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## INSTITUTIONAL TRIAL OF MINORS CONDEMNED: INTERNATIONAL EXPERIENCE

**Abstract.** The article presents the international positive experience of the probation service for juvenile convicts in the post-prison period, orienting the convict in the process of social adaptation to independent development. An individual who cares about his family and close relatives, benefits the state and society through labor, is a law-abiding citizen who meets all the requirements and generally accepted principles of a legal, modern society and sovereign state.

The author of the article formulates the main conclusions, which determine that the main goal of “probation services” is to promote the successful social adaptation of persons of juvenile convicts released from prison. First of all, this assistance consists in rendering assistance to a juvenile convicted person in restoring socially useful ties, social welfare, employment, providing psychosocial, qualified legal and medical assistance, as well as preventing their recidivism.

The good practice of the Probation Service of such sovereign states of the World as the Republic of Kazakhstan, Finland, France, Germany, Sweden, Switzerland and Japan is presented.

**Key words:** Probation, post-prison probation in the Republic of Kazakhstan, social work in prisons in Switzerland, MIS Finland, Finnish Probation Service, post-prison adaptation of juvenile offenders, Japan Probation Service, MIS of Japan, international experience, The concept of the Federal Target Program for the Development of the MIS of Russia (2017–2025).

At present, the urgency of the problems of social adaptation of juvenile prisoners in the post-prison period in recent years in Russia is growing. But, unfortunately, there are no definite positive decisions yet.

Thus, in the Concept of the Federal Target Program for the Development of the MIS of Russia (2017–2025)<sup>1</sup>, the state structures of Russia, state authorities of the constituent entities of the Federation, public associations set specific goals for improving the work with people released from prison. Teenagers who have been freed from the penitentiary institutions of the FSIN of Russia often remain without social assistance and support from close relatives and, of course, the state itself. Often, juvenile offenders who are freed up cannot find work without hindrance, and many of them have no housing - and therefore there is no way to create their own family home. This “hopelessness” is a fundamental factor in involving juvenile convicts released from places of deprivation of liberty in the criminal environment. From this it follows that in Russia the reform of the post-prison process of adaptation of juvenile convicts released from places of deprivation of liberty is required. It should be based on new approaches focused on the socio-economic, political development of modern Russia [2, p.1-2].

Today, any civilized state of the world, such as England, the Netherlands, Norway, France, Germany, Finland, the Republic of Kazakhstan and Japan, is urging the development of a set of measures of a socio-economic, regulatory, political, and organizational-educational nature in order to socially-moral and moral recovery of society as a whole. This is due, first of all, to the fact that the fate of not only the people who have been released from places of deprivation of liberty, but also of the entire modern society of any sovereign state of the world, largely depends on the adoption by the state of the necessary and correct

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<sup>1</sup>The concept of the federal target program “Development of the penal system (2017 - 2025)” was approved by Decree of the Government of the Russian Federation of 23.12.20016 No. 2808-p.

decision. If today the state does not provide timely social, moral, psychological and qualified legal assistance to those who have freed themselves, then these people will lose their attempt to break out of the vicious circle of offenses. But, unfortunately, in Russia there is no system of social rehabilitation work with minors released from places of imprisonment. The spectrum of social technologies and social work with juvenile convicts, both in places of deprivation of liberty and in the post-prison period, was also insufficiently formed. Such a vacuum is the result of insufficient practice in Russia in working with this category of persons during penal and post-penitentiary periods of the formation of the personality of the convicted person [5, p.2-3].

According to statistics from the Federal Penitentiary Service of Russia in the Russian Federation, up to 300,000 convicted persons, including 70-95 minor convicts, are released from places of deprivation of liberty annually<sup>1</sup>. And for the most part these are people of working age (from 16 - 60 years old), who, by definition, must find their place among the law-abiding citizens of Russia. But on this path there are many problems that the freed person must solve on his own: lack of daily income for food, basic clothes, problems associated with permanent housing and registration, stable work and, consequently, income. However, at all times, no matter how complicated and difficult they may be, the choice of the further path of development has remained and remains for the person who has been released from prison.

Therefore, once having violated the law, a person sentenced to a real term of imprisonment should, from the very beginning of serving a criminal sentence, think about what awaits him after his release from the penitentiary institution of the Federal Penitentiary Service of Russia. If possible, he must do everything possible to ensure that he maintains ties with his family, friends, and labor collectives in which he worked until the commission of the criminal offense [5, p.3].

So, according to Associate Professor P.V. Golodova (2011), the most common connotation of the term “probation” is associated with its activity in the execution of criminal sentences that are not related to isolation of an individual from society. “Probation” means criminal supervision or criminal custody of a convicted person. In the legal systems of foreign countries of the world, this criminal-legal institute presents the possibility of adopting alternative forms of punishment for committed criminal offenses, in return for the actual deprivation of liberty of the convicted person, naturally, if there are grounds established by law. In this meaning, “probation” covers the “pre-trial stage”, the stage of “sentencing from criminal measures” (impact), as well as the final “post-prison” stage [6].

***From international good practice:***

For example, in **Finland**, employees of all penitentiary institutions deal with the social adaptation of juvenile offenders. Social adaptation consists in establishing business contacts with social security and employment bodies of local municipalities and other state and non-state institutions (charitable foundations and religious organizations). They begin to carry out this work from the moment the court determines the teenager in the institution of the penal system of Finland.

An important component of this activity is the preservation of a place for his or her residence for a period of serving a minor by a criminal punishment or receiving such after release from places of deprivation of liberty. Also, the social worker of the penitentiary institution of the penal system of Finland, together with the employment authorities, is trying to find an opportunity for training, subsequent employment of the released person. He also helps in matters related to the communication of a minor convict with his family or the restoration of socially useful relations in society.

Despite this, some minors are released from places of deprivation of liberty without any prospect of finding a job, applying for studies or obtaining permanent residence and registration at the place of residence. The problem with housing and further employment in orphans is especially acute. Under Finnish law, under parole for minors released from places of deprivation of liberty, total supervision may be established for the period of not served part of the criminal punishment in the educational colony.

The main objective of the Finnish Probation Service is determined by the implementation of adequate comprehensive assistance - for example, legal advice of various kinds; the implementation of qualified psychological support for the convict throughout the term. And also this help consists in restoration of socially useful relations with relatives and friends; in resolving issues on reconciliation of the parties through

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<sup>1</sup>Analytics and Statistics of the Federal Penitentiary Service of Russia. [Electronic resource] / access mode: <http://fsin.su> (accessed date: December 25, 2019).

restorative justice. And, of course, such issues as housing, the issue of further education and professionalization, as well as the issue of employment of a convicted teenager and much more, do not go unnoticed [4, p.116-117].

In the **French** criminal theory on the nature and purpose of punishment, two main concepts compete: 1) "perfect neoclassicism"; 2) "new social protection".

So, according to Professor I.D. Kozochkina (2003), Professor N.E. Krylova (2012), punishment is the norm of public reaction to the commission of a criminal act, traditionally pursuing two main goals: "retaliation" and "intimidation"<sup>1</sup>. In this regard, the punishment should be "painful" and "painful" for the criminal as much as the grave act committed by him in relation to other persons or their property.

Representatives of another concept (M. Ansel) oppose such an interpretation. As the main goals of punishment, they consider the education of a juvenile offender and his social adaptation after release from prison. Thus, social protection should primarily pursue the goal of returning the convicted person to society, but with a different model of behavior in relation to society, individuals and their property [4, p.120].

The execution of sentences against juvenile offenders in France is monitored by the Office of the Judicial Defense of the Fifth Republic. Juvenile offenders are placed for 6 - 12 months in educational hostels - emergency accommodation centers and closed educational centers [13, p.14-15].

Priority is given to socio-pedagogical and corrective measures before criminal prosecution. The main goal of providing social, psychological and educational assistance to adolescents who are in the Educational Center is to prepare a more or less socialized person who is self-orientated in all vital social issues in society in the post-prison period [11, p.32-33].

Much attention in the socio-pedagogical work with juvenile convicts is given to leisure (cultural events held in educational centers). This is the key to successful re-socialization of juvenile convicts in prisons [10]. With the support of the Ministry of Culture and the Ministry of Youth and Sports of France, the Center's pupils have free access to cultural values (libraries, meetings with creative groups, museums), as well as their active involvement in sports [7, 11, p.32].

Also, in the French criminal justice system, short-term trips of juvenile offenders outside the penitentiary institution for family reasons are currently practiced - to meet with a possible employer after release. In addition, a convicted person can be released from punishment for a crime if he proves to the court that he has fully adapted to conditions outside places of deprivation of liberty, and the damage caused by him will be 100% compensated to the injured party. Thus, 60% - 70% of juvenile convicts serving more than 2/3 of the term of criminal punishment in the form of imprisonment are released on parole, which positively characterizes the work of the prison system in France in relation to convicts [4, p.121].

Of particular interest to the MIS of Russia is also the positive experience of **Germany**. It is well known that the criminal law of Russia has historically developed under the influence of the Romano-German legal system, and this could not but affect the domestic criminal executive legislation and the practice of its application in the current period [4, p.116-117].

In Germany, juvenile offenders are treated more humanely and, as a rule, they are sentenced to real terms of imprisonment not exceeding five years. The criminal liability of juvenile offenders in Germany is regulated by the German Penal Code and the Law on Juvenile Justice §3. They, in turn, regulate the basic doctrine of criminal punishment and the execution of criminal sentences against juvenile convicts in Germany.

All penitentiary institutions in Germany for juvenile convicts for household equipment and hygienic rules for the maintenance of these institutions comply with the norms and rules for the maintenance of convicts in isolation from society. There are three main prison regimes: 1) "enhanced"; 2) "ordinary"; 3) "open". Being in the third - "open" regime of detention, convicts have the right to leave the penitentiary institution, visit relatives and friends, go to the city to study (professional lyceum) and attend (temporary) work lasting no more than 4 hours a day.

The personality of the convict in places of deprivation of liberty is not subjected to suppression; here they teach to respect the opinions of peers of convicts and jointly make important decisions in these situations.

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<sup>1</sup>See: Criminal law of foreign states. / Ed. and with the foreword: I.D. Kozochkina - M.: Omega-L, IMPE named after A.S. Griboedova, 2003. - 576 p. ISBN: 5-88774-057-4; 5-901386-60-4.

While imprisoned, convicted adolescents have the right to freely receive general (secondary) education, a profession, and also to prepare for independent life outside places of deprivation of liberty. Technologies for restorative justice have been adapted in all the penitentiary institutions of the Federal Republic of Germany - a minor convicted person has the opportunity to establish relations with the injured party and, if possible, to compensate for the damage caused to it. These programs (technologies) are not implemented under coercion of the parties, which makes it possible for the guilty party to first realize the deed, and then independently decide on the reconciliation of the parties, make every effort to solve the problem.

The expected effect is that the individual, firstly, is released without unnecessary mental burden and tension (any anger) on the current life situation; secondly, receives forgiveness from the injured party, which from a moral point of view facilitates the mental burden of the offender; thirdly, a teenager gets the opportunity of communicative practice, which is useful in the first post-prison period. Thus, the task of the penitentiary institutions of Germany for juvenile convicts is not so much totally punitive measures as educating the personality of a teenage convict, preparing him for an independent and law-abiding life in modern German society [4, p.116].

It can also be stated that the institute of social workers was created and operates in Germany, which already during the period of serving a criminal sentence of deprivation of liberty helps to establish socially useful relations of the convict with his relatives and relatives.

To solve the problem of employment of juvenile convicts, the administration of the educational colony establishes contacts with various employers, making them interested in the fact that each week they can invite the number of workers that they need at a given time. All these measures contribute to the preservation of labor skills of adolescents, as well as maintaining communication with the outside world. In addition, juvenile convicts who are released from the educational colony receive money from the institution to travel to their place of permanent residence, necessary food, and, if necessary, clothes purchased with funds that they deposited into their personal account during the entire term of serving the sentence in places of imprisonment [4, p.116–117].

The social workers of all German penitentiary institutions orient the convicted colony to maintaining existing socially useful contacts with relatives and relatives, which he could count on in the present period and in the future. The teenager also finds new contacts through authorized correspondence, phone calls, video chatting on Skype with relatives and friends, friends at school. A juvenile convict in a colony gets the opportunity to visit his parents and close relatives; attending cultural events outside the colony; getting the opportunity to go home on a short vacation 1 - 3 days [11, p.30].

The main task of all penitentiary institutions for juvenile convicts in **Switzerland** is to bring the organization of social work closer to the family education of convicted and street children.

Priority in institutions is given to socio-pedagogical and socio-psychological methods of working with juvenile offenders, much attention is paid to the role of religion in the re-socialization of a minor, as well as to creative, creative education in conditions of total isolation of the individual from society.

For social work in Swiss penitentiaries, a differentiated approach is characteristic of juvenile convicts:

- 1) adaptation cells (separate sections - quarantine) in prisons for new juvenile prisoners;
- 2) separate cells for convicts under more serious articles of the Swiss Criminal Code (1977, edition April 2002) - murder, rape, hostage-taking, terrorism, etc.

In turn, for minor convicts suffering from various addictions, for example, from psychotropic and narcotic substances, special correctional programs are designed for up to 1 year. Further, the minor convicted person will be transferred to the regular regime of stay in the penitentiary institution of the penal correctional system of Switzerland [11, p.30].

In most European countries, the principle of “employment” is laid as the basis for organizing the educational process in penitentiaries for juvenile convicts, which is based on the idea of engaging a teenager with some useful business on an ongoing basis. At the same time, a complex combination of various forms of work with juvenile convicts is used to organize the socio-pedagogical process.

These are the measures applied to juvenile offenders in educational centers:

- 1) general and vocational training;
- 2) sports activities (football, volleyball, basketball, athletics and weightlifting, swimming in the pool, chess);



3) socially useful work (cleaning the territory of the colony, cleaning of residential and non-residential premises of the educational center);

4) the socio-psychological support of the teenager throughout the entire period of stay in the penitentiary institution (colony);

5) the maintenance and development of the remiz education of juvenile convicts;

6) leisure classes in circles and sections on interests - photo-video, computer science, mathematics, robotics, visual arts and much more [12, p.176–177].

In **Sweden**, there are private and municipal rehabilitation centers for juvenile prisoners released from prison. In these institutions, for a small fee or free of charge maladaptation<sup>1</sup>, adolescents receive housing and meals until the issues of their employment and household arrangements are resolved.

In addition, municipal local authorities in their subordinate territory maintain at their own budget “lodging houses” (social hotels) to provide immediate assistance to adolescents who find themselves in difficult situations, the so-called “Street Children”. The adolescent’s placement in rehabilitation centers and “lodging houses” depends on the will of the convicts themselves.

It can also be noted that the probation officers of Sweden actually begin to work with their future supervised persons even in the penitentiary institution - at the final stage of serving a criminal sentence [4, p.118].

A probationary social worker sends a minor convict to a rehabilitation center and provides all the information about a teenager. These are all life circumstances, problems in the family of the offender, the socio-psychological and physical condition of the minor, as well as the personal characteristics of the convicted person.

According to the Law on Probation Service, as part of juvenile probation in Sweden, a juvenile offender initially receives qualified assistance and support from a social worker from the moment he is involved in criminal proceedings [11, p.32–33].

Undoubtedly, the experience of the **Swiss** penitentiary institutions is also interesting, which, at the final stage of serving a juvenile convict with a criminal sentence of imprisonment, practice the use of electronic bracelets for those released from the educational colony. This experience is aimed at convicts preparing to be released from prison in 6-8 months. In the penal system of Switzerland, this practice is also actively used for the conditional release of minors, as well as for prisoners sentenced to probation from 6 months to three years.

A student in a correctional colony has the opportunity to move freely around the penitentiary institution and even visit municipal organizations and services that implement issues related to the social adaptation of a minor convict in the post-prison period, as well as visit the library and other cultural and educational organizations of the municipality (prefecture).

This area of activity of the administration of the penitentiary institution is combined with an individual program for the social adaptation of the convict and his successful reintegration into modern Swiss society [4, p.118].

In the **Republic of Kazakhstan**, the Probation Institute is considered as the *best alternative* to imprisonment. It contributes to the most painless rehabilitation of a minor convict, without exposing it to the destructive influence of the institution of the penal system of the Republic of Kazakhstan, while maintaining the real prospect of correcting a certain category of offenders with a predisposition to replenish the prison population [8, p.94].

For the first time in national legislation, the concept of “probation” was included in the Law of the Republic of Kazakhstan dated February 15, 2012 “On Amending and Adding to Some Legislative Acts of the Republic of Kazakhstan on the Issues of Probation Service”, and in law enforcement practice it began to be implemented in the form of probation control established by in relation to conditionally convicted citizens of the Republic of Kazakhstan. The implementation of probation control is entrusted to the probation service of the Republic of Kazakhstan, created in the structure of criminal executive inspections [8, p.94].

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<sup>1</sup>Social maladaptation is the complete or partial loss by the subject of his ability to adapt to the conditions of society. That is, this is a violation of the relationship of a person with the environment, which is characterized by the impracticability of his positive social role in certain social conditions, corresponding to his potential. Social maladaptation is characterized by several levels that reflect its depth: latent manifestation of maladaptation phenomena, maladaptive “perturbations”, destruction of previously formed adaptive mechanisms and connections, entrenched maladaptation. See: Stoimenov Y.A., Stoimenova M.Y., Koeva P.Y. (2003) Psychiatric Encyclopedic Dictionary. - K.: “IAPM”, 2003. - P.969. - 1200 p. ISBN: 966-608-306-X.

Penitentiary probation is carried out in respect of juvenile convicts serving a criminal sentence of imprisonment in institutions of the penal system of the Republic of Kazakhstan, and is expressed in the development and implementation of a set of socio-educational and socio-psychological measures aimed at their re-socialization and preparation of the convicted person for release [8, p.96].

In its turn, "Post-Penitentiary Probation in the Republic of Kazakhstan" is an activity to develop and implement a set of measures in relation to persons released from places of deprivation of liberty, with the aim of their successful reintegration into modern society of the Republic of Kazakhstan. Depending on the grounds for the release of a person from serving a criminal sentence of imprisonment and the personal characteristics of those released, post-prison probation is carried out in respect of them in various forms [3].

Thus, at the state level, in order to create a national system for the comprehensive re-socialization of persons released from places of deprivation of liberty and registered with the probation service of the Republic of Kazakhstan. Today, all the necessary conditions are created for its effective implementation, which contributes to a significant reduction in the level of recidivism in adolescents throughout the sovereign state of the Republic of Kazakhstan.

So, by Decree of the President of the Republic of Kazakhstan dated December 8, 2016 No. 387, the "Comprehensive strategy for the social rehabilitation of citizens released from places of deprivation of liberty and registered by the probation service in the Republic of Kazakhstan for 2017 - 2019 was adopted" [1]. This Comprehensive Strategy is aimed at eliminating the prerequisites for social maladaptation while the probation service is registered [8, p.96-97].

In the countries of the Asian continent, for example, in **Japan**, a specialized system of closed correctional institutions has been created for minors and young convicts of different ages ("primary" - for 14–16 years old, "middle" - for 16–20 years old and "senior" - for 20 - 23 years old). The head of the institution's psychological service is liaising with relatives and friends who would be able to provide assistance and support to a relative in prison at all stages of the execution of the criminal sentence [11, p.35-36].

Lawyers, scientists and other specialists explain this phenomenon by the fundamental factors restraining the growth of crime - the effectiveness of legislation and the activities of Japanese law enforcement agencies. In the implementation of total and public control over crime, an important role is played by measures aimed at the successful social adaptation of people released from prison in Japan. The purpose of these measures is to prevent the formation of a complex of "social outcast", "criminal personality" among juvenile convicts [4, p.118–119].

Also in Japan, the issues of preparing juvenile convicts for release from penitentiary institutions are regulated by the following laws: "On probation of Japan", "On post-prison guardianship of Japan", "On post-prison custody of released prisoners in Japan" [4, p.119–220].

A significant role in assisting and supporting juvenile offenders in the post-prison period is played by Japanese society and its state and non-governmental organizations (Charitable Organizations).

One of the largest organizations is the Japan Convict Rehabilitation Assistance Association. Its branches are available in almost every prefecture in 47 administrative units of Japan. On her initiative, special dormitories (social hotels) are created separately for adult and minor convicts released from places of deprivation of liberty (half-open type houses with all amenities for living and housekeeping).

Such assistance in social rehabilitation is carried out only if a minor convict applies for it. This help consists in organizing free accommodation in a hostel, three meals a day, as well as with all necessary treatment (restoration of physiological and psychological health) of the convicted person. Assistance also consists in organizing leisure time, in placing teenagers at work or studying at a vocational school, if possible, and in providing material and socio-psychological assistance to him and his dysfunctional family [4, p.220].

All necessary social and rehabilitation assistance is provided to a minor convict in a rehabilitation center for six months from the date of release from the penal institution of the penal correctional system in Japan. If necessary, this period may be extended by 8 to 10 months at the discretion of the administration of the Center. When making this decision, all life circumstances, the state of the teenager's family, as well as his readiness for an independent life, are taken into account.

All juvenile convicts at the Rehabilitation Center work in nearby, usually small, production facilities, and also attend classes at school or in vocational schools. Some of the convicts are engaged in cleaning up the territory, gardening, repairing clothes and shoes, and other economic affairs of the Center. Their work

is also paid monthly. Employees of the Centers of Japan seek immediately upon arrival of a teenager in the Center to find him a job taking into account mental and physical capabilities, as well as create a different social environment for the convicted person, provide social, psychological, medical and qualified legal assistance [4, p.221–222].

**Conclusions.** In the above-mentioned foreign countries, “probation services” were created primarily to ensure public safety, to work with persons serving criminal sentences in places of deprivation of liberty, as well as to provide assistance and support to prisoners and released from places of deprivation of liberty. The main goal of “probation services” is to promote the successful social adaptation of persons of juvenile convicts released from prison. This assistance consists in rendering assistance to a juvenile convicted person in restoring socially useful ties, social welfare, employment, providing psychosocial, qualified legal and medical assistance, as well as preventing their recidivism [8, 10].

In the course of the study, we revealed that at the present time, from the point of view of achieving the goals of punishment, the issue of ensuring the post-prison adaptation of juvenile convicts and preventing recidivism in adolescence is of significant importance. This is especially important due to the fact that there is no proper system for individual prevention of relapse in teenagers, as well as a special pre-trial study of the identity of the juvenile offender to make recommendations to the court, in particular, to select a preventive measure or type of punishment in order to prevent excessive repressive measures.

In addition, at the present time, the relevant state bodies of the Russian Federation do not exercise proper control and supervision over the behavior of probationers and persons released on parole. Today in Russia there is no mechanism for providing social and rehabilitation assistance and support to persons released from places of deprivation of liberty. The result of the lack of activities for the social rehabilitation of juvenile convicts released from PKU “Educational Colony” of the Federal Penitentiary Service of Russia, as well as the problematic post-prison adaptation of all persons released from prison. The result is their socio-psychological degradation - and, as a result, the spread of recurrent juvenile delinquency in modern Russian society [5, p.3].

It can also be noted that the social adaptation of juvenile convicts in the post-prison period has a preventive, rehabilitation and restorative character. Implementing the basic components in the penitentiary institution of the Federal Penitentiary Service of Russia and beyond, it can be confidently asserted that all the work done by the staff and the administration of the “Educational Colony” of the Federal Penitentiary Service of Russia can be aimed at the socio-economic, cultural, moral, psychological and legal well-being of the convicted.

All this will directly increase the “chances” of successful social adaptation of the convicted person in the post-prison period, and then the successful reintegration of the individual into modern competitive Russian society. We are convinced that the process of introducing minors sentenced from prison to social environment should be not only voluntary, but also compulsory (control, supervision, etc.) [9, p.403-424].

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### **КӘМЕЛЕТКЕ ТОЛМАҒАН СОТТАЛҒАНДАРДЫҢ ИНСТИТУЦИОНАЛДЫҚ ПРОБАЦИЯСЫ: ХАЛЫҚАРАЛЫҚ ТӘЖІРИБЕ**

**Аннотация.** Мақалада Халықаралық оң тәжірибе пробация қызметі кәмелетке толмаған сотталғандарды постпенитенциарный кезеңінде, ориентирующий сотталған адамның әлеуметтік бейімделу үдерісінде өз бетінше дамуы. Өз отбасына және жақын туыстарына қамқорлық жасайтын, мемлекет пен қоғамға пайда әкелетін жеке адамның, заңға мойынсұнушы азаматтың құқықтық, қазіргі заманғы қоғам мен егеменді мемлекеттің барлық талаптары мен жалпыға бірдей қабылданған қағидаттарына жауап беретін жеке адамның құқықтары мен заңды мүдделерін қорғау болып табылады.

Түрмеден кейінгі кезеңде кәмелетке толмаған сотталғандардың әлеуметтік бейімделуі профилактикалық және оңалту сипатына ие. Ресей Федерациясының пенитенциарлық қызметінің пенитенциарлық мекемесіндегі негізгі компоненттерді іске асыра отырып, Ресей Федералды Қылмыстық атқару қызметі колониясының

қызметкерлері мен әкімшілігі жасаған барлық жұмыстар әлеуметтік-экономикалық, мәдени, адамгершілікке бағытталған болуы мүмкін деп сеніммен айтуға болады.

Мұның бәрі түрмеден кейінгі кезеңде сотталушының сәтті әлеуметтік бейімделуінің, содан кейін жеке тұлғаның қазіргі заманғы бәсекеге қабілетті ресейлік қоғамға сәтті интеграциялануының «мүмкіндіктерін» арттырады, ал сотталған кәмелетке толмағандарды әлеуметтік ортаға енгізу процесі тек ерікті ғана емес, сонымен бірге міндетті де болуы керек. (бақылау, қадағалау және т.б.).

"Пробация қызметінің" негізгі мақсаты бас бостандығынан айыру орындарынан босатылған кәмелетке толмаған сотталған адамдардың табысты әлеуметтік бейімделуіне жәрдемдесу болып табылады. Ең алдымен, бұл көмек кәмелетке толмаған сотталғанға әлеуметтік-пайдалы байланыстарды қалпына келтіру, әлеуметтік-тұрмыстық, еңбекке орналастыру, әлеуметтік-психологиялық, білікті заңгерлік және медициналық көмек көрсету, сондай-ақ олардың рецидивті қылмыс жасауының алдын алу болып табылады.

Қазақстан Республикасы, Финляндия, Франция, ГФР, Швеция, Швейцария және Жапония сияқты әлемнің егеменді мемлекеттерінің пробация қызметінің оң тәжірибесі келтіріледі.

Жоғарыда аталған шет мемлекеттерде «пробация қызметі» ең алдымен қоғамдық қауіпсіздікті қамтамасыз ету, бас бостандығынан айыру орындарында қылмыстық жазасын өтеп жатқан адамдармен жұмыс жасау, сондай-ақ бас бостандығынан айыру орындарынан босатылған сотталушыларға көмек пен қолдау көрсету үшін құрылды. «Пробация қызметінің» басты мақсаты - кәмелетке толмағандарды босатуға сотталған адамдардың сәтті әлеуметтік бейімделуіне ықпал ету. Бұл көмек кәмелетке толмаған сотталушыға әлеуметтік пайдалы қатынастарды қалпына келтіруге, әлеуметтік қамсыздандыруға, жұмысқа орналастыруға, психоәлеуметтік, білікті заңгерлік және медициналық көмек көрсетуге, сондай-ақ олардың рецидивті болдырмауға көмек көрсетуден тұрады.

**Түйін сөздер:** Пробация, Қазақстан Республикасында постпенитенциарлық пробация, Швейцарияның пенитенциарлық мекемелеріндегі әлеуметтік жұмыс, Финляндия ҚАЖ, Финляндияның пробация қызметі, кәмелетке толмаған сотталғандарды оқудан кейінгі бейімдеу, Пробация қызметі Жапония, Жапония ҚАЖ, халықаралық тәжірибе, Ресей ҚАЖ-ды дамытудың Федералдық мақсатты бағдарламасының тұжырымдамасы (2017-2025).

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### **ИНСТИТУЦИОНАЛЬНАЯ ПРОБАЦИЯ НЕСОВЕРШЕННОЛЕТНИХ ОСУЖДЁННЫХ: МЕЖДУНАРОДНЫЙ ОПЫТ**

**Аннотация.** В статье представлен международный положительный опыт службы пробации несовершеннолетних осуждённых в постпенитенциарный период, ориентирующий осуждённого в процессе социальной адаптации на самостоятельное развитие. Индивида, заботящегося о своей семье и близких родственниках, приносящего пользу государству и обществу трудовой деятельностью, законопослушного гражданина, отвечающего всем требованиям и общепринятым принципам правового, современного общества и суверенного государства.

Социальная адаптация несовершеннолетних осуждённых в постпенитенциарный период имеет профилактический, реабилитационный и восстановительный характер. Внедряя базовые компоненты в пенитенциарном учреждении Федеральной службы исполнения наказаний России и за ее пределами, можно с уверенностью утверждать, что вся работа, выполняемая сотрудниками и администрацией «Образовательной колонии» Федеральной службы исполнения наказаний России, может быть направлена на социально-экономическое, культурное, моральное, психологическое и правовое благополучие осуждённых.

Все это напрямую увеличит «шансы» на успешную социальную адаптацию осуждённого в послевоенный период, а затем на успешную реинтеграцию личности в современное конкурентное российское общество, при этом процесс введения несовершеннолетних, осуждённых из тюрьмы, в социальную среду должен быть не только добровольным, но и обязательным (контроль, надзор и т. д.).

Автором статьи формулируются основные выводы, в которых определяется то, что основной целью «служб пробации» является содействие успешной социальной адаптации лиц несовершеннолетних осуждённых, освободившихся из мест лишения свободы. Прежде всего, данное содействие заключается в оказании несовершеннолетнему осуждённому помощи в восстановлении социально-полезных связей, социально-бытовом, трудовом обустройстве, оказании социально-психологической, квалифицированной юридической и медицинской помощи, а также предупреждение совершения ими рецидивных преступлений.



Приводится положительная практика Службы пробации таких суверенных государств мира, как, Республика Казахстан, Финляндия, Франция, ФРГ, Швеция, Швейцария и Япония.

В вышеупомянутых зарубежных странах «службы пробации» были созданы в первую очередь для обеспечения общественной безопасности, работы с лицами, отбывающими уголовные наказания в местах лишения свободы, а также для оказания помощи и поддержки заключенным и освобожденным из мест лишения свободы. Основная цель «службы пробации» заключается в содействии успешной социальной адаптации лиц, осужденных за освобождение несовершеннолетних. Эта помощь заключается в оказании помощи несовершеннолетнему осужденному в восстановлении общественно-полезных связей, социальном обеспечении, трудоустройстве, оказании психосоциальной, квалифицированной юридической и медицинской помощи, а также в предотвращении их рецидивизма.

**Ключевые слова:** пробация, постпенитенциарная пробация в РК, социальная работа в пенитенциарных учреждениях Швейцарии, УИС Финляндии, Служба пробации Финляндии, постпенитенциарная адаптация несовершеннолетних осужденных, Служба пробации Японии, УИС Японии, международный опыт, Концепция Федеральной целевой программы Развития УИС России (2017–2025).

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#### REFERENCES

- [1] Decree of the President of the Republic of Kazakhstan dated December 8, 2016 No. 387 “On approval of the Comprehensive Strategy for the social rehabilitation of citizens released from places of deprivation of liberty and registered with the probation service in the Republic of Kazakhstan for 2017-2019”.
- [2] Agayan V. (2014) Aspects of post-prison adaptation of persons after serving sentences in correctional facilities. [Text] / VI International Student Electronic Scientific Conference “Student Scientific Forum” (RAE, February 15 – March 31, 2014). P. 1-3 (in Russ.).
- [3] Bachurin S.N. (2017) The publication of an article-by-article scientific and practical commentary on the Law of the Republic of Kazakhstan dated December 30, 2016 “On Probation” is the first step towards the implementation of a comprehensive strategy for the social rehabilitation of citizens released from prison and registered with the probation service in the Republic of Kazakhstan for 2017–2019 years”. // III International Penitentiary Forum “Crime, Punishment, Correction” (Ryazan, November 21-23, 2017). Ryazan: Academy of the Federal Penitentiary Service of Russia, 2017. Vol. 1. P. 153–163 (in Russ.).
- [4] Belov V.I., Belova E.Yu. (2014) Social adaptation of juvenile prisoners in some foreign countries. // Union of criminologists and criminologists. 2014. N 1. P. 115–125 (in Russ.).
- [5] Vorotnikova Ya.N., Efremova N.A. (2013) Social adaptation of persons released from prison. // V correspondence All-Russian scientific-practical conference of students and graduate students “Youth - the future of Russia”. Omsk, 2013. P. 2-3 (in Russ.).
- [6] Golodov P.V. (2011) Foreign experience and prospects of creating a probation service in Russia: organizational and legal aspects. // Bulletin of the Institute: crime, punishment, correction. 2011. N 2 (14). P. 81–88 (in Russ.).
- [7] Danilin E.M. (2007) The experience of the French penitentiary system - to Russia. // The penal system: law, economics, management. 2007. N 1. P. 6–9 (in Russ.).
- [8] Kyzyllov M.A. (2017) The development of the probation institution in Kazakhstan is a new stage in improving the legislation in the field of the application of penalties not related to isolation from society. // III International Penitentiary Forum “Crime, Punishment, Correction” (Ryazan, November 21-23, 2017). Ryazan: Academy of the Federal Penitentiary Service of Russia, 2017. Vol. 1. P. 93–98 (in Russ.).
- [9] Nesterov A.Y. (2019) Social adaptation of juvenile prisoners in the penal system of Russia: correctional and post-prison practice: dissertation ... Doctors of Sociology: 22.00.04: RSL OD 71 19-22/5 [Electronic resource] / access mode: <https://search.rsl.ru/ru/record/01008584904> // A.Y. Nesterov. M. 2019. 551 p.
- [10] Sleptsov I.V. (2009) The prison system of France (a brief overview). // The penal system: law, economics, management. 2009. N 2. P. 39-42 (in Russ.).
- [11] Sofronova S.A. (2010) Analytical review (with proposals): Foreign experience in the execution of sentences of imprisonment of minors. Vologda: VIPE FSIN of Russia, 2010. 94 p.
- [12] Teplyashin P.V. (2005) The origins and development of English prison science. [Monograph] / Krasnoyarsk: Siberian law. Institute of the Ministry of Internal Affairs of Russia. 2005. 220 p.
- [13] Touré de Coucy, F. (2008) Educational Impact in the Juvenile Justice System in France. // Issues of juvenile justice. 2008. N 3 (17). P. 11-17 (in Russ.).