of recidivists start their criminal career at a young age, and we speak about juveniles, who have served a sentence of imprisonment (Prokopenko, V. 2016). The adoption of the current CC RK in 2014 created a unique scientific and legal situation for researchers to analyze new, emerging criminal law relations in the field of countering juvenile delinquency. The situation is unique both from the point of view of criminal law theory and practice.

In the Russian Federation research on juvenile delinquency increased significantly between 2002 and 2013, but not in Kazakhstan's legal science. In ontological terms, the studied problem was considered mainly in connection with scientific developments of the general doctrine of criminal liability, which were carried out by A. I. Boytsov, N. M. Kropachev, A. N. Magomedov, L. M. Prozumentov, V. S. Prokhorov, Yu. E. Pudovochkin and others. In institutional terms, certain aspects of the problem of criminal liability of juveniles were studied in the works of such Russian and Kazakh scientists as E. Alaukhanov, E. A. Antonyan, Yu. M. Antonyan, T. K. Akimzhanov, Z. A. Astemirov, M. M. Babaev, K. A. Begaliev, S. B. Bimurzin, N. I. Vetrov, S. E. Vitsin, Ya. I. Gilinskiy, V. I. Gladkikh, A. I. Dolgova, V. D. Ermakov, A. E. Zhalinskiy, V. I. Ignatenko, K. E. Igoshev, S. M. Inshakov, E. I. Kairzhanov, I. I. Karpets, Yu. A. Kashuba, V. M. Kogan,



L. L. Kruglikov, M. S. Kruter, V. N. Kudryavtsev, A. I. Martsev, G. M. Min'kovskiy, S. S. Moldabaev, M. S. Narikbaev, N. I. Pikurov, V. A. Pleshakov, A. B. Sakharov, O. D. Sitkovskaya and others. The results of scientific research of these authors form the basis of modern teaching about the criminal liability of juveniles.

The issues of implementation of criminal liability among juveniles are devoted to the development of Russian and Kazakh scientists, such as N. M. Abdirov, V. A. Andrienko, B. S. Beysenov, V. B. Borovikov, A. V. Brilliantov, D. B. Bugybay, I. M. Gal'perin, P. S. Dageľ, S. G. Kelina, M. I. Kol'tsov, N. R. Kosevich, K. K. Kusnidenov, T. A. Lesnievski-Kostareva, I. I. Lesnichenko, V. V. Luneev, R. O. Orymbaev, E. F. Pobegaylo, Yu. E. Pudovochkin, A. I. Rarog, N. A. Selezneva, S. A. Styazhkina, V. N. Tkachev, I. V. Chernenko, A. I. Chernyshov, A. S. Chokmorova and works of other scientists.

Recent works include dissertations defended in the Russian Federation: A. A. Zor'kina «Negligent crimes of juveniles: criminal-legal and criminological aspects» (2016), K. Yu. Loginova «Property crime of juveniles and measures to prevent it» (2015), A. V. Davydenko «Differentiation of criminal liability of juveniles depending on age» (2013). It should be noted that in the Republic of Kazakhstan over the past 5 years (2013–2018), dissertations on this topic have not been defended. The latter include the dissertations of L. M. Karzhaubaeva «Juvenile Delinquency in the Republic of Kazakhstan» (2009), Musali Nuradel' «Problems of improving legislation on responsibility and individualization of punishment for juveniles» (2008), T. Zh. Atzhanova «Features of release of juveniles from criminal liability (under the legislation of the Republic of Kazakhstan and the Russian Federation)» (1998). At the same time certain aspects of the problem were touched upon by Kazakh scientists in the study of related issues (Abdirov, N. M. 2017; Kaybzhhanov, M. Zh. 2017). It can be stated that within the framework of existing

research, such problems as the current state of juvenile delinquency after the adoption of CC RK in 2014, the impact on its indicators of criminal responsibility grounds that differ from the previously existing legislative wording, and new forms of its implementation in relation to juveniles remain beyond the scope of scientific interest.

The object of the research is the social relations that are developing regarding the establishment and implementation of criminal liability of juveniles in the Republic of Kazakhstan.

The subject of the research is: legal norms regulating criminal liability and its implementation in relation to juveniles in the Republic of Kazakhstan; personality of a juvenile criminal offender; complex of reasons and conditions for committing criminal law violations by minors in the Republic of Kazakhstan; system of measures for general social, socio-criminological and legal prevention of criminal offenses committed by juveniles.

The purpose of the research is to analyze the criminological indicators and characteristics of juvenile delinquency in the Republic of Kazakhstan, the features of detention and forms of implementation of criminal liability of juveniles in modern conditions, as well as the development of theoretical provisions and practical recommendations aimed at effectively countering criminal offenses committed by juveniles in the Republic of Kazakhstan. The achievement of these goals determined the formulation and solution of the following tasks:

- to analyze the main criminological indicators of juvenile delinquency in the Republic of Kazakhstan;

- to consider the socio-demographic, criminal-legal and criminological features of the average juvenile, who has committed a criminal offense in the Republic of Kazakhstan, and make a criminological portrait of this juvenile delinquent;

- to determine the causes and conditions of juvenile delinquency in the Republic of

Kazakhstan and propose measures for its prevention;

- to conduct a legal analysis of the grounds for criminal liability of juveniles under the criminal law of the Republic of Kazakhstan;

- to consider the specifics of applying punishments to juvenile offenders in the Republic of Kazakhstan;

- to establish how effective the application of the main provisions of the Institute of exemption from criminal responsibility and punishment of juveniles in the Republic of Kazakhstan is in modern conditions;

- to develop and propose a set of organizational and legal measures to prevent juvenile delinquency in the Republic of Kazakhstan.

### Materials and Methods

The methodological basis of the research is the dialectical method of cognition as a universal way of forming the worldview perception of legal phenomena. The application of the main method allowed us to consider juvenile delinquency in the Republic of Kazakhstan as a periodically changing socio-legal phenomenon, due to a complex of causes and conditions of social, political, economic, legal, psychological and pedagogical order, and not as a separate strictly legal phenomenon. Sociological and systematic methods of analysis were used to determine the features of criminological situation connected with juveniles in the Republic of Kazakhstan. In the study of the features of modern criminal legislation of the Republic of Kazakhstan formation, historical-legal and comparative-legal methods of cognition were used. The analysis of system-structural indicators of the basis of criminal liability of juveniles under CC RK required the use of a formal logical research method. The use of interviewing methods and expert assessment of the current criminal legislation of the Republic of Kazakhstan allowed identifying significant determinants that hinder its effectiveness and effective application.

The theoretical basis of the research is the provisions of the General theory of law, as well as the works of specialists in the field of branch sciences (criminal, penal law, criminology, juvenile psychology, age psychology, pedagogy and sociology). We speak about such well-deserved Russian and Kazakh authorities as G. A. Avanesov, E. O. Alaukhanov, A. I. Alekseev, M. M. Babayev, Yu. K. Babanskiy, A. T. Bayseitova, G. N. Borzenkov, I. Sh. Borchashvili, L. A. Bukalerova, B. V. Volzhenkin, S. I. Dement'eva, T. T. Dubinina, A. E. Zhalinskiy, G. I. Zabryanskiy, A. I. Zubkov, K. E. Igoshev, V. V. Karlov, S. G. Kelina, A. B. Kiryukhin, L. R. Klebanov, M. I. Kovalev, A. P. Kozlov, A. I. Korobeev, P. V. Korobov, N. R. Kosevich, L. L. Kruglikov, N. F. Kuznetsova, V. P. Malkov, G. M. Min'kovskiy, A. S. Mikhlin, A. V. Naumov, E. A. Ongarbaev, V. M. Pozdnyak, L. M. Prozumentov, S. M. Rakhmetov, M. V. Remizov, A. I. Svinkin, A. B. Skakov, S. A. Styazhkina, K. A. Sych, A. M. Tashmagambetov, V. N. Tkachev, V. D. Filimonov, O. V. Filimonov, A. A. Chistyakov and others.

The use of these methods allowed to achieve the following results: the main criminological indicators of juvenile delinquency in the Republic of Kazakhstan are determined; a typological portrait of a juvenile criminal in the Republic of Kazakhstan is compiled; the main causes and conditions of juvenile delinquency in the Republic of Kazakhstan in modern conditions are identified, measures for the prevention of juvenile delinquency that meet the needs of the present time are proposed. As a result of the conducted research, a set of legally significant signs and characteristics of the grounds for criminal liability of juveniles under the current criminal law of the Republic of Kazakhstan is established; features of punishments application and release from criminal liability of juvenile offenders in the Republic of Kazakhstan are revealed.

The normative basis of the research is international legal acts on the issues of respect for the rights and interests of juveniles when they are brought to criminal responsibility

and punishment, as well as in the execution of punishment and the application of other measures of a criminal nature to them, including: UN standard minimum rules for the administration of juvenile justice (Beijing rules), UN guidelines for the prevention of juvenile delinquency (Riyadh guidelines), UN Rules for the protection of juveniles deprived of their liberty. The main results of the work are the result of the analysis of provisions of the Constitution of the Republic of Kazakhstan, Criminal (2014), Criminal procedure (2014), Penal (2014), Civil (1994), Family (2011) and Labor (2015) codes of the Republic of Kazakhstan. The legal concept of work is based on the Constitution of the Russian Federation, Criminal (1996) and Penal (1997) codes of the Russian Federation and other normative legal acts regulating relations connected with the control of juvenile behavior, prevention of offences in the youth environment.

The empirical base of the study includes: data from sample studies on the state and dynamics of juvenile delinquency in the Republic of Kazakhstan for 2010–2018, obtained from the Committee on legal statistics and special records of the General Prosecutor's office of the Republic of Kazakhstan; materials of the published practice of the Supreme Court of the Republic of Kazakhstan; decisions on criminal cases of inter-district specialized juvenile courts for 2013–2018 (Astana, Akmola, Atyrau, Zhambyl, West Kazakhstan regions of the Republic of Kazakhstan); results of empirical researches conducted personally by the author in the period from 2010 to 2018.

The study analyzed judicial practice in criminal cases of juveniles in the Republic of Kazakhstan for 2013–2018, the materials of which were selected by random sampling in 10 regions of the Republic of Kazakhstan (197 cases were studied in 19 specialized juvenile courts).

In the period from 2014 to 2018, the author conducted a survey of students in 10–11 grades of secondary schools in Uralsk, Aktyubinsk, Taraz (152 people), as well as a

survey and interviewing judges of specialized inter-district courts for minors, employees of the Prosecutor's office, district inspectors for minors, investigators and interrogators of internal Affairs bodies of the Republic of Kazakhstan (76 people). Teachers of the cycle of criminal law disciplines of L. N. Gumilyov Eurasian National University, M. S. Narikbayev KAZGUU University, and M. Utemisov West Kazakhstan State University were involved as experts, as well as judges of regional, district and city courts of Astana, Akmola, Atyrau, Zhambyl, West Kazakhstan regions of the Republic of Kazakhstan, and law enforcement officers of these territorial entities (294 people).

For comparison, the author used data from the Main information and analytical center of the Ministry of Internal Affairs of Russia and the Judicial Department of the Supreme Court of the Russian Federation on the state and dynamics of juvenile delinquency in the Russian Federation for 2010 – the first half of 2018.

### Results

The object of criminological analysis after the introduction of the current CC RK in 2015 is not only crimes and the persons who committed them, but also acts that are not related to crimes, but are criminal misdemeanors. The main proportion of crimes committed by juveniles in the Republic of Kazakhstan is medium-gravity crimes. In 2017, of the total number of criminal offenses committed by minors, 83% were criminal offenses against property (for comparison: in 2016 – 82%, in 2015 – 80%, in 2014 – 82%, in 2013 – 81%, in 2012 – 84%, in 2010 – 85%). Data for the first half of 2018 indicates that this trend continues (81.7%). The trend of a constant increase in the number of intentional infliction of moderate harm to health (from 33 in 2010 to 63 in 2017, that is, almost 2 times), as well as repeated juvenile delinquency (from 97 in 2012 to 460 in 2017) against the background of a general decrease in juvenile delinquency in the Republic of Kazakhstan is considered dangerous.

On the other hand, the introduction of the new CC RK, designed to implement a two-vector approach to the definition of criminal offenses, significantly affected the quantitative indicators of crime, as a number of acts that were previously classified as crimes, passed into the category of criminal misdemeanors.

Socio-economic stability and state policy aimed at humanizing criminal justice in relation to juveniles is the most significant determinant that reduces the level of juvenile delinquency in the Republic of Kazakhstan. At the same time, it should be borne in mind that analyzing indicators of juvenile delinquency, only data on investigated crimes and identified persons are officially provided. A full analysis of the state and characteristics of juvenile delinquency in the Republic of Kazakhstan in the context of comparing it with general crime and determining the specific weight is possible only if there are relevant statistical data provided by the Committee on legal statistics and special records of the Prosecutor General's office of the Republic of Kazakhstan, and these indicators are not mandatory.

The classification of juvenile offenders developed by the authors, taking into account their personality and attitude to existing criminal law prohibitions, allowed to clarify the criminological characteristics of four types of juvenile offenders: a random, unstable, negative and malicious offender. It is established that over the past 10 years, there are serious changes not for the better in the emotional and volitional sphere of juveniles living in the Republic of Kazakhstan and who have committed criminal offenses: the influence and authority of older people have been further weakened, and old traditions and customs have been reinterpreted and violated under the influence of globalization processes.

In the Russian Federation, the proportion of juveniles who committed crimes in the period from 2010 to 2017 decreased by 2.1% (from 6.5% to 4.4%). But at the same time, the total number of persons who committed crimes also decreased (from 2010 to 2017,

it decreased by 12.96%). This is despite the fact that the number of crimes registered in Russia for the specified period decreased by 21.7%, and the number of registered crimes committed by juveniles decreased by 42.34%. In the Republic of Kazakhstan, this indicator increased by 27.03% over the same period. In addition, there is a constant instability in these indicators, caused by the fact that since 2011 the Republic has implemented a set of measures aimed at combating the concealment of crimes, then the introduction of a new system of electronic monitoring and accounting of committed criminal offenses, and since 2015 – new accounting rules with a two-stage categorization of criminal offenses.

The author has compiled a criminological portrait of a juvenile who has committed a criminal offense in the Republic of Kazakhstan. This is usually a citizen of the Republic of Kazakhstan (99.2%), a male teenager (94.31%) who has committed a mercenary crime (theft, fraud, robbery, illegal possession of a car or other vehicle without the purpose of theft, extortion (81.19%), less often – hooliganism (5.69%)), at the age of 16–17 years (70%). In the vast majority of cases, such juveniles study at school or college, less often – in general education schools, even less often – in higher education, but they do not have basic general or secondary vocational education (58%). Such juveniles usually study without interest, and there is no internal motivation for diligent training and good discipline. Often a juvenile offender is characterized by a negative attitude to the learning process (40% did not study or work anywhere). This is a resident of the city (60%) who is not married in accordance with the law (98.8%), does not have a permanent, temporary or part-time job, an independent permanent source of income (97.4%); is brought up, as a rule, in a single-parent family with a low level of material and financial well-being. A juvenile does not attend sports clubs; differs among peers in aggressive, asocial behavior; rarely commits crimes (criminal offenses) in a state of alcoholism (3%), drug or toxicological

intoxication (0.2%); previously, as a rule, before committing an offense, a juvenile was not brought to criminal responsibility (94.6%) and was not on record in law enforcement agencies (68.7%). The main factors motivating minors in the Republic of Kazakhstan to commit criminal offenses are mainly selfish or hooligan motives.

We have identified the following objective reasons and conditions for the commission of criminal offenses by juveniles in the Republic of Kazakhstan (a random sample was made in 10 regions of the Republic in specialized juvenile courts, where 197 cases were analyzed in the proceedings of courts in 2013–2017):

- negative impact of the family (68% of the total number of analyzed cases);
- incitement by close associates (friends, acquaintances, classmates, etc.), including adults (32%).

The employees of the probation service, the Youth Policy Department of Astana, the Regional government, the Specialized inter-district court for juveniles in Astana, the Education Department of Astana and the Center for adaptation of juveniles in Astana (49 people) identified the following reasons for committing criminal offenses by juveniles: physiological maturation (4.8%); self-affirmation in society (22.1%); lack of interest in education (10.6%); desire to imitate criminal authorities (3.8%); low spiritual and moral education (58.7%).

According to the opinion of 142 law enforcement officers and 152 students surveyed in 2016–2017 as part of an independent study, the general conditions that contribute to the commission of criminal violations by juveniles in the Republic of Kazakhstan (in order of significance) are: lack of a proper support system in society for those released from prison (38.2%); insufficient standard of living (25%).

With the introduction of the new CC RK in 2015, which expanded the application of educational measures to juvenile offenders, the preventive role of commissions for the protection of the rights of juveniles and the placement of children and adolescents has

significantly increased. The number of cases considered at their meetings has increased significantly.

Currently, there are 214 such commissions in Kazakhstan: 14 at the regional level, 39 at the city level, and 161 at the district level. The Commission on juvenile affairs and protection of their rights is a consultative and advisory body under the Government of the Republic of Kazakhstan. The main issues to be resolved at meetings of the Interdepartmental Commission on juvenile affairs and protection of their rights under the Government of the Republic of Kazakhstan are: organization of placement of orphaned children and children left without parental care in families, foster care and search for other alternative forms; analysis of cases of juveniles, who committed illegal acts; analysis of cases of minors who found themselves in a difficult situation, assistance in their socialization and rehabilitation; review of cases against parents (legal representatives) who, for certain reasons, do not fulfill their responsibilities for the upbringing and education of their juvenile children; search for optimal forms of employment for juveniles released from penitentiary institutions and special educational organizations.

In order to control juvenile delinquency in the Republic and form a unified state policy in this area, a set of measures for the prevention of juvenile delinquency is proposed. In this regard, it is necessary to adopt the Concept of countering juvenile delinquency in the Republic of Kazakhstan, which should include:

- measures to restore the authority of the family and family values as a historically proven institution of prevention. To do this, it is necessary to conduct a number of measures to place social advertising on TV channels during broadcasts of youth talk shows, youth song contests, contests of young talents, etc. This section also includes suggestions for creating socially significant sites and spam with the slogan «Family –nation – Kazakhstan», «Family is your support and help», etc.;

– monitoring positive trends in deterring juvenile delinquency. According to our research, the majority of teenagers who committed criminal offenses were under the influence of criminal romance. Many of them are not able to define socially significant evaluative concepts of good and evil, moral and immoral. Of course, regular monitoring and identification of positive trends that present in the adolescent environment will allow for unobtrusive, but persistent propaganda of the attractiveness of socially positive behavior, the prestige of unapproachable behavior;

– public control over the content and quality of information received through the media, social networks and the Internet. Such control can be carried out with the involvement of religious figures, councils of elders, social movements and associations similar to the All-Russian national front;

– strengthening patriotic and religious education. First of all, we speak about calculating the amount of funding and financing of regional programs for patriotic education of young people («Children of Kazakhstan», «Youth of Kazakhstan», «Lend a helping hand», etc.). The system of patriotic education of minors in the Republic of Kazakhstan should include: the work of relevant state structures and structures of local self-government bodies; normative-legal framework for patriotic activities and a set of measures for patriotic education of citizens of Kazakhstan; promotion of patriotism in the mass media, including municipal ones; formation of scientific, theoretical and methodological foundations for patriotic education of young people;

– organization of leisure activities for juveniles in their free time and during the vacation period. Existing programs have shown their effectiveness in restraining juvenile delinquency. However, in order to increase their effectiveness, the situation must be constantly monitored by both the public and representatives of state and municipal authorities.

In contrast to Article 1 of CC RK of 1997, Article 1 of new CC RK states that the only, but not exclusive, source of criminal law is CC RK. This means that any laws that provide for criminal liability can be applied on the territory of the Republic only after they are included in the CC RK. On the other hand, ratified international treaties have more legal force than the provisions of CC RK (Part 3 of Article 1 of CC RK). In addition, Part 2 of Article 1 of CC RK proclaims that the normative decisions of the Constitutional Council and the Supreme Court of the Republic of Kazakhstan are an integral part of the criminal.

When developing the current CC RK, the legislator took into account the main provisions and principles of international legal acts. First of all, this applies to the concept of «juvenile». In the norms of Kazakh customary law, there was already such a concept as the age at which criminal responsibility begins. It was usually determined from the age of 15. Juvenile offenders under the age of 15 were not brought to trial, but on completely different grounds than the inability to give an account of their actions.

From the moment of Kazakhstan's entry into the Russian Empire until the October revolution of 1917, the norms of customary criminal law were applied in Kazakhstan, which include «the Bright path of Kasym Khan», «the Ancient path of Yessim Khan», «Seven laws of Khan of Tauke» and others.

The third session of the CEC of Kazakhstan, taking into account the social conditions of nomadic peoples and the level of legal awareness of workers, established special conditions for criminal prosecution of Kazakh juveniles. Persons at the age of 14 to 18 were classified as juveniles.

Since the introduction of the Fundamentals of criminal legislation of the USSR and the Union republics (1958), Part 1 of Article 10 of the Criminal code of the Kazakh SSR in 1959 established the 16-year age of criminal responsibility. However, Part 2 of this Article contained an addition and clarification to the general rule, according to which responsibility

began at the age of 14 only for the commission of a strictly defined range of serious crimes. This list of crimes included mainly intended crimes. The exception was involuntary manslaughter. This rule regarding the age of criminal responsibility existed until the first Criminal code of the Republic of Kazakhstan was brought into force in 1997, which took as a basis many provisions of the Model Criminal code for the CIS member States. The General age of criminal responsibility is set at the age of 16, and for the most dangerous intentional crimes specified in CC RK, responsibility began at the age of 14.

In the current CC RK, minors who are subject to the norms of the criminal legislation of the Republic of Kazakhstan are recognized as persons who were 14 years old at the time of crime commission, but not 18 years (Article 80 CC RK).

According to article 4 of the CC RK, the only basis for criminal liability is the Commission of a criminal offense, i.e. an act that contains all the elements of a crime or criminal misdemeanor included in CC RK. These provisions apply equally to both adult and juvenile offenders. However, there is no doubt that persons who have committed a criminal offense as juveniles need a special approach from the legislator.

The Republic of Kazakhstan joined the UN International Convention on the rights of the child on August 12, 1994. The international project «juvenile justice in Kazakhstan» was implemented in the Republic in 2003–2006 in order to humanize the criminal policy towards juveniles. As part of this project, in accordance with the decree of the head of state adopted on 23.08.2007, the first experimental juvenile courts were established in the cities of Astana and Almaty. Taking into account the positive experience, the decree of the President of the Republic of Kazakhstan adopted on 19.08.2008 approved the Concept of development of the juvenile justice system in the Republic of Kazakhstan for 2009–2011, which determined that the juvenile court is the most important part of the juvenile justice system. The Republic of

Kazakhstan (the only country in Central Asia) has 19 successfully functioning juvenile courts.

However, after adoption of the current CC RK, the main form of implementation of criminal liability among juveniles in the Republic of Kazakhstan still remains punishment. The implementation of criminal liability of juveniles occurs through the application to them of the main provisions of juvenile criminal law policy in the field of crime prevention. It is a process of implementation of activities by the legislative, judicial and executive authorities of the Republic of Kazakhstan to counter criminal offenses by juveniles, their containment, detection, suppression and prevention.

Out of the total list of punishments (11 types) contained in the current CC RK, only six types of punishments can be imposed on juveniles by courts of general jurisdiction or juvenile courts: deprivation of the right to engage in certain activities, fine, correctional labor, community service, restriction of liberty, imprisonment.

Special measures of a criminal legal nature, applicable only to juveniles, according to Part 1 of Article 84 CC RK are compulsory measures of educational influence, which include: 1) warning; 2) transfer to the supervision of parents or persons replacing them, or a specialized state body; 3) assignment of the duty to make amends for the caused harm; 4) restriction of leisure and establishment of special requirements for the behavior of a juvenile; 5) placement in an educational organization with a special regime of detention; 6) assignment of the obligation to apologize to the victim; 7) establishment of probation control.

The warning consists in explaining to a juvenile, who has committed a minor crime, the meaning of the harm that he has caused by his act, as well as the consequences of this crime recidivism provided for by CC RK. Transfer to supervision consists in assigning to parents or persons who replace them, or to a specialized state body the responsibility for educational influence on juveniles and control over their behavior. The obligation to make

amends for the caused harm is assigned, taking into account the property status and work skills of juveniles.

Among the significant innovations of Article 84 in CC RK 2014, in contrast to CC RK 1997, should be noted the introduction of probation control, which the court establishes under the rules of Part 2 of Article 44 in CC RK «Restriction of liberty» for the entire term of imprisonment, and juveniles – for a period of 6 months to 1 year (Part 3 of Article 63 in CC RK), and it is carried out by an authorized state body. Probation control includes the execution of the following duties by a convicted person: not to change their permanent place of residence, work or study without notifying the authorized state body that monitors the behavior of the convicted person; not to visit certain places; to undergo treatment for alcoholism, drug addiction, substance abuse, sexually transmitted diseases; to provide financial support to the family; and other duties that help to correct the convicted person and prevent them from committing new criminal offenses.

### Discussion

Based on results of the research, under the criminal responsibility of juveniles in the Republic of Kazakhstan we propose to understand the obligation of a person, who has committed a criminal offense at the age of 14 to 18 years, to give an account for their actions and suffer adverse consequences in this regard in the form prescribed by law. And the basis for criminal liability is considered to be a legally defined material and legal circumstance in the form of an act, containing all the elements of a criminal offense.

The main share of crimes (not criminal offenses) committed by juveniles in the Republic of Kazakhstan is medium-gravity crimes. At the same time, the share of crimes that encroach on property is on average about 80% of the total number of all crimes committed by minors in the Republic of Kazakhstan. Most often, the objects of these crimes are cell phones or cash.

The most significant determinant that reduces the level of juvenile delinquency in the Republic of Kazakhstan is not only the hard painstaking work of the Prosecutor's office and the Ministry of Internal Affairs to streamline statistical reporting and registration of criminal offenses, identify and eliminate the facts of concealment of these offenses, but also effective state socio-economic stability and state policy aimed at humanizing criminal justice in relation to juveniles.

Despite the annual increase in the number of adult offenders, the number of juvenile offenders in the Republic of Kazakhstan is decreasing every year. During 2010–2017, the percentage of juvenile delinquents has always been no more than 7%. This is primarily due to the reduction in the number of minors in the Republic of Kazakhstan and the introduction of a new Criminal code designed to implement a two-vector approach to the definition of criminal offenses. It is the humanization of the criminal law approach, which takes into account the peculiarities of the legal status of offenders under the age of 18, which allowed law enforcement agencies of the Republic of Kazakhstan to significantly reduce the level of juvenile crime in the Republic. However, it should be borne in mind that official statistics do not take into account all criminal offenses that were committed on the territory of the Republic, but only for the crimes investigated and identified persons, which in turn makes it difficult to conduct a full and comprehensive analysis of the state and characteristics of juvenile delinquency in the Republic of Kazakhstan.

Changes in the criminal legislation of the Republic of Kazakhstan with the adoption of the current Code have significantly changed the vector of criminal policy. The assumptions of a number of scientists about the possible increase in the number of criminal offenses due to the inclusion in the basis of criminal liability along with crimes and criminal misdemeanors have not been confirmed. On the contrary, even changes in pre-existing ideological foundations



and significant stratification of the population based on material wealth did not lead to an increase in this indicator due to a well-thought-out criminal policy and a humane approach to juvenile offenders. However, after the adoption of the current CC RK, the main form of implementation of criminal responsibility of juveniles in the Republic of Kazakhstan still remains punishment. The implementation of criminal responsibility of minors is carried out by applying to them the main provisions of juvenile criminal law policy in the field of crime prevention. Implementation of criminal responsibility of juveniles is a process of implementation of activities by the legislative, judicial and executive authorities of the Republic of Kazakhstan to counteract criminal offenses on the part of minors, their containment, detection, suppression and prevention.

Quantitative and qualitative characteristics and indicators of modern juvenile delinquency in Kazakhstan are determined not only by socio-economic, but also political and legal factors. In particular, the decrease in the number of criminal offenses committed by juveniles was influenced by demographic changes in the country, changes in the criminal legislation of the Republic and the course towards the humanization of juvenile criminal policy.

The main causes of juvenile delinquency in the Republic of Kazakhstan are:

a) features of mental influence (media, mass media, etc.) and psychological impact on the consciousness of Kazakh society, which weaken previously existing family and social traditions;

b) social stratification with the presence of bipolar antagonisms: low purchasing power – on the one hand, and a constant supply of brand elements of adolescent «culture»; low social level of the family;

c) negative influence of family members, established family lifestyle;

d) parents' antisocial lifestyle;

e) lack of adult supervision;

f) negative environment in which a teenager lives;

g) unemployment and lack of leisure in their free time.

The most significant area of juvenile delinquency prevention in the Republic of Kazakhstan is the formation of a unified state policy in this area. For this purpose, it is proposed to adopt the Concept of countering juvenile delinquency in the Republic of Kazakhstan.

The main directions of criminal law policy in relation to persons, who have committed criminal offenses under the age of eighteen years, should be considered as following: continuing the course of further humanization of criminal legislation to counteract criminal offenses of juveniles; measures of an educational nature in relation to minors who have committed criminal offenses or for the first time crimes of non-grave or medium gravity should become the main form of implementation of criminal responsibility; in relation to juveniles, committing crimes, the main form of implementation of criminal responsibility should be criminal legal enforcement measures that are not connected with isolation from society; in the course of criminal prosecution of juvenile offenders, the criminal justice authorities are obliged to provide juveniles with all the legal benefits guaranteed by the UN Convention on the rights of the child.

After the introduction of juvenile courts, the consideration of cases of juveniles has significantly accelerated, which has a positive impact on the protection of juveniles' basic rights of. Moreover, it is established that the number of cases, in which criminal prosecution is terminated due to the use of educational measures and bringing opposing parties together, has increased. Taking into account the productive international experience and positive trends in the criminal policy of the Republic of Kazakhstan in reducing the indicators of criminal offenses among juveniles, it is proposed to consider activities of juvenile courts as a promising component of juvenile criminal policy of the Russian Federation. At the same time, it should be noted that the

criminal law has a special place in the fight against crime, and this fully applies to juvenile delinquency. Mistakes in law-making or in law enforcement in relation to minors are a special social danger, as they negatively affect the prevention and suppression of criminal offenses, and this leads to the formation of a stable orientation of juvenile offenders to further commit these acts.

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**Pastushenya A. N.****Пастушеня А. Н.****PSYCHOLOGICAL CONCEPT OF THE CONVICT'S READINESS FOR A LAW-ABIDING LIFESTYLE****ПСИХОЛОГИЧЕСКАЯ КОНЦЕПЦИЯ ГОТОВНОСТИ ОСУЖДЕННОГО К ПРАВОПОСЛУШНОМУ ОБРАЗУ ЖИЗНИ**

**Abstract.** The article presents the concept of readiness of the convict's personality for a law-abiding lifestyle, the provisions of which provide theoretical grounds for diagnosing such readiness and determining the system of psychological and pedagogical tasks for its formation in the correctional process. The concept provides a general understanding and the main components of the personality's readiness for a law-abiding lifestyle; the spheres of life activity, in relation to which it should be formed; a system of psychological properties that form it, that are essential in determining law-abiding behavior and lifestyle in general. The author comes to the conclusion that the readiness of the convicted person to a law-abiding lifestyle is a system of psychological characteristics of the person, which act as internal prerequisites for the implementation of socially adapted life activities, preventing illegal acts. It is possible to distinguish three main components: 1) motivational-volitional attitude to lead a law-abiding lifestyle, which is the presence of desires to establish such a lifestyle, combined with volitional attitudes to implement them, observing self-discipline; 2) preparation for the legitimate solution of life's problems, ensuring the satisfaction of their needs and legitimate interests as a system of evaluation and guidance ideas, labor and social knowledge, skills and abilities; 3) anti-criminal stability, which expresses the rejection of illegal ways of action and the ability to resist criminal influences and circumstances. The main areas of life, in relation to which it is necessary to form a readiness to act lawfully and be socially adapted, are: the sphere of material support of life; the sphere of interaction with other people; the sphere of performance of legally established duties; the sphere of leisure and entertainment. In relation to each area, it is necessary to form not only readiness for law-abiding behavior and solving life's problems in a legal way, but also stability against committing illegal and deviant acts that carry the risk of committing such acts. The psychological essence of the convict's readiness for a law-abiding lifestyle is a system of psychological characteristics of the personality that are essential in determining law-abiding life in conditions of freedom.

**Keywords:** readiness of the convicted person for a law-abiding lifestyle, personality of the convict, correction of convicts, psychological properties of the convict's personality,

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social readaptation of convicts, evaluation of the results of convicts' correction, psychological and pedagogical tasks in convicts' correction.

**Аннотация.** В представленной статье излагается концепция готовности личности осужденного к правопослушному образу жизни, положения которой дают теоретические основания для диагностики такой готовности и определения системы психолого-педагогических задач по ее формированию в исправительном процессе. В концепции представлено общее понимание и основные составляющие готовности личности к правопослушному образу жизни; сферы жизнедеятельности, применительно к которым она должна быть сформирована; система образующих ее психологических свойств, существенных в детерминации правомерного поведения и образа жизни в целом. Автор приходит к выводу о том, что готовность осужденного к правопослушному образу жизни представляет собой систему психологических свойств личности, которые выступают внутренними предпосылками осуществления социально адаптированной жизнедеятельности, не допуская противоправных деяний. В ней можно выделить три основные составляющие: 1) мотивационно-волевая настроенность вести правопослушный образ жизни, представляющая собой наличие стремлений наладить такой образ жизни, сочетаемых с волевыми установками их реализовать, соблюдая самодисциплину; 2) подготовленность к правомерному решению жизненных задач, обеспечению удовлетворения своих потребностей и законных интересов как система оценочных и руководящих представлений, трудовых и социальных знаний, умений и способностей; 3) антикриминальная устойчивость, выражающая неприятие противоправных способов действий и установку противостоять криминогенным воздействиям и обстоятельствам. Основными сферами жизнедеятельности, применительно к которым необходимо формирование готовности действовать правомерно и социально адаптированно являются: сфера материального обеспечения жизни; сфера взаимодействия с другими людьми; сфера исполнения юридически установленных обязанностей; сфера досуга и развлечений. Применительно к каждой сфере необходимо формирование не только готовности к правомерному поведению и решению жизненных задач законным способом, но и устойчивость против совершения противоправных деяний и девиантных поступков, несущих риск совершения таких деяний. Психологическая сущность готовности осужденного к правопослушному образу жизни представляет собой систему психологических свойств личности, выступающих существенными в детерминации правопослушной жизнедеятельности в условиях свободы.

**Ключевые слова:** готовность осужденного к правопослушному образу жизни, личность осужденного, исправление осужденных, психологические свойства личности осужденных, социальная реадaptация осужденных, оценка результатов исправления осужденных, психолого-педагогические задачи в исправлении осужденных.

#### **Information about author / Сведения об авторе**

**Aleksandr Nikolaevich Pastushenya**, DSc (Psychology), Professor, professor of psychology and pedagogy department, Academy of the Ministry of Internal Affairs of the Republic of Belarus, Minsk, Republic of Belarus, ORCID 0000-0003-3076-8005, e-mail: [anp-1308@yandex.ru](mailto:anp-1308@yandex.ru).

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**Александр Николаевич Пастушеня**, доктор психологических наук, профессор, профессор кафедры психологии и педагогики, Академия Министерства внутренних дел Республики Беларусь, г. Минск, Республика Беларусь, ORCID 0000-0003-3076-8005, e-mail: [anp-1308@yandex.ru](mailto:anp-1308@yandex.ru).

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### Introduction

In modern domestic and foreign Criminal and Penal legislation, one of the main tasks of applying criminal liability measures is the correction of convicts. According to the logic of legal regulation such a task should include definition of the nature of convicts' correction, evaluation of use of correctional objectives, its legal implications, which include the possibility of applying to convicts the institutions of a progressive system of punishment and the necessity of applying preventive measures after serving their sentences.

In the Penal Code of Belarus (hereinafter – PC of Belarus) this logic of the legal regulation is implemented sufficiently in respect to the penalty of liberty deprivation by definition of convicts' correction, establishment of degree of correction, determining evaluation criteria, making the degree of correction as legal grounds to apply to the convict of institutions of the progressive system of punishments execution (transfer to better conditions of detention, transfer to a facility with a lenient regime of detention, replacement of the unserved part of the sentence with a lenient punishment, parole). Correction of convicted persons is legally defined in Part 1 of Article 7 of PC of Belarus as follows: “The correction of convicts is the formation of their readiness to lead a law-abiding lifestyle.” This definition is the most correct at the legislative level, since the use of the concept of “readiness of personality” expresses a systematic personal predisposition to law-abiding life. The assessment of the correction effectiveness is based on a differentiation similar to that which was inherent in the Soviet legislation and has shown its practical expediency. It provides three degrees of correction: 1) took the path of correction; 2) firmly took the path of correction; 3) proved his correction. In Article 116 of PC of Belarus criteria are given for three degrees of convicts' correction, which reflect compliance with the regime of serving a sentence, an official written expression of their desire for law-abiding behavior, attitude to work and

training, participation in other useful activities, measures taken to compensate for the damage caused by their crimes. These behavioral and activity criteria are the starting point for evaluating the degree of convict's correction. The essence of such an assessment, which reflects the real degree of readiness of the convicted person for a law-abiding lifestyle, is determined by studying his personality, taking into account a scientifically based understanding of such readiness and a valid methodology for evaluating it. Understanding the readiness for a law-abiding lifestyle is also necessary to determine the system of psychological and pedagogical tasks for its formation.

In this regard, the initial scientific task is to develop a concept of the convict's readiness for law-abiding lifestyle, the content of which should reflect psychological knowledge that reveals the main sides and components of such readiness, its possible types and degrees of maturity. This scientific explanation is intended to answer the most important question in the correctional process: what needs to be formed in the convict's personality to implement his correction – to ensure the specified readiness. This explanation also serves as the basis for creating a method of predictive assessment of the convict's personality, which is necessary for making legal decisions on the use of institutions for commuting a sentence to a more lenient one and parole, as well as decisions on the use of preventive measures after serving a sentence.

The scientific and practical significance of such a psychological concept of the convict's readiness for a law-abiding lifestyle is high. Its initial development was carried out by us in 2001 as a structural and functional model of such readiness (Pastushenya, A. N. 2003). It is the basis of the correctional process in institutions that execute deprivation and restriction of liberty in Belarus, and it has now been supplemented and provided with methodological support for practical implementation. It has been introduced into the educational process for training employees of

the Penal system of Belarus as one of the basic theoretical and applied knowledge complexes. At the same time, it remains relevant to enrich this concept with new scientific data that deepen the understanding of the essence and phenomenology of a person's readiness for a law-abiding lifestyle, criteria for its assessment and psychological and pedagogical means of formation in the process of punishments execution.

The development of the concept of personal readiness for a law-abiding lifestyle was based on the knowledge presented in various historical periods of the development of national penitentiary psychology, which was comprehensively described in scientific and educational literature by M. N. Gernet (1930), S. V. Poznyshch (2011), K. K. Platonov, A. D. Glotochkin, V. F. Pirozhkov (1974), V. G. Deev, A. I. Papkin (1985), A. I. Ushatkov, B. B. Kazak (2001), V. M. Pozdnyakov (2000), V. G. Stukanov (2014). At the same time, these authors did not set and did not implement the task of explaining the result in the correction of the personality, which must be sought, without understanding which it is impossible to determine the specific psychological and pedagogical tasks of the process of its correction, to assess the degree of their solution.

It should be noted that the scientific explanation of a person's readiness for a law-abiding lifestyle is inseparable from the conceptual understanding of the opposite phenomenon – personal prerequisites for illegal behavior as a relatively integral set of criminogenic psychological properties. In the correctional process, criminogenic properties must not only be eliminated, but also replaced with positive personality properties that form the internal potential of law-abiding lifestyle. The hierarchically organized set of criminogenic properties of the personality, which are functionally realized in the mental activity that determines criminal behavior, is revealed by us in the concept of criminogenic personality (Pastushenya, A. N. 1998).

### **Research tasks**

The development of the concept of personal readiness for a law-abiding lifestyle has a number of tasks. Firstly, the definition of the main components of a person's readiness for a law-abiding lifestyle, taking into account their functions in determining a law-abiding lifestyle. Secondly, the justification of the spheres of life of a person released from a correctional institution, in which he will carry out legally significant behavior (correlated with the criminal law ban), in relation to which it is necessary to form such a readiness, including the ability to carry out social readaptation. Thirdly, the disclosure of the psychological structure of such readiness as a system of psychological properties those act as personal prerequisites for law-abiding behavior, labor and other useful activities that form a way of life in general, including properties that provide anti-criminal stability. Fourthly, identification of possible types of personal prerequisites for socio-legal orientation of behavior and lifestyle in the range from criminogenic to law-abiding.

### **Theoretical, methodological bases and research methods**

The development of the concept of personal readiness for a law-abiding lifestyle presented in the article was based on the methods of theoretical and empirical research. The methods of theoretical research were logical and deductive transition from general theoretical and methodological provisions on mental activity that determines socially significant activities and behavior of a person to the explanation of personal determination of criminal behavior. As such general provisions, the principles of determinism in psychology (S. L. Rubinshteyn (2003), A. Bandura (2000), A. N. Leont'ev (2005), B. F. Lomov (1989), and other) and consistency in the disclosure of mental phenomena, personal and subjective approaches were used (B. G. Anan'ev (2001), A. V. Petrovskiy (1998), A. V. Brushlinskiy (2003), A. G. Asmolov (2001) and other), as well as the provisions of theories of mental activity that determines behavior, and its level



structure (Lomov, B. F. 2006; Ponomarev, Ya. A. 1983; Pastushenya, A. N. 2010). Along with relying on the provisions of these general principles and approaches for psychological science, theoretical and methodological developments of specialists in the field of criminology and criminal psychology were used (V. N. Kudryavtsev (1998), S. V. Poznyshev (2010), A. R. Ratinov (1979)).

The empirical research was focused, on the one hand, on the analysis of personal reasons for criminal behavior, on the other - on the correlation of data on the degree of formation and content of various personal prerequisites for social readaptation of prisoners released from punishment (according to a structured psychological characteristic) with its effectiveness based on data, based on data provided by Internal Affairs officers who perform preventive work with released persons on their behavior in such parameters as the absence (presence) of offenses, the implementation of labor activities (evasion from it), prevention of alcohol or drug abuse (or the reverse phenomenon). The study of the degree of expression of personal prerequisites for criminal behavior was based on the use of criminogenetic analysis of the biography of persons who committed crimes, as well as the projective method during conducting interviews and in other variants of diagnostic procedures. The method of monitoring the behavior of convicts while serving their sentences, as well as independent expert assessments of employees and people, who know the subjects well, was also used. An empirical study aimed at substantiating the psychological structure of a person's readiness for a law-abiding lifestyle, at the first stage, was based on expert conclusions of psychologists and the most trained staff-educators of correctional institutions, who have significant experience in predictive assessment of the person and information about the results of their social readaptation. We also studied the expert assessments of these categories of employees who worked with convicts-recidivists on the

personal factors of committing crimes after serving their sentences. At the second stage of the empirical study, psychologists carried out a predictive assessment of convicts in accordance with the structural model of personal's readiness for a law-abiding lifestyle, created on the basis of logical and theoretical analysis and generalization, taking into account the data obtained at the first stage of the empirical study. Objective information about the results of social readaptation of persons released from correctional institutions was tracked and compared with predictive data. This work formed the predictive experience of psychologists and staff educators. On this basis, the used model of readiness for a law-abiding lifestyle was worked out with them, with its adjustment.

## **Results and discussion**

### **The concept and main components of a person's readiness for a law-abiding lifestyle**

The readiness of a person to a law-abiding lifestyle is a system of psychological characteristics of the individual, which are internal prerequisites for the implementation of socially adapted life activities, preventing illegal acts. The used concept of "lifestyle" expresses the established forms of individual life activity of a person, covering work, life, study, family functions, social interaction, spending free time and other possible spheres of life and social functions. It is necessary to note a number of significant characteristics in understanding the readiness of the convicted person for a law-abiding lifestyle.

Firstly, the convict's readiness for a law-abiding lifestyle is considered as a stable predisposition to such a lifestyle, which is characteristic of personal education in contrast to the situational state that expresses the desire to build a lawful life, which may arise as a result of certain events and influences, but does not have the stability necessary for establishing and stable implementation of the correct way of life.

Secondly, such readiness should be formed in relation to the actual social conditions of a person's life after his release from a correctional institution where he lived under the management and control of the administration and, depending on the conditions of detention, had certain benefits for life. After release from a correctional facility, prisoners will return to various social conditions that provide objective opportunities for law-abiding social readaptation, including conditions and influences that make it difficult. These social conditions relate to the availability of a place of residence, employment opportunities, the nature of the influence of the immediate social environment, the availability of preventive control, patronage, etc.

Thirdly, readiness for a law-abiding lifestyle includes a number of key aspects. In its most general form, it represents an internal necessity and an opportunity to lawfully carry out one's life activities. Internal necessity means the presence of desires combined with volitional efforts to lead a law-abiding lifestyle, which is a motivational and volitional component of readiness. The desire to act lawfully is the main internal condition not only for the law-abiding behavior of the individual, but also for his personal development as a subject of such behavior, increasing readiness for such behavior and for legitimate life in general. This desire is based on a positive personal sense of a law-abiding lifestyle with its inherent benefits, which should clearly prevail in the mind over the difficulties and limitations inherent in such a life. Along with the desire to carry out life activities without committing illegal acts, the determination to make efforts to overcome difficulties and negative temptations is necessary, which expresses the volitional component of internal necessity. The desires to lead a law-abiding lifestyle should be specified in life plans and personally acceptable ways of solving life problems, including overcoming difficulties, as well as criminal circumstances and influences.

The internal ability to lead a law-abiding lifestyle is expressed in the presence of correct goal-oriented ideas and skills to legally solve various life tasks, ensuring the satisfaction of their needs and legitimate interests in various situations, including problematic ones, in a legal way. This internal capability includes general social adaptation abilities, as well as a set of labor and social skills. General abilities for social adaptation allow you to adequately implement the situation and real personal opportunities necessary for normal life functions, including building interaction and communication with other people, observing moral rules and controlling your negative impulses. Labor skills are expressed in the presence of a specialty and readiness to observe labor discipline. Such person also needs skills for everyday work and self-sufficiency, normal interaction with other people in various types of circumstances.

These components could be considered as quite fully forming the readiness of the person for a law-abiding lifestyle. However, correctional practice shows that there is a need to form a special personal quality that ensures the stability of the individual against the influence of criminal factors, which we called "anti-criminal stability of the personality" (Pastushenya, A. N. 2013). This quality has a specific feature that distinguishes it from the above, and its formation requires special work in the correctional process. Anti-criminal stability of the personality is expressed in the rejection of illegal behavior and in the ability to resist the influence of criminal factors of external and internal kind. In its absence, a person can behave lawfully in normal social conditions, but under the influence of criminal circumstances, he may commit an illegal act. These circumstances are expressed in the absence of a real opportunity to provide material or other vital needs in a legal way, or they represent the influence of significant persons who incite to commit crimes, or they are expressed in the actions of other persons who provoke criminal motives (insults on

their part, humiliating treatment, threats, etc.). It is also possible to influence internal criminogenic factors in the form of actualization of residual phenomena of criminogenic drives and criminal behavioral attitudes (habits, stereotypes).

Thus, a person's readiness for a law-abiding lifestyle can be represented as a set of several aspects:

motivational-volitional attitude to lead a law-abiding lifestyle expresses the presence of aspirations and will mobilization to establish and constantly implement law-abiding life activities, while making efforts to overcome difficulties and ensure self-discipline, including avoiding compliance to temptations and negative emotional impulses, as well as specific life plans;

readiness for social adaptation and conducting law-abiding lifestyle, which expresses the presence of a system of personal principles and rules of law-abiding behavior in various spheres of life, in relation to various social functions and roles, as well as general abilities for normal social adaptation and a complex of labor, social knowledge, skills and abilities;

anti-criminal stability of the individual expresses rejection of illegal ways of action, determination and ability to resist external and internal criminal factors.

Thus, a person who is ready for a law-abiding lifestyle wants and knows how to use legitimate ways of action, at the same time rejects illegal ways and is able to resist criminal influences. In this set of components, the basic meaning is the desire to live and act lawfully. It is based on the positive personal meaning of such behavior and provides the basis for internal acceptance of the rules of lawful behavior and the development of appropriate skills. Along with the desire to behave lawfully, there must be an effort of the will to overcome difficulties and their own negative motives, which require volitional properties of the person as stable phenomena that can be considered volitional attitudes.

### **The main areas of life that require the formation of readiness for law-abiding behavior**

Readiness for a law-abiding lifestyle should cover a number of areas of life in which a person performs legally significant behavior, performs social functions and legally established duties in accordance with their legal status. These areas should include: 1) the sphere of material support of life; 2) the sphere of interaction with other people; 3) the sphere of leisure and entertainment; 4) the sphere of performance of legally established duties corresponding to criminal liability.

Readiness for lawful behavior in the sphere of material security of life is expressed in the fact that the convicted person has sufficiently mature intentions and skills to lawfully, on the basis of work, ensure the satisfaction of their material needs (claims) in housing, food, clothing, household items and other goods. At the same time, the convicted person must measure his material claims with real legal possibilities for their satisfaction. Along with this, he must have anti-criminal resistance against the use of illegal ways to meet material needs, that is, against the commission of mercenary (self-serving and violent) crimes.

Readiness for lawful behavior in the sphere of interaction with other people, including family members, consists in the fact that the convicted person must be committed to lawful behavior that does not create criminal conflict situations and be resistant to committing unlawful violence and other illegal actions against other people and social subjects when interacting with them and defending his interests.

Speaking about readiness for lawful behavior in the sphere of leisure and entertainment, it should be noted that recreation and entertainment are an integral part of any person's life. The nature of needs and behaviors in this area depends significantly on individual culture and social traditions and affects legally significant behavior. Positive position in the field of leisure and entertainment, suitable lawful oriented lifestyle is reflected in the fact

that people tend to use personal useful forms of satisfaction in leisure and entertainment, is configured to prevent a legally punishable entertainments and drunkenness, drug use and other immoral forms, which, although not related to illegal acts, but involve a risk of their commission. So, if a person drinks, it negatively affects their work, family life, relationships with decent people, causes deviant behavior. He loses self-control, willpower for useful activity and conducting a law-abiding lifestyle. All this leads to the loss of socially useful functions and relationships, significantly increases the risk of criminal breakdown. The same applies to drug use.

Readiness to behave lawfully in the sphere of duties related to legal responsibility concerns the performance of duties for the material support of children (or other persons), as well as duties determined by the legal status of the person. This readiness should be formed in convicts who have and will have the specified duties. It expresses its determination to make efforts to fulfill these obligations (to work systematically to fulfill material obligations and rationally use the remaining funds to ensure their lives), as well as to prevent violations of the established prohibitions, constructively and lawfully build interaction with persons who exercise control and official functions to ensure the performance of these duties. Resistance against evasion of such duties is expressed in the recognition of personal responsibility for their occurrence, as well as in the strong-willed determination to overcome difficulties in their implementation, without succumbing to demotivating external influences and their own impulses.

The presented spheres of life concern the prevention of “basic” types of crimes: mercenary (including self-serving and violent, economic, corruption); violent (including hooliganism and other actions that harm law enforcement social values); related to the use of drugs, depraved and other illegal actions aimed at satisfying hedonistic needs; in the form of evading material support for children

and performing other duties related to the legal status of a person.

### **Psychological essence of the convict's readiness for law-abiding lifestyle**

The scientific concept of readiness for law-abiding lifestyle should be acceptable for practical use: it should provide theoretical bases for diagnosing the degree of its formation with a predictive assessment of social and legal behavior after the release of a convicted person from prison or restriction of liberty, as well as for determining specific psychological and pedagogical tasks for its formation. Such a concept of readiness for law-abiding lifestyle can be formed on the basis of its structural and functional model, which defines a system of psychological properties that are essential in determining law-abiding behavior in the main spheres of human life. The criterion for grouping them in this model is their relation to the above components of readiness for law-abiding lifestyle and functional uniformity. The selection of psychological properties in the structure of readiness for law-abiding lifestyle was carried out taking into account the general psychological model of personality, which identifies the properties that determine the social orientation of human behavior and its individual characteristics due to personal experience. We also took into account the differentiation of psychological properties that perform the necessary functions at different levels of mental activity that determine socially significant activity: consciously-intellectual (based on awareness, reasonable calculation and choice), emotional (under the influence of emotions and sensory relationships), subconsciously-impulsive (due to habits, protective attitudes, desires, etc.). When selecting and structuring the properties that form a person's readiness for law-abiding lifestyle, the researchers took into account the significance of individual properties in the correction of convicts: life plans of convicts (V. G. Deev, M. G. Debol'skiy), value orientation (V. F. Pirozhkov), volitional properties (A. I. Ushatkov), professional readiness

(N. A. Tyugaeva). We also took into account a set of properties that Express personal prerequisites for criminal behavior (Stukanov, V. G. 2014), the understanding of which allows us to determine their alternatives, which express the anti-criminal stability of the individual. These properties include personal norms of behavior, social and legal expectations, values and anti-values of the individual, properties of the I-image as a subject of social and legal behavior. When building a structural and functional model of readiness for law-abiding lifestyle, it is advisable to ensure that its description is optimal in terms of the sequence of formation of structural components in the correctional process.

Based on these assumptions, logical modeling was performed and a psychological structural and functional model of the convict's readiness for law-abiding lifestyle was formulated, which includes the following substructures:

1) meaning-forming personal values, related needs and claims that determine the desire to lead a law-abiding lifestyle, as well as anti-values that determine the negative meaning of illegal behavior and associated lifestyle, strong-willed determination not to allow it;

2) social and legal expectations that determine the belief in the possibility of establishing a law-abiding lifestyle and the implementation of its values, as well as confidence in the inevitability of punishment and life losses in the case of committing illegal acts and leading a lifestyle that leads to the commission of such acts;

3) ideas-attitudes about the proper way of life with its inherent activities and social functions, based on them, life plans for establishing such a life with overcoming possible difficulties, coupled with a strong-willed determination to implement them;

3) legitimate personal norms of behavior that cover all areas of life, ways to implement personal values and meet needs, as well as ideas about personal qualities that need to be shown;

5) labor and social skills necessary for life-supporting activities and lawful behavior.

Let's consider in more detail these components of the psychological structure of a person's readiness for a law-abiding lifestyle.

#### **Substructure of values, needs, claims and anti-values**

The basis of the convict's desire to lead a law-abiding lifestyle are personal values, needs, claims, the satisfaction of which the convict expects to provide with this lifestyle, as well as the anti-values inherent in illegal behavior and lifestyle leading to such behavior. Personal values express what is important for a person and he strive to have it, protect it and provide it with good. The satisfaction of inherent needs in a broad sense, including a favorable physical and mental state, the well-being of close people and good relations with them, living in one's own home and its comfort, material security, the possession of humanitarian freedoms, satisfying work, normal social status and attitude of other people, and other needs inherent in a prosperous life, is of value to a person. The significance of some of them as values begins to be realized and experienced by a person only when they are lost, which happens when a person is convicted and serve his sentence. On the basis of personal values, a person's claims are formed as a desire to acquire what is valuable to him: material and other goods, social status, etc. These claims can be legitimate, morally correct, adequate to objective opportunities, useful for a prosperous life, and therefore contribute to the formation of the convict's readiness for a law-abiding lifestyle. However, they may be criminogenic in the case of inadequacy of legitimate opportunities for satisfaction (hypertrophy) or their immoral and criminogenic content.

Along with these values, a motivating role in a person's life aspirations is played by phenomena that have a negative significance for him, are perceived by him as a misfortune and he seeks to avoid it. The representation of these phenomena in the mind in some publications is called the anti-values of the

individual. Using this term, we understand anti-value as a phenomenon that is perceived by the individual as causing harm, loss and suffering, which he seeks to avoid (a different interpretation of anti-value is a subjectively perceived value that in reality is harmful). For the motivational and volitional component of readiness for law-abiding lifestyle, anti-values are important. They can perform the function of dominant motivating phenomena, when the desire of the convicted person to law-abiding lifestyle is not so much a desire to possess the inherent benefits, but to avoid the ill-luck that arises as a result of committing a crime and bringing to justice. In this regard, it is important to understand not only the values of law-abiding lifestyle, but also the anti-values of illegal behavior, which determines the desire to prevent it.

In assessing the value-need substructure, as well as in its formation, it is important not only the complex of perceived values and anti-values, but also their hierarchy as motivating properties. The hierarchy of values determines the content orientation of their totality. It may be dominated by value orientations to ensure the material side of life, the well-being of close people and good relations with them, health and strength, a favorable state of mind, sexual life, other hedonistic needs, etc. The significance of individual values, as well as their totality, can also be different. In the correctional process, an important task is to achieve the high significance of the values inherent in the law-abiding lifestyle, and the anti-values of the criminogenic lifestyle. In psychological science, the degree of significance of personal value has not been clearly explained. It can be assumed that the significance of a certain value or their combination is expressed in the strength of negative experiences when they are lost or harmed, but this experience is not relevant when the value is possessed. A person who is satisfied with having a value is usually not concerned about the possibility of losing it and anticipating difficult experiences. This concern about preserving value is shaped by negative

experiences that leave a mark on the inner world, which is the motivational potential for making efforts to preserve value or achieve it. Because of this, in the formation of the value-need substructure of a person's readiness for law-abiding lifestyle, it is necessary to ensure awareness of its values, as well as the anti-values of criminal behavior, and to increase their significance by strengthening semantic and sensory awareness.

Speaking about the needs and claims that are inextricably linked with personal values, it should be noted that for a law-abiding person, they are not immoral or illegal and correspond to the real possibilities of satisfaction in a legal way. In persons predisposed to commit crimes, the needs may be criminogenic. Such needs are manifested in the desire for expensive property and entertainment, gaining authority in the criminal environment, self-expression through violence, and mockery of other people. They are also expressed in alcohol and drug addiction, in propensities to a depraved lifestyle, social parasitism. If a person seeks to satisfy these kinds of needs and desires, then he will be forced to resort to illegal methods of action for this purpose. Because of this, one of the tasks of forming the readiness for law-abiding lifestyle of convicts is to eliminate immoral, hypertrophied and criminal needs. At the same time, it is necessary to expand and enrich the sphere of values, needs and claims that have a socially normal content. They consist in family life, raising children, caring for parents, a healthy lifestyle, communicating with law-abiding people, honestly earned material wealth, satisfying work, aesthetic improvement of housing, household management, cultural leisure, self-development, etc. At the same time, it is important to determine the set of interests of the convicted person that are real and appropriate to their age, level of cultural development, family and property status, and abilities.

#### **Social and legal expectations of a person**

In the formation of the motivational and volitional component of the convict's readiness

for law-abiding lifestyle, social and legal expectations of the individual are important. They are biases about the possibilities and consequences of certain legally significant behaviors – legal and illegal. Such biases are persistent and generalized in relation to legally significant actions, certain types of situations, and social conditions. This gives them the value of personal properties in contrast to situational expectations that arise when evaluating a particular situation, the possibility of performing certain actions in it and achieving the desired results, as well as negative consequences. Expectations as personal phenomena are functionally related to personal values in generating motivation, since they express biases about the consequences for these values. Based on the motivational theory of H. Heckhausen (2003), it should be noted that value acquires a motivating influence when there is a subjective expectation (hope) of its achievement. The same applies to anti-value – it generates a motivation for avoidance, when there is an expectation of the occurrence of that negative result, which expresses an anti-value.

Expectations in the structure of readiness for a law-abiding lifestyle should concern both lawful and illegal behavior and appropriate lifestyles. On the one hand, they should express confident hope in the possibility to establish a law-abiding lifestyle, in the implementation of specific tasks for its establishment, in overcoming difficulties, in achieving the benefits that are inherent in this lifestyle. On the other hand, expectations should relate to illegal behavior and criminogenic lifestyle, representing the awareness of a high risk of negative consequences and losses during crimes commission. This awareness can be represented as the dominant idea of inevitability of punishment for crimes.

When considering social and legal expectations, it is necessary to take into account that some convicts, especially recidivists, have no hope of being able to legally ensure their normal existence after being released from

prison. They foresee a very high probability of reconviction in the future, because they will lead a lifestyle similar to the previous one, or will not be able to cope with difficulties in trying to live a normal life, or with criminal temptations and their own shortcomings. This is most pronounced in people who have lost contact with relatives, do not have place for living, are not accustomed to systematic work, and have limitations in their ability to work. Such convicts get used to the idea that they will have to commit crimes and return to prison. This personal opinion determines tolerance to punishment and, as a result of psychological defenses, devalues the value of life in freedom. Therefore, for the correction of such convicts, an important task is to form a belief in the ability to establish a law-abiding lifestyle, solve the problems associated with it and have the benefits inherent in this way of life.

Some of the convicts show a slightly different phenomenon – a high confidence in the ability to avoid being brought to justice when committing crimes. They rely on their criminal experience, reasonable preparation of a criminal act, reliable accomplices, and luck. Such persons need to form ideas about the inevitability of punishment for crimes, about the danger of its occurrence, even with a small probability of crimes detection. It is necessary to sharpen the awareness of this danger and loss of life, which is expressed in the formation of strong associations between the criminal act and punishment as an inevitable phenomenon. These connections will ensure the actualization of a sense of danger with the motivation to refuse of a thought of committing a crime.

#### **Ideas about the necessary way of life, legitimate life plans**

The presence of the convicted person's desire to begin a law-abiding lifestyle as a motivational and volitional basis for readiness for it allows for the formation of specific ideas about what such a lifestyle should be and in what conditions it will be implemented, as well as plans for its establishment. Such representations and plans provide consciously-

volitional regulation of vital activity in the totality of its components. They provide the certainty of intent necessary for purposeful and consistent action. Such ideas and plans relate to employment, place of residence, necessary material wealth and expenses, household self-sufficiency, relationships with loved ones, daily routine, forms of leisure and entertainment, relationships with former friends and other aspects of life, social functions and relationships. Sufficiently clear and comprehensive views of the convicted person about the desired way of life, the ways to build it and the necessary measures and actions for this purpose ensure a mature readiness for law-abiding life. What is important is the adequacy of these representations of the social reality inherent in the conditions and possibilities of building such a way of life, as well as an understanding of the difficulties and legitimate ways to overcome them. Such representations should be balanced in terms of positivity and negativity: they should not express the predominance of opinions about the ease of establishing a law-abiding life, as well as opinions about the intractable complexity of its establishment.

As for life plans, they must be not only legitimate, but also concrete, sufficiently thought-out and actually feasible, covering the main aspects of human life. When forming lawfully oriented life plans for convicts, it should be taken into account that during the time they serve their sentence in prison, they partially lose the reality of their ideas about the conditions of life after release, which change during the time they serve their sentence. Most of them do not have developed perspective thinking – they tend to “live one day”. For people who have repeatedly served a sentence of imprisonment, life in these conditions becomes more familiar. Although they are living the dream of liberation, they are also anxious because life in freedom, which requires self-sufficiency, becomes alienated and difficult for them. These phenomena cause unconscious psychological barriers in the formation of positive life plans,

reduce the belief in the possibility of establishing a favorable law-abiding life.

### **Personal rules, relationships of personality and I-concept**

For a convicted person to be ready for a law-abiding lifestyle, a set of lawfully oriented personal principles and norms of behavior related to solving life problems, meeting needs and ensuring personal values is necessary. Personal principles express general guiding ideas about how to behave and act in certain situations and to solve certain life tasks, and personal norms are specific rules of action in certain situations, in connection with certain tasks, people, and so on. Personal principles and norms should cover the main spheres of life and social functions, and the problem situations associated with them. They specify the ideas about the proper way of life, determining the correct ways to implement it. Thus, it is necessary to form legitimate personal rules in the sphere of material support of life, interaction with other people, leisure, parental functions and other duties determined by the legal status. In this regard, the most important personal principles are the obligation to constantly work and observe labor discipline, tolerant attitude to other people, legitimate defense of their interests, reasonable leisure. It is important to form legal and moral rules of interaction with loved ones, rules of behavior in conflict situations. Of particular importance is the assimilation of ways to resist involvement in criminal activity under the influence of persons with whom the convicted person previously maintained friendly relations. Having such ideas about legitimate ways to solve life's problems is not enough for their use in real life. Their regulatory power is determined not only by confidence in correctness, but also by a strong-willed determination to observe and avoid deviations. Along with personal rules that determine how to act, personal prohibitions must be formed – how to act is not allowed. Such prohibitions should apply not only to the commission of illegal actions, but also to actions that may lead to illegal behavior, as



well as actions that contradict prudent life in its various spheres. In particular, they should relate to the use of drugs, alcohol, violations of labor discipline, rudeness, etc.

Given the fact, that a person's social behavior is largely determined by a subjective assessment of situations and actions of other people, personal principles and rules should concern social perception. When applied to it, they express beliefs about how to evaluate and relate to events, people, and their actions. These personal principles include: tolerance of people's actions, if they do not cross the line of the law; finding out the causes of events and people's actions for their evaluation; finding positive things in events and people; foreseeing possible consequences in their actions and so on.

Along with the personal principles and norms in regulating behavior plays an important role in the mechanism of self-identification, which determines the line of action of the individual of his I-concept as a set of personal qualities, the manifestation of which the individual believes is right and necessary for their well-being and desired perception of other people. The installations that form the I-concept complement the structure of personal regulators of vital activity considered under this article. They are phenomenologically expressed in beliefs about what I should be in my actions, interaction with various categories of people in certain situations, in work, household self-sufficiency, and so on. The installations that form the I-concept complement the structure of personal regulators of vital activity considered under this article. They are phenomenologically expressed in beliefs about what I should be in my actions, interaction with various categories of people in certain situations, in work, household self-sufficiency, and so on.

The formation of I-concept and attitudes to the manifestation of desired personal qualities require special attention in the correctional process. This requires psychological and pedagogical study of both the integral I-image and its constituent qualities. The integral

I-image, as shown by correctional practice, is involved in determining the value-normative orientation of a person's life activity. This image expresses who I am in life. Thus, some convicts who were determined to lead a good life defined themselves as follows: "I am a family man", "I am a Christian", "I am a worker". At that time, people with a criminal attitude use the following definitions: "I am a tramp", "I am a decent prisoner", "I am a gambler". An important factor in the formation of the I-image is the idea of the desired perception of yourself by other people and the necessary self-manifestation for this (what I would like to be in the eyes of other people). Convicts, who have families and positive relationships with close people, formed such views more favorably and adequately. However, some convicts are aware of social stigmatization, which is expressed in the ideas "we are not like other people". This leads to a sharp sense of social alienation, an opinion that other people treat them with distrust, neglect, fear, and so on. Such opinions of convicts give rise to their response negative attitude to other people, society, and state bodies, forms aggressive and protective attitudes and ideas about the need for such personal qualities as arrogance, deceit, the ability to suppress, deceive and subordinate other people to their interests. Given these patterns, special attention should be paid to the devaluation of these qualities and to form beliefs that friendly and tactful behavior will allow you to establish normal relationships with other people, will cause them to respond with goodwill and will contribute to the successful solution of life's problems. At the same time, it is also necessary to actively use pedagogical stimulation – to note and approve the manifestations of positive personal qualities.

#### **Labor and social skills and adaptive abilities**

Properties related to this substructure have independent significance, since the presence of legitimate aspirations and plans is not enough for their implementation. It is necessary to have

the skills and abilities of lawful behavior, life-supporting activities and social interaction. These include professional skills (professional training), the habit of working systematically, the ability to build relationships correctly in the workplace, in the family, with other people in the place of residence (neighbors), the ability to tactfully and successfully communicate with different categories of people in different situations and with different goals (getting information, establishing cooperation, defending your position, protecting your dignity). It is important to develop the convicts' self-control skills, the ability to restrain aggressive and other negative urges and desires. The system of these skills and attitudes to their implementation determines the ability of an individual to social adaptation. It should cover all spheres of human life and social functions. Their formation is provided by special social training, which includes trainings, inclusion in useful activities, and pedagogical stimulation.

#### **Development of practical thinking of convicts that promotes lawful behavior**

The described psychological structure of the convict's readiness for a law-abiding lifestyle includes psychological properties that act as personal prerequisites for such a lifestyle, which can be considered as dispositional formations of the individual. Along with them, it is necessary to develop the ability to carry out reasonable behavior (as opposed to emotional and impulsive), correct planning of life activities with developed foresight, ensuring the avoidance of problematic situations and actions that carry negative consequences. In this regard, it is important to form in convicts, first, the reasonableness of actions (thoughtfulness) with the volitional prevention of their affectogenicity and impulsiveness, and, second, the development of correct practical thinking, through which a person, when planning actions, correlates them with life values and aspirations.

The formation of an attitude to reasonableness in behavior requires appropriate value-semantic explanation, training to thoughtfulness and

development of skills of volitional self-control of impulsivity. As for the development of practical thinking, it should provide for the assimilation of the following qualitative forms by convicts: value perspective, legal foresight, optimal choice, reflexivity. Value perspective of thinking is expressed in the mental assessment of the possible consequences of one's own actions for personal values – what the consequences may be and what they mean for my values (interests). Legal foresight is expressed in the assessment of the legal significance and consequences of the options considered, which contributes to ensuring anti-criminal stability. Also, in practical thinking, it is necessary to assimilate the attitude to search for the optimal way, which implies the development of the mental habit of asking the question about the more optimal way. The development of reflexivity involves the formation of an attitude to evaluate the aspirations and emotions of people with whom you are dealing, as well as to predict their perception of their actions. This helps to optimize interpersonal interaction and reduce conflicts.

The development of these qualities of thinking is provided by the appropriate pedagogical influence, which is based on asking the convicts questions about the significance of the committed actions for the desired future, about possible legal consequences, about the possibility of a more optimal solution to the problem, about how other people perceive certain actions. Their setting when evaluating the actions of convicts and conducting educational activities, trainings help to teach them to think independently, making decisions.

#### **Reduction of the penitentiary deformation of the personality in the formation of convicts' readiness for a law-abiding lifestyle**

It is known that punishment in the form of deprivation of liberty, along with restraining influences, generates personality transformations that reduce its socio-adaptive abilities and even cause criminality. Negative factors include: the presence of a convict in

a criminogenic social environment with its subculture; the limited ability to preserve and develop the social experience necessary for a person to live in freedom; the forced nature of useful activities (work, training, participation in educational activities) causes the formation of a negative attitude to it, which is transferred to life in freedom; the experience of social stigmatization leads to the formation of a socially alienated position, a negative attitude to social institutions, which complicates social adaptation; the experience of punishment actualizes psychological defenses that can cause negative transformations of the individual: anger, suspicion and acute protection of I, social apathy and marginality.

It is very difficult and in some cases almost impossible to completely eliminate these negative consequences of deprivation of liberty. However, it is possible to minimize them by conducting special work with prisoners – educational, informational, and psychocorrective. According to the psychoanalytic approach, in order to reduce the negative transformations of the individual as a result of psychological defenses, it is important to bring to the consciousness of the convicts (by explaining) these defenses and their negative effects on the personality. Such an explanation will allow one to understand the consequences for oneself of these phenomena, consciously relate to them and see the need for self-control, mental work on oneself. It is also necessary to introduce into the minds of convicts attitudes on the immunity of criminogenic mutual influences, on the most useful use of time served for maintaining physical health, psychological and social adequacy, enrichment of knowledge, development of positive personal qualities, etc. It is advisable to organize training programs and trainings on the development of self-analysis and self-control skills, to conduct educational activities (conversations, debates, thematic meetings with representatives of the Humanities) aimed at forming value orientations (ideals) in relation to the I-image and lifestyle after serving a sentence, to learn positive

examples and experience of social interaction.

### **Holistic assessment of a person's readiness for a law-abiding lifestyle**

Readiness for a law-abiding lifestyle can have a different degree of formation and should be evaluated in relation to each of the main areas of life in which legally significant behavior is carried out. It can be superficial, fragmentary, internally contradictory, or systemic, harmonious, stable. System readiness, in contrast to fragmentary readiness, covers all human spheres of life, social functions and life tasks related to meeting needs and ensuring personal values. Harmonious readiness, in comparison with contradictory, is expressed in an unambiguous positive attitude to lawful actions and in a negative attitude to illegal ones, that is, the individual does not have contradictory ideas about these methods, which express the permissibility in some circumstances of both lawful and illegal behavior. Stable readiness, in contrast to situational readiness, is expressed in the fact that the subject has sufficiently Mature beliefs about legitimate ways to solve life's problems, a positive attitude to them, legitimate personal principles and norms of behavior, as well as a convinced negative attitude to illegal ways of action and attitudes-prohibitions to use them. At the same time, positive aspirations and intentions are provided with a strong-willed determination to implement them.

### **Conclusion**

The presented concept of the convict's readiness for a law-abiding lifestyle determines its general understanding; the main components; the spheres of life activity, in relation to which it should be formed; the system of psychological properties essential in determining lawful behavior and lifestyle in general. The readiness of the convicted person for a law-abiding lifestyle is a system of psychological characteristics of the person, which act as internal prerequisites for the implementation of socially adapted life activities, preventing illegal acts. It is

possible to distinguish three main components: 1) motivational and volitional disposition to lead a law-abiding lifestyle, which is the presence of aspirations to establish such a lifestyle, combined with volitional attitudes to implement them, observing self-discipline; 2) readiness for the legitimate solution of life's tasks, ensuring the satisfaction of their needs and legitimate interests as a system of evaluation and guidance representations, labor and social knowledge, skills and abilities; 3) anti-criminal stability, which expresses rejection of illegal methods of action and an attitude to resist criminal influences and circumstances.

The main areas of activity for which it is necessary to form readiness to act in a lawful and socially adapted are: the sphere of material support of life; the interaction with other people; the enforcement of legally imposed duties; the field of leisure and entertainment. In relation to each area, it is necessary to develop not only readiness for lawful behavior and solving life's problems in a legal way, but also stability against committing illegal acts and deviant acts that carry the risk of committing such acts.

The psychological essence of the convict's readiness for a law-abiding lifestyle is a system of psychological characteristics of the individual that are essential in determining law-abiding life in conditions of freedom. Taking into account the functions of psychological properties in this determination the following substructures are identified:

1) values (related needs and claims) that determine the positive personal meaning of a law-abiding lifestyle and a motivated-volitional desire for it, as well as the negative meaning of illegal behavior and a strong-willed determination based on it not to allow it;

2) social and legal expectations that determine the confidence of the ability to establish a law-abiding lifestyle and implement its values, as well as the certainty of the inevitability of punishment and life losses in the case of committing illegal acts and leading a lifestyle that contributes to their commission;

3) ideas-attitudes about the proper way of life and based on them, life plans for its adjustment with overcoming possible difficulties, provided with a strong-willed determination to implement them;

4) legitimate personal norms of behavior that cover all spheres of life and ways to ensure personal values, meet needs and claims, as well as ideas about personal qualities that need to be shown (forming the I-concept), and the desire to manifest them;

5) labor and social knowledge, skills and abilities necessary for the implementation of life-supporting activities and lawful behavior in the social adaptation and conduct of a law-abiding lifestyle.

The concept of readiness for law-abiding lifestyle gives the theoretical basis for personalized diagnosis with the assessment of the degree of development in key areas of life, and also allows to specify the psychological-pedagogical problem of individual correctional process, which is expressed in the formation of a generators system for such readiness of psychological properties, including the quality of practical thinking.

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**Gumbatov M. G.****Гумбатов М. Г.****PROBATION IN AZERBAIJAN:  
FIRST RESULTS AND DEVELOPMENT PROSPECTS****ПРОБАЦИЯ В АЗЕРБАЙДЖАНЕ:  
ПЕРВЫЕ ИТОГИ И ПЕРСПЕКТИВЫ РАЗВИТИЯ**

**Abstract.** The organization of the Probation Service in the Republic of Azerbaijan is discussed, the first results of the work are summarized and the prospects for the development of this new structure are indicated in the article. The article describes the experience of using modern information and communication technologies, including electronic control devices (so-called electronic bracelets) in punishments execution. The author notes that the tasks set by the President of the Republic of Azerbaijan to state bodies, including the probation Service, are a kind of road map, which has a long-term and programmatic nature, and have already been successfully implemented. For example, over the past three years, there has been a steady trend towards decrease in the number of persons sentenced to imprisonment, and increase the proportion of persons sentenced to punishments not connected with isolation from society. For example, in 9 months of 2019, 10.7% more convicts were on probation record than in the same period last year. These changes in sentencing practices and increase in the proportion of alternative types of punishment, including the number of convicted persons on probation record, are not only an indicator of the implementation of the President's initiatives to humanize the state's criminal law policy, but also a result of the confidence of judges in the Probation Service, which ensures the effective execution of sentences that are not related to the isolation of the convicted person from society. The analysis of first results of the Probation Service's activity and study of public opinion show the timeliness of the decision of the head of state to create this structure, which makes it possible to look optimistically into the future, which requires continued measures for its development. According to the author, the further development of the Probation Service should be carried out in three main directions. First, it is necessary to complete the process of improving legislation, first of all to adopt a separate law on probation, and continue to bring the regulatory framework for sentences execution in accordance with time realities. Second, for the purpose of independent activities organization and ensuring effective control, the structure of the service should also be optimized in view of the increased workload. Third, it is necessary to create a modern system of training and advanced training of Probation

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Service employees, ensure their reliable legal and social protection, and provide them with modern technical equipment.

**Keywords:** Probation Service, penalties not related to the isolation of the convicted person from society, electronic control tools, Republic of Azerbaijan.

**Аннотация.** В статье рассматриваются вопросы организации деятельности Службы пробации в Азербайджанской Республике, подводятся первые итоги работы и указываются перспективы развития этой новой структуры. Описывается опыт использования современных информационно-коммуникационных технологий, в том числе средств электронного контроля (так называемых электронных браслетов), при исполнении наказаний. Автор отмечает, что задачи, поставленные Президентом Азербайджанской Республики перед государственными органами, в том числе Службой пробации, являются своеобразной дорожной картой, носящей долгосрочный и программный характер, и уже стали успешно реализовываться. Так, за последние три года наблюдаются устойчивая тенденция уменьшения числа осужденных к лишению свободы, увеличение доли лиц, осужденных к наказаниям, не связанным с изоляцией от общества. Например, за 9 месяцев 2019 г. на пробационный учет было принято на 10,7 % осужденных больше чем за аналогичный период прошлого года. Эти изменения в практике назначения наказаний, увеличение доли альтернативных видов наказания, в том числе количества осужденных, состоящих на учете в Службе пробации, являются не только показателем реализации инициатив Президента Азербайджанской Республики по гуманизации уголовно-правовой политики государства, но и результатом доверия судей к Службе пробации, обеспечивающей эффективное исполнение наказаний, не связанных с изоляцией осужденного от общества. Анализ первых результатов деятельности Службы пробации, изучение общественного мнения показывают своевременность решения главы государства о создании указанной структуры, дает возможность оптимистично смотреть в будущее, которое требует продолжения мер по ее развитию. По нашему автору дальнейшее развитие Службы пробации должно осуществляться по трем основным направлениям. Во-первых, необходимо завершить процесс совершенствования законодательства, в первую очередь принять отдельный закон о пробации, и продолжить приведение нормативной базы исполнения наказаний в соответствии с реалиями времени. Во-вторых, в целях самостоятельной организации деятельности на местах, обеспечения эффективного контроля, а также с учетом возросшей нагрузки следует оптимизировать структуру службы. В-третьих, необходимо создать современную систему подготовки и повышения квалификации сотрудников Службы пробации, обеспечить их надежную правовую и социальную защиту, современную техническую оснащенность.

**Ключевые слова:** служба пробации, наказания, не связанные с изоляцией осужденного от общества, средства электронного контроля, Азербайджанская Республика.

#### **Information about author / Сведения об авторе**

**Musa Gumbat ogly Gumbatov**, deputy head of Probation Service of the Ministry of Justice of the Azerbaijan Republic, Baku, Azerbaijan, e-mail: [gumbatovmusa@mail.ru](mailto:gumbatovmusa@mail.ru).



**Муса Гумбат оглы Гумбатов**, заместитель начальника Службы пробации Министерства юстиции Азербайджанской Республики, г. Баку, Азербайджанская Республика, e-mail: [gumbatovmusa@mail.ru](mailto:gumbatovmusa@mail.ru).

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In order to ensure control over the execution of sentences not related to isolation the convicted person from society, and to improve the efficiency of management in this area, the Probation Service was established in the structure of the Ministry of Justice as the main Department by the Order of the President of the Azerbaijan Republic (adopted on 10.02.2017) «On improving activities in the penitentiary sphere, humanizing the sentencing policy, expanding the use of alternative punishments and procedural coercion not related to isolation from society».

In accordance with the new Article 15-1 of the Penal Code of the Republic of Azerbaijan, the Probation Service was assigned the task to organize the execution of six types of punishments: fines, deprivation of the right to drive a vehicle, deprivation of the right to hold certain positions and engage in certain activities, public works, correctional labor and restriction of freedom. At the same time, the Probation Service was charged with monitoring probationers (released on parole from serving their sentences), persons whose punishment had been deferred, and those who, along with the punishment (except for deprivation of liberty), were subjected to compulsory medical measures for alcoholism and drug addiction, as well as organizing the execution of public works assigned as an administrative penalty. According to the amendments in the Penal Code of the Republic of Azerbaijan, the Probation Service has also been assigned the task of carrying out probation control over convicts on record and implementing measures aimed at their rehabilitation and social adaptation.

It should be noted that after the entry into force of the Law (adopted on 19.10.2018), which amended the Criminal Procedure Code and the Penal Code of the Republic of Azerbaijan, establishing the specifics of the application and implementation of criminal legal measures against legal entities (execution of fines and deprivation of the right to engage in certain activities), the probation Service was also

entrusted with monitoring the implementation of such court decisions.

To organize the activities of the new service, by order of the Minister of Justice of the Republic of Azerbaijan, the departments of Civil enforcement service in administrative-territorial units of the Republic were transformed into penal and probation services, and in two major cities of the country – Sumgait and Ganja, independent probation departments have been created as a pilot program. (Gumbatov, M. G. 2019). Work on organization of the Probation Service was carried out in three main directions, including the improvement of legislation, search for an optimal structure and training system for probation officers. At the same time, the positive experience of organizing probation in a number of European countries was studied, as well as existing international standards were taken into account. In a short time, the Board of the Ministry of Justice approved five new rules defining the mechanism for sentences execution and monitoring of convicts, related to the competence of the Probation Service. In connection with changes in legislation affecting the order of execution and serving of punishments not related to isolation of the convict from society a number of draft laws on amending the Criminal, Criminal procedure, Immigration Codes and Codes of penal and administrative offences of the Azerbaijan Republic was prepared. Taking into account international standards, new forms of statistical reporting of the service were approved. Along with the tasks of humanizing the criminal law policy of the state, decriminalizing crimes (in particular, crimes in the sphere of economic activity), supplementing the special part of the Criminal code with new types of punishments not related to deprivation of liberty, and improving the basis for applying existing alternative punishments, the President of the Republic of Azerbaijan stressed the need to use modern information and communication technologies, including means of electronic control (so-called electronic bracelets) in the execution of punishments. To perform this task

in the shortest possible time, the world practice of using these devices, their types, software, and the possibilities of their acquisition and implementation was studied. As a result, a decision was made to produce electronic bracelets in Azerbaijan, and their testing began in January 2018.

According to the current legislation, electronic bracelets are applied to convicts sentenced to restriction of freedom. This new criminal law measure was included in the sentencing system at the end of 2017 and as a new real alternative to deprivation of liberty has become frequently applied by the courts. (Gumbatov, M. G. 2018). Electronic bracelets can also be applied to probationers who are released on parole from serving their sentence, if the court determines the use of these electronic devices. In connection with the entry into force on April 15, 2018 two regulations – the List of electronic monitoring applied to persons convicted or against whom the measure of restraint, and the Rules for applying electronic control devices to convicted persons or persons against whom preventive measures were applied, approved by Resolution of the Cabinet of Ministers of the Republic of Azerbaijan No. 144 (adopted on 10.04.2018), the use of electronic bracelets began. Since then, electronic bracelets were applied to more than 1,900 convicts on record in the Probation Service.

Special attention was paid to the training of personnel for the new service, and special courses and trainings for employees were held with the participation of international experts. In order to educate and inform the population about the new structure, a public presentation of the Probation Service, meetings with representatives of the media, teachers and students of the law faculty of Baku State University, as well as chairmen and judges of district (city) and appeal courts were held with the participation of representatives of civil society and human rights defenders of the country. A special documentary about the Probation Service and its activities is presented to the

public of the Republic of Azerbaijan; detailed information about electronic monitoring of prisoners is given. Diplomatic representation of a number of foreign countries accredited in the Republic of Azerbaijan showed interest in the new service, they were given the opportunity to get acquainted with the work of the monitoring center, as well as electronic bracelets.

It should be noted that the tasks set by the Decree of the President of the country to state bodies, including the Probation Service, are a kind of road map that has a long-term and programmatic nature, and have already been successfully implemented. Thus, over the past three years, there has been decrease in the number of people sentenced to imprisonment, and increase the proportion of persons sentenced to punishments not connected with isolation from society. It should be noted that in 2018, 24% more convicts were on probation record than in 2017, and in 9 months of 2019 – 8.2% more than in the same period of 2018. In 9 months of 2019, 10.7% more convicts were on probation record than in the same period last year.

These changes in sentencing practices and increase in the proportion of alternative types of punishment, including the number of convicted persons on probation record, are not only an indicator of the implementation of the President's initiatives to humanize the state's criminal law policy, but also a result of the confidence of judges in the Probation Service, which ensures the effective execution of sentences that are not related to the isolation of the convicted person from society.

The changes in legislation and measures taken on behalf of the President of the Republic of Azerbaijan have improved control over the execution of public works (Gumbatov, M. G. 2018), which were imposed as both a punishment and an administrative penalty, and the amount of paid fines and deductions from the earnings of convicts serving correctional labor has significantly increased.

Currently, the work is being completed on the full implementation of the unified

information system «Prisoners and persons in respect of whom a preventive measure has been applied in the form of detention», which meets international requirements, which should provide both the exchange of relevant data between bodies and institutions that execute sentences in real time, as well as allow all documentation and personal files of prisoners to be kept in electronic format, which will significantly facilitate and increase the efficiency of the work of Probation Service employees. This system also involves integration with all relevant government information systems and the introduction of artificial intelligence.

By the end of 2019, testing of a new type of electronic devices designed to monitor convicts sentenced to public works will begin. These devices will be issued to convicts who upon arrival at the place of performing public works will activate it using their fingerprints. After that, the monitoring center of the probation Service will receive a signal and control over the presence of the convicted person in the designated place for performing public works, as well as electronic accounting of work hours. In connection with the above, the legislative body of the country has submitted draft laws on making appropriate changes to the Criminal Code, Codes on the execution of punishments and on administrative offenses.

A proposal to create a special Fund to strengthen the social protection of probation employees, provide financial incentives for their activities and address issues of technical support for the service is being considered. It is planned to create this Fund by 50% deductions from the total amount of fines paid and deductions from the earnings of convicts serving correctional labor.

The analysis of first results of the Probation Service's activity and study of public opinion show the timeliness of the decision of the head of state to create this structure, which makes it possible to look optimistically into the future, which requires continued measures for its development. According to the author, the further development of the Probation Service

should be carried out in three main directions. First, it is necessary to complete the process of improving legislation, first of all to adopt a separate law on probation, and continue to bring the regulatory framework for sentences execution in accordance with time realities. Second, for the purpose of independent activities organization and ensuring effective control, the structure of the service should also be optimized in view of the increased workload. Third, it is necessary to create a modern system of training and advanced training of Probation Service employees, ensure their reliable legal and social protection, and provide them with modern technical equipment.

It should be emphasized that these directions of further development of the Probation Service have already been reflected in the State program «On the development of Azerbaijani Justice in 2019–2023», which was approved by the Decree of the President of the Republic of Azerbaijan on 18.12.2018. It is necessary to consider the provisions set forth in the presidential Decree of the Azerbaijani Republic from April 3, 2019 «On the deepening of reforms in judicial-legal system» which, along with the tasks of speeding up the process of improving the justice system that meets the requirements of the time, increasing transparency in the activities of the courts, is imperative to ensure full and timely execution of court decisions, strengthen measures taken to eliminate red tape and other negative phenomena.

We assume that the first positive achieved results and the implementation of the planned measures will help the successful development of the Probation Service in the Republic of Azerbaijan, ensure the effective operation of the new structure, and create the necessary conditions for its work in accordance with best international practices.

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**Skiba A. P., Kovsh A. V., Myakhanova A. N.**

**Скиба А. П., Ковш А. В., Мяханова А. Н.**

THE MAIN TYPES OF PUNISHMENTS  
NOT CONNECTED WITH ISOLATION FROM SOCIETY,  
AND THEIR CONTENT UNDER THE CRIMINAL CODE OF QATAR  
(COMPARATIVE LEGAL ANALYSIS  
WITH CERTAIN NORMS OF RUSSIAN LEGISLATION)

ОСНОВНЫЕ ВИДЫ НАКАЗАНИЙ,  
НЕ СВЯЗАННЫЕ С ИЗОЛЯЦИЕЙ ОТ ОБЩЕСТВА,  
И ИХ СОДЕРЖАНИЕ ПО УГОЛОВНОМУ КОДЕКСУ КАТАРА  
(СРАВНИТЕЛЬНО-ПРАВОВОЙ АНАЛИЗ  
С ОТДЕЛЬНЫМИ НОРМАМИ ЗАКОНОДАТЕЛЬСТВА РОССИИ)

**Abstract.** The article provides a comparative legal analysis of a number of norms of Qatari Criminal legislation, as well as Russian Criminal and Penal legislation. The types of punishments not related to isolation from society and their content under the Criminal Code of Qatar are considered in the article. In addition, attention is drawn to the system and content of individual punishments (in the form of fines and public works). The author's version of Article 63 of the Criminal Code of Qatar is formulated; it concerns the main types of punishments and their content. Based on the conducted research, the authors conclude that the main types of punishments not connected to isolation from society and their content have significant specifics under the Criminal Code of Qatar, and in some cases relate to issues of punishments execution (which in Russia are regulated in the Penal legislation). This determines the need for further research of the Criminal Code of Qatar and its comparative analysis with Russian legislation.

**Keywords:** the Criminal Code of Qatar, the system of penalties, fine, public works.

**Аннотация.** В статье проводится сравнительно-правовой анализ ряда норм катарского уголовного законодательства, а также российского уголовного и уголовно-исполнительного законодательства. Рассматриваются виды наказаний, не связанные с изоляцией от общества, и их содержание по Уголовному кодексу Катара. Дополнительно обращается внимание на систему и содержание отдельных наказаний (в виде штрафа и общественных работ). Формулируется авторская

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редакция ст. 63 Уголовного кодекса Катара, касающейся указанных основных видов наказаний и их содержания. На основании проведенного исследования авторы приходят к выводу о том, что основные виды наказаний, не связанные с изоляцией от общества, и их содержание имеют существенную специфику по УК Катара, а в ряде случаев касаются вопросов исполнения наказаний (которые в России регламентированы в уголовно-исполнительном законодательстве). Это предопределяет необходимость дальнейшего исследования УК Катара и его сравнительного анализа с российским законодательством.

**Ключевые слова:** Уголовный кодекс Катара, система наказаний, штраф, общественные работы.

#### Information about authors / Сведения об авторах

**Andrey Petrovich Skiba**, DSc (Law), Associate Professor, head of penal law department, Academy of the FPS of Russia, Ryazan, Russian Federation, e-mail: [apskiba@mail.ru](mailto:apskiba@mail.ru).

**Андрей Петрович Скиба**, доктор юридических наук, доцент, начальник кафедры уголовно-исполнительного права, Академия ФСИН России, г. Рязань, Российская Федерация, e-mail: [apskiba@mail.ru](mailto:apskiba@mail.ru).

**Andrey Vladimirovich Kovsh**, PhD (History), associate professor of the department of American studies, Saint Petersburg State University, Saint Petersburg, Russian Federation, e-mail: [avkovsh@mail.ru](mailto:avkovsh@mail.ru).

**Андрей Владимирович Ковш**, кандидат исторических наук, доцент кафедры американских исследований, Санкт-Петербургский государственный университет, г. Санкт-Петербург, Российская Федерация, e-mail: [avkovsh@mail.ru](mailto:avkovsh@mail.ru).

**Aleksandra Nikolaevna Myakhanova**, associate professor of criminal law and criminology department, Buryat State University, Ulan-Ude, Russian Federation, e-mail: [alex27-m@mail.ru](mailto:alex27-m@mail.ru).

**Александра Николаевна Мяханова**, доцент кафедры уголовного права и криминологии, Бурятский государственный университет, г. Улан-Удэ, Российская Федерация, e-mail: [alex27-m@mail.ru](mailto:alex27-m@mail.ru).

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The Arabian Peninsula is a place of concentration of States that solve numerous political, military, economic, religious, cultural and other problems both in this region and around the world. One of these States is Qatar – one of the world's largest gas and oil exporters; the legislation study of which, including Criminal legislation, is at an unacceptably low level in our country. That is why, it is relevant to study, among other things, the types of punishments and their content under the Criminal code of Qatar (hereinafter – CC of Qatar). Publications concerning the legislation of this country or the fight against crime are not numerous (Artemov, V. Yu. 2018, pp. 131–134; Volevodz, A. G. 2015, pp. 262–282; Kvashis, V. E. 2019, pp. 5–10). This article uses the author's translation of norms in CC of Qatar from Arabic to Russian with an approximation to Russian terminology, although it may be adjusted later as the issue is studied. (<https://www.wipo.int/edocs/lexdocs/laws/ar/qa/qa010ar.pdf>, viewed 1 February 2020).

Article 57 of CC of Qatar (amended in 2009), which provides a list of criminal penalties, is structurally included in Chapter 1 «Basic punishments» (Articles 57–63), Part 6 «Punishments» (Chapter 2 of this part «Additional punishments» includes Articles 64–78). The main types of punishments under Qatar Criminal legislation are: death penalty; life imprisonment; fixed-term imprisonment; fine; community service.

It is obvious that the Qatar system of criminal punishment is very different from Russian, as prescribed in Article 44 of the Criminal Code of the Russian Federation (hereinafter – CC of Russia). Several of its features can be distinguished:

- the most lenient type of punishment is public work (not a fine, as in Russia);
- punishments are arranged in the opposite order to the Russian one – from the most severe (death penalty) to the most lenient (community service);
- there are no such basic punishments applied in Russia as deprivation of the right

to hold certain positions or engage in certain activities, forced labor, restriction of freedom, including punishments applied exclusively to military personnel (detention in a disciplinary military unit and restriction on military service).

CC of Qatar briefly reveals the content of these punishments. Penalties not related to isolation from society are: fines and public works.

First, Article 63 of CC of Qatar deals with general issues of execution of both fines and public works, despite the fact that they represent different main types of punishments (a similar situation is with the regulation in Article 60 of CC of Qatar of punishments in the form of life imprisonment and imprisonment for a certain period). In contrast to the specified norm of CC of Qatar, in CC of Russia various articles are devoted to a fine and mandatory work (a conditional analog of Qatar public works) in Articles 46 and 49. This, in our opinion, seems more logical.

Second, according to Article 63 of CC of Qatar, the penalty is the obligation of the convicted person to pay a certain amount in favor of the State. However, unlike Article 46 of CC of Russia, Qatar criminal legislation does not define the minimum and maximum amounts of fines, the circumstances under which the amount of the fine is determined, the rules for replacing the fine with another penalty, etc.

Third, according to the amendments of 2009, Article 63 of CC of Qatar provides that public work is the obligation of a convicted person to perform socially significant work for a certain time. The definition of public works performed by convicts, as a whole complies with Article 49 of CC of Russia, according to which public works consists in performing free socially useful work by a convicted person in his spare time from his main work or study.

However, Article 63 of CC of Qatar provides a list of socially important work that is absent not only in the Criminal Code, but also in the Penal Code of the Russian Federation (hereinafter – PC of Russia). This list includes: reading surahs of the Koran by heart; teaching literacy; caring



for juveniles; caring for people with special needs; transporting patients (carrying on stretchers); cleaning roads, streets, public squares, beaches, kindergartens and nature reserves; cleaning and maintenance of mosques; cleaning and maintenance of sports facilities, ticket sales; cleaning and maintenance of public libraries; cleaning and maintenance of gardens; loading and unloading containers at ports; assistance to civil defense personnel in their work; assistance to the postal service; administrative work in sanatoriums; office work, as well as driving transport in the field of food delivery; refueling at gas stations. Perhaps something similar would not be out of place in the Russian Penal legislation.

Fourth, according to the amendments of 2009 in Article 63 of CC of Qatar, the convicted person must serve a sentence in the form of public works for 6 hours a day. In this case, we speak about punishment execution, which in Russia is regulated in the Penal legislation. A similar but more detailed rules in Article 27 of PC of Russia, according to which the time of obligatory works cannot exceed four hours during the weekend and in the days when the convicted person is not occupied on the basic work, service or study; in the working days – two hours after the end of the work, service or study, and with the consent of convicted person – four hours, and the total time of obligatory works within a week, as a rule, cannot be less than 12 hours.

Fifthly, in accordance with the amendments of 2009, article 63 of CC of Qatar provides for a number of provisions on the replacement of public works with other punishments:

– at the request of the Prosecutor's office, the court may impose a sentence of public works for a period not exceeding 12 days, or replace it with a sentence of imprisonment for a period not exceeding this period, or a fine in the case of a minor offense, which, as a general rule, is punishable by up to 1 year's imprisonment and a fine exceeding 1,000 rials, or one of these two types of punishment if the court decides that the nature of the crime or

the circumstances of its commission provide for such a penalty;

– if the convicted person refuses to perform public works, then he is sentenced to 1 week's imprisonment, based on the calculation of 1 day of imprisonment for 1 day of non-executed punishment in the form of public works.

In the CC of Russia, despite the presence of Article 49 on the application of the penalty of compulsory work, a number of these provisions are absent (including the need of «requirements of prosecution», which apparently applies more to the criminal procedure law). Thus, there are obvious significant differences between the main types of punishments not related to isolation from society and their content under CC of Qatar in comparison with the Criminal and Penal legislation of Russia. In view of the above, the author's translation of Article 63 of CC of Qatar may look something like this:

«Article 63.

The penalty is the obligation of the convicted person to pay a certain amount in favor of the state.

Public work is the obligation of a convicted person to perform socially significant work for a certain period of time.

Appendix 1.

At the request of the Prosecutor's office, the court may impose a sentence of public works for a period not exceeding 12 days, or replace it with a sentence of imprisonment for a period not exceeding this period, or a fine in the case of a minor offense.

A minor offense is punishable by imprisonment for a term not exceeding 1 year and a fine exceeding 1,000 rials, or one of these two types of punishment, if the court decides that the nature of the crime or the circumstances of its commission provide for such punishment.

If the convicted person refuses to perform public works, then he is sentenced to 1 week's imprisonment, based on the calculation of 1 day of imprisonment for 1 day of non-executed punishment in the form of public works.

Socially significant works are:

- 1) reading by heart surahs of the Koran;
- 2) literacy training;
- 3) care of minors;
- 4) care for people with special needs;
- 5) transportation of patients (carrying on a stretcher);
- 6) cleaning of roads, streets, public squares, beaches, kindergartens and nature reserves;
- 7) cleaning and maintenance of mosques;
- 8) cleaning and maintenance of sports facilities, ticket sales;
- 9) cleaning and maintenance of public libraries;
- 10) cleaning and maintenance of gardens;
- 11) loading and unloading of containers at ports;
- 12) assistance to civil defense employees in their work;
- 13) assistance to the postal service;
- 14) administrative work in health resorts;
- 15) office management, as well as driving transport in the field of food delivery;
- 16) refueling at gas stations.

#### Appendix 2.

The convicted person must serve a sentence of public works for 6 hours a day».

Based on the above, it can be argued that the main types of punishments not related to isolation from society and their content have significant specifics under the Criminal Code of Qatar, and in some cases relate to issues of punishments execution (which in Russia are regulated in the Penal legislation). This determines the need for further research of the Criminal Code of Qatar and its comparative analysis with Russian legislation.

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**Dolinin A. Yu., Gorkina S. A., Rodionov A. V.**

**Долинин А. Ю., Горкина С. А., Родионов А. В.**

INTERUNIVERSITY SCIENTIFIC AND PRACTICAL CONFERENCE  
«CURRENT PROBLEMS OF PENAL SYSTEM BODIES  
AND INSTITUTIONS ACTIVITIES ORGANISATION  
AND WAYS OF THEIR DECISION»,  
DEDICATED TO THE MEMORY OF THE HONORED SCIENTIST  
OF THE RSFSR, DSC (LAW), PROFESSOR A. I. ZUBKOV  
AND THE DAY OF RUSSIAN SCIENCE  
(RYAZAN, FEBRUARY 7, 2020)

МЕЖВУЗОВСКАЯ НАУЧНО-ПРАКТИЧЕСКАЯ КОНФЕРЕНЦИЯ  
«АКТУАЛЬНЫЕ ПРОБЛЕМЫ ОРГАНИЗАЦИИ ДЕЯТЕЛЬНОСТИ  
ОРГАНОВ И УЧРЕЖДЕНИЙ УГОЛОВНО-ИСПОЛНИТЕЛЬНОЙ  
СИСТЕМЫ И ПУТИ ИХ РЕШЕНИЯ», ПОСВЯЩЕННАЯ ПАМЯТИ  
ЗАСЛУЖЕННОГО ДЕЯТЕЛЯ НАУКИ РСФСР,  
ДОКТОРА ЮРИДИЧЕСКИХ НАУК, ПРОФЕССОРА  
А. И. ЗУБКОВА И ДНЮ РОССИЙСКОЙ НАУКИ  
(РЯЗАНЬ, 7 ФЕВРАЛЯ 2020 Г.)

**Abstract.** On February 7, 2020, the Academy of the Federal Penitentiary Service of Russia arranged the Interuniversity scientific and practical conference “Current problems of Penal system bodies and institutions activities organisation and ways of their decision”, dedicated to the memory of the Honored scientist of the RSFSR, DSc (Law), Professor A. I. Zubkov and the Day of Russian science. The conference was organized by the Department of management and organization of the Penal system’s activities in the framework of the project “Business card of the Department” together with the St. Petersburg Academy of the Investigative Committee of Russia. The participants of the scientific discussion were leading scientists-penitentiaries of Russia, representatives of public organizations, educational institutions of the Federal Penitentiary Service of Russia.

**Keywords:** conference, management, organization of activities, the penal system.

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**Аннотация.** 7 февраля 2020 г. в Академии ФСИН России состоялась Межвузовская научно-практическая конференция, посвященная памяти заслуженного деятеля науки РСФСР, доктора юридических наук, профессора Александра Ильича Зубкова и Дню российской науки. Конференция была организована кафедрой управления и организации деятельности уголовно-исполнительной системы в рамках проекта «Визитная карточка кафедры» совместно с Санкт-Петербургской академией Следственного комитета России. Участниками научной дискуссии стали ведущие ученые-пенитенциаристы России, представители общественных организаций, образовательных учреждений ФСИН России.

**Ключевые слова:** конференция, управление, организация деятельности, уголовно-исполнительная система.

### Information about authors / Сведения об авторах

**Aleksandr Yur'evich Dolinin**, PhD (Law), Associate Professor, head of the department of management and organization of the Penal system's activities, Academy of the FPS of Russia, Ryazan, Russian Federation, e-mail: [aleksander.dolinin@yandex.ru](mailto:aleksander.dolinin@yandex.ru).

**Александр Юрьевич Долинин**, кандидат юридических наук, доцент, начальник кафедры управления и организации деятельности УИС, Академия ФСИН России, г. Рязань, Российская Федерация, e-mail: [aleksander.dolinin@yandex.ru](mailto:aleksander.dolinin@yandex.ru).

**Svetlana Aleksandrovna Gorkina**, PhD (Law), Associate Professor, deputy head of the department of management and organization of the Penal system's activities, Academy of the FPS of Russia, Ryazan, Russian Federation, e-mail: [gorkina.s@mail.ru](mailto:gorkina.s@mail.ru).

**Светлана Александровна Горкина**, кандидат юридических наук, доцент, заместитель начальника кафедры управления и организации деятельности УИС, Академия ФСИН России, г. Рязань, Российская Федерация, e-mail: [gorkina.s@mail.ru](mailto:gorkina.s@mail.ru).

**Aleksey Vladimirovich Rodionov**, DSc (Economics), professor of the department of management and organization of the Penal system's activities, Academy of the FPS of Russia, Ryazan, Russian Federation, e-mail: [avrpost@bk.ru](mailto:avrpost@bk.ru).

**Алексей Владимирович Родионов**, доктор экономических наук, профессор кафедры управления и организации деятельности УИС, Академия ФСИН России, г. Рязань, Российская Федерация, e-mail: [avrpost@bk.ru](mailto:avrpost@bk.ru).

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In accordance with the plan of research activities of the Academy of the FPS of Russia in 2020, on February 7, 2020, the Academy of the FPS of Russia arranged the Interuniversity scientific and practical conference “Current problems of Penal system bodies and institutions activities organisation and ways of their decision”, dedicated to the memory of the Honored scientist of the RSFSR, DSc (Law), Professor A. I. Zubkov and the Day of Russian science. This event is traditional and is organized annually within the walls of the educational institution.

The conference was organized by the Department of management and organization of the Penal system’s activities in the framework of the project “Business card of the Department” together with the St. Petersburg Academy of the Investigative Committee of Russia. During the conference there are presentations and reports of leading scientists-penitentiaries

of the Russian Federation, the Republic of Belarus, the Republic of Kazakhstan, and the Socialist Republic of Vietnam. The conference was attended by employees of the Lomonosov Moscow State University, the Russian Presidential Academy of National Economy and Public Administration, the Moscow State Linguistic University, the Amur State University, Ulyanov Chuvash State University, the Academy of management of the Ministry of Internal Affairs of Russia, and Kikot Moscow University of the Ministry of Internal Affairs of Russia, Nizhny Novgorod Academy of the Ministry of Internal Affairs of Russia, Scientific Research Institute of the FPS of Russia, Perm Institute of the FPS of Russia, Vologda Institute of Law and Economics of the FPS of Russia, Samara juridical Institute of the FPS of Russia, Saint-Petersburg Institute for advanced training of the FPS of Russia. Among the participants of the Conference there are representatives



The head of the Academy of the FPS of Russia, DSc (Law), Professor, Major General of internal service A. A. Krymov made an introductory speech to the participants of the Conference

of public organizations, practitioners from the Central office of the FPS of Russia, as well as Territorial authorities and Individual correctional institutions.

During the conference issues of improving the Penal policy of the Russian Federation and the Legal regulation of the Penal system, current problems of Criminal and Penal legislation, issues of evaluating the effectiveness of the Penal system, as well as many other topical issues related to the activities of the Penitentiary Department in modern conditions were discussed.

The head of the Academy of the FPS of Russia, DSc (Law), Professor, Major General of internal service A. A. Krymov made an introductory speech to the participants of the Conference.

Traditionally, as the guest of honor and the main speaker at the Conference was the wife of A. I. Zubkov, chief researcher of the laboratory

of social and legal research and comparative law of the faculty of law in Lomonosov Moscow State University, DSc (Law), Professor V. I. Zubkova. Her report on the topic "Criminal law policy in the field of crime prevention" largely concerned the analysis of the scientific heritage of A. I. Zubkov, his ideas and developments, which remain relevant in modern conditions.

A significant part of the conference participants' reports was devoted to the problems of personnel support in the Penal system, as well as scientific works of A. I. Zubkov devoted to this topic. The speakers indicated the specificity of professional activity and personal characteristics of employees of the FPS of Russia, identified the problems of management training for the Penal system, the role of staffing and training in activities of bodies of state power and the ways of adaptation of employees of the FPS of Russia for educational activities in correctional institutions.



The report of A. I. Zubkov's wife, chief researcher of the laboratory of social and legal research and comparative law of the faculty of law in Lomonosov Moscow State University, DSc (Law), Professor V. I. Zubkova

During the Conference, topical issues of attracting convicts to socially useful work, organizing their professional education and retraining, as well as problematic aspects of the production sector development of the Penal system were discussed. The reports were devoted to a comparative analysis of foreign experience in organizing the work of convicts, organizing the system of general and professional education of convicts serving a sentence of imprisonment, and the problems of performing forced labor in the context of achieving the goals of punishment.

Among the most controversial topics, we should note the problems of crime prevention, as well as new directions of law enforcement activities, including in high-tech areas of public relations. Considerable attention was paid to the issues of security and compliance in correctional institutions, as well as methods

of preventing offenses in this area. In this regard, it is worth noting the reports on issues of administrative and legal counteraction to unmanned aerial vehicles flying over the territory of institutions and bodies of the Penal system, the analysis of the implementation of operational search information in the course of relevant activities in places of detention, as well as the problems of conducting a regime search in correctional institutions. Considerable attention was also paid to operational investigative activities in detection and suppression of corruption-related crimes in the Penal system.

During the conference, there was a vigorous exchange of views and ideas on the organization of activities in bodies and institutions of the Penal system in modern conditions. According to the results of the conference, a collection of scientific works will be traditionally published.



Conference participants



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## МЕЖДУНАРОДНЫЙ ПЕНИТЕНЦИАРНЫЙ ЖУРНАЛ

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\(Академия ФСИН России\).](#)

390000, Рязанская обл., г. Рязань, ул. Сенная, д. 1;

[федеральное казенное учреждение  
«Научно-исследовательский институт Федеральной службы исполнения наказаний»  
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390000, Рязань, ул. Сенная, д. 1

E-mail: [editor62@yandex.ru](mailto:editor62@yandex.ru)

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Академия ФСИН России  
390000, г. Рязань, ул. Сенная, д. 1  
Редакционно-издательский отдел  
Тел.: +7 (4912) 93-82-42, 93-46-40  
E-mail: [editor62@yandex.ru](mailto:editor62@yandex.ru)