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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.

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Миссия журнала

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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.

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

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Keywords

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At the end of the paper the author(s) should present full References in the alphabetical order as follows:

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

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Объем от 40 000 до 60 000 печатных знаков с пробелами. Редакция рекомендует использовать структуру IMRAD для оформления статьи с выделением следующих частей: введение (Introduction); методы (Materials and Methods); результаты (Results); обсуждение (Discussion). Каждая часть должна иметь заголовок (примерно до 5 слов). Данная структура является опорной и может быть адаптирована (расширена и (или) более детализирована) в зависимости от особенностей и логики проведенной исследовательской работы.

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Ссылки в тексте

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Dear colleagues!

The new issue of our periodical features works, prepared by authors from four countries. In this issue we published works of penitentiarists from the leading law schools of the CIS countries: Academy of the Ministry of Internal Affairs of the Republic of Belarus (Minsk, Republic of Belarus), Turan University (Almaty, Republic of Kazakhstan), Kyrgyz State Law University (Bishkek, Kyrgyz Republic), Research center of criminal policy and criminology of the Academy of law enforcement agencies under the

Prosecutor General's office of the Republic of Kazakhstan (Akmola region, Tselinograd district, Republic of Kazakhstan). Special attention should be paid to scientific works of practitioners, in which they presented the results of generalization and systematization of best practices in penitentiary activities. These articles were prepared by authors from the Department of punishment execution of the Ministry of Internal Affairs of the Republic of Belarus for the Mogilev region (Mogilev, Republic of Belarus), State Penitentiary Service under the Government of the Kyrgyz Republic (Bishkek, Kyrgyz Republic), National Penitentiary Administration of the Ministry of Justice of the Republic of Moldova (Chisinau, Republic of Moldova).

Published research materials analyze the impact of persons' sentenced to imprisonment classification on the achievement of criminal responsibilitygoals. The issue presents the results of an empirical psychological study of the convict's personality depending on the number of criminal records. The study of the legal regulation of the institution for changing detention conditions of persons deprived of liberty at the international level deserves special attention. On the pages of the journal were identified the problems of criminal liability and execution of certain types of criminal penalties under the new legislation of the Kyrgyz Republic. The authors substantiate the necessity of transition to a new model of execution of punishment in the Republic of Kazakhstan in modern conditions, as well as the reform of the national penitentiary system. In the new issue of our journal, readers will be able to get acquainted with the new provisions on parole from serving a sentence in the Kyrgyz Republic. Readers will also be able to get up-to-date information on the classification of penitentiary institutions in the Republic of Moldova.

As before, the editorial Board of the journal invites all colleagues to publish announcements of scientific events and reports on their conduct. We are convinced that this practice will help to expand the audience of announced events in scientific life and will provide them with appropriate information support. We are also open for cooperation and are ready to publish research papers on all branches of penitentiary activity prepared by authors from different countries of the world.

Alexey Vladimirovich Rodionov
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Уважаемые коллеги!

В новом выпуске нашего журнала представлены работы авторов из четырех стран. Свои работы опубликовали ученые-пенитенциаристы из ведущих юридических вузов стран СНГ: Академии МВД Республики Беларусь (г. Минск, Республика Беларусь), Университета «Туран» (г. Алматы, Республика Казахстан), Кыргызского государственного юридического университета (г. Бишкек, Кыргызская Республика), Центра исследования проблем уголовной политики и криминологии Академии правоохранительных органов при Генеральной прокуратуре Республики Казахстан (Акмолинская область, Целиноградский район, Республика Казахстан). Особое внимание заслуживают работы практических работников, в которых они представляют результаты обобщения и систематизации передового опыта пенитенциарной деятельности. Это статьи авторов из Управления Департамента исполнения наказаний МВД Республики Беларусь по Могилевской области (г. Могилев, Республика Беларусь), Государственной службы исполнения наказаний при Правительстве Кыргызской Республики (г. Бишкек, Кыргызская Республика), Национальной пенитенциарной администрации Министерства юстиции Республика Молдова (г. Кишинев, Республика Молдова).

В публикуемых материалах исследований анализируется влияние классификации осужденных к лишению свободы на достижение целей уголовной ответственности. Представлены результаты эмпирического исследования психологических особенностей личности осужденного в зависимости от количества судимостей. Заслуживают особого внимания результаты исследование правового регулирования института изменения условий содержания лиц, лишенных свободы, на международном уровне. На страницах журнала обозначены проблемы уголовной ответственности и исполнения отдельных видов уголовных наказаний по новому законодательству Кыргызской Республики. Авторами обосновывается необходимость перехода на новую модель исполнения наказания в Республике Казахстан в современных условиях, а также реформирования национальной пенитенциарной системы. В очередном выпуске журнала читатели смогут ознакомиться с новыми положениями об условно-досрочном освобождении от отбывания наказания в Кыргызской Республике. Читатели также смогут получить актуальную информацию о классификации пенитенциарных учреждений в Республике Молдова.

Как и прежде, редакция журнала приглашает всех коллег к публикации анонсов научных мероприятий и отчетов об их проведении. Мы убеждены, что подобная практика будет способствовать расширению аудитории анонсируемых событий в научной жизни и будет оказывать им соответствующую информационную поддержку. Мы также открыты для сотрудничества и готовы публиковать исследовательские работы по всем отраслям пенитенциарной деятельности, подготовленные авторами из разных стран мира.

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Kiyko N. V.

Кийко Н. В.

INFLUENCE OF CLASSIFICATION OF PERSONS SENTENCED TO IMPRISONMENT ON THE ACHIEVEMENT OF CRIMINAL RESPONSIBILITY GOALS

ВЛИЯНИЕ КЛАССИФИКАЦИИ ОСУЖДЕННЫХ К ЛИШЕНИЮ СВОБОДЫ НА ДОСТИЖЕНИЕ ЦЕЛЕЙ УГОЛОВНОЙ ОТВЕТСТВЕННОСТИ

Abstract. The article is devoted to the issues of classification of persons sentenced to imprisonment. Attention is drawn to the fact that the achievement of criminal responsibility goals largely depends on a clear division of convicts, depending on the criteria established by law, into homogeneous groups with subsequent differentiation and individualization of correctional and educational impact. As a result of the research, the author came to the following conclusions. In order to efficiently and effectively organize the process of correctional influence on convicts, it is rational to divide them into such categories, in relation to which the main means of correction provided for by law (established procedure for execution and serving of sentences, socially useful work, educational work, education of convicted persons, and social impact) could be applied in different volumes and with different degrees of intensity in order to ensure the achievement of the goals of punishment. Thus, differentiated application of correctional measures to convicts is possible only if they are correctly divided into homogeneous groups. Classification of persons sentenced to deprivation of liberty is of great practical importance for organizing the process of their correction and achieving criminal responsibility goals. It provides isolation from each other of various categories of convicts, thereby preventing the possibility of negative influence of more dangerous criminals on less dangerous criminals, and suggests the possibility of strengthening security and supervision, as well as the correctional and educational impact of punishment against dangerous criminals, while reducing the legal restrictions for convicts who do not pose a great public danger.

Keywords: criminal liability, punishment, convicted person, classification, imprisonment.

Аннотация. В статье исследуются вопросы классификации осужденных к лишению свободы. Обращается внимание на то, что достижение целей уголовной ответственности во многом зависит от четкого разделения осужденных в зависи-

мости от установленных законодательством критериев на однородные группы с последующей дифференциацией и индивидуализацией исправительного и воспитательного воздействия. В результате исследования автор пришел к следующим выводам. Для того, чтобы качественно и результативно организовать процесс исправительного воздействия на осужденных, рационально разделить их на такие категории, по отношению к которым в различных объемах и с различной степенью интенсивности можно было бы применять основные средства исправления, предусмотренные законодательством (установленный порядок исполнения и отбывания наказания, общественно полезный труд, воспитательную работу, получение осужденными образования и общественное воздействие), добиваясь обеспечения достижения целей наказания. Таким образом, дифференцированное применение к осужденным мер исправительного воздействия возможно только при условии их правильного разделения на однородные группы. Классификация осужденных к лишению свободы имеет большое практическое значение для организации процесса их исправления и достижения целей уголовной ответственности. Она обеспечивает изоляцию друг от друга различных категорий осужденных, тем самым предотвращая возможность отрицательного влияния более опасных преступников на менее опасных преступников, предполагает возможность усиления охраны и надзора, а также исправительного и воспитательного воздействия наказания в отношении опасных преступников при одновременном уменьшении правоограничений для осужденных, не представляющих большой общественной опасности.

Ключевые слова: уголовная ответственность, наказание, осужденный, классификация, лишение свободы.

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In accordance with article 44 of the Criminal Code of the Republic of Belarus (hereinafter – the CC of the RB), criminal responsibility is expressed in the conviction on behalf of the Republic of Belarus by a court verdict for a person who committed a crime, and the application of punishment or other criminal liability measures based on the conviction. Punishment is a compulsory measure of criminal law influence and consists in the deprivation or restriction of the rights and freedoms of the convicted person provided for by law (Kiyko, N. V. 2015, p. 155). Criminal responsibility and punishment are not the same categories and concepts, although we should not speak about their significant differences either. Punishment is the implementation of criminal responsibility in the court's conviction. Punishment is the most important stage of criminal responsibility (Kuznetsova, N. F. & Tyazhkova, I. M. (eds) 2002, p. 10). Being a state organ intended for punishment in respect of persons sentenced to deprivation of liberty, correctional facility in accordance with the Penal Legislation of the Republic of Belarus are obliged to ensure its implementation so that the punishment will be a means of convicts correction of and prevention of new crimes.

According to the Development Concept of the penitentiary system and medical and labor dispensaries organization for 2016–2020, approved by order of the MIA of the Republic of Belarus No. 167 (adopted on 20.06.2016), one of the main directions for improving the activities of correctional institutions in order to better solve the problems they face is the classification and separate detention of convicts depending on their criminological characteristics. The implementation of this task is possible only if the principle of differentiation and individualization of execution of punishment and other criminal liability measures stipulated in Article 6 of the Penal Code of the Republic of Belarus (hereinafter – the PC of the RB) is observed. Due to the classification of persons sentenced to deprivation of liberty, taking into account their division into certain groups, law enforcement practice provides for the rational use of coercive measures and means of correction of convicted persons, as well as stimulating their law-abiding behavior. It should be noted that A. I. Zubkov noted that the principle of differentiation and individualization of punishment includes in its content the second principle – the rational use of coercive measures, means of convicts correction and promote their law-abiding behavior, since the latter is a consequence of the process of differentiation and individualization of convicts' personality themselves. (Zubkov, A. I. (ed.) 2006, pp. 16–17). Ultimately, it creates the necessary conditions for effectively achieving the goals of criminal responsibility.

Classification (from Latin classis – category, class and facere – to do) means splitting a set (class) of objects into subsets (subclasses) based on certain characteristics. In the dictionary of S. I. Ozhegov, classification is interpreted as a distribution by groups, categories, and classes (Ozhegov, S. I. 1984, p. 238).

V. Yu. Yuzhanin points out that the special classification includes the classification of persons sentenced to imprisonment. In fact, this is the division of them into relatively homogeneous categories, groups based on the most significant features of community (criteria) in accordance with the goals of punishment. The problem of effective achievement of the goals of punishment determines the classification of convicts. Dividing convicts by socio-demographic characteristics, gender, age, criminal record, form of guilt, severity of the crime, psychological and pedagogical characteristics of the individual, behavior while serving a sentence, and other characteristics, it is possible to create optimal conditions for differentiated impact on different categories or groups of convicts, which makes it possible to individualize the correctional process for each convict (Kornienko, G. A., Grishko, A. Ya. & Chorny, V. N. (eds) 2013, p. 57).

The classification of persons sentenced to deprivation of liberty is provided for by the

norms of the penal legislation of the Republic of Belarus. It is closely related to the classification of persons who have violated the law, which is carried out in accordance with the norms of criminal law. Both of these classifications have a lot in common, although they differ in their content, methods of constructing classification groups and the main goals of their formation, representing independent classification systems.

For a more complete understanding of the essence and meaning of the classification of persons sentenced to imprisonment, it is necessary to reveal its relationship to the criminal law classification, to establish their similarities and differences. The similarity of these two classification systems is primarily in the fact that both of them are aimed at improving the effectiveness of measures to combat crime. In some cases, their classification groups are formed using the same criteria. Thus, the criminal law classification is based on such criteria as the degree of public danger of the committed crime and the degree of public danger of the criminal's personality, which, in their totality, are simultaneously one of the important criteria for classifying persons sentenced to imprisonment. The commonality and interrelation of these two classifications also consists in the fact that the criminal law classification divides into relatively homogeneous categories all persons who have committed crimes, including persons sentenced to imprisonment.

All those sentenced to imprisonment represent a very heterogeneous group of offenders who differ from each other in the nature and degree of public danger of the committed crimes and the personality, in the past criminal activity, the degree of pedagogical neglect and socio-moral depravity, age, gender and other characteristics. However, despite the multiplicity of individual characteristics, all of them, depending on the most significant features inherent to certain groups of individuals, can be divided (classified) into relatively homogeneous categories characterized by common features.

Summary statistics on the activity of courts of general jurisdiction in the Republic of Belarus in the administration of justice for the 1st half of 2020 show that during this period, the country's courts considered 16,256 cases with sentencing (*Summary statistics on the activity of courts of general jurisdiction in the administration of justice for the 1st half of 2020* 2020). The number of convicted persons was 17,506. At the same time, 3,964 convicts were sentenced to imprisonment, which is 22.6% of all imposed punishments and other criminal liability measures. Given the fact that deprivation of freedom in the system of measures of criminal responsibility is one of the most severe penalties, which is highly significant among other types of punishment applied to convicts, as well as the fact that the persons convicted to imprisonment represent the most dangerous category of criminals, heterogeneous and requires a strictly differentiated application of basic means of correction to them. The legislation of the Republic of Belarus provides for a clear classification of this category of offenders.

The current criminal legislation classifies persons depending on the degree of public danger of the committed crime (Article 12 of the PC of the RB):

а) for those who have committed crimes that do not pose a great public danger, for which there is a prison sentence of no more than 2 years;

б) those who have committed less serious crimes (imprisonment not exceeding 6 years, but by negligence it is more than 2 years);

в) who have committed serious crimes (imprisonment not exceeding 12 years);

г) those who have committed especially grave crime (imprisonment for more than 12 years, life imprisonment, death penalty).

According to the degree of public danger of the personality, the criminal law classification divides criminals into those who:

а) committed crimes for the first time;

б) committed crimes in case of a dangerous recidivism;

в) committed crimes in case of especially dangerous recidivism.

The criminal law classification is the basis for the classification of persons sentenced to imprisonment (primary classification). However, being the basis of the classification of convicts sentenced to imprisonment, it does not replace it, because between these classifications, there are significant differences due to the different content of norms of criminal and penal law, the tasks and activities of preliminary investigation bodies and the court, on the one hand, and correctional institutions on the other.

If the main purpose of the classification of offenders in criminal law is to assist the preliminary investigation bodies, the Prosecutor's office and the court in making the right decision when bringing a person to criminal responsibility and differentiated sentencing, corresponding to the nature and degree of public danger of the crime and offender's personality; the main purpose and task of classification of convicts sentenced to imprisonment is to ensure differentiated execution of punishment and the process of correctional influence in relation to different categories of convicts.

Article 71 of the PC of the RB is the most explicit requirement for separate serving of imprisonment by different categories of convicts. This approach is due to the fact that each of the different categories of convicts needs to receive the appropriate optimal amount of correctional and educational impact in relation to it. Thus, the execution of a sentence must be differentiated. In Belarus, correctional institutions provide for separate detention of men and women, juveniles and adults sentenced to deprivation of liberty. It is allowed to keep in one correctional institution convicted women who are serving their sentence in correctional colonies for persons serving their first sentence of imprisonment, and correctional colonies for persons who have previously served their sentence of imprisonment, as well as female juveniles who are serving their sentence in juvenile colonies. In this case, women who have been sentenced to imprisonment for the first time and women who have previously served this sentence are kept separately. Female juveniles are in isolation from other convicts. In one correctional institution, convicted persons with especially dangerous recidivism of crimes are placed separately from convicted persons whose life imprisonment was replaced by imprisonment by way of pardon. In turn, convicts who contribute to the commission of offenses by other convicts or are inclined to infringe on the rights and legitimate interests of other convicts or to disobey the legal requirements of the administration may be placed separately in locked rooms in one correctional institution. Separate correctional institutions may be established for the placement of convicts (former law enforcement officers). Other convicts may also be sent to these institutions.

The requirements for separate detention of convicted persons established by law do not apply to medical and correctional institutions. Convicts sent to these institutions are held under the conditions established by law for institutions of the type designated by the court. Convicts who have diseases, included in the list of diseases that pose a danger to public health, determined by the Ministry of Health of the Republic of Belarus, are placed separately and in isolation from convicts who do not have these diseases.

It should be noted that the Law of the Republic of Belarus (adopted on 19.07.2016) No. 405-Z "On amendments and additions to Penal Code of the Republic of Belarus", Article 71 of the PC of the RB was supplemented by part 5-1, according to which those convicted of illegal actions with narcotic drugs, psychotropic substances, their precursors and analogues should have been placed in correctional institutions separately from other convicts or in separate correctional institutions. However, as the analysis of law enforcement practice has shown, such a decision was not entirely successful for a number of reasons. As noted in the Decision of the Constitutional Court of the

Republic of Belarus (adopted on 08.07.2020 No. R-1221/2020 "On compliance with the Constitution of the Republic of Belarus of the Law of the Republic of Belarus "On amendments to the Penal Code of the Republic of Belarus" changing the Article 71 of the PC of the RB, the legislator took into account the situation in the country, formed as a result of government measures to combat illicit trafficking in narcotic drugs, psychotropic substances, their precursors and analogues and prevention of consumption. According to the Constitutional Court, the exclusion of legislative provisions Part 5-1 of Article 71 of the PC about the rules of separate detention in correctional institutions of convicts sentenced for illegal actions with narcotic drugs, psychotropic substances, their precursors and analogs from other prisoners or detention of such persons in the individual correctional facilities do not take into account international standards on the separation of different categories of convicts, taking into account their gender, age, previous criminal record (rule 11 of the UN Standard Minimum Rules for the treatment of prisoners, adopted by UN General Assembly Resolution 70/175 on 17.12.2015; rule 18.8 of the European prison rules (Annex to Recommendation N REC (2006)2 of the Council of Europe to the member states adopted on 11.01.2006)). Thus, the Law of the Republic of Belarus adopted on 17.07.2020 No. 51-Z «On amendments to the Penal Code of the Republic of Belarus» Part 5-1 of Article 71 of the PC of the Republic of Belarus was deleted.

Summing up, it can be noted that in order to efficiently and effectively organize the process of correctional impact on convicts, it is rational to divide them into such categories, in relation to which the main means of correction provided for by law could be applied in different volumes and with different degrees of intensity (the established procedure for the execution and serving of sentences, socially useful work, correctional work, education of convicted persons, and social impact), achieving the goals of punishment. Thus, differentiated application of corrective measures to convicts is possible only if they are properly divided into homogeneous groups. Classification of persons sentenced to imprisonment is of great practical importance for the process organization of their correction and achieving the goals of criminal responsibility. It provides isolation from each other of various categories of convicts, thereby preventing the possibility of negative influence of more dangerous criminals on less dangerous criminals, it assumes the possibility of strengthening protection and supervision, as well as the correctional and educational impact of punishment against dangerous criminals, while reducing the legal restrictions for convicts who do not pose a great public danger.

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PSYCHOLOGICAL STUDY OF THE CONVICT'S PERSONALITY DEPENDING ON THE NUMBER OF CRIMINAL RECORDS

ПСИХОЛОГИЧЕСКОЕ ИЗУЧЕНИЕ ЛИЧНОСТИ ОСУЖДЕННОГО В ЗАВИСИМОСТИ ОТ КОЛИЧЕСТВА СУДИМОСТЕЙ

Abstract. The article is devoted to an empirical analysis of diagnostics problems study of personality traits among convicts serving sentences in prison.On the basis of the obtained data, the psychological characteristics of negative personal traits of convicts in the aspect of psychological support of educational impact on them are determined. The author of the article used the «Dark triad» questionnaire developed in 2002 by Canadian researchers Delra Paulhus and Kevin Williams. This questionnaire is aimed at measuring the subclinical personality traits included in the so-called «Dark triad»: narcissism, psychopathy and machiavellianism. This method has shown its effectiveness in the diagnostic work of prison psychologists. The key task of the study was to identify statistically significant differences in the groups of convicts serving their first sentence and those who had previously been convicted several times.The study involved 200 convicts. Comparing the differences in the groups of convicts, the author notes their specificity. In particular, high levels of dark constructs were identified from a group of repeatedly serving sentences in places of liberty deprivation.The presence of pronounced negative personality traits form a single global index of «dark personality». Scales of the «Dark triad» that reflect the negative personal core allow to quickly get the necessary indices and identify the mechanisms of convicts' functioning serving sentences in correctional institutions.Prison psychologists need to take into account the high rates of negative constructs in order to implement psychological support measures for convicts throughout the entire period of serving their sentence.

Keywords: dark triad, narcissism, psychopathy, machiavellianism, psychological support, psychological support of educational impact.

Аннотация. В статье представлен эмпирический анализ исследования проблемы диагностики личностных черт осужденных, отбывающих наказания в местах лишения свободы. На основании полученных данных определена психологическая характеристика негативных личностных черт осужденных в аспекте психологического обеспечения воспитательного воздействия на них. Автором статьи

в ходе проведенного исследования использован опросник «Темная триада», разработанный в 2002 г. канадскими исследователями Делрой Полхаус и Кевином Уильямс. Данный опросник направлен на измерение субклинических личностных свойств, входящих в так называемую «Темную триаду» – нарциссизм, психопатия и макиавеллизм. Указанная методика показала свою эффективность в диагностической работе пенитенциарных психологов. Ключевая задача проведенного исследования состояла в выявлении статистически достоверных различий в группах осужденных, впервые отбывающих наказание и ранее неоднократно судимых. В исследовании приняли участие 200 осужденных. Сравнивая различия в группах осужденных, автор отмечает их специфичность. В частности, высокие уровни темных конструктов были выявлены у группы неоднократно отбывающих наказание в местах лишения свободы. Наличие выраженных негативных личностных черт образуют единый глобальный индекс «темной личности». Шкалы «Темной триады», отражающие негативное личностное ядро позволяют быстро получить необходимые индексы и выявить механизмы функционирования осужденных, отбывающих наказание в исправительных учреждениях. Пенитенциарным психологам необходимо учитывать высокие показатели негативных конструктов с целью осуществления мероприятий психологического сопровождения осужденных на протяжении всего периода отбывания наказания.

Ключевые слова: темная триада, нарциссизм, психопатия, макиавеллизм, психологическое сопровождение, психологическое обеспечение воспитательного воздействия.

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Currently, every convicted person serving a sentence in a correctional institution has the right to receive psychological assistance. The organization of psychological support for convicts is implemented through a set of psychological and pedagogical measures aimed at improving the effectiveness of educational impact. An urgent problem is to conduct a qualitative study of convicts' personality, which will determine the totality of socio-psychological characteristics, views and values that are causes and conditions of existing behavior problems.

In recent years, there is a tendency to reduce the number of convicts serving sentences repeatedly: for the second, third time or more. However, at the same time, according to the census of convicts, the number of crimes committed for the first time has increased over the past 5 years. Today, a new generation of criminals gets into the institutions of the penal system, which is affected by the modern negative consequences of the last decades. The interrelated socio-psychological complex of various features that directly or indirectly caused the criminal behavior of the individual focuses on explaining the causes of the crime. Knowledge of psychological characteristics of the convicts' personality provides the necessary basis for individual corrective impact.

The use of psychodiagnostic methods should focus primarily on identifying the personality structure that defines its basic elements and stable aspects. When creating a personal profile of a convicted person, the prison psychologist analyzes the psychological characteristics that led to a violation of the normal functioning of the individual. The impact on the personality of a convicted person without taking into account their individual characteristics increases the psychotraumatic factors of isolation, roots the criminological characteristics of convicts, generates conflict situations and levels the quality of educational influence and correction of convicts.

The list of psychological methods used by prison psychologists includes the main diagnostic methods for determining the typological structure of the convict's personality (Minnesota Multiphasic Personality Inventory MMPI, California Psychological Inventory CPI, Multi-level personal questionnaire MPQ of A. G. Maklakova, characterological questionnaire of G. Eysencketc). However, at present there is a need for a high-quality and compact measuring tool that does not take much time for convicts and is easily included in sets of techniques. Developed in 2002 by canadian researchers Delra Paulhus and Kevin Williams, the "Dark Triad" questionnaire aims to measure the subclinical personality traits included in the so called "Dark Triad": narcissism, psychopathy, and machiavellianism. It is non-clinical psychological traits such as narcissism, psychopathy and machiavellianism that form a kind of complex of personality traits aimed at measuring the negative "dark" side of the convict's personality. The narcissism scale defines a stable long-term state of the individual, which arose on the basis of a distorted view of the individual about himself, and also characterizes the personal trait of his own unlimited and omnipotence. Psychopathy scale includes personality traits such as high impulsivity, thoughtlessness, a desire for risk and thrills, and low empathy for others. The machiavellian scale characterizes the general ability of an individual to manipulate behavior for personal purposes. Machiavellians are those who are more have a tendency to manipulate others, often without their knowledge, and achieve their own goals. In our opinion, the study of the dark sides of the convict's personality should provide an exhaustive answer to the main question of the prison psychologist: what is the "dark" type of convict's personality in front of us, as well as determine the further trajectory of psychological correction with him.

The penitentiary system is carrying out a huge amount of work aimed at finding effective ways of psychological and pedagogical influence on persons who have committed crimes, in order to correct them and prevent recidivism in the future. A significant difference

in approaches to personality correction is the formation of the attitude of convicts to law-abiding prosocial behavior of persons serving their sentences for the first time, as well as those serving their sentences repeatedly. The second group of convicts is characterized by exposure to criminogenic deformation, remoteness from legal ways of regulating relations between people. They are difficult to educate and change their own antisocial attitudes and traits.

The key task of this study was to identify statistically significant differences in the groups of convicts serving their sentences for the first time and those who had previously been convicted several times.200 convicts took part in this study. The survey included men serving their first sentence in a correctional colony, as well as persons serving their sentences repeatedly for crimes of varying severity (tables 1–2).

Further, to identify significant differences in the groups of convicted men, depending on the number of convictions, a comparative analysis was performed using the Student's t-test, the results of which are presented in table 3.

As a result of mathematical data processing, differences in the indicators "psychopathy" and "machiavellianism" were revealed. In both groups of convicts, according to the "Dark Triad" questionnaire, a low level of narcissism was found in 56% of convicts serving their sentences for the first time, while 48% of convicts repeatedly serving their sentences had a high level of narcissism. It can be assumed that narcissism as a stable long-term state is characteristic of antisocial individuals who tend to consider themselves leaders, demonstrate their own superiority and are difficult to adjust their own behavioral strategies. Narcissism is typical for people who are repeatedly serving sentences, since narcissistic strategies worsen volitional self-regulatory characteristics; therefore, there is no ability to critically analyze the consequences of their own behavior.

Subjects with a high level of psychopathy among the first-time offenders were 3%; while in the group of convicts repeatedly serving sentences, 45% of them have an average level of the psychopathy construct. In the dark triad, psychopathy is a symptom that begins with extreme versions of the "norm" and reaches a specific personality disorder (asocial or dissocial). Psychopathic individuals are characterized by high impulsivity, risk, and low interpersonal sensitivity. We can say that those who have repeatedly served their sentences have such traits as selfishness, heartlessness, and ruthlessness.

The number of subjects with a high level of machiavellianism was 12% of those convicted for the first time, which is significantly less than among those who were repeatedly convicted – 64 this is significantly less than the number of previously convicted persons – 64%. And to a lesser extent, convicted persons are repeatedly characterized by the ability to accept someone else's point of view, have a low degree of consciousness and personal responsibility.

M. S. Egorova (2009, p. 70) connects "high" machiavellianism with indicators of a dysfunctional personality, whose behavior is compensating, but not for the purpose of achieving power and leadership, but for the purpose of preserving the status of guo. It is assumed that people who repeatedly serve sentences are characterized by emotional coldness, lack of guilt, negativism and increased hostility. This may be due to reduced adaptation due to long-term stay in a correctional institution, well-established antisocial orientation and attitudes, or long-term exposure to the influence of the antisocial environment.

Thus, comparing the differences in the groups of convicts, we can note their specificity. In particular, high levels of dark constructs were identified among a group of repeatedly serving sentences in places of liberty deprivation. The presence of negative personality traits form a single global index of "dark personality". Scales of the "Dark triad" that reflect the negative personality core allow you to quickly get the necessary indices and identify the

Table 1

Results of descriptive statistics in the group of convicts serving their first sentence

Indicators of the "Dark Triad" method	Number of subjects	Average	Median	Mode	Min.	Max.	Standard deviation	Asymmetry	Excess
Narcissism	100	10,3800	10,0000	14,00000	3,0000	20,0000	4,268229	0,096825	-0,913240
Psychopathy	100	6,3800	6,0000	4,000000	3,0000	20,0000	3,080666	1,666589	3,263570
Machiavellianism	100	7,5200	6,0000	4,000000	4,0000	20,0000	4,162070	1,196936	0,686386

Table 2

Results of descriptive statistics in the group of convicts repeatedly serving their sentences

Indicators of the "Dark Triad" method	Number of subjects	Average	Median	Mode	Min.	Max.	Standard deviation	Asymmetry	Excess
Narcissism	100	9,320000	9,000000	4,000000	4,000000	20,00000	4,364411	0,543838	-0,468074
Psychopathy	100	8,030000	6,500000	4,000000	4,000000	20,00000	4,330897	1,051849	0,323026
Machiavellianism	100	9,030000	8,500000	4,000000	4,000000	20,00000	4,529265	0,600386	-0,463044

Table 3

Results of descriptive statistics in the group of convicts repeatedly serving their sentences

Indicators of the "Dark Triad" method	GC	GR	Student's t-test value	Significance level of the student's t-test
Narcissism	10,38000	9,320000	1,73640	0,824970
Psychopathy	6,38000	8,030000	-3,10453	0,000811
Machiavellianism	7,52000	9,030000	-2,45481	0,401686

Note. GC – group of convicts serving their first sentence, GR – group of repeatedly convicted persons.

mechanisms of functioning of convicts serving sentences in correctional institutions. Prison psychologists need to take into account the high rates of negative constructs in order to implement psychological support measures for convicts throughout the entire period of serving their sentences.

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LEGAL REGULATION OF THE INSTITUTION FOR CHANGING DETENTION CONDITIONS OF PERSONS DEPRIVED OF LIBERTY AT THE INTERNATIONAL LEVEL

ПРАВОВОЕ РЕГУЛИРОВАНИЕ ИНСТИТУТА ИЗМЕНЕНИЯ УСЛОВИЙ СОДЕРЖАНИЯ ЛИЦ, ЛИШЕННЫХ СВОБОДЫ, НА МЕЖДУНАРОДНОМ УРОВНЕ

Abstract. The article analyzes international standards in the field of changing the conditions of detention of persons sentenced to imprisonment. Proposals are made to optimize the Institute for changing the conditions of serving a prison sentence in the Republic of Belarus at the present stage. The analysis of international legal standards on the treatment of convicted persons (prisoners) allowed the author to draw the following conclusions. At the present stage of development, the international legal system is an independent, stable set of documents regulating legal relations in the penitentiary sphere. International standards in the field of imprisonment execution is clearly oriented States around the world to broaden the use of the progressive system of punishment is based precisely on changes of detention conditions and correctional institutions based on the behavior of the convicted person while serving a punishment. At the same time, it is pointed out that it is necessary to create conditions for expanding contacts with the outside world of persons serving sentences and maintaining their socially useful connections. The application of certain normative provisions of international standards in the process of changing the conditions of serving a sentence of liberty deprivation contributes to the achievement of the goals of criminal liability. Despite the advisory nature of the main part of international documents, the compilation of best practices and clarification of individual issues contributes to a uniform approach in law enforcement activity. In order to improve the efficiency of the penal system of the Republic of Belarus, it is rational to move from the recommendatory nature of the considered international standards to their mandatory implementation in law enforcement. This approach will definitely not entail significant material costs for the state, and the achieved results will undoubtedly contribute to improving the effectiveness of social adaptation and reintegration of convicts into society, strengthening the rule of law in correctional institutions and humanizing conditions of detention. The obtained conclusions can be used for further implementation of the

requirements of the Penal Code, as well as the Development Concept of organizations of the penitentiary system and medical and labor dispensaries of the Ministry of Internal Affairs of the Republic of Belarus.

Keywords: international standards, deprivation of liberty, convicted person, changes in the conditions of serving a sentence, the penal system, resocialization of convicts.

Аннотация. В статье осуществлен анализ международных стандартов в сфере изменения условий содержания осужденных к наказанию в виде лишения свободы. Вносятся предложения по оптимизации института изменения условий отбывания лишения свободы в Республики Беларусь на современном этапе. Анализ международно-правовых стандартов по вопросам обращения с осужденными (заключенными) позволил автору сделать следующие выводы. На современном этапе развития международная правовая система представляет собой самостоятельную, устойчивую совокупность документов, регламентирующих правоотношения в пенитенциарной сфере. Международные стандарты в сфере исполнения лишения свободы отчетливо ориентируют государства всего мира на расширение применения прогрессивной системы отбывания наказания, основывающейся именно на изменений условий содержания и вида исправительного учреждения исходя из поведения осужденного в период отбывания наказания. Одновременно указывается на необходимость создания условий для расширения контактов с внешним миром лиц, отбывающих наказания, и поддержания их социально полезных связей. Применение отдельных нормативных положений международных стандартов в процессе изменения условий отбывания наказания в виде лишения свободы способствует достижению целей уголовной ответственности. Несмотря на рекомендательный характер основной части международных документов, обобщение передовой практики и разъяснение отдельных вопросов способствует единообразному подходу в правоприменительной деятельности. В целях повышения эффективности функционирования уголовно-исполнительной системы Республики Беларусь рационально перейти от рекомендательного характера действия рассмотренных международных стандартов к их обязательной реализации в правоприменительной деятельности. Указанный подход определенно не повлечет за собой существенных материальных затрат для государства, а достигнутые при этом результаты, бесспорно, будут способствовать повышению эффективности социальной адаптации и реинтеграции осужденных в общество, укреплению правопорядка в исправительных учреждениях и гуманизации условий содержания. Полученные выводы могут быть использованы при дальнейшей реализации требований Уголовно-исполнительного кодекса, а также Концепции развития организаций уголовно-исполнительной системы и лечебно-трудовых профилакториев Министерства внутренних дел Республики Беларусь.

Ключевые слова: международные стандарты, лишение свободы, осужденный, изменений условий отбывания наказания, уголовно-исполнительная система, ресоциализация осужденных.

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The Republic of Belarus' membership in international organizations and participation in the development and adoption of international acts oblige it to bring its national legislation into line with the provisions of international conventions and treaties. The implementation of the provisions of international standards for the treatment of prisoners in the national legislation of the Republic of Belarus is carried out by taking these standards into account when forming various sources of penal law. Based on this, Article 3 of the Penal Code of the Republic of Belarus stipulates that penal legislation is based on generally recognized principles and norms of international law, international treaties relating to sentences execution and the treatment of convicted persons.

In jurisprudence, there are various types of international legal acts, the classification of which is based on certain criteria. In particular, international legal acts are divided into global and regional ones. Global standards are set by the United Nations, while regional standards are set by regional international organizations (for example, the Council of Europe). By specialization, international standards in this category are divided into general acts that are not intended specifically to regulate the treatment of prisoners, but contain separate standards related to the treatment of prisoners, and specialized acts that are intended to set out standards for the treatment of prisoners. According to the degree of obligation they are mandatory and recommendatory.

While further studying the issue of legal regulation of changes in the conditions of serving a prison sentence in international acts, we consider it appropriate to note that the International Pact on civil and political rights (hereinafter – the Pact) of 1966 can be considered as such. In particular, Part 3 of Article 10 of the Pact includes a provision providing for a regime for prisoners, the essential purpose of which is their correction and social reeducation. The content of this norm implies, among other things, the creation of various conditions for serving a sentence of liberty deprivation by changing them.

The revised United Nations Standard Minimum rules for the treatment of prisoners (the Nelson Mandela Rules), adopted by General Assembly Resolution 70/175 on 17.12.2015, are rightly considered to be the Central international instrument for sentences execution. Their fundamental basis is the principle of equality of all before the law and the inadmissibility of discrimination, as previously stated in the Universal Declaration of human rights (Article 6).

Rule 4 of the Pact on civil and political rights defines the goals of incarceration, which are primarily to protect society from criminals and reduce recidivism. These goals can only be achieved if the term of imprisonment is used, as far as possible, to ensure that such persons are reintegrated into society after their release, so that they can lead a law-abiding and independent life (Uzhakhov, A. S. 2018, p. 171).

In addition, Rule 37 of the Pact provides for mandatory legal regulation of such aspects as the use of restrictions on conditions of detention as a disciplinary penalty or to maintain order and security. Значение данной нормы заключается в минимизации рисков, связанных с отсутствием правового регулирования алгоритмов действий сотрудников пенитенциарных учреждениях в определенных ситуациях.

Rule 68 of the Pact refers to the right of every prisoner to immediately notify their family or any other person designated as a contact person of their transfer to another facility. At the same time, prisoners, who are being transferred, should be protected as much as possible from prying eyes and all measures should be taken to protect them from insults, curiosity and other types of publicity. This argument shows that the international community is taking certain measures to regulate the process of changing the conditions of serving a sentence by transferring a prisoner from one correctional institution to another.

Continuing the analysis of the legal regulation of changes in the conditions of serving a prison sentence in international acts, it should be noted that, it is rational to consider the requirement of Rule 85 of the Pact, according to which it is desirable that before the end of the sentence, measures should be taken to gradually return the prisoner to life in society. This goal can be achieved by introducing a special regime for released persons, either in the institution or by releasing prisoners on probation, during which they still remain under supervision, provided that supervision is not assigned to the police authorities and is combined with effective social assistance.

Rule 95 of the Pact provides for changing the conditions of serving a sentence in the direction of improving the legal situation based on the positive behavior of the prisoner. At the same time, it is specified that the application of benefits should be systematic, develop different methods of treatment depending on the category of prisoner and aim to promote good behavior, develop a sense of responsibility, instill in them an interest in their upbringing and cooperation with the institution's administration (Svinin, E. V. 2019, p. 149). Based on this, it can be concluded that the international document under consideration implies the creation of a mechanism for changing the degree of legal restrictions applied, depending on the behavior of the convicted person, being as an effective incentive to lawful behavior, thereby motivating the useful activity of the convicted person.

Thus, the Pact is a key international standard in the field of administration of justice, which determines the optimal strategy for the functioning of the penitentiary system developed by the world community, taking into account modern scientific and practical achievements. These Rules pay considerable attention to the issues of regulation and procedure for changing the conditions of serving a sentence. A number of states, guided by the Pact, successfully socialize former criminals, while achieving significant results. In the Republic of Belarus, this direction is just beginning to develop. At the same time, there is no doubt that it needs to be further improved. We believe that this will help reduce the level of crime in the country, increase the degree of protection of citizens from criminal attacks, and improve the legal culture of the population.

We consider it appropriate to analyze the institution of changing the conditions of a prison sentence serving, which is enshrined in the UN Standard Minimum rules for the administration of juvenile justice (the Beijing Rules). The significance of this document is determined by the fact that juvenile justice is an integral part of the national development mechanism of each country within the framework of comprehensive social justice, while contributing to the protection of youth and the maintenance of law and order in the state.

In accordance with Paragraph 29.1 of the Beijing rules, efforts must be made to use intermediate forms of work with prisoners, such as transfer to a low-security correctional facility, foster houses, day-care centers, and other similar appropriate forms that can contribute to the proper reintegration of minors into society. In this regard, the importance of custody after release from a correctional facility should not be underestimated. In this case, the need to create a network of institutions of an intermediate type is emphasized.

Evidence of the importance of the Institute for changing the conditions of juvenile convicts detention is the results of a dissertation study by E. Y. Biryukova, who analyzed the mechanism of social adaptation of minors in preferential conditions of serving sentences. According to her point of view, the creation of social rehabilitation sites in juvenile colonies (centers) with the organization of teenagers' living in conditions of semi-freedom allows, on the one hand, to consolidate the results of treatment and continue this work under the supervision of the administration, and with another – to provide a systematic return of the convict to life in society, and promote its labour and household arrangement after release from punishment (Biryukova, E. Yu. 2012, p. 174).

In addition, the author emphasizes the need to develop a variety of institutions and services designed to meet the various needs of young offenders returning to society, and to provide guidance and structural support as an important measure for their successful reintegration. The implementation of such tasks is aimed at creating an optimal system for gradually changing the degree of restrictions applied to convicted persons, taking into account the results of their correction.

At the same time, speaking about regional international acts that affect changes in the conditions of detention of convicts, as well as taking into account the possible prospects for the Republic of Belarus to join the Council of Europe, it seems appropriate to analyze the provisions of the European Prison Rules (hereinafter – EPR) amended on 11.01.2006, adopted by the decision of the 952nd meeting of the Committee of Ministers of the Council of Europe.

Based on Rule 17.2 of the EPR, when changing the type of correctional facility, the requirements for continuing criminal investigations and ensuring security should be taken into account, as well as the need to create an appropriate regime for all prisoners. In this regard, before the transfer of a convicted person, it is rational to study his opinion about the transfer from one penitentiary institution to another. This approach, we believe, will in the future create prerequisites for the restoration of socially useful relationships with close relatives and other persons, and will undoubtedly increase the effectiveness of the results of correction. At the same time, this is consistent with the norm set out in Rule 24.5 of the EPR, which implies that prison staff should, if possible, provide assistance to prisoners in order to maintain contact with the outside world.

The EPR also focuses on respect for the human dignity of convicts when changing the conditions of detention (Rule 18.1): compliance with the minimum room size per convict and the established temperature regime. In addition, Rule 18.8 provides for separate placement of certain categories of prisoners in the process of changing the conditions of serving a prison sentence by transferring them from one correctional institution to another. In this regard, Rule 49 of the EPR is of great interest, according to which the prison administration, regardless of the type of correctional facility and the regime established in it, is required to introduce internal regulations, taking into account the provision of prisoners with detention conditions that ensure human dignity.

Important is Rule 51.5, according to which the level of severity of the regime should be reviewed on a regular basis throughout the entire period of serving the sentence, and the prospects of being transferred to improved conditions of detention are a significant prerequisite for a lawful behavior of the convicted person.

Continuing the analysis of the EPR, it seems appropriate to note that Rule 103.6 considers as an integral element of the general regime for persons deprived of their liberty, the system of dismissal from penitentiary institutions. This rule builds on the ideas contained in the more detailed recommendation no. R 82 (16) of the Committee of Ministers regarding the recognition of the importance of prison vacations as a means of facilitating social reintegration. In addition, Rule 103.7 indicates that a comprehensive plan to change the detention conditions of convicted persons by providing them with regular vacations is part of the general regime of detention.

In our opinion, it is rational to include this norm as an additional provision of the individual correctional program provided for in the Instruction on the procedure for organizing and conducting educational work with those sentenced to penalties of arrest and imprisonment, approved by the Order of the MIA of the Republic of Belarus No. 572 of December 30, 2016.

Of practical interest is Rule 104.1 of the EPR, which establishes the use of different types of penitentiary institutions or the

creation of separate sections on the territory of the institution for specific categories of prisoners. (Savushkin, S. M. 2013, p. 259). In this regard, the process of drawing up and regularly reviewing individual plans for serving sentences by prisoners should be regulated at the legislative level. We recommend taking into account the opinion of employees from the administration of the institution who directly worked with the convict (heads of detachments, operational workers, inspectors of the security department, psychologists) in the process of carrying out this activity.

The above suggests that the EPR has a positive impact on the development of the Penal legislation of the Republic of Belarus in general and on the differentiation of persons sentenced to imprisonment in particular. Moreover, the implementation of certain standards of the EPR will contribute to the implementation of the Development Concept of the penal system's organizations, medical and labor dispensaries of the MIA of the Republic of Belarus.

Undoubtedly, the analysis of international legal standards on the treatment of convicts (prisoners) allows us to come to the conclusion that at the present stage of development, the international legal system is an independent, stable set of documents regulating legal relations in the penitentiary sphere. These provisions do not cover all the issues related to changing the conditions of serving a sentence of imprisonment. However, their further research will undoubtedly be of significant importance both in scientific and practical terms.

Thus, having analyzed the international penitentiary standards and summarizing the study of the issue of fixing the institution of changing the conditions of serving a sentence in the form of imprisonment in them, we believe it is possible to formulate the following conclusions.

1. International standards in the field of imprisonment execution is clearly oriented states around the world to broaden the use of the progressive system of punishment, which is based precisely on changed conditions of detention and correctional institutions, based on the behavior of the convicted person while serving a punishment. At the same time, it is pointed out that it is necessary to create conditions for expanding contacts with the outside world for persons serving sentences and maintaining their socially useful connections.

2. The application of certain normative provisions of international standards in the process of changing the conditions of serving a sentence of imprisonment contributes to the achievement of the goals of criminal liability. Despite the advisory nature of the main part of international documents, the compilation of best practices and clarification of individual issues contributes to a uniform approach in law enforcement activity.

3. In order to improve the efficiency of the penal system of Belarus, it is rational to move from the recommendatory nature of the international standards considered to their mandatory implementation in law enforcement activity. This approach will definitely not entail significant material costs for the state, and the achieved results will undoubtedly contribute to improving the effectiveness of social adaptation and reintegration of convicts into society, strengthening the rule of law in correctional institutions and humanizing conditions of detention.

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PROBLEMS OF CRIMINAL LIABILITY AND EXECUTION OF CERTAIN TYPES OF CRIMINAL PENALTIES UNDER THE NEW LEGISLATION OF THE KYRGYZ REPUBLIC

ПРОБЛЕМЫ УГОЛОВНОЙ ОТВЕТСТВЕННОСТИ И ИСПОЛНЕНИЯ ОТДЕЛЬНЫХ ВИДОВ УГОЛОВНЫХ НАКАЗАНИЙ ПО НОВОМУ ЗАКОНОДАТЕЛЬСТВУ КЫРГЫЗСКОЙ РЕСПУБЛИКИ

Abstract. As part of measures to improve the justice system and the legal system in the Kyrgyz Republic, the President's decree No. 147 (adopted on 08.08.2013) and the decisions of the Council on judicial reform established an expert working group to develop new criminal and civil laws. After four years of work, the new Code on offences, the Code of violations, the Penal Code and other "related" laws were adopted simultaneously with the new Criminal and Criminal-procedural Codes, which allows us to see the scale of changes in the legal system of the Kyrgyz Republic. In parallel, measures are being taken to reform the judicial system and law enforcement agencies. New codes have introduced rules and institutions that cannot be analyzed in detail in a single article. In addition, for almost a year and a half, training of practical employees of law enforcement agencies and courts has been organized for the full and high-quality implementation of these institutions and rules, automated systems, separate structures and services are being created, which are equipped with appropriate equipment and office equipment. For this reason, the author considers it premature to draw any conclusions about the effectiveness of the ongoing reforms, since technical errors and gaps in the new codes are still being corrected, regulatory legal acts are being brought into line, and new regulations and instructions are being developed. This article attempts to give a brief general description of the reform of the criminal law direction, primarily the norms related to criminal liability under the new legislation of the Kyrgyz Republic.

Keywords: Kyrgyz Republic, crimes, offences, violations, probation Institute, criminal law measures, life imprisonment.

Аннотация. В рамках мер по совершенствованию правосудия, правовой системы в целом в Кыргызской Республике указом Президента Кыргызской Республики от 8 августа 2013 г. № 147 и решениями Совета по судебной реформе была образована экспертная рабочая группа по разработке новых законов уголовно-правового и гражданско-правового направления. По истечении четырехлетней работы одновременно с новыми Уголовным и Уголовно-процессуальным кодексами были приняты новые Кодексы о проступках, Кодекс о нарушениях, Уголовно-исполнительный кодекс и другие «родственные» с ними законы, что позволяет увидеть масштабность преобразований правовой системы Кыргызской Республики. Параллельно предпринимаются меры по реформированию судебной системы, правоохранительных органов. В новых кодексах были введены правила и институты, подробно проанализировать в рамках одной статье невозможно. Кроме того, почти полтора года для полноценной и качественной реализации указанных институтов и правил организовано обучение практических работников правоохранительных органов, судов, создаются автоматизированные системы, отдельные структуры и службы, которые оснащаются соответствующими оборудованием и оргтехникой. В силу этого в настоящее время делать какие-то выводы об эффективности проводимых реформ автор считает преждевременным, поскольку до сих пор исправляются технические погрешности и пробелы новых кодексов, приводятся в соответствие нормативные правовые акты, разрабатываются новые положения и инструкции. В данной статье предпринята попытка в лаконичной форме дать краткую общую характеристику реформы уголовно-правового направления, в первую очередь норм, связанных с уголовно-правовой ответственностью по новому законодательству Кыргызской Республики.

Ключевые слова: Кыргызская Республика, преступления, проступки, нарушения, институт пробации, уголовно-правовые меры воздействия, пожизненное лишение свободы.

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As part of measures to improve the justice system and the legal system in the Kyrgyz Republic, the President's decree No. 147 (adopted on 08.08.2013) and the decisions of the Council on judicial reform established an expert working group to develop new criminal and civil laws. After four years of work, the expert working group developed and simultaneously adopted the new Criminal and Criminal-procedural Codes, the new Code of offences, the Code of violations, the Penal Code and other "related" laws, which allows us to see the scale of changes in the legal system of the Kyrgyz Republic. When developing the new Criminal code of the Kyrgyz Republic (the CC of the KR) and other codes of the criminal law cycle, the main direction was determined by the idea of humanizing justice, moving away from repressive measures of criminal law influence, developing and implementing new institutions and mechanisms of influence on convicts in order to correct them, resocialize and then reintegrate into society. Priority tasks in the development of a criminal law should include: 1) optimization of criminal liability; 2) a new approach to the nature of administrative responsibility; 3) the decriminalization and depenalization acts; 4) the reform of system and types of punishments (gradation of all types of sentences for criminal law violations); 5) introduction to the CC of the KR of criminal law measures (security measures); 6) the introduction of the institution of probation; 7) establishment of criminal liability for legal entities.

Optimization of criminal liability

To this end, criminal offences have been excluded from the Criminal Code, which have been codified in a separate Code of offences; these are mostly minor offences. In view of the fact that the responsibility of officials for administrative violations will be regulated by an independent law on administrative procedures, there is a problem of placing the remaining administrative offenses committed by private (non-official) persons in the existing system of legislation.

At the same time, the developers of the draft laws proceeded from the position that the nature of administrative responsibility is the responsibility of an official for his actions before citizens and society. These are claims of individuals against officials of state or municipal bodies for their illegal actions or decisions, which have a shade of administrative and legal responsibility. The nature of other offences committed by private or legal persons is criminal law, and the nature of former administrative offences is also criminal law. All this predetermined their fate, and they were classified as acts of a criminal nature. However, due to the fact that the harm caused by a person is insignificant, it was decided to classify the rest of the administrative offenses as simple violations, that is, there was another new code – the so-called Code of violations. In this regard, we can speak about criminal legal relations in both the broad and narrow sense of the word.

Decriminalization of acts in the CC of the KR

In the current CC of the KR, there were rules on acts that were recognized as criminally punishable, criminal, although by their nature they can be attributed to civil law relations. In the process of preparing the draft of the new CC of the KR, these norms were excluded. Examples include acts such as illegal use of a trademark, illegal actions in bankruptcy, and so on. The remaining acts are classified as misdemeanors and are grouped in the Code of offences of the Kyrgyz Republic. It is assumed that the person brought to justice for an offence will not have a criminal record, since the Code of offences provides for non-custodial penalties. For the most part, penalties and community service are provided.

Depenalization of acts in the CC of the KR

An important place in the process of criminal code reform belongs to the depenalization of acts. It is no secret that the current CC of the KR is highly repressive both in terms of prison sentence and in the regime of execution of this

type of punishment. From now on, the regime of serving sentences will be determined not by the court, but by a special Commission under the State penitentiary service under the government of the Kyrgyz Republic, which includes both representatives of state bodies and the public. In connection with the preparation of the new CC of the KR and the associated Code of offences, many institutions of criminal law have undergone changes. In particular, this is the rejection of the institution of criminal records and the concept of repeat crimes. It is proposed to abandon the institution of criminal record as a qualifying feature of certain elements of crimes for the following reasons:

– any person is responsible only for what he/she have done (crime, offence, violation), and not for the fact that he/she is "a bad person who did not take the path of correction";

– the presence of a criminal record indicates an objective imputation.

In conditions when the reform of criminal legislation is covered by the division of acts into crimes, offences, violations, all sense and logic in the existence of this institution is lost, since the criminal record for both misdemeanors and violations is excluded. However, it should be borne in mind that the criminal record of a person for a crime has consequences, that is, it is also associated with other legal restrictions, for example, in the field of holding certain positions or professional activities. For these and other cases, it is planned to develop a draft Law of the Kyrgyz Republic "on the criminal record register". These are cases when a database of convicted persons is created, including persons released from criminal liability or punishment, persons who have been subjected to probation supervision or other measures of criminal law influence. Currently, this accounting is carried out by the Information center of the Ministry of Internal Affairs of the Kyrgyz Republic (for which scanning and digitization of archival materials are carried out).

In this situation, the Institute of recidivism also loses its meaning. And in the current code, it is blurred and difficult to understand. Recognition of a person as a recidivist contradicts the general concept of the new judicial and legal policy, which is based on the norms of the new codes. First, it contradicts the principle of equality of all before the law, including regardless of whether the person has committed crimes in the past. Secondly, this is contrary to the principle of justice, since no one can be criminally liable again for a crime for which they have already been convicted on the basis of a court verdict. Third, it contradicts the purpose of punishment. Recognizing a person as a recidivist deprives them of the incentive to return to normal society and makes them an outcast from society. In accordance with the norms of the Penal Code of the Kyrgyz Republic, in order to reduce the stigmatization of convicts both while serving their sentences and after their release, it is proposed to develop a separate state-scale program and assign responsibility for conducting targeted work in this direction to individual services and divisions of the penitentiary service. However, this does not mean the complete loss of the institution of criminal record and recidivism. They are specified in the Penal Code and are used in determining, for example, the place and regime of serving a sentence by a person previously convicted for committing a crime.

Introduction of a new probation Institute

Probation is applied by a court verdict when imposing a sentence of imprisonment for a term not exceeding five years, while taking into account the identity of the perpetrator, which is fully studied by the probation service within a month, his consent to the use of probation supervision, as well as other circumstances of the case. The basis for passing a sentence without punishment or release from it with the use of probation supervision is the conclusion of the probation authorities in the form of a probation report, the content of which includes: a socio-psychological portrait of the accused; data on the social and living conditions of residence; the circumstances and motives for committing a crime by a person, as well as

conclusions about the possibility (impossibility) of applying probation supervision in relation to a specific accused for committing a less serious crime. At the same time, the court takes into account only the recommendations contained in the probation report, and when passing a sentence, it must take into account all the circumstances to be proved in each criminal case, the grounds and conditions for applying probation (Article 83 of the CC of the KR). Since 01.09.2019, the probation service has been established, which is under the jurisdiction of the Ministry of justice of the Kyrgyz Republic.

Introduction of security measures in the CC of the KR

In recent years, the society has come to the conclusion that it is necessary to find new measures to influence crime and delinquency. Based on the generalization of international experience, as well as on the experience of Kyrgyzstan in combating crime, the new Criminal Code provides for Chapter 16 "Other compulsory measures of criminal law impact (security measures)". These means are somewhat similar to punishment, since they are compulsory in nature and are associated with certain legal restrictions aimed at deterring a person from committing a crime. Within the framework of these measures, the goals of preventing criminal acts, compensating for caused damage and restoring damage from criminal acts are implemented (Kulbaev, A. K. 2018, p. 175). However, these coercive means of criminal and legal impact cannot be considered as punishment, since they are not included in system of punishments, not provided for in the sanctions of articles of the Special part of the Criminal Code. Created to provide a special warning, these means are applied by the court along with the punishment for any crime and only in cases where the court considers it necessary. Such compulsory means of criminal law influence include: a) confiscation of property (articles 94–96 of the CC of the KR); б) compensation for material or moral damage for the committed crime (article 97 of the CC of the KR); в) expulsion from the Kyrgyz Republic (articles 98 the CC of the KR).

Measures of criminal-legal influence concerning legal entities

The court may apply the following types of compulsory measures of criminal law influence to a legal entity: a) fine; b) restriction of rights; c) liquidation of a legal entity. It should be noted that such measures of influence are applied if the crime is committed by an individual on behalf of or through a legal entity, in the interests of that legal entity, regardless of whether such an individual is criminally liable (part 2 article 123 the CC of the KR). This is quite consistent with the principle of personal culpability enshrined in the new CC of the KR, and does not break its structure. Criminal measures are applied to a legal entity not for every crime, but for the commission of official crimes or crimes against the procedure for carrying out economic activities.

Life imprisonment

The new criminal legislation of the Kyrgyz Republic has changed the focus in the fight against crime, differentiated and significantly humanized penalties, accompanied by the possibility of applying more lenient measures of criminal law impact on the perpetrator. At the same time, criminal repression has been strengthened for certain types of crimes, and the means and opportunities for reeducation and resocialization of the convicted person have been leveled. All these issues are directly related to the most severe measure of criminal punishment under the legislation of the Kyrgyz Republic – life imprisonment. In the Kyrgyz Republic, life imprisonment, introduced in the criminal code in 1998, was applied for the commission by a person of such particularly serious crimes as murder, rape of a minor, assault on the life of a statesman, a justice officer or law enforcement agency, and genocide, and was also imposed by a court on the totality of these crimes.

To date, prisoners sentenced to life imprisonment are serving sentences in special regime correctional colonies, as well as persons

whose life imprisonment has been commuted to 20 years imprisonment by way of a pardon (part 7 article 73 of the PC of the KR). Under these conditions, 347 convicts are serving their sentences, 172 of which were previously sentenced to death and their sentence was commuted to life imprisonment in 2007. The majority of persons serving sentences are convicted persons at the age of 30 to 60 years (84%), and there are also persons over 60 years of age (16 in total). As the article-by-article analysis of crimes for which the courts imposed a sentence of life imprisonment shows, the main part of them is murder (94.0%), and only 6%, that is, 19 people, rape committed against minors. Because of this, it is clearly possible to consider the sentences and penalties against them fair, and the negative attitude of a certain part of society to them is adequate. In this regard, none of the petitions sent to the Commission for clemency received a positive decision on any application, all of them were rejected in the period from 2011 to 2020 (a total of 37 convicts filed such petitions). In accordance with part 2 and 3 of article 93 of the CC of the KR, a person sentenced to life imprisonment with a repeated request for clemency with the replacement of the sentence with deprivation of liberty can declare in the absence of new, noteworthy circumstances only after 10 years.

Since all persons sentenced to life imprisonment are convicted of committing particularly serious crimes against the person and pose a danger both to the employees who protect, supervise and control them, and to the entire society, all of them are on the preventive register, and certain individual preventive, educational and psychological work is carried out with them.

At the beginning of 2020, 65% of those serving sentences in conditions of life imprisonment officially filed statements about non-compliance of the established rules in the CC of the KR, the PC of the KR with the norms of international law. In their opinion, with the adoption of new laws and codified acts of criminal law, not only penalty has been tightened, but there are no provisions for the correction and resocialization of convicted persons to life imprisonment. In addition, one of the main demands of the convicts was to review their criminal cases in accordance with the new legislation of the Kyrgyz Republic.

However, all submissions on the review of criminal cases under the rules of the new Criminal, Criminal-procedural and Penal Codes of the Kyrgyz Republic in relation to those sentenced to life imprisonment were left without consideration by the courts, with reference to Part 15 of Article 7 of the law of the Kyrgyz Republic (adopted on 24.01.2017) № 10 “About introduction in action of the Criminal Code of the Kyrgyz Republic, the Criminal-procedural Code of the Kyrgyz Republic, the Penal Code of the Kyrgyz Republic, Code on offences of the Kyrgyz Republic and the Law of the Kyrgyz Republic “About amnesty and its applications””, since the new criminal law provides for a criminal penalty of life imprisonment for the same criminal act.

However, in accordance with Article 3 of the CC of the KR, one of the goals of criminal punishment is to create conditions for the correction and resocialization of convicts, including for persons sentenced to life imprisonment. At the same time, in accordance with Article 69 of the CC of the KR of 1998, those sentenced to life imprisonment had the possibility of parole. The Criminal and Penal Codes of the Kyrgyz Republic of 2017 exclude this possibility, thus minimizing the chances of those sentenced to life imprisonment for parole. Taking into account the direction chosen by the state in the direction of humanizing the penal legislation in the framework of judicial and legal reform, from the point of view of rehabilitation and resocialization, it seems correct to conclude that those sentenced to life imprisonment should have chance for: parole; frequent meetings with close people; access to better conditions of detention with good behavior. All these factors, as it seems to us, are the main motivating factors for

convicts, which contribute to their correction, reeducation, and also serve to preserve their human qualities while serving their sentence.

In order to resolve issues according to strict execution of court sentences to life imprisonment, bearing in mind the principles of humanism and to achieve the main objectives of criminal punishment, reeducation, resocialization and reintegration of prisoners, we consider it necessary to make appropriate changes to the PC of the KR and the CC of the KR.

At the same time, measures are being taken to reform the judicial system and law enforcement agencies, which structurally ensure the implementation of the normative setting in the new codes. The new CPC and PC of the KR have introduced rules and institutions that cannot be described in detail in a single article. For almost a year and a half, training of law enforcement and court practitioners has been organized for the full-fledged and high-quality implementation of new institutions and rules; new automated systems, separate structures and services are being created, which are equipped with appropriate equipment and office equipment. Therefore, we consider it premature to draw any conclusions at the moment, since technical errors and gaps in the new codes are still being corrected, regulatory legal acts are being brought into line, and new regulations and instructions are being developed. This article is only an attempt to give a brief general description of the reform of the criminal law direction, primarily the norms related to criminal liability under the new legislation of the Kyrgyz Republic.

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THE NEED TO SWITCH TO A NEW MODEL OF SENTENCES EXECUTION IN THE REPUBLIC OF KAZAKHSTAN AS A MODERN REQUIREMENT

НЕОБХОДИМОСТЬ ПЕРЕХОДА НА НОВУЮ МОДЕЛЬ ИСПОЛНЕНИЯ НАКАЗАНИЯ В РЕСПУБЛИКЕ КАЗАХСТАН КАК ТРЕБОВАНИЕ СОВРЕМЕННОСТИ

Abstract. Currently, the system of sentences execution in the Republic of Kazakhstan does not correspond to the realities of modern times and needs to be reformed. This fact is confirmed by penitentiary practitioners and scientists. The system of punishment execution does not provide for the correction of convicts and their subsequent resocialization. Instead, it has become a punitive tool for those who are punished for criminal offenses. As a result, instead of returning a person to society, which is the goal of criminal, penal legislation and justice, the system of punishment execution, on the contrary, alienates convicts, turning them into outcasts and eternal “enemies” of justice. At the same time, significant amounts of money are allocated from the state budget for the implementation of these negative functions. According to prisoners serving sentences, and especially the former prisoners, the penal system continues to be punitive, harsh, and sometimes violent in nature. Instead of the creation, education of prisoners, it carries out the function of providing a strict isolation of convicts, making it impossible to maintain contact with the outside world and breaking all contact with the past life, thus creating new social problems, which the state has to solve. The crisis in the penal system is compounded by the negative assessment of the entire system of punishment execution by civil society. In the article, the author examines the existing problems in the system of punishment execution in the Republic of Kazakhstan and justifies the need to switch to a new model of punishment execution. The author offers an approximate model of the new system of punishment execution. Specific proposals are formulated to improve the legal and organizational issues of the system of punishment execution.

Keywords: system of punishments execution, penal law, convicted person, regime of detention, correctional institution, parole.

Аннотация. В настоящее время система исполнения наказания в Республике Казахстан не соответствует реалиям современности и нуждается в рефор-

мировании. Данный факт находит подтверждение у практических работников и ученых-пенитенциаристов. Система исполнения наказания не обеспечивает исправления осужденных и их последующую ресоциализацию. Вместо этого она превратилась в карательный инструмент для лиц, наказанных за совершенные уголовные правонарушения. В итоге вместо возвращения человека в общество, на что направлено уголовное, уголовно-исполнительное законодательство и правосудие, система исполнения наказания напротив отдаляет от себя осужденных, превращая последних в изгоев и вечных «врагов» правосудия. При этом на реализацию отмеченных негативных функций из государственного бюджета выделяются значительные денежные суммы. По отзывам отбывающих наказание осужденных и особенно бывших осужденных, система исполнения наказаний продолжает носить, карательный, жесткий, а порой и жестокий характер, вместо созидания, воспитания и исправления осужденных, осуществлять функции по обеспечению строжайшей изоляции последних, лишая возможности осужденных поддерживать связь с внешним миром и разрывая все их контакты с прошлой жизнью на свободе, тем самым создавая новые социальные проблемы, устранять которые приходится государству. Кризис в уголовно-исполнительной системе усугубляется негативной оценкой гражданским обществом всей системы исполнения наказания. В статье автор рассматривает имеющиеся проблемы в системе исполнения наказания Республики Казахстан и обосновывает необходимость перехода на новую модель исполнения наказания. Автором предложена примерная модель новой системы исполнения наказания. Сформулированы конкретные предложения по совершенствованию правовых, организационных вопросов системы исполнения наказания.

Ключевые слова: система исполнения наказаний, уголовно-исполнительное право, осужденный, режим содержания, исправительное учреждение, условно-досрочное освобождение.

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The execution of sentences, as an important component and final stage of the entire law enforcement process, needs to be radically rethought and improved. This is a very important task for the state due to the following circumstances:

first, the nature of the criminal penalty itself determines the provision of state coercion in relation to those convicted under a court sentence ("Punishment is a measure of state coercion imposed by a court verdict. The penalty is applied to a person found guilty of committing a criminal offense and consists in the deprivation or restriction of the rights and freedoms of this person provided for in this Code" (*Criminal code of the Republic of Kazakhstan: a practical guide* 2020, p. 37));

secondly, it is necessary to implement all the goals of criminal punishment stipulated in Article 39 of the Criminal Code of the Republic of Kazakhstan ("The penalty is applied for the purpose of restoring social justice, as well as correcting the convicted person and preventing the commission of new criminal offenses by both the convicted person and other persons. Punishment is not intended to cause physical suffering or to degrade human dignity") (*Criminal code of the Republic of Kazakhstan: a practical guide* 2020, p. 37);

third, citizens who stumble through carelessness or intentionally should return to society from the "embrace" of the criminal world;

fourthly, it is necessary to create favorable conditions for social adaptation and resocialization of former convicts and to provide them with post-penitentiary care, probation control of various types by the state until the convicts fully return to normal life (Shnarbaev, B. K. & Mizanbaev, A. E. 2016, p. 19).

Assessment of the current situation in the system of sentences execution

Today, it has become clear to practitioners, scientists, specialists, and the entire society that the system of punishment execution in the Republic of Kazakhstan that has been established for many decades does not correspond to the realities of our time and needs to be radically changed. So, instead of convicted persons' correction and their subsequent resocialization, the system of punishment execution has become a punitive tool for persons punished for criminal offenses. Instead of returning the convicted person into society, what is the purpose of our criminal, penal law and justice system of punishments execution, on the contrary, with the help of the state, which contains a system of punishment, alienates convicts, turning them into outcasts and the eternal enemies of justice. At the same time, significant amounts of money are allocated from the state budget for the implementation of these negative functions.

Despite the attempts made by the state to change and improve the system of execution of punishments, as practice shows, it is not yet possible. A convicted person, after serving his sentence, becomes not better, but worse. This happens, unfortunately, with the direct and active participation of the employees of the penal system and under the influence of the system of sentences execution itself, as well as various factors in the creation of which we are actively involved.

According to prisoners serving sentences, and especially the former prisoners, the penal system continues to be punitive, harsh, and sometimes violent in nature. Instead of the creation, education of prisoners, it carries out the function of providing a strict isolation of convicts, making it impossible to maintain contact with the outside world and breaking all contact with the past life, thus creating new social problems, which the state has to solve. The exception is food for convicts, which was organized at the highest level in the Republic of Kazakhstan, within the framework of international standards. Now the approved daily food standards for convicts are more than twice the daily food standards for conscripts or cadets of departmental educational institutions of the Ministry of Internal Affairs of the Republic of Kazakhstan.

The crisis in the penal system is compounded by the negative assessment of the entire system of punishment execution by civil society. The state of sentences execution causes fair criticism in the media, which contributes to the formation of a negative attitude of civil society not only to the system of sentences execution, but also in general to all law enforcement agencies and the state. Thus, it is not uncommon for high-profile publications in the media about violations of legal norms committed by individual employees of the penal system. There is a significant increase in the activity of non-governmental law enforcement organizations in resolving problematic issues in sentences execution.

We believe that it is necessary to ensure that the system of punishment execution meets the requirements of modern times and is based on civil society itself, and that all the goals of punishment set out in criminal legislation are implemented in the process of punishment execution. At the same time, the convict would be grateful and useful to perceive the entire correctional process carried out against him.

The entire system of sentences execution needs to be rethought

The current state of the penal system is characterized by limited opportunities in the organization of coverage of the entire contingent of convicts with highly paid work. As the practice of punishment execution shows, only 25–30% of convicts are covered by labor, the average salary of which is in the range of 10–15 thousand tenge. The rest of the convicts do not have the opportunity to be involved in labor.

The entire system of sentences execution should be reviewed, and only convicts who have committed serious and especially serious crimes should be placed in strict isolation. On the contrary, it is necessary to soften the detention regime for those convicted for minor and moderate crimes as much as possible. The content of sentences execution requires changes. For example, minimum- and medium-security institutions, especially medium-security institutions for juveniles, should be transformed into rehabilitation centers with modern infrastructure, dormitories, educational, industrial, and sports facilities, eliminating strict isolation, high fences, and bars. The local administration will also work closely with such centers. The main task of sentences execution in these rehabilitation centers will not be associated with strict isolation and strict regulation of the internal daily routine of convicts, but only with the restriction of any movement of convicts without outside control.

At the plenary session of the IV International penitentiary forum "Crime, punishment, correction" (Ryazan, November 20–22, 2019), a well-known Russian scientist V. A. Utkin spoke quite convincingly about new approaches to scientific support of a new concept of the penal system's development as an ideology of its modernization. His ideas deserve attention and support, with the exception of one expressed position on the negative assessment of "judgments about the further humanization of the penal system" (*IV international penitentiary forum "Crime, punishment, correction" (to the 140th anniversary of the Russian penal system and the 85th anniversary of the Academy of the FPS of Russia): collection of speeches and reports of participants (Ryazan, November 20–22, 2019)* 2019, pp. 107-111). It seems to us that it is the further humanization of the penal system that should form the basis for reforming the system of sentences execution. In support of this position, we will cite the words of academician V. N. Kudryavtsev that one of the paradoxes of isolating people in places of detention is that they commit new crimes in these places, sometimes no less serious. This fact, according to the quoted scientist, once again indicates the ineffectiveness of convicts' correction by isolating them from society (Kudryavtsev, V. N. 2003, p. 162). Further, V. N. Kudryavtsev points out that the strategy of convicts isolation from society is becoming obsolete (Kudryavtsev, V. N. 2003, p. 169). Thus, we will be able to destroy the system

of punishment execution that has developed over the years and is economically costly for the budget and does not benefit society, which generates a criminal subculture and other negative social consequences.

Strengthening and improvement of the existing material base of the penal system's institutions

The state of the material base of penal institutions is morally and materially outdated and needs to be updated. The standard provision for each type of penitentiary system's institutions, defined in Article 89 of the Criminal Code of the Republic of Kazakhstan, needs to be developed and approved at the government level, taking into account foreign experience (institutions of minimum, medium security, medium security for juveniles, maximum, emergency, full, mixed security (*Penal Code of the Republic of Kazakhstan: practical guide* 2019, p. 4)). In addition, it would be advisable to convert the prison, who were convicted for crimes of medium gravity, in a typical dwelling (no high fence, gratings and barbed wire), but with effective control systems, and institutions of maximum, emergency and complete security should be further strengthened with regime controls, so that there is a difference not only in the new form of institutions types of the penitentiary system, but also in the content.

It is a question of indulgences concerning the persons convicted for crimes of minor and moderate gravity. At the same time, we support further tightening of the detention regime for those convicted for serious and especially serious crimes. This will not only increase the effectiveness of sentences execution, but also progressively destroy the criminal subculture. It is also necessary to provide for various new forms of sentences execution for different categories of convicts.

Formation of new industrial relations

It is necessary to radically change the existing system of industrial relations so that it is flexible, useful, profitable and benefits all parties to such relations. The penitentiary system should start using the advantages of the market economy (the ability to make profits and superprofits and use them for the benefit of convicts), create in correctional institutions, according to the experience of the former USSR, a powerful and efficient production that allows convicts to work and earn money. At the same time, they will not only pay for their maintenance, but also make a profit for the state budget.

It is necessary to establish preferential taxation or completely exempt from taxes all types of production available in the system of sentences execution both in isolation and outside of correctional institutions, to provide paid work for all convicts, since the lack of employment among them is the main cause of most of the incidents that occur in institutions of the penal system.

It would be advisable to link the system of industrial relations with a progressive system of sentences execution, as well as with the conditions of parole, which would have a positive impact on effectiveness of the goals implementation of criminal punishment. For example, a good work record could reduce imposed sentences, allow for additional visits, and provide other incentives and stimulus.

Trends in the development of modern criminal policy require the expansion of other measures of criminal law and penal influence in the framework of restorative justice development. So, those convicted of economic or corruption crimes should not be placed in general correctional institutions to be "eaten" by criminal elements or corrupt employees of the penal system, but sent to serve their sentences for the entire established period in some abandoned village, in order to give them the opportunity to legally create favorable conditions for home improvement and generally strengthen the infrastructure of rural areas. With this approach, the convict himself will be satisfied, there will be a great benefit for the chosen village, and most importantly, the humanity of criminal legislation will be ensured and the goals of criminal punishment will be fully implemented.

Interesting in theory and useful in practice is the proposal of a theoretical model of Russian scientists under the scientific guidance of the Honored scientist of the Russian Federation, Sc.D (Law), Professor V. I. Seliverstov on the organization of serving prison sentences for economic and official crimes. The essence of which is to create specialized correctional institutions for convicts sentenced for economic and official crimes. (Seliverstov, V. I. (ed.) 2019, p. 53). Based on the above, we consider it appropriate to propose to the Committee of the MIA of the Republic of Kazakhstan to convert correctional institutions into specialized institutions for serving sentences for economic and official crimes, for terrorist and extremist crimes, etc. without any additional costs. Moreover, the practice of creating specialized correctional institutions for convicted former law enforcement officers is already available.

Revision of the form of convicts' education

The existing system of education in institutions of the penal system does not meet the requirements. Training should be considered according to part 1 of Article 7 of the PC of the RK as one of the important means of convicts' correction as a primary, basic secondary, general secondary, technical and vocational education (*Penal Code of the Republic of Kazakhstan: a practical guide* 2019, p. 13), which, unfortunately, is not given due attention now, and education is the most important factor of convicts' correction. Education, in our opinion, should become an effective means of convicts' correction, creating favorable conditions for training, upbringing, correction and subsequent adaptation of convicts to life in freedom. For example, it is possible to provide a targeted allocation of grants by the Ministry of education and science of RK for training of convicts according to requests of regional penal systems or of the Committee of the penal system of the Ministry of Internal Affairs, scholarships to students etc. Thus, the training of convicts in correctional institutions will turn into a form of mandatory socially useful work, since studying in a correctional institution; the convict will benefit not only himself, but also society as a whole.

Formation of new relationships in the process of punishment execution

In the system of punishment execution, the mandatory nature of the method of legal regulation was developed. Since punishment is a measure of state coercion, its execution determines the nature of the method of legal regulation – an imperative method that assumes inequality of subjects of legal relations (the "power-subordination" method (Anisimkov, V. M. & Seliverstov, V. I. (eds) 2008, p. 14)). At the same time, it should be remembered that the priority of the state is to ensure the rights, freedoms and legitimate interests of a person. This requirement also applies to convicts who are part of Kazakhstan's society. For this reason, along with compulsory measures, the legislation provides for other ways to influence convicts.

It is necessary to create departments (groups) for working on the problems of convicts in the institutions of the penitentiary system, which would assist convicts in restoring their violated legal rights and interests. Unfortunately, we have plenty of examples of unjustified convictions of innocent people for long terms of imprisonment. This approach would make it possible to transform the relations of employees of penal institutions with convicts from antagonistic to allied, which will certainly affect both the behavior of convicts and their attitude to the system of punishment execution and justice.

Revision of the existing ratio of criminal and penal legislation of the Republic of Kazakhstan

Today, there is no doubt about the independence of penal law, but despite the separation of penal law from criminal law, these branches of law are closely interrelated, as indicated by Kazakh scientists (Shnarbaev, B. K. & Mizanbaev, A. E. 2017, p. 36). The well-known Soviet scientist E. G. Shirvind pointed out that the authors of all textbooks of Soviet

correctional labor law unanimously considered Soviet correctional labor policy to be a part of Soviet criminal policy, and Soviet correctional labor law to be a branch of Soviet criminal law (Shirvind, E. G. 1956, p. 5). But later, thanks to the efforts of leading scientists-penitentiaries of the Soviet period (V. P. Artamonov, N. A. Belyaev, N. A. Struchkov, B. S. Utevsky, Yu. m. Tkachevsky, A. S. Mikhlin, I. V. Shmarov, G. F. Khokhryakov etc.) penal law became an independent branch of law.

Because of this, the reform of sentences execution is impossible without adjusting the content of criminal legislation. We offer the following.

1. The law provides for certain restrictions on the use of liberty deprivation. For example, Article 46 of the Criminal Code of the Republic of Kazakhstan stipulates that deprivation of liberty is not imposed on persons who have reached the elderly age (over 63 years), women raising two or more children, juveniles who have committed crimes of minor and medium gravity for the first time, disabled people of the first and second groups, etc. For this category of convicts, it is necessary to provide for the creation of specialized institutions – hospitals, closed-type sanatoriums, which will significantly reduce the burden on the execution units and increase the efficiency of their activities.

2. Reduce the maximum terms of imprisonment provided for in Article 46 of the Criminal Code of the Republic of Kazakhstan: for intentional crimes – no more than 10 years; for reckless crimes – up to 5 years; for aggregate crimes – up to 12 years; for aggregate sentences – no more than 15 years.

3. Review the procedure for parole established in part 3 of Article 72 of the Criminal Code of the Republic of Kazakhstan, that is, reduce the actual terms of serving sentences for minor crimes – up to 0.5 years, medium – up to 1 year, serious – up to 2 years, especially serious – up to 3 years.

4. Expand the use of the institution of parole (Article 63 of the Criminal Code of the Republic of Kazakhstan).

The implementation of the proposed approach will ensure not only the fulfillment of the goals of criminal punishment, but also help to create a new model of punishment execution, which would not only suit the parties to penal relations, but also contribute to improving the efficiency of punishment execution, as well as achieving positive results in combating crime at the present stage.

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REFORMATION ISSUES OF THE PENAL SYSTEM IN THE REPUBLIC OF KAZAKHSTAN

ВОПРОСЫ РЕФОРМИРОВАНИЯ УГОЛОВНО-ИСПОЛНИТЕЛЬНОЙ СИСТЕМЫ РЕСПУБЛИКИ КАЗАХСТАН

Abstract. The article is devoted to the experience of the Republic of Kazakhstan in reforming the penal system by transferring it from the law enforcement to the civil block. Taking into account the world experience, the transfer of the penal system to a non-law enforcement structure, including one based on public-private partnership, seemed to be the most promising direction of the planned reform to humanize the domestic penal legislation. The main idea was that a Civil Agency, not associated with the tasks of protecting public order and fighting crime, will be able to ensure the planned implementation of the state policy on reforming the penal system. In 2002, correctional facilities were fully transferred to the Ministry of Justice of the Republic of Kazakhstan. But the events that took place further (a number of armed escapes with human victims) actually showed that the Ministry of Justice of the Republic of Kazakhstan did not cope with the task assigned to it, and the goal of reforming the penitentiary system was not achieved. By decree of the President of the Republic of Kazakhstan (adopted on 26.07.2011) “On the penitentiary system”, the penal system was again transferred to the Ministry of Internal Affairs of the Republic of Kazakhstan. Today, the penal system in Kazakhstan actually operates autonomously in the system of the Ministry of Internal Affairs, not subordinate to other services and departments. At the same time, according to the author, the transfer of the penal system to a Civil Agency will make it possible to increase the openness of this institution. In addition, this step will provide access to the real situation of human rights in places of detention for the public and supervisory authorities. However, domestic and foreign experience shows that the transfer of the penal system to civil departments, its isolation as a separate body does not guarantee its deep humanization and effective system reforms. Being inside the civil department, it actually continues to work on previously established practices, limiting it with cosmetic changes. Therefore, if the purpose of transferring the penal system or its divisions to other bodies is to comply with international standards and reduce criticism of human rights organizations, then this should not be done without a high-quality study. Based on the research, the author comes to the conclusion that in order to implement reforms

in the penal system of the Republic of Kazakhstan, it is necessary to: 1) to develop a single comprehensive scientific and practical approach when reforming the penal system; 2) to conduct a qualitative study of the risks that may be associated with decisions taken within the framework of the reform; 3) implementation of foreign and international experience should be carried out only taking into account the specifics of national legislation and the structure of the state's law enforcement system.

Keywords: Republic of Kazakhstan, penal enforcement system, reformation of the penitentiary system, humanization of the execution of sentences, penitentiary legislation.

Аннотация. В статье освещается опыт Республики Казахстан по реформированию уголовно-исполнительной системы (УИС) путем передачи из правоохранительного блока в гражданский. С учетом мирового опыта передача УИС в неправоохранительную структуру, в том числе основанную на государственно-частном партнерстве, казалась наиболее перспективным направлением запланированной реформы по гуманизации отечественного уголовно-исполнительного законодательства. Основная идея заключалась в том, что гражданское ведомство, не связанное с решением задач по охране общественного порядка и борьбы с преступностью, сможет обеспечить запланированную реализацию государственной политики по реформированию системы исполнения наказаний. В 2002 г. исправительные учреждения полностью были переданы в Министерство юстиции Республики Казахстан. Но произошедшие далее события (ряд вооруженных побегов с человеческими жертвами) фактически показали, что Министерство юстиции Республики Казахстан с возложенной на него задачей не справилось, а сама цель реформирования пенитенциарной системы не была достигнута. Указом Президента Республики Казахстан от 26 июля 2011 г. «О пенитенциарной системе» УИС вновь была передана в МВД Республики Казахстан. Сегодня УИС в Казахстане фактически действует автономно в системе Министерства внутренних дел, не подчиняясь другим службам и ведомствам. Вместе с тем, по мнению автора, перевод УИС в гражданское ведомство даст возможность повысить открытость данного института. Кроме того, данный шаг обеспечит доступ к реальной ситуации с соблюдением прав человека в местах лишения свободы для общества и надзорных органов. Однако отечественный и зарубежный опыт показывает, что сама по себе передача тюремной системы в гражданские ведомства, выделение ее как обособленного органа не гарантируют ее глубинную гуманизацию и эффективные системные реформы. Находясь внутри гражданского ведомства, она фактически продолжает работать по ранее наработанной практике, ограничившись лишь косметическими преобразованиями. В силу этого в случае если целью передачи УИС или ее подразделений в другие органы является желание соответствовать международным стандартам и снизить критику правозащитных организаций, то делать этого без качественной проработки не следует. На основании проведенного исследования автор приходит к выводу о том, что для проведения реформ в системе УИС Республики Казахстан необходимо: 1) выработать единый комплексный научный и практический подход при реформировании системы исполнения наказаний; 2) провести качественную проработку рисков, которые могут нести в себе решения, принимаемые в рамках реформы; 3) внедрение зарубежного и международного опыта проводить только с учетом особенностей национального законодательства и структуры правоохранительной системы государства.

Ключевые слова: Республика Казахстан, уголовно-исполнительная система, реформирование пенитенциарной системы, гуманизация исполнения наказаний, пенитенциарное законодательство.

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In August 2000 Head of state N. A. Nazarbaev instructed the Government to transfer the penal system from the Ministry of Internal Affairs to the Ministry of Justice of the Republic of Kazakhstan. This decision was a logical continuation of the implementation of the State program of legal reform in the Republic of Kazakhstan, approved by the decree of the President of the Republic of Kazakhstan on 12.02.1994 No. 1569. In particular, the specified program includes: "Consider other measures to exempt the Ministry of Internal Affairs from functions that are not related to the protection of public order, investigation and inquiry, and prevention of offenses". The main goals pursued by the transfer of the penal system to a Civil Agency were:

1) separation of the functions of criminal prosecution and criminal penalties execution;

2) improving the legal protection of convicts, more complete realization of their rights and legitimate interests;

3) implementation of international norms and standards for the treatment of prisoners in national legislation;

4) demilitarization of the penal system ('the Penal system of the Republic of Kazakhstan 2000–2008: current state and prospects of development: analytical report' 2008).

Taking into account the world experience, the transfer of the penal system to a non-law enforcement structure, including one based on public-private partnership, seemed to be the most promising direction of the planned reform to humanize the domestic penal legislation. The main idea was that a Civil Agency that is not involved in the tasks of protecting public order and fighting crime will be able to ensure the planned implementation of the state policy on reforming the penal system. In 2002, correctional institutions were fully transferred to the Ministry of Justice of the Republic of Kazakhstan as the Agency responsible for the formation of National legislation. At the same time, units of the internal troops remained part of the Ministry of Internal Affairs of the Republic of Kazakhstan.

According to E. Salamatov (2018), in the sphere of organization of the penal system, the internal troops and the penal system are a single organism that cannot be torn into two parts. As a result of this fragmentation, a number of high-profile escapes of armed prisoners swept through the country, which revealed a number of systemic problems and mistakes made during the implementation of this reform. For example, in Aktau on June 22, 2010, more than 20 convicts escaped, weapons were delivered to the territory of a high-security colony for 10 thousand tenge. In Balkhash on the night of 11.07.2011, 12 prisoners of the AK-159/21 facility armed with cold weapons and firearms tried to escape. As a result, two employees of the penal system were stabbed and four were shot. One of them died. The criminals took refuge in the industrial zone of the colony, where they committed a self-explosion. As it was established during the investigation, weapons and ammunition were hidden in the sleepers that were brought to the territory of the colony shortly before the incident. Employees of the colony missed the cargo, despite the fact that no construction work was carried out in the institution at that time (Chaus, Yu. 2011).

The events actually showed that the Ministry of Justice of the Republic of Kazakhstan failed with its task, and the goal of prison reform was not achieved. Taking into account the results of the reform, the Head of state on 26.07.2011 by his decree "on the penitentiary system" again returned the penal system to the Ministry of Internal Affairs of the Republic of Kazakhstan. "The transfer of the UIS to the Ministry of justice is a mistake. We got ahead of ourselves: we transferred the correctional system from the Ministry of internal Affairs to the Ministry of justice. Everyone tried to persuade us all over the world. And what did we get? A complete disgrace! Weapons, sharpeners, drugs, and anything else are taken out of places of detention by KAMAZ Trucks!", said N. A. Nazarbaev at a joint session of the Chambers of Parliament on 01.10.2011.

"Before going to any new developments, all our comrades who are concerned about these reforms should think very hard and check," the First President concluded (Mukanov, B. 2011).

In his speech at the Government meeting on 25.09.2017, the Minister of Internal Affairs, K. Kasymov pointed out the reasons for this decision: "the operational situation in the colonies and pre-trial detention centers was extremely tense. Numerous cases of group disobedience of convicts to the legal requirements of colony employees, virtually free trafficking of drugs, cold weapons, self-harm and other violations of the regime – all this took place in the vast majority of colonies. Serious crimes became more frequent in the colonies, attacks on supervisors were allowed, there was a dangerous trend of merging criminality with religious extremism, attempts were made to recruit new supporters from among prisoners by religious radicals" ('Kalmukhanbet Kasymov "defeated" the Ministry of Justice in his story about the colonies' 2017).

A coalition of Kazakhstan non-governmental human rights organizations expressed their disagreement with the decision to return the penal system to the system of the Ministry of Internal Affairs of the Republic of Kazakhstan, arguing that it contradicts Kazakhstan's intentions to bring the system of criminal penalties execution to generally recognized international standards, stated in the Concept of the state's legal policy for the period 2010-2020. According to the executive Director of the center for legal policy research N. Ergaliev, the presence of the penal system in the hands of the police is one of the essential features of the police state (Toguzbaev, K. 2011). According to international standards, our prison system is characterized as repressive and inhumane because it is located inside the Ministry of Internal Affairs. The same rating is given to prisons in Belarus, Turkmenistan and Uzbekistan because of their departmental affiliation with the Ministry of Internal Affairs.

Turning to the experience of other countries, the experience of Ukraine and Kyrgyzstan should be highlighted. In Ukraine, in 2010, when the system of penitentiary institutions was reformed, it was removed from the Ministry of Internal Affairs by creating the State penitentiary service of Ukraine, and in 2017 it was transferred to the Ministry of Justice. In Kyrgyzstan, the reform of the penal system was carried out in the reverse order. In 2002 the penitentiary system was transferred to the Ministry of Justice, and in 2009 an independent department was created on its basis – the State penitentiary service under the government of the Kyrgyz Republic. These countries have implemented this reform by transferring not only the correctional facilities themselves, but also the relevant law enforcement units. At the same time, there are a lot of materials on the Internet about torture in correctional institutions in Ukraine and Kyrgyzstan, riots and other acts of mass disobedience on the part of prisoners, the influence of various criminal elements on the atmosphere of law enforcement in institutions, the behavior of convicts both inside and outside correctional institutions. Thus, the strategy of reformation by transferring from one department to another does not always have a positive effect.

The strategy, according to N. A. Andreev and V. B. Korobov (2013, p. 69), is a system of management decisions aimed at implementing the mission of law enforcement entities and their organizations, its transformation into a new qualitative state. In some foreign countries (e.g. Austria, Belgium, Germany, Denmark, France, USA) the Ministry of Justice includes not only the prison system, but also prosecutors, police, courts. At the same time, being inside the Ministry of Justice, prisons are not subordinate to the police and have an equal status with all these departments.

Today, the penal system in Kazakhstan actually operates autonomously in the system of the Ministry of Internal Affairs, not subordinating to other services and departments. In this regard, the reform of the penal system should be accompanied by its transfer as a separate division of the Internal Affairs bodies to the

Ministry of Justice or the separation of the penal system as an independent body in a comprehensive manner, with all services (including medical), weapons and equipment, while maintaining the status and benefits for all the staff of the penal system, reforming the entire law enforcement and judicial system, and modernizing current legislation with an emphasis on national legal features.

Since 2019, the issue of transferring the penal system's medical services to civilian medical institutions is being discussed at the government level. The study of international practice on this issue has shown that there are various models of providing medical care to the penal system in the world. For example, in the CIS countries, Asia and some European countries (Ireland, Albania), the departmental model is successfully applied, when the medical staff of correctional institutions is located in the state of the institution, under the control of the penal system. In Norway, England, France, Australia, Spain, and Scotland, third-party organizations provide medical care to convicts. In the United States, there is a mixed system, when along with regular staff, commercial medical organizations provide medical care to prisoners on the basis of a contract with a correctional institution. In Russia, the prison medical service was divided into separate medical and sanitary units under the regional departments of the Federal penitentiary service of Russia.

According to the regional Director of the penal reform international (PRI) in Central Asia, A. Shambilov: "The transfer of medical services to the civil department of the penal system is necessary, because prison officers are employees of the penitentiary service, they cannot be responsible for health management. They cannot know certain diseases that appear in society and exist in places of liberty deprivation" (Nurseitova, T. & Shambilov, A. 2017). In turn, at a meeting with doctors of the penal system in August 2019, the Minister of Health of Kazakhstan Ye. Birtanov noted that this issue needs to be approached thoughtfully and carefully. According to the opinion of the medical services staff, expressed during the meeting with the Minister, in the case of transfer, there are risks of personnel shortage of specialists.

The conditions of professional activity of medical workers in the penal system have qualitative differences from the conditions of work in civilian hospitals and polyclinics. In particular, they have to perform their duties in compliance with the regime requirements inherent in places of liberty deprivation, often experiencing a sense of danger and insecurity due to the presence of a special contingent that they serve. Often their places of residence, due to the specificity of correctional institutions, are located far from large localities. As the materials studied on this issue show that penitentiary health care in general is characterized by a shortage of specialist doctors who are well paid in civil health care. The existing medical staff actually performs the work of several related specialists. This activity is practically not compensated by material or non-material motivational measures. In addition, speaking about the problem of doctors shortage and qualified medical workers, it is worth noting that in the civil sphere there is an acute shortage of them. Thus, the number of general practitioners in Kazakhstan is only 0.28 per thousand people, while the average figure, for example, for the Organization for economic cooperation and development (OECD) is 0.72 (according to the report of this organization published last year). The share of primary health care doctors from the total number of doctors in Kazakhstan is 7–16%, which is lower than the OECD average of 32%. (Veber, E. 2019).

In this regard, the transfer of medical services of the penal system to the health authorities will carry an additional burden on civilian doctors. If there is a personnel shortage in the field of medicine in general, such a step will not give the expected positive effect, but on the contrary may worsen the situation with medical care at all levels. As Professor V. N. Uvarov rightly pointed out: "In the law

enforcement system, it is character that the result of the impact of the law enforcement function of the state on public relations has a generalizing, summary character and is evaluated from the point of view of the interests of the individual, society and the state" (Uvarov, V. N. & Uvarova-Patenko, R. V. 2019, p. 403).

Without prior training and sufficient personnel, penitentiary medicine will be lost as an institution of penal correction, which will consequently lead to even more violations of convicts' rights to receive medical care. As a solution, it is proposed to work out at the government level, first of all, the issue of attracting medical specialists to the penitentiary system by increasing wages and providing various benefits. At the same time, the fact that the medical services of the penal system are dependent on the administration of institutions contributes to providing false information about the facts of torture and the level of violence in the institution. The transition to a Civil Agency, we believe, will make it possible to increase the openness of this institution and will help reduce these facts. In addition, this step will provide access to the real situation of human rights in places of detention for the Public and Supervisory authorities.

At the same time, domestic and foreign experience shows that the mere transfer of the prison system to civil departments, its isolation as a separate body, does not guarantee its deep humanization and effective system reforms. Being inside the civil department, it actually continues to work according to the previously established practice, limiting itself only to cosmetic transformations. Therefore, if the purpose of transferring the penal system or its divisions to other bodies is to comply with international standards and reduce criticism of human rights organizations, then this should not be done without a high-quality study.

As President of the Republic of Kazakhstan K. K. Tokaev noted in his message to the people of Kazakhstan 02.09.2019: "Reforms will not be carried out for the sake of reform". This approach is certainly justified. Thus, to implement reforms in the penal system of the Republic of Kazakhstan, it is necessary:

1) to develop a unified comprehensive scientific and practical approach to the reform of the penitentiary system;

2) to conduct a qualitative study of the risks that may be associated with decisions taken within the framework of the reform;

3) to implement foreign and international experience, but it should be carried out only taking into account the specifics of national legislation and the structure of the state's law enforcement system.

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ON THE ISSUE OF EARLY PAROLE FROM SERVING A SENTENCE IN THE KYRGYZ REPUBLIC

К ВОПРОСУ ОБ УСЛОВНО-ДОСРОЧНОГО ОСВОБОЖДЕНИИ ОТ ОТБЫВАНИЯ НАКАЗАНИЯ В КЫРГЫЗСКОЙ РЕСПУБЛИКЕ

Abstract. The article is devoted to the grounds and conditions for parole from serving a criminal sentence. The article considers the legislative and law enforcement problems that arise when applying the rules governing the procedure for evaluating the behavior of a convicted person during the period of serving a sentence. On January 1, 2019, the new legislation of the Kyrgyz Republic of the criminal law block came into force, which significantly changed the procedure for parole from criminal punishment. At present, it is only possible in relation to persons sentenced to punishments related to isolation from society. In addition, the provision on parole application in relation to additional punishment is excluded from the criminal law. However, the new law eased the situation of a convict for damages compensation, extended the circle of persons entitled to apply for considering the case on parole (abolished in accordance with the rules of parole was possible only after full compensation of the material damage caused by the crime). The legislator also reduced the number of circumstances prohibiting the use of parole from serving a sentence, and showed humanity in relation to certain categories of convicts (the norm on the application of p from serving a sentence in relation to persons sentenced to life imprisonment). The issue of creating a specialized authorized state body that carries out the execution of criminal penalties that are not related to isolation from society, compulsory measures of criminal legal influence, supervision of persons released on parole from correctional institutions, with the performance of social and legal functions of the probation body, was resolved. However, despite all the positive changes, the study allowed the author to conclude that there are actual problems of legal regulation and practical application of the provisions on the conditions and grounds for parole. In particular, the law does not reflect who exactly should act as a person who compensates for damages. In practice, there are often cases when the convicted person did not work, and the damage was paid by relatives. At the same time, the court has no grounds for refusing to apply for parole. In such circumstances, it is doubtful that the goals of the convicted person's correction have been achieved. In addition, currently the law stipulates the same rules for the application of parole for persons who have committed crimes for the first time, as well as for persons convicted for a set of crimes and a set of sentences.

Keywords: Kyrgyz Republic, parole from punishment, convicted person, penalties related to deprivation of liberty, humanization, probation authority.

Аннотация. В статье проанализированы основания и условия условно-досрочного освобождения от отбывания уголовного наказания. Рассмотрены законодательные и правоприменительные проблемы, возникающие при применении норм, регулирующих порядок оценки поведения осужденного в период отбывания наказания. С 1 января 2019 г. вступило в действие новое законодательство Кыргызской Республики уголовно-правового блока, которое существенно изменило порядок условно-досрочного освобождения от уголовного наказания. В настоящее время оно возможно только в отношении лиц, осужденных к наказаниям, связанным с изоляцией от общества. Кроме того, из уголовного закона исключена норма о применении условно-досрочного освобождения в отношении дополнительного наказания. Вместе с тем новый закон облегчил положение осужденного при возмещении ущерба и расширил круг лиц, имеющих право подавать заявление о рассмотрении дела об условно-досрочном освобождении (согласно отмененным нормам условно-досрочное освобождение лица было возможно только после полного возмещения материального ущерба, причиненного преступлением). Законодатель также сократил число обстоятельств, запрещающих применение условно-досрочного освобождения от отбывания наказания, и проявил гуманность в отношении некоторых категорий осужденных (норма о применении условно-досрочного освобождения от отбывания наказания в отношении лиц, осужденных к пожизненному лишению свободы). Решен вопрос о создании специализированного уполномоченного государственного органа, осуществляющего исполнение уголовных наказаний, не связанных с изоляцией от общества, принудительных мер уголовно-правового воздействия, надзор за лицами, условно-досрочно освобожденными из исправительных учреждений, с выполнением социально-правовых функций органа пробации. Однако несмотря на все положительные изменения проведенное исследование позволило автору сделать вывод о наличии актуальных проблем правовой регламентации и практического применения положений об условиях и основаниях условно-досрочного освобождения от наказания. В частности, в законе не отражено, кто именно должен выступать в качестве лица, возмещающего ущерб. На практике нередко имеют место случаи, когда осужденный не трудился, а ущерб выплачивался родственниками. При этом у суда нет оснований для отказа в применении условно-досрочного освобождения. При таких обстоятельствах вызывает сомнения факт достижения целей исправления осужденного. Кроме того, в настоящее время законом предусмотрены одинаковые правила для применения условно-досрочного освобождения как для лиц, впервые совершившие преступления, так и для лиц, осужденных по совокупности преступлений и по совокупности приговоров.

Ключевые слова: Кыргызская Республика, условно-досрочное освобождение от наказания, осужденный, наказания связанные с лишением свободы, гуманизация, орган пробации.

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At the present stage, problematic issues of applying the institution of parole from serving a sentence remain relevant. On January 1, 2019, the new Criminal Code of the Kyrgyz Republic, the Code of Misconduct of the Kyrgyz Republic, the Code of Violations of the Kyrgyz Republic, the Criminal-procedural Code of the Kyrgyz Republic, the Penal Code of the Kyrgyz Republic and other related laws came into force. This criminal-legal legislation is of a strategic nature in the field of protection ensuring of human rights and plays an important role in the development of a viable state system and a modern economy. With the adoption of the new legislation, criminal proceedings were humanized, decriminalized and depenalized, national legislation came closer to international standards in the field of human rights protection and access to justice, and the transition from the old legal culture was marked.

We agree with the opinion of I. D. Badamshin (2005) that establishment in law and implementation in practice the grounds for exemption from serving a sentence is one of the fundamental problems of criminal policy, since the differentiation of criminal responsibility implies not only an increase in punishment as the public danger or recidivism increases, but also a reduction or complete exemption from it, depending on the achievement of the goals of punishment.

The Criminal Code of the Kyrgyz Republic (adopted on 02.02.2017), introduced by the Law of the Kyrgyz Republic (adopted on 21.01.2017) No. 10 from 01.01.2019 stipulates that persons sentenced to imprisonment or detention in a disciplinary military unit may be released from serving their sentence on parole by the court. The concept of parole from punishment in various sources is given as the termination of a criminal sentence execution, related to the achievement of its goals, before serving the sentence assigned to the convicted person, with the establishment of a probation period for the released person, during which he must prove his correction. Violation of the probation period leads to the resumption of a sentence execution. For the first time, parole appeared in France in 1885. Since then, this institution has been adopted by legal systems (criminal or criminal-procedural legislation) in almost all countries of the world. Its use is a manifestation of humanism and is aimed at encouraging prisoners to correction and reeducation, as well as maintaining order in correctional institutions (Chernenko, T. G. & Masalitina, I. V. 2019, p. 69). In most countries of the world, parole is applied only to persons sentenced to custodial sentences. However, in some national legal systems, it is also possible to apply it to convicts serving correctional labor, restrictions on military service, and other non-custodial punishments. From the practice of foreign countries, it can be noted that parole from punishment can be full or partial. Upon full release the convicted person is released from both the main and additional punishment, if it was imposed by the court. In case of partial release, the convicted person is released conditionally from the main sentence, and the execution of the additional sentence continues.

According to the Criminal Code of the Kyrgyz Republic (1997) which is repealed on 01.01.2019 in accordance with the Law of the Kyrgyz Republic (adopted on 24.01.2017) No. 10 parole from punishment applied to persons serving the penalty of imprisonment, detention in a disciplinary military unit, corrective labor or restriction of liberty, if the court has recognized that they do not need to complete the sentence imposed by the court in order to correct their situation. In this case, the person could be fully or partially released from additional punishment. With the adoption of the new Criminal Code in Kyrgyzstan on 01.01.2019, parole from serving a sentence became possible only for persons sentenced to penalties related to isolation from society. It should be noted that the new Criminal Code does not contain a provision on the application of parole in relation to additional punishment.

Part 2 of Article 88 of the Criminal Code of the Kyrgyz Republic (adopted on 02.02.2017),

introduced by the law of the Kyrgyz Republic (adopted on 24.01.2017) No. 10 from 01.01.2019, establishes the circumstances of applying probation to a convicted person: achieving positive results of correction and resocialization and compensation for at least half of the damage caused by the crime, the absence of outstanding disciplinary penalties, conscientious attitude to work and training while serving the sentence, and consent to undergo treatment for alcoholism, drug, psychotropic or toxic addiction, if such dependence exists. It should be noted that parole is applied when all the above conditions are combined.

Let's pay attention to some positive aspects. First, the wording of the new law "reimbursing at least half of the damage" facilitates the situation of the convicted person in compensation for damage and expands the range of persons who have the right to apply for consideration of the case for parole (according to the Norms of the Criminal Code of the Kyrgyz Republic (adopted on 01.10.1997), which became invalid on 01.01.2019 in accordance with the Law of the Kyrgyz Republic (adopted on 24.01.2017) No. 10 parole of a person was possible only after full compensation for material damage caused by a crime). Secondly, in Article 89 of the Criminal Code of the Kyrgyz Republic (adopted on 02.02.2017), the legislator reduced the number of circumstances prohibiting the use of parole from serving a sentence, and showed humanity in relation to certain categories of convicts – the introduction of a new norm on the application of parole from serving a sentence in relation to persons sentenced to life imprisonment.

Prior to the adoption of new criminal laws in the Kyrgyz Republic, the issues of legislative regulation of the material basis for parole, as well as the subsequent social adaptation of parolees, remained relevant. There were problems with identifying a specific specialized body that monitors the behavior of parolees. The control measures provided for by law on social adaptation and resocialization of parolees were ineffective and needed to be reformed. On 01.01.2019 this issue was resolved by the adoption of the Law of the Kyrgyz Republic on probation No. 34 (adopted on 24.02.2017), and by the creation of an authorized specialized state body that performs the execution of criminal penalties not related to isolation from society, compulsory measures of criminal legal influence, supervision of persons released on parole from correctional institutions, with the performance of social and legal functions of the probation body.

Despite all these positive changes in the legal framework for regulating the issue of parole, there are still some controversial issues. The law does not specify who exactly should act as the person reimbursed the damages. In practice, there are often cases when the convicted person did not work, and the damage was paid by relatives. At the same time, the court has no grounds for refusing to apply for parole. In such circumstances, it is doubtful that the goals of correction of the convicted person have been achieved. It should be noted that one of the means of convicts' correction and a condition for applying parole from punishment is a conscientious attitude to work. In addition, currently the law stipulates the same rules for the application of parole for first-time offenders and persons convicted for a combination of crimes and sentences. Persons who have a set of crimes present an increased risk, which is especially typical for persons who have committed new crimes with outstanding criminal records for previous ones. In our opinion, such persons should be subject to stricter requirements than other categories of convicts when they are granted the possibility of parole.

Thus, despite the fact that the country has taken measures to implement judicial reform and improve legislation, as well as a number of measures aimed at protecting the rights, freedoms and legitimate interests of individuals and citizens, some issues of legal regulation

and practical application of the conditions and grounds for parole remain relevant.

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ON THE ISSUE OF PENITENTIARY INSTITUTIONS CLASSIFICATION

К ВОПРОСУ О КЛАССИФИКАЦИИ ПЕНИТЕНЦИАРНЫХ УЧРЕЖДЕНИЙ

Abstract. The penitentiary system of the Republic of Moldova has entered a stage of reform since it was transferred from the Ministry of Internal Affairs to the Ministry of Justice. For about 20 years under the auspices of the Ministry of Justice, similar to the European penitentiary systems, the national system has been experiencing the same difficulties: a high rate of recidivism, overcrowding in places of detention, an increase in cases of detection of prohibited items and substances in penitentiary institutions, lack of staff and insufficient financial resources. The situation at the national level differs from the general European practice in terms of separate detention of persons sentenced to imprisonment. The penalty of imprisonment is executed in penitentiary institutions of the following types: open, semi-closed, for juveniles (in which conditions correspond to semi-closed penitentiary institutions) and for women, in which the regime of detention corresponds to the regime established for open, semi-closed or closed type of penitentiary institutions, depending on the category of penitentiary institutions assigned by the sentence. The rigidity of the established system is determined by the clear definition in the law of the categories of prisoners and types of penitentiary institutions for serving sentences. It is not allowed to change the type of penitentiary institution. Such a system of imprisonment execution, established by mandatory norms of criminal law, not only creates a problem for the effective implementation of criminal justice (individualization of punishment), but also determines the need to organize three modes of detention in each type of penitentiary institution. Consequently, most penitentiary institutions should have at least 12 separate detention sectors, corresponding to each type of penitentiary and detention regime. At the same time, the problem of choosing the categories of sectors that should be present in a penitentiary institution becomes very relevant. This is due to the fact that the regime of a sentence execution in the form of imprisonment in a penitentiary institution does not consist in simple isolation, but in a regime with a rich content consisting of various aspects of life and activities of convicts during execution of sentences. Based on the results of the study, the author suggests revising the content of the concept “type of penitentiary institution”. This concept should include not only the

level of accessibility within the penitentiary institution, but also the restrictions necessary for the detention of persons deprived of their liberty, depending on the assessment of their psychological profile, behavior and individual execution plan.

Keywords: Republic of Moldova, penitentiary institutions, regime of detention, convicts, correctional institutions, recidivism, categories of penitentiary institutions.

Аннотация. Пенитенциарная система Республики Молдова вступила в стадию реформ с момента ее передачи из ведения Министерства внутренних дел в ведение Министерства юстиции. Около 20 лет деятельности под эгидой Министерства юстиции, аналогично пенитенциарным системам Европы, национальная система претерпевает те же трудности: высокий уровень рецидива, перенасыщенность мест лишения свободы, увеличение случаев обнаружения в пенитенциарных учреждениях запрещенных предметов и веществ, нехватка персонала и недостаточность финансовых средств. В части раздельного содержания осужденных к лишению свободы ситуация на национальном уровне отличается от общеевропейской практики. Наказание в виде лишения свободы исполняется в пенитенциарных учреждениях следующих типов: открытые, полузакрытые, закрытые, для несовершеннолетних (в которых условия содержания соответствуют полузакрытым пенитенциарным учреждениям) и для женщин, в которых режим содержания соответствует режиму, установленному для пенитенциарных учреждений открытого, полузакрытого или закрытого типа в зависимости от категории пенитенциарных учреждений, назначенных приговором. Жесткость созданной системы определяется четким закреплением в законе категорий заключенных и типов пенитенциарных учреждений для отбывания наказания. Не допускается изменение типа пенитенциарного учреждения. Такая система исполнения лишения свободы, установленная императивными нормами уголовного права, не только создает проблему для эффективной реализации уголовного правосудия (индивидуализации наказания), но и предопределяет необходимость организовывать в каждом типе пенитенциарных учреждений три режима содержания под стражей. Следовательно, в большинстве пенитенциарных учреждений должно быть не менее 12 отдельных секторов содержания под стражей, соответствующих каждому типу пенитенциарного учреждения и режиму содержания под стражей. При этом весьма актуальной становится проблема выбора категорий секторов, которые должны присутствовать в пенитенциарном учреждении. Это связано с тем, что режим исполнения наказания в виде лишения свободы в пенитенциарном учреждении заключается не в простой изоляции, а в режиме с богатым содержанием, состоящим из различных сторон жизни и деятельности осужденного во время исполнения наказания. По итогам проведенного исследования автор предлагает пересмотреть содержание понятия «тип пенитенциарного учреждения». Данное понятие должно включать в себя не только уровень доступности внутри пенитенциарного учреждения, но и ограничения, необходимые для содержания лиц, лишенных свободы, в зависимости от оценки их психологического профиля, поведения и индивидуального плана исполнения приговора.

Ключевые слова: Республика Молдова, пенитенциарные учреждения, режим содержания, осужденные, исправительные учреждения, рецидив, категории пенитенциарных учреждений.

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The penitentiary system of the Republic of Moldova has entered a stage of reform since it was transferred from the Ministry of Internal Affairs to the Ministry of Justice. For about 20 years under the auspices of the Ministry of Justice, similar to the European penitentiary systems, the national system has been experiencing the same difficulties: a high rate of recidivism, overcrowding in places of detention, an increase in cases of detection of prohibited items and substances in penitentiary institutions, lack of staff and insufficient financial resources. Unlike other developed penitentiary systems that adopted a modern approach to the execution of custodial sentences in the sixth decade of the last century, the penitentiary system of the Republic of Moldova has to gradually adapt at an accelerated pace to European norms and standards. These standards contain an exhaustive list of principles, the implementation of which seems to be within the power of each state, regardless of its material capabilities.

Thus, we pay special attention to the current actions and the goals that we intend to implement, in terms of two main issues: 1) why we punish; 2) how people get out of prison. For this reason, the main task of the penitentiary system is to respect the rights and freedoms of persons deprived of their liberty in order to facilitate their social reintegration. At present, the system of administration of penitentiary institutions consists of the National administration of penitentiary institutions, 17 penitentiary institutions, 2 specialized institutions (a training center and a special purpose unit). Persons deprived of their liberty are placed in:

– closed-type penitentiary institutions (11 institutions, 4 of them with the status of a criminal investigation detention center);

– semi-closed penitentiary institutions (3 institutions);

– female colony;

– juvenile penitentiary institutions;

– penitentiary hospitals.

The current regulatory framework allows for the creation of several separate detention areas in a penitentiary institution in accordance with the features provided for by the Executive Code of the Republic of Moldova No. 433-XV of 24.12.2004 (the EC of the RM). The execution of imprisonment requires the creation of an internal structure of pre-trial detention facilities in order to offer the administration of the place of detention real opportunities for separate detention of persons in accordance with the criteria established by the penal legislation. Such criteria are set out in Articles 205 and 304 of the EC of the RM the following convicted persons are kept separately in penitentiary institutions:

a) women from men;

b) minors from adults;

c) persons held under provisional arrest from convicted persons;

d) convicted persons for the first time from convicted persons who previously served a sentence of imprisonment and have an outstanding criminal record;

e) convicts sentenced to life imprisonment from the rest of the convicts;

f) persons convicted for complicity in the commission of a crime from accomplices;

g) convicts transferred to the initial regime of detention in the order of disciplinary punishment, from convicted persons who are initially on the initial regime;

h) convicts who may face reprisals because of their previous position, from other convicts;

i) convicts who use the right to move without a convoy or escort, from other convicts.

In addition to the criteria for pre-trial detention, the following criteria for separation are established:

a) persons who were first placed in pre-trial detention, from persons who were previously held in penitentiary institutions;

b) persons suspected or accused of committing serious, especially serious and extremely serious crimes, from other persons;

c) persons, who held responsible positions in public authorities before being taken into custody, from other persons;

d) persons, suffering from infectious diseases or requiring special medical care and supervision, from other persons;

Persons, who are left in criminal detention centers for economic maintenance work in accordance with the procedure established by law, are kept in separate premises isolated from persons under preliminary arrest.

In order to improve the safety of prisoners or create conditions for their treatment, the administration of a penitentiary institution may apply other criteria for the separation of prisoners (article 205, paragraph 2, of the EC of the RM). In addition, the separation of prisoners in a correctional facility should not be discriminatory or infringe on human dignity. Thus, the separation of convicts is also regulated at the level of internal legal acts of the National penitentiary administration by establishing additional criteria for organizing the execution of a custodial sentence for protection of:

– certain categories of detainees;

– mother with child;

– detainees suffering from severe mental disorders, including those caused by the use of alcohol or psychotropic substances;

– persons on probation, etc.

The task of placing them in pre-trial detention facilities according to the specified criteria is difficult, including in connection with the current system of distribution of persons for the execution of sentences by type of penitentiary institution and the regime of detention.

Thus, the situation at the National level differs from the general European practice. According to Article 72 of the Criminal Code of the Republic of Moldova (the CC of the RM), the penalty of imprisonment is applied in the following types of penitentiary institutions: open, semi-closed, for juveniles (in which the conditions of detention arising from the provisions of Article 273 of the EC of the RM, correspond to semi-closed penitentiary institutions) and for women, which according to Article 276 of the EC of the RM the regime of detention corresponds to the regime established for open, semi-closed or closed penitentiary institutions, depending on the category of penitentiary institutions assigned by the sentence.

The rigidity of the established system is determined by the clear definition in the law of the categories of prisoners and types of penitentiary institutions for serving sentences. It is not allowed to apply sanctions to detainees by transferring them from one type of penitentiary institution to another. Thus, article 72 OF the CU of the RM provides that:

– persons sentenced to imprisonment for crimes committed by negligence serve their sentences in open-type penitentiary institutions;

– persons sentenced to imprisonment for minor crimes, medium-gravity crimes and serious crimes committed intentionally serve their sentences in semi-closed penitentiary institutions;

– persons sentenced to imprisonment for especially serious and extremely serious crimes, as well as persons who have committed crimes that constitute a recidivism, serve their sentences in closed-type penitentiary institutions.

The norm concerning the establishment of the type of penitentiary institution under sentence does not contribute to the individualization of punishment, does not take into account such circumstances as the personality of the convicted person, his financial situation, etc., since when determining the gravity of the crime and the type of guilt, the convicted person can be automatically sent to the appropriate penitentiary institution without the need to mention this in the sentence. The main problem arising from the system of sentences execution is that it is impossible to change the type of correctional institution even through the courts, although there is a rule contained in Paragraph 7 of Article 72 of the CC of the RM, according to which the type of penitentiary institution is changed by the court in accordance with the law. In practice, this rule can only be applied if the person was convicted again during the sentence execution for another

more serious act, for which the law provides for the sentence execution in a penitentiary institution of a more severe category (type). Thus, there is a need to place convicted persons for their sentence execution in the appropriate regimes. Under the term "appropriate regime" we understand the specific form of application of the penitentiary regime, taking into account the division of detainees into compartments and cells, categories of crimes, the nature of their commission, terms of punishment, the state of recidivism, social and public danger, age and gender (Petrake, Z. 1992, p 25).

The system of imprisonment execution established by mandatory norms of criminal law not only creates a problem for the effective implementation of criminal justice (individualization of punishment), but also determines the need to organize three regimes of detention in each type of penitentiary institution. For penitentiary institutions, this is a big practical problem in terms of creating the conditions established by law and observing the restrictions specific to a particular type of penitentiary institution, in which a person must serve a sentence under a court decision. The specifics of each regime are presented in table 1. Thus, we observe a situation where in most penitentiary institutions, in accordance with the order of the Ministry of justice No. 189/2017 on the establishment of the type of penitentiary institution and its sectors, there must be at least 12 separate detention sectors corresponding to each type of penitentiary institution and detention regime.

Clarification of the conditions under which a person deprived of liberty will serve his sentence is also necessary, because the prison environment also contributes to the emergence of deviant behavior among convicts. Therefore, in order to regulate situations caused by deviant behavior, it is important that the teacher knows as well as possible the stages of the educational process, the features characteristic of the environment that counteracts the work on reeducation and resocialization of convicts. At the first stage of detention, there are phenomena of mental agitation, anxiety, lack of appetite for the received food, etc. (symptoms of the psychology of detention). In the second stage, the prisoner begins to feel deeply the influence of the prison due to the significant restriction of movement space and time organization, which leads to a tendency to protect their territory. At the third stage, the convict is disappointed because of the organization of time established by internal rules. The time spent in prison is monotonous, which can lead to increased aggression of the convict. In the fourth phase, when certain items are provided for personal use in accordance with internal rules, the feeling of frustration increases. In the fifth phase, contact with the prison subculture has serious consequences. Because of the environment in which the convict is forced to spend his incarceration, a new vision of himself is formed, and at the same time he is forced to form a "survival strategy" to help himself cope with difficulties that he did not face in freedom (Florian, I. 2002, p.211).

Thus, we are faced with the conceptual problem of choosing the categories of sectors (sections) that should be present in a penitentiary institution. This is due to the fact that the regime of a sentence execution in the form of imprisonment in a correctional institution is not a simple isolation, but a regime with a rich content consisting of various aspects of the life and activities of the convict during the execution of the sentence in a penitentiary institution (Ion, O. 1998, p. 86).

In connection with the above, it is necessary to revise the content of the concept "type of penitentiary institution". When we talk about closed, semi-closed and open penitentiary institutions, we must take into account not only the level of accessibility within the penitentiary institution, but also the restrictions necessary for the detention of persons deprived of their liberty, depending on the assessment of their psychological profile and behavior, and the individual execution plan. Penitentiary institutions should have separate premises (sectors) for persons deprived of their liberty,

Table 1

The types of penitentiary institutions and detention regimes (Article 72 of the CC of the RM, paragraph 6 of the EC of the RM)		
closed type	semi-closed type	open type
Persons, sentenced to imprisonment for a certain period of time for committing especially serious and extremely serious crimes, as well as persons who have committed repeated crimes, serve their sentences	Persons, sentenced to imprisonment for a certain period for minor, medium and serious crimes committed intentionally, serve their sentences	Persons, convicted for crimes committed by negligence, serve their sentences
Changing the type of penitentiary institution is carried out by the court in accordance with the law		
Features of the initial detention regime		
Convicts are placed there for up to 6 months from the date of arrival in the penitentiary institution; convicts are placed in isolated premises for no more than 2 people. Convicted persons may be engaged in work that does not require leaving the prison	Convicts are placed there for up to 3 months from the date of arrival in the penitentiary institution; convicts are placed in isolated premises for no more than 4 people. Convicted persons may be engaged in work that does not require leaving the prison	Convicts are placed there for up to 1 months from the date of arrival in the penitentiary institution; convicts have the right to: a) move around the territory of the detention sector in the interval from rising to lights out; b) carry and use valuables and money
Features of the general regime of detention		
Convicts are placed in isolated premises for no more than 4 people. In addition to the rights granted in the initial regime of detention, convicted persons can: a) be engaged in work outside the penitentiary institution under constant supervision; b) move freely in the residential area and in communal areas of general regime during the period from rise to end	In addition to the rights granted in the initial regime of detention, convicted persons can: a) be engaged in work outside the penitentiary institution under constant supervision; б) during the period from rise to end, move freely on the territory of the penitentiary institution within the limits established by the administration of the institution	In addition to the rights granted in the initial regime of detention, convicted persons can: a) be engaged in work outside the penitentiary institution without supervision; б) carry out short-term trips for up to 5 days outside the prison to meet with family
Features of detention on the regime of resocialization		
In addition to the rights granted in the initial and general regimes of detention, convicted persons have the right to: a) move around the territory of the penitentiary institution within the limits established by the administration of the institution; b) be engaged in work outside the penitentiary institution under constant supervision	In addition to the rights granted in the initial and general regimes of detention, convicted persons have the right to: a) have valuables and money with them; b) be engaged in work outside the penitentiary institution without supervision; c) make short-term trips for up to 5 days outside the penitentiary institution to meet with family	In addition to the rights granted in the initial and general regimes of detention, convicted persons have the right to live with their families nearby a penitentiary institution
Under the general regime and the resocialization regime, convicts may be employed in work outside the prison if they use the right to move without supervision		
Daily schedule		
Each penitentiary institution has a strictly regulated daily schedule, depending on the specifics of the category of penitentiary institution, the detention regime, the involvement of prisoners in various works, the time of the year, the location of the penitentiary institution and other circumstances. The daily schedule includes: getting up, using the morning toilet, exercising, eating, going to work areas, working and studying hours, sports and educational activities, etc. At the same time, it provides for a continuous 8-hour sleep of prisoners and free time		

in accordance with their procedural situation, the level of danger they pose to themselves and others, as well as the conditions established by the individual detention plan (Barbu, G. S. & Shtefan, A. 2005, p. 94). Thus, depending on the profile of convicts, penitentiary institutions should have separate sections that allow them to move between sectors, depending on the level of implementation of the goals set out in the execution plan. The right to make a decision on changing one regime to another should be given to the administration of the place of detention.

The penitentiary system plays an important role in the execution of custodial sentences. The nature of the penitentiary regime depends on achieving the goal of executing the sentence of imprisonment, reeducating the convicted person and deterring him from committing a new crime. We can say that the penitentiary system defines how the execution of a sentence of imprisonment in a penal institution or as organized life and activities of a convict in the penitentiary institution during the execution of the punishment for the purpose of reeducation and prevention of new crimes and offences. (Trayan, P. 1924, p. 98).

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