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**INSTITUTE OF PROBATION SERVICE
IN THE RUSSIAN FEDERATION**

Abstract. In the article, based on the results of an empirical study, the development prospects of the probation service institute in the Russian Federation are presented.

The probation service in Russia will focus on the development of juvenile probation in the Russian Federation, which will become the basis for ensuring the successful social adaptation of juvenile offenders in the post-prison period and their subsequent reintegration into modern Russian society.

For the first time, the author of the article proposes the structure of the new Federal Law "On the Probation Service in the Russian Federation". In the development and subsequent discussion in parliament of the Russian Federation of this bill, the author of the publication suggests paying attention to the section "The main activities of rehabilitation centers of the Federal Security Service of Russia".

It is determined that the criminal-executive and criminal legislation in Russia as a whole establishes the principle of differentiating the appointment and execution of criminal punishment, especially for juvenile convicts serving criminal sentences in prisons.

The problem of legal regulation of the activities of the organizations considered here is extremely acute today. The problem of legal regulation is associated with the post-prison adaptation of persons released from prison. Taking into account the experience of some foreign sovereign states of Asia and Europe, it is necessary to complete the work that has already begun and to adopt the Federal Law on Post-Prison - Social Adaptation of Persons Exempted from Criminal Punishment.

The author also determined that penitentiary re-socialization of a convicted person is oriented towards full or partial restoration of social (life) skills, which allows a minor convicted person to reintegrate into society in the post-prison period, independently navigate the issues of obtaining a profession, employment, creating his own family, etc.

A juvenile convict, while in prison, partially or completely loses family ties, loses contact with the outside world, friends, acquaintances, and even close relatives turn away from the teenager. But they are necessary for the teenager throughout the entire period of stay in places of deprivation of liberty, and especially after release from the colony in the first post-prison period. The author also proved that a teenager receives in prisons the necessary primary professional, cultural and aesthetic educational, social skills that will guide him in the process of social adaptation in one or another sphere of life.

The material in this article does not contain information (information) relating to state secrets of the Russian Federation.

Key words: juvenile law, criminal law of Russia, juvenile probation in Russia, Federal Tariff Service of Russia, Federal Law "On Probation Service in the Russian Federation", socialization of the convict, reintegration of the convicted person into society, penitentiary re-socialization of the convict, post-prison adaptation of convicts.

The Concept for the Long-Term Socio-Economic Development of the Russian Federation for the Period Until 2020 stipulates the creation of a public probation service in the Russian Federation, providing social and psychological support for persons released from prison [4]. Ideally, the "Probation Service of the Russian Federation" (hereinafter referred to as the Federal Tariff Service of Russia) is called upon to solve tasks related to achieving the goals of criminal punishment. Therefore, it is advisable not to directly subordinate her to the criminal executive in the Russian system, but to preserve only her jurisdiction to the Ministry of Justice of the Russian Federation.

“At present, in pursuance of the Concept of the federal target program “Development of the penal system (2017–2025)”, approved by the order of the Government of the Russian Federation of December 23, 2016 No. 2808-r, a draft of the federal target program "Development of the penal system (2017–2025)" was developed, which is a logical continuation of the federal target program “Development of the penal system (2007–2016)”, “Project” was sent to the Government of the Russian Federation for approval” – Report of the Director of the Federal Penitentiary Service of Russia G.A. Kornienko [12, p.10].

Based on the Director of the Federal Penitentiary Service of Russia voiced at the Forum by G.A. Kornienko report, it can be determined that the probation service (FSP of Russia) as a new federal executive body of the Russian Federation has a high theoretical and practical potential for interaction with various interested bodies of municipal self-government, as well as non-profit (charitable) organizations, the Russian Orthodox Church, other religious organizations, as well as with the families of convicts and the public with the aim of involving them in the process of effective correction, rehabilitation and post-prison adaptation of convicts. This experience was gained in the course of 25 years of interaction between the penitentiary institutions of the Federal Penitentiary Service of Russia and the Federal Penitentiary Institution “UII” with NPOs and other organizations that orient the subject of penal law to successful social adaptation in the post-prison period [12].

Today, in modern Russian conditions, this is important to ensure more or less successful post-prison adaptation of juvenile offenders, the effective use of criminal penalties, alternative to imprisonment, and the prevention of recurrent juvenile delinquency. And also, taking into account international experience, the main areas of activity of the Federal Probation Service of Russia (FSP of Russia) may be the organization of work with juvenile offenders at the stages before the conviction and after the sentencing.

Firstly, punishment not related to isolation of a minor convict from society may be in the form of correctional labor for a term of up to one year. Also, compulsory work can be carried out for a period of forty to one hundred and sixty hours. The punishment may be in the form of a fine in the amount of one thousand to fifty thousand rubles, or in the amount of wages or other income of a minor convict for a period of two weeks to six months [3, paragraphs 2-4, Art. 88];

Secondly, punishment unrelated to isolation from society can be in the form of control and supervision of the behavior of a conditionally convicted person, restriction of liberty for a period of two months to two years [3, clause 5, art. 88];

Thirdly, parole may be effected;

Fourthly, rendering assistance in penitentiary re-socialization and social adaptation of persons released from places of deprivation of liberty. (For example, for persons who have committed crimes against human life and health, regulating 16, 18, 21 chapters of the Criminal Code of the Russian Federation) [3].

In fact, the competence of the probation service (FSP of Russia) covers all the functions of the existing PKU UII. We also draw attention to the fact that “mediation for the voluntary reconciliation of the parties” of the injured offender can also be attributed to the conduct of the probation service (FSP of Russia). With voluntary execution in the prescribed manner of the contract - reconciliation between the parties.

So, on June 1, 2012, the National Strategy of Action for Children for 2012–2017 was adopted. Section VI “Creating a System for the Protection and Ensuring of the Rights and Interests of Children and Child-Friendly Justice” defines restorative justice as a priority and for its implementation prescribes the establishment of conciliation services. This is an important event that opens up prospects for the further development of domestic restorative justice for minors who are in conflict with the law [Art. 87 of the Criminal Code], as well as minor victims [11, p.7].

Directions for the implementation of the National Strategy of Actions in the Interests of Children were also identified and the Interdepartmental Plan of Comprehensive Measures for the Implementation of the Concept for the Development of the Correctional System of Russia was adopted. The adoption of these documents led to a fundamental change in the situation. Let us dwell on this in more detail, since further steps in the development of mediation in criminal cases and in the field of work with juvenile delinquency are now directly determined by this new situation [11, p.7].

Great and invaluable assistance to the Federal Penitentiary Service of Russia in this process is provided by our foreign colleagues. In particular, in April 2016, when representatives of the National Penitentiary Service of the Kingdom of Norway visited the Federal Penitentiary Service of Russia in the Arkhangelsk Region, a decision was made to conduct an experiment on the application of mediation to juvenile convicts serving sentences in the PKU “Arkhangelsk EC” of the Federal Penitentiary Service of Russia in the Arkhangelsk Region. So, for example, the convict “L”, who is serving a sentence in the “Arkhangelsk educational colony”, went through the reconciliation procedure [12, p.15].

To conduct mediation, the pupil of the Arkhangelsk EC was sent to the «Nadezhda» Rehabilitation and Resocialization Center, accompanied by employees of the penitentiary institution of the Federal Penitentiary Service of Russia. Initially, the convict’s personal consent was obtained for reconciliation with the victim of his crime. The victim was an 18-year-old young man. Reconciliation was carried out in a confidentiality environment by specially trained “mediators” of the center by specialists [17].

The first stage of mediation began with a conversation with the inmate of the colony, which was supported by my mother. She participated in the restorative justice process, representing the interests of her son. Then a conversation took place with the injured party. After the mandatory stages of reconciliation, a meeting was held between the inmate of the “L” colony and the injured party “S.M.”, as a result of which a written and oral agreement was reached on the reconciliation of the parties. This information will be attached to the personal file of the inmate of the colony and will be considered in court when deciding on conditional release (parole) [17].

The development of the mediation institution in the Arkhangelsk region became possible within the framework of Russian-Norwegian cooperation. Implementation of measures aimed at resolving conflict situations will take place on the basis of the penitentiary inspection and the Arkhangelsk educational colony, which should help convicts overcome the negative consequences of a crime and avoid the commission of repeated offenses (during the penal and post-prison periods) [17].

So, at the present time, all the necessary scientific and pedagogical developments of the teams of the Academy of the Federal Penitentiary Service of Russia (Ryazan), the Research Institute of the Federal Penitentiary Service of Russia (Moscow) and other scientific and pedagogical organizations of the Federal Penitentiary Service of Russia on the re-socialization of juvenile convicts in penitentiary institutions of the Federal Penitentiary Service of Russia are being implemented. Comprehensive measures are also being developed to prepare convicts for the release from the EC of the Federal Penitentiary Service of Russia, including by creating special adaptation centers in prisons on the territory and outside the educational colony. In all Rehabilitation Centers at educational colonies, the conditions of the convict’s stay are freer (minimum external control, the ability to cook their own food, independently purchase food and personal hygiene products in the store outside the colony, free use of authorized Internet services for distance learning at a university or secondary school) region and more). All this in the near future will give an opportunity to adolescents who have been freed from the EC of the Federal Penitentiary Service of Russia to minimize the severity of problems in social adaptation in the post-prison period.

So, in the process of sociological research (2014–2018), we revealed that prisoners convicted for 6 months are preparing for release, are building positive plans for the near future. The basic plans of the convicts include, first of all, establishing relations with family and close relatives - 78% of respondents. Already established relationships with their parents and relatives and have rather positive prospects for development and maintaining relations with them 20%. And, only 2% of the convicts did not comment on their relationship with their parents and relatives in the current period.

Convicts also plan to continue vocational training in colleges, institutes, find work and financially help their elderly parents. Also, in the process of serving a criminal sentence in an educational colony, convicts positively resolve issues of making amends to the injured party. This, of course, occurs through mandatory financial payments of material and moral damage determined by the court, as well as through “apologizing” letters, in many cases, conciliation agreements between the parties in the criminal proceedings.

Today, in all the educational institutions of the “Educational Colonies” of the Federal Penitentiary Service of Russia for the convicts preparing for release, “Schools for the preparation for release” are organized, which deal with examples of life problems that the convicts will have to face in the near future in reality. This is primarily the employment and refusal to employ a teenager with an outstanding criminal

record. Open lectures on social and political changes in society and legal culture are also organized [16, p.8–9]. Lectures are organized by representatives of the prosecutor's office of the municipality, the bar, inspectors of children's rooms of the police, as well as various NGOs, guiding juvenile prisoners to a successful post-prison adaptation in society [14,15].

In order to prevent future reoffending, convicts in the process of promoting positive penitentiary re-socialization of juvenile convicts in the Federal Penitentiary Institution “EC” of the Federal Penitentiary Service of Russia, targeted assistance is provided by the social educators and psychologists of the colony in preparing the convicts for release from prison. As a rule, convicts who are positively characterized are transferred to facilitated and preferential conditions of stay at the Federal Penitentiary Institution “EC” of the Federal Penitentiary Service of Russia 6 months before release. In these conditions, the convict receives the opportunity to learn. Also, with the help of the colony staff, he learns to solve everyday problems - cooking, calculating the family budget, calculating the time, drawing up personal documents (passports of a citizen of the Russian Federation and other certificates). Also during this period, the person preparing for release receives the opportunity to pass the exam (GIA) for admission to college / institute. Various educational and psychological trainings aimed at the successful social adaptation of juvenile prisoners in society are also being held with those preparing for release. These trainings are held with the participation of representatives of civil and non-profit organizations [12, p.15-16].

In the process of the dissertation research, we came to such fundamental conclusions that in the criminal-executive policy of Russia at this time it is necessary to improve the legal regulation of the process of post-prison adaptation of convicts released from penitentiary institutions of the Federal Penitentiary Service of Russia. The regulatory standards currently contained in the Criminal Executive Code of the Russian Federation (1997) and other regulatory legal acts of Russia do not fully solve the problem of successful post-prison adaptation of convicts.

The main goal of the criminal-executive policy of Russia is to correct the identity of the convict, which can be achieved voluntarily by force. According to the Penal Code of the Russian Federation, “... this is the formation of a respectful attitude towards a person, society, work, norms, rules and traditions of human society and the promotion of law-abiding behavior (social correction)” [2].

To consolidate the results achieved in the process of penitentiary re-socialization of juvenile convicts released from places of deprivation of liberty, it is necessary to provide assistance in social adaptation in the post-prison period. Help will be as follows:

firstly, timely provision of qualified socio-psychological, legal and medical assistance to convicts released from penitentiary institutions of the Federal Penitentiary Service of Russia within the framework of stationary facilities of the Federal Penitentiary Service of Russia and in rehabilitation centers - social hotels;

secondly, assistance in finding a job, as well as in admission to a vocational educational institution to continue training under the Federal State Educational Standards of NGOs / SPO / VO;

thirdly, post-prison individual support of a teenager released from prison (6 months) in order to provide him with basic legal, social, cultural and cognitive skills. Which consists in assisting in the preparation of basic documents (birth certificates, TIN, SNILS, passports of a citizen of the Russian Federation); the establishment of a disability group for a convicted person in the executive bodies of the FBMSE, if there are signs of disability; assistance in establishing contacts with the family and close relatives of the convicted person;

fourthly, ensuring, as far as possible, the minimum housing standards and hot meals for a minor who has been released from prison [13,14,15].

Thus, we determine that the “Juvenile Probation” in Russia in relation to juvenile convicts released from places of deprivation of liberty should primarily be carried out in order to ensure the legitimate interests and rights of the minor. It should also help prevent recidivism, as well as ensure effective psychological and pedagogical impact in the process of resocialization in the post-prison period, and contribute to successful integration into society [14].

The issues of successful (successful) post-prison adaptation of convicts released from the EC of the Federal Penitentiary Service of Russia are highlighted as an independent direction in the Concept for the Development of the Criminal Executive System of the Russian Federation until 2020 years (Article 5. “Execution of non-custodial sentences and post-prison adaptation”) [4].

So, the Concept-2020 involves the development and implementation of a system of measures to prepare for the release of prisoners from prison, as well as the creation of conditions for persons released from penitentiary institutions of the Federal Penitentiary Service of Russia through the activities of the probation service (FSP of Russia). The creation of this service in the Russian Federation is provided for by the Concept of Long-Term Socio-Economic Development of the Russian Federation for the Period Until 2020, approved by Decree of the Government of the Russian Federation of November 17, 2008 No. 1662-p [5].

In our opinion, the state of work of the probation services (FSP of Russia) in the post-prison adaptation of juvenile convicts at the present stage of development of the criminal policy of Russia will be not only a qualitative indicator of the general nature of recidivism, but a clear demonstration of the effectiveness of law enforcement agencies in general. From the analytical report of the Ministry of Internal Affairs of Russia. More than half - 61.8% of the investigated crimes were committed by persons previously convicted of criminal offenses; every third - 34.5% in a state of intoxication; and every twenty-seven, - 3.7% by minors or with their complicity [as of 11/01/2019]*. Moreover, strengthening the position of recidivism in adolescence draws inexperienced criminals into the orbit of criminal influence, thus reproducing crime in new generations [10, p.1-2].

Thus, it is proposed, under the auspices of the probation service (Federal Security Service of Russia), on the basis of all PKU "EC" of the Federal Penitentiary Service of Russia, to create social rehabilitation centers for post-penitentiary adaptation of juvenile convicts and convicts of minor age, but not reached the age of 23, released from EC» Federal Penitentiary Service of Russia. All Centers will be oriented towards socio-psychological, medical and socio-rehabilitation assistance, post-prison socialization of teenage convicts and the prevention of recidivism. It is also proposed, if possible, to establish Centers of the Federal Security Service of Russia for juvenile convicts in all subjects of the Russian Federation. The activities of the Centers - Federal Tariff Service of Russia should be regulated by the Federal Law "On the Probation Service in the Russian Federation", other legal acts and by-laws governing activities in the interests of minors (including the Decrees of the President of the Russian Federation (No. 761 of June 01, 2012; No. 240 dated May 29, 2017) [14,15].

We draw attention to the fact that, from the point of view of preventing recidivism and increasing the efficiency of the functioning of the penal system of Russia, it is imperative that all without exception the PKU "EC" of the Federal Penitentiary Service of Russia with the assistance of the probation service (Federal Security Service of Russia), and internal affairs bodies (MIA) at the place of residence of the convicted person, they monitored the level of post-prison relapse among released convicts within 2-4 years after being released from prison. This activity should also be regulated - Federal Law "On the Probation Service in the Russian Federation".

At the end of the author's study, recommendations are offered on improving the criminal-executive legal base of Russia, which provides the probation service in the Russian Federation (hereinafter referred to as the Federal Tariff Service of Russia).

At present, this service, as a federal executive body in the Russian Federation, is absent, namely, its adoption and subsequent implementation into the national legal system of the Federal Law "On Probation Service in the Russian Federation". It will be one of the key legal instruments to ensure the internal and external security of Russian society. The main objective of the Federal Law "On the Probation Service in the Russian Federation" will be: 1) the creation of conditions for the correction and penitentiary re-socialization of prisoners (in accordance with international norms and rules ratified in the Russian Federation); 2) the prevention of recidivism of convicts released from prison in the post-prison period [13].

When developing the bill of the Federal Law "On the Probation Service in the Russian Federation", it is proposed to establish a full-fledged probation cycle in Russia, based on four components:

*See: Ministry of Internal Affairs of the Russian Federation Statistics and Analytics. Crime rate for January - December 2017. [Electronic resource] / access mode: <https://мвд.рф/folder/101762/item/11341800/> (accessed: October 13, 2019).

1) "**Pre-trial probation**", which consists in: *a*) providing psychosocial assistance to the "suspect", correcting his behavior and preventing him from recidivism; *b*) identification of the suspect; *c*) the identification of his socio-psychological state at the time the crime was committed; *e*) providing qualified legal assistance to all subjects of criminal law ("suspect" and "victim") in order to ensure impartial and fair pre-trial proceedings, which will take into account all the rights and freedoms of the parties.

This type of "probation" will primarily be targeted at juvenile offenders; disabled people of I, II, III groups; women aged 55 years and older; men 65 years and older; pregnant women and women with a child under the age of 3 years. The main goal of "pre-trial probation" is the preservation of socially useful relationships of people who find themselves in the orbit of criminal justice [13];

2) "**Judicial probation**" consists of: establishing the identity of the defendant; the identification in the trial of his socio-psychological state; identifying the causes and motives of the crime; providing qualified legal assistance to all subjects of criminal law ("the defendant" and "the victim") in order to ensure an impartial and fair trial, which will take into account all the rights and freedoms of the parties;

3) "**Penitentiary probation**", is: *a*) in the implementation of the penitentiary re-socialization of a convicted person from the moment he arrives at the institution of the Federal Penitentiary Service of Russia in accordance with the requirements of: chapter 14, Art. 103-108; chapters 15 of art. 109, 110, 112-115, 117 of the Penal Code of the Russian Federation; *b*) in rendering social, legal, medical and psychological assistance to a convict in a penitentiary institution of the Federal Penitentiary Service of Russia; *c*) in the implementation of the complex of measures of penitentiary re-socialization in respect of all convicts preparing for release, for 6 months – a complex involving the development and implementation of an individual program to prepare the convicted person for release with the aim of subsequent "unhindered" social adaptation to society in the post-prison period.

This type of "probation" is actively used at the present time in all penitentiary institutions of the Federal Penitentiary Service of Russia;

4) "Post-probationary probation" consists in the social rehabilitation of a convicted person who has been released from prison in specialized institutions of the Federal Security Service of Russia - rehabilitation centers that are focused on:

- 1) the provision of social, legal and medical assistance to the convict;
- 2) restoration of socially useful relations with relatives and relatives;
- 3) the possibilities of the labor and domestic device of the convicted person;
- 4) obtaining professional education under the programs of NGOs / STRs;
- 5) execution of personal documents and restoration of property (housing) rights, if any were violated;
- 6) assistance in registering a disability group in the FBMSE in the presence of signs of disability in the convict;
- 7) registration of pensions and social benefits of old age (disability) of the convicted person.

These provisions can be defined in section II - "Types of probation in the Russian Federation and the peculiarities of its implementation" Federal Law "On the probation service in the Russian Federation" [14].

In the "General Provisions" of the Federal Law "On Probation Service in the Russian Federation", in our opinion, should be defined on:

- 1) "Goals and objectives of the probation service in the Russian Federation";
- 2) "The legal framework governing the probation service in the Russian Federation";
- 3) "Basic terms and concepts used in the Federal Law" On the Probation Service in the Russian Federation";
- 4) "Basic principles of probation service in the Russian Federation";
- 5) "Organizations and executive authorities performing probation in the Russian Federation";
- 6) "Persons to whom probation applies";
- 7) "Rights and obligations of persons registered with the probation service in the Russian Federation".

It is also necessary to pay special attention to the final section, referred to as the "Final and transitional provisions". It will reflect the further development and transitional provisions in cases of the loss of legal force of the Federal Law "On Probation Service in the Russian Federation", as well as the new one on the definition of the institution of probation service in the Russian Federation [14].

It is proposed that special attention be paid to sections, chapters and articles of the Federal Law “On the Probation Service in the Russian Federation” - “Features of Probation in Relation to a Juvenile Offender (convicted)” and “Implementation of Probation Control in Relation to a Juvenile Offender (convicted)”. These sections can be defined by the main term - “*juvenile probation*”, in which first of all the interests of minors, defined in the legislative norms and principles of national and international law, would be taken into account. Norms and principles, such as:

- 1) Recommendations of the Committee of Ministers of the Council of Europe on child-friendly justice of 17 November 2010;
- 2) The United Nations Standard Minimum Rules for the Administration of Juvenile Justice (“Beijing Rules”) of November 29, 1985;
- 3) UN Rules for the Protection of Juveniles Deprived of their Liberty (Havana Rules) No. 45/113 of December 14, 1990;
- 4) UN Guidelines for the Prevention of Juvenile Delinquency (the Riyadh Guidelines) No. 45/112 of December 14, 1990;
- 5) The Criminal Code of the Russian Federation of June 13, 1996 No. 63-FL (as amended on February 19, 2018);
- 6) The Code of Criminal Procedure of the Russian Federation dated December 18, 2001 No. 174-FL (as amended on February 19, 2018);
- 7) The Criminal Executive Code of the Russian Federation of 01/08/1997 No. 1-FL (as amended on 12/20/2017);
- 8) Decree of the President of the Russian Federation of 01.06.2012 No. 761 "On the National Strategy of Actions for Children for 2012–2017";
- 9) Decree of the President of the Russian Federation dated May 29, 2017 No. 240 “On the Announcement of the Decade of a Childhood in the Russian Federation”, and other sources of international and national law.

For example, “Probation in respect of a juvenile offender under investigation; a convicted juvenile in prison”, is carried out: firstly, taking into account its individual and age characteristics; secondly, with the involvement of his parents or legal representatives; thirdly, regarding the provision of socio-psychological, medical and legal assistance to a juvenile delinquent in custody, such support is provided in collaboration with representatives of civil society (NGOs) and other legal entities and individuals) [14,15].

The probation service of the Federal Security Service of Russia, when registering a minor offender or a convict released from prison, establishes “probation control” in relation to him. These are the terms and standards of control and determination of the amount of social, psychological, medical and legal assistance necessary for a teenager, the package of measures that is being implemented according to the individual program of a minor developed by the probation service of the Federal Security Service of Russia in accordance with the norms of the Code of Criminal Procedure and the Criminal Code of the Russian Federation. (These examples are given from the existing legal acts of the Republic of Kazakhstan and the Kyrgyz Republic) [6,7,8,9].

In the development and subsequent discussion in the Parliament of the draft law of the Federal Law “On the Probation Service in the Russian Federation” it is proposed to pay attention to such a section as “The main activities of the rehabilitation centers of the Federal Security Service of Russia”. They, in turn, must carry out “juvenile probation” for minors released from prison. They focus on the following aspects:

- 1) Post-prison resocialization and the formation of the personality of the convict;
- 2) The inculcation of basic social, labor, life skills, a law-abiding, healthy lifestyle, generally accepted values and rules of behavior in Russian society;
- 3) Development of independence, self-confidence;
- 4) Careful attitude to people around, to nature. Acquisition of cultural and sociocultural skills. Respect for the weak, for the elderly. Friendly attitude to animals, etc.;
- 5) Mandatory assistance in finding employment and obtaining a vocational education;
- 6) The provision of socio-psychological assistance to the convict;
- 7) Providing, if possible, assistance in determining with a permanent place of residence with the participation of guardianship and trusteeship bodies and bodies of municipal self-government of the Russian Federation;

8) Provision of minor orphans who have been released from the PKU “EC” of the Federal Penitentiary Service of Russia with social housing. This is provided for in Article 8 of the Federal Law “On Additional Guarantees for the Social Support of Orphans and Children Left Without Parental Care” dated December 21, 1996 No. 159 - Federal Law.

Also, in the structure of the Federal Law “On the Probation Service in the Russian Federation”, the section “On the Activities of the Federal Tariff Service of Russia” is proposed, which will mainly focus on the final probation cycle for “Post-Penitentiary Probation”. The activities of the FSP of Russia, in our opinion, should fulfill the following functions:

1) Mandatory determination of a convicted person released from prison in a rehabilitation center at the place of residence for 4-6 months;

2) Providing the rehabilitated convicted person with adequate comprehensive assistance, which consists in: *a)* facilitating admission to work or study at a vocational educational institution; *b)* providing qualified legal assistance; *c)* the provision of social, psychological and medical assistance in health facilities in the community.

For example, all medical care under the compulsory medical insurance is free of charge. As well as assisting the convict in restoring lost property rights, assisting in the execution and receipt of basic documents; restoration and formation of socially useful ties.

By-laws of the Russian Federation, for example, the Decree of the President of the Russian Federation Federal Law “On the Federal Probation Service in the Russian Federation” *define*:

1) the procedure for the appointment of the head and his deputies of the Federal Security Service of Russia, as well as the procedure for the appointment of heads of territorial departments of the Federal Security Service of Russia;

2) territorial (regional) probation services in all constituent entities of the Russian Federation, as well as the main and auxiliary activities of territorial (regional) probation services in the Russian Federation - the Federal Security Service of Russia;

3) the name of the probation services of Russia on a territorial (regional) basis, for example, "Office of the Federal Security Service of Russia for Moscow".

The FSP of Russia is subordinate to the Ministry of Justice of the Russian Federation, the leadership of the FSP of Russia is directly subordinate to the Minister of Justice of the Russian Federation (these relations are defined in the Decrees of the President of the Russian Federation). It is also proposed to amend the entry “of the Federal Probation Service of Russia and its territorial bodies”, after the words “the Federal penitentiary system and its territorial bodies” in paragraph 1 of Article 24 of the Law of the Russian Federation of July 21, 1993 No. 5473-I “On institutions and bodies that carry out criminal sentences of imprisonment”. In connection with these changes, the NLA also proposes to adopt the relevant Regulation “On the Federal Probation Service of Russia (FSP of Russia)”, which regulates the details of the service, as well as to make appropriate amendments to the Criminal Code of the Russian Federation (1996), the Criminal Procedure Code of the Russian Federation (2001) and The Criminal Executive Code of the Russian Federation (1997) [14,15].

Thus, based on the results of an empirical study, we come to the conclusion that a clear forecast of the number of people in need of social assistance and support from the state (executive authorities - the Federal Security Service of Russia) is required at the stage of preparation for the release of juvenile convicts from the FCU “EC” of the Federal Penitentiary Service of Russia. It also requires analysis and accounting of social skills and other personal characteristics of the convict. They are provided by the administration of the penitentiary institution of the Federal Penitentiary Service of Russia.

The presence of this 100% analysis and accounting released from the educational colonies of the Federal Penitentiary Service of Russia (for the last 15 to 20 years this information is classified), which would allow us to:

1) to calculate the necessary funding from the Federal budget of the Russian Federation for the provision of social assistance and support from the state to convicts during their stay in rehabilitation centers under the territorial administration of the Federal Security Service of Russia;

2) to determine, if possible, by attracting funds from other state-public organizations (various NGOs, BFs, religious organizations, private commercial organizations, legal entities / individuals) to support the activities of the Rehabilitation Centers newly formed in Russia - FSP of Russia;

3) to reserve jobs at enterprises of various types of property for convicts who are in rehabilitation centers of the UVSP of Russia;

4) provide socio-psychological and medical support (in a hospital or on an outpatient basis) of the convicted person if he needs it;

5) provide qualified legal and psychological assistance, social-pedagogical and psychological support of the convicted person at all stages of post-prison adaptation in the "RC" of the Federal Penitentiary Service of Russia in all constituent entities of the Russian Federation [14].

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РЕСЕЙ ФЕДЕРАЦИЯСЫНДАҒЫ ПРОБАЦИЯ ҚЫЗМЕТІНІҢ ИНСТИТУТЫ

Аннотация. Мақалада нәтижелері бойынша эмпирикалық зерттеулер ұсынылған даму болашағы институт пробация қызметінің Ресей Федерациясы. Ресей пробация қызметі РФ-дағы ювеналды пробация қызметінің дамуына бағдарланатын болады, бұл кәмелетке толмаған сотталғандардың постпенитенциарлық кезеңде табысты әлеуметтік бейімделуін қамтамасыз ету және оларды қазіргі ресейлік қоғамға қайта ықпалдастыру үшін негіз болады.

Мақаланың авторы алғаш рет "Ресей Федерациясындағы пробация қызметі туралы" жаңа федералды Заңның құрылымын ұсынады. Осы заң жобасын РФ Парламентінде әзірлеу және одан әрі талқылау кезінде жарияланымның авторы "Ресей ФСП Оналту орталықтары қызметінің негізгі бағыттары" бөліміне назар аударуды ұсынады.

Ресейдің қылмыстық-атқару және қылмыстық заңнамасы тұтастай алғанда, әсіресе түрмелерде қылмыстық жазасын өтеп жатқан кәмелетке толмаған сотталғандар үшін қылмыстық жазаларды тағайындау мен орындауды саралау қағидатын белгілейтіні анықталды.

Мұнда қарастырылған ұйымдардың қызметін құқықтық реттеу мәселесі бүгінде өте өзекті. Құқықтық реттеу мәселесі түрмеден шыққан адамдардың бейімделуіне байланысты. Азия мен Еуропаның кейбір тәуелсіз егемен мемлекеттерінің тәжірибесін ескере отырып, басталған және аяқталғаннан кейінгі Федералдық заң қабылданған жұмысты аяқтау қажет – қылмыстық жазадан босатылған адамдарды әлеуметтік бейімдеу.

Сондай-ақ, автор сотталған адамның пенитенциарлық қайта әлеуметтенуі әлеуметтік (өмірлік) дағдыларды толық немесе ішінара қалпына келтіруге бағытталғандығын анықтады, бұл кәмелетке толмаған сотталғанға сотталғаннан кейінгі кезеңде қоғамға қайта кіруге, кәсіп алу, жұмысқа орналасу, өз отбасын құру мәселелерін өз бетінше шешуге мүмкіндік береді.

Кәмелетке толмаған сотталған адам түрмеде отырғанда ішінара немесе толықтай байланысын жоғалтады, сыртқы әлеммен, достарымен, таныстарымен, тіпті жақын туыстарымен жасөспірімнен бас тартады. Бірақ олар жасөспірімге бас бостандығынан айыру орындарында болуының барлық кезеңінде, әсіресе колониядан шыққаннан кейін алғашқы түрмеде болғаннан кейін қажет. Сондай-ақ, автор жасөспірім түрмелерде өмірдің кез-келген саласына әлеуметтік бейімделу процесінде басшылыққа алатын қажетті бастапқы кәсіби, мәдени және эстетикалық білім беру, әлеуметтік дағдыларды алатындығын дәлелдеді.

Мақала материалында Ресей Федерациясының мемлекеттік құпиясына қатысты ақпарат (мәліметтер) жоқ.

Түйін сөздер: ювеналдық құқық, Ресейдің қылмыстық-атқару құқығы, Ресей ФСП, Ресей Федерациясындағы пробация қызметі туралы " Федералдық заң», сотталғанды әлеуметтендіру, сотталғанның қоғамға реинтеграциясы, сотталғанның пенитенциарлық ресоциализациясы, сотталғандарды оқудан кейінгі бейімдеу.

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ИНСТИТУТ СЛУЖБЫ ПРОБАЦИИ В РОССИЙСКОЙ ФЕДЕРАЦИИ

Аннотация. В статье по результатам эмпирического исследования представлены перспективы развития института службы пробации в Российской Федерации. Служба пробации в России будет ориентирован на развитие ювенальной пробации в РФ, что станет основой для обеспечения успешной социальной адаптации несовершеннолетних осужденных в постпенитенциарный период и их последующей реинтеграции в современное российское общество.

Впервые автором статьи предлагается структура нового Федерального закона «О службе пробации в Российской Федерации». При разработке и последующем обсуждении в Парламенте РФ данного законопроекта автор публикации предлагает уделить внимание разделу «Основные направления деятельности центров реабилитации ФСП России».

Определено, что уголовно-исполнительное и уголовное законодательство в России в целом устанавливают принцип дифференциации назначения и исполнения уголовного наказания, особенно в отношении несовершеннолетних осужденных, отбывающих уголовное наказание в местах лишения свободы.

Исключительно острой является сегодня проблема правового регулирования деятельности рассматриваемых здесь организаций. Проблема правового регулирования связана с постпенитенциарной адаптацией лиц, освобожденных из мест лишения свободы. С учётом опыта некоторых зарубежных суверенных государств Азии и Европы необходимо завершить уже начавшую работу и принять Федеральный закон о постпенитенциарной – социальной адаптации лиц, освобожденных от уголовного наказания.

Также в статье автором определено то, что пенитенциарная ресоциализация осужденного ориентирована на полное или частичное восстановление социальных (жизненных) навыков, позволяющих несовершеннолетнему осужденному в постпенитенциарный период реинтегрироваться в социум, самостоятельно ориентироваться в вопросах получения профессии, трудоустройства, создания собственной семьи и т.п.

Несовершеннолетний осужденный, находясь в местах лишения свободы, частично или полностью утрачивает семейные связи, утрачивает связь с внешним миром, от подростка отворачиваются друзья, знакомые и даже близкие родственники. Но они необходимы для подростка на протяжении всего периода пребывания в местах лишения свободы и особенно после освобождения из колонии в первый постпенитенциарный период. Также автором доказано, что подросток получает в местах лишения свободы необходимые первичные профессиональные, культурно-эстетические образовательные, социальные навыки, которые ориентируют его в процессе социальной адаптации в той или иной сфере жизнедеятельности.

Материал статьи не содержит информации (сведений), относящейся к государственной тайне Российской Федерации.

Ключевые слова: ювенальное право, уголовно-исполнительное право России, ювенальная пробация в России, ФСП России, Федеральный закон «О службе пробации в Российской Федерации», социализация осужденного, реинтеграция осужденного в общество, пенитенциарная ресоциализация осужденного, постпенитенциарная адаптация осужденных.

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REFERENCES

- [1] UN Convention on the Rights of the Child (ratified in the USSR 1990) / Adopted by General Assembly resolution 44/55 of November 20, 1989. Entered into force on September 2, 1990. [Text] // Institute " Open Society ". M., 2001 . 44 p.
- [2] The Criminal Executive Code of the Russian Federation of January 8, 1997. N 1 – FL. M., Omega-L, 2017. 96 p.
- [3] The Criminal Code of the Russian Federation, 1996 // Federal Law of the Russian Federation of June 13, 1996. N 63 – FL. M.: Prospect, 2016 . 272 p.

[4] Order of the Government of the Russian Federation of October 14, 2010. N 1772-r. The concept of development of the penal system of the Russian Federation until 2020.

[5] Decree of the Government of the Russian Federation of November 17, 2008. N 1662-r (as amended on February 10, 2017) "On the Concept of Long-Term Social and Economic Development of the Russian Federation for the Period Until 2020" (together with the "Concept for Long-Term Social and Economic Development of the Russian Federation on period until 2020").

[6] Law of the Kyrgyz Republic "On Probation" dated February 24, 2017. N 34 on January 12, 2017.

[7] Decree of the President of the Republic of Kazakhstan dated December 8, 2016. N 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".

[8] Decree of the President of the Russian Federation dated May 29, 2017. N 240. "On the announcement in the Russian Federation of the Decade of Childhood (2018–2027)".

[9] Decree of the President of the Russian Federation of 01.06.2012. N 761. "On the National Strategy of Action for Children for 2012-2017".

[10] 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.).

[11] Karnozova L.M. (2016) Issues of legalization and practical organization of the use of conciliation procedures in the domestic criminal justice and in dealing with juvenile delinquency. // Bulletin of restorative justice. N 13, 2016. P. 4–18 (in Russ.).

[12] Kornienko G.A. (2017) Current status and development prospects of the penal system. // 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. 9–19 (in Russ.).

[13] 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> // M., 2019. 551 p.

[14] Nesterov A.Y. (2018) Prospects for the development of the probation institution in the Russian Federation. // National scientific and political journal "Power". 2018. N 4 (t. 26) 2018. P. 40–47 (in Russ.).

[15] Nesterov A.Y. (2019) Social adaptation of juvenile prisoners in the post-prison period: theory and practice. // «The Bulletin of the National Academy of Sciences of the Republic of Kazakhstan». Almaty, 2019. N 6 2019. P. 136–140 (in Eng.).

[16] Musaelyan M. (2010) On the provision of post-prison adaptation of convicts and the prevention of recidivism. // The penal system: law, economics, management. M.: Lawyer, 2010, N 6. P. 8-10 (in Russ.).

[17] PKU "Arzamas EC" GU FSIN of Russia in the Nizhny Novgorod region. [Electronic resource] / access mode: <http://arzamas-vk.ru/> (accessed: 04.10.2019).