

Probation in Kazakhstan: European experience

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Abstract: The author, based on the comprehensive law, conducts a comparative analysis of the Criminal-Executive legislations of the United States of America, England, and Japan and predicts further development and improvement of the Republic of Kazakhstan legislation for the probation service. The article 7-1 of the Criminal-Executive Code of the Republic of Kazakhstan declares: "Probation in the penal executive system is a set of social and legal measures elaborated and implemented by the criminal-executive inspectorate probation service individually to each person under probationary sentence during his/her probation period and under the probationary control for further correction of their behavior to prevent from new crimes". At the same time, taking into account the international experience of work of the probation institution it is advisable to develop and adopt a separate Law on the probation which would cover it at all stages including the preceding judgment and the stages after release from places of imprisonment. The author summarizes the experience of the foreign countries and offers his vision of the further development of probation service. In spite of the legislator restricts the activities of the probation service work within the conditionally convicted, and such decision can be called reasonable. In the article some problems of the theory and practice for probation activities were raised and it is only a part of the problems that the institution faces and it requires its further optimal solution.

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1. Introduction

"With a prison population of 84,000 in April 2001 (Walmsley, 2002) and a national population of 16 million, Kazakhstan has one of the highest ratios of prisoners to population in the world. This is due in part to its legacy as one of the centres of the Soviet Gulag, to which prisoners from all over the Soviet Union were sent. Since the beginning of 1998 the prison administration has been involved in a far-reaching agenda of penal reform". [1]

One of the perspective destinations in the Concept of Legal Policy of Kazakhstan is the extension of the sphere of penalties without imprisonment. The current humanization in our country dictates the necessity for creating a new service system that impacts on social-legal assistance for convicts.

The president of the Republic of Kazakhstan, Nursultan Nazarbayev in his concept "Kazakhstan: The Concept of Legal Policy for 2010 - 2020", declared: "In order to minimize the involvement of citizens in the sphere of criminal justice and to limit the measures of criminal repression it is necessary to create conditions for wider application of correctional measures other than isolation from society". [2]

The research of foreign experience has shown that there is no universal model for the service of execution of punishments, not connected with

imprisonment, while such services have various names.

However, the execution of such kind of punishments in many governments does a service called probation, which from Latin into English means "test". The meaning of such test is to give the person who committed the crime a chance to escape punishment on condition of fulfillment of obligations appointed by the court. Probation service, along with control over such person, assists him in solving problems of his life that had been the reasons and conditions for committing the crime. The famous Kazakh researcher in Probation, Maxim Geta confirms: "Probation is a specific form of control which concerns especially the less dangerous criminals, on condition that they stay at freedom in complex with the necessary provision of the social-psychological and legal support". [3]

In many well-developed countries, imprisonment is an exclusive type of punishment and is used only when the convict poses a great risk for the victim, society or has broken probation. For example, in the USA among 2100000 prisoners 40 % are the ones who have broken probation.

However, Mister Norman Bishop notices: "From the standpoint of humanising penal policy, even small reductions in the prison population are to be welcomed. But in order to achieve savings in the cost of prisons sizeable decreases are necessary. It is only then that prisons can be closed down and staff -

usually a major cost - can be reduced. And public money that is not spent unnecessarily on prisons can be used instead for socially constructive activities such as better health services, better schools, the care of the old, etc. ". [4]

2. Briefly about the world experience in Probation

There are four types of probation in world experience which may exist separately as well as in complex. This is the pretrial probation, conditional sentenced probation, penitentiary probation, and post-penitentiary probation. A various combination of these types creates a certain model in a determined country. In this case, the probation itself can be a separate service, as well as a structural department of an organization.

For example, in Great Britain the probation service is on duty of Ministry of Internal Affairs or Home Offices and is regulated by the Law of Commission of Criminal Courts (1973). Prospects of its appointment in each certain case depend on conclusion of the Court on expedience of such treatment, taking into account the origin of crime, the character of the offender, and the aggravating and extenuating circumstances of his guilt.

The famous British researcher, Andrew Bernhardt confirms: "Therefore two key methods that British Probation Officers are taught is how to assess for risk and for genuine motivation - and then later how to reinforce any motivation that may be present. The initial assessment will also include issues of drug/alcohol use, mental health, work record, attitude to offending, social contacts and more. Assessments are updated every 3-6 months depending on risk levels and current circumstances. Risk is always viewed as dynamic (changing) variable not as a fixed, static factor: drug use, gang involvement, alcohol intake, family circumstances will affect the level of risk that an offender presents". [5]

In Slovak Republic the Departments of Probation and Reconciliation of Sides (DPRS) are functioning in all County Courts. This means that DPRS is a governmental organization in the structure of Ministry of Justice (DPRS is not a separate organization, and employees of this organ are included to the staff of the County Court). There is a Consultative Committee under the duty of the Ministry of Justice called - Council of Probation Affairs and Reconciliation of Sides. Officers of these boards work under the correspondence with the norms of criminal legislation as well as the activity of special law of DPRS №550 from 2003 year.

In the USA the probation is under the jurisdiction of court system and has been provided as an alternative of imprisonment by the Federal legislation in all States. Sometimes the probation is

included into the punishment system as far as for all severity this measure of punishment does not have any differences from the others.

The probation is not applied to the condemned criminal offenders, sentenced to death penalty, life imprisonment, or for long period. In some States there are additional conditions: absence of previous convictions, recovery of all trial costs, provided imprisonment does not exceed more than ten years.

In Netherlands this is under the duty of the Office of Public Prosecutor, in Poland and Sweden - Ministry of Justice. There are also various categories of convicts under the control of probation service - they are suspended convicts, convicts obtaining a delay of punishment, prisoners discharged under parole, as well as with the intensive control (electronic monitoring). In several countries probation service executes punishment in the form of public works.

Difference in service formation is explained by the distinctions in the structure of State Government Bodies, legal traditions, types of punishments, this means that there is not a unique model of probation service.

In the Republic of Kazakhstan, an independent legal institute of probation is absent. Although, the elements of probation reveal in legislative construction of punishment in a form of imprisonment, suspended sentence, conventional adjournment in punishment for pregnant women and females having young children, for the prisoners discharged under parole. The first three alternative measures are in duty of criminal executive inspections of the Committee of criminal executive system of the Ministry of Internal Affairs.

In Kazakhstan, on the first stage, taking into consideration the available resources, it was suggested to create conventionally sentenced probation concerning only the conventional convicts, as they are under the probationary period, and an experience as mentioned above is the main feature of probation.

Conventionally sentenced probation - is control over the behaviour of conventional convicts, in the part of executing the obligation charged by the court, as well as rendering them assistance in social-judicial aid.

Why has the necessity of creating the probation service concerning conventional convicts appeared? Because in average 85% of people under the control of criminal executive inspections are conventional convicts. The numbers of the most repeated crimes are committed by conventional convicts, thus, for example, in 2008 among 499 crimes - 451 were committed by conventional convicts; in 2009 among 900 - 819 crimes, etc. In addition, the number of

criminal cases against conventional convicts for committing new crimes has increased from 412 in 2007 to 871 in 2010.

As the result of humanization, the number of conventional convicts will increase. Thus, it is required to take legislative measures for improving the control over them. In this case, taking into consideration the international experience, the function of rendering assistance for the controlled people has been suggested to charge on the criminal executive system, as this will have the features of probation.

It is necessary to mention that for the last 4 years there has been noticed a tendency of increased number of sentenced to punishments not connected to imprisonment.

If in 2007 their number was - 29254, in 2010 - 42985 people (convicts) that means that the number of convicts under the criminal-executive inspections have grown in one and a half. In this case more than 85% are conventional convicts (from 25689 to 35101). Such statistics has rapidly required changes in the methods of work in this sphere.

3. The first steps already made

Thus, by the Law of the Republic of Kazakhstan from January the 18th 2011 the additions were included in the Article 63 of the Criminal Code of the Republic of Kazakhstan in part of setting obligations for conventional convicts. The execution of these additions, as a matter of fact, is an experience for the convict and the destiny of convict depends on it.

Also, by the resolution of the Government the number of staff of criminal executive inspections was enlarged in 2010 - to 591 workers, and in 2011 - again to 592, and in all to 1183 workers. The Government made this enlargement to create a service of probation.

At the same time, on the meeting of the Council of legal politics under the President of the Republic of Kazakhstan on July 29th 2011 were examined the Conceptions of project of the Law of the Republic of Kazakhstan "About making amendments and additions in some legislative deeds of the Republic of Kazakhstan concerning the questions of probation service". The introduction of probation in Kazakhstan was approved at this meeting, as an institution providing realization of the goals of criminal punishment without isolation from society, combining in itself the necessary control of convicts and rendering them social-legal assistance in further correction of their behaviors as well as measures of preventive influence.

And as a whole with the further approaches to the probation service in the Republic of Kazakhstan have been agreed: on the first stage the probation

service is created as a department of criminal-executive inspections that will be responsible for control and social-legal assistance of conventional convicts combining the measures of preventive influence; enlargement in perspective functions of probation control of criminal-executive inspections, and in corresponding conditions, an opportunity of extension on other categories of people who are under record of criminal-executive inspections.

As the result of the work carried out, on the 15th of February 2012, the Head of the Government signed the Law of the Republic of Kazakhstan "About making amendments and additions in some legislative deeds of the Republic of Kazakhstan concerning the questions of probation service" № 556-IV, referring to the formation and organization of the work of probation service, as a legal institution directed to prevention of conventional convicts from repetition of a crime.

This law introduced amendments and additions into the Criminal Code, the Criminal Procedure Code, the Criminal Executive Code, the Code of the Republic of Kazakhstan about administrative offenses, and into the Code of Land, the Code "About taxes and other obligatory payments to the budget" as well as seven laws - "About the bodies of Inner Affairs of the Republic of Kazakhstan", "About work of safeguarding", "About local State government and self-government in the Republic of Kazakhstan", "About employment of population", "About post office", "About State social order" and "About Special Social services".

We should stop at some main positions of the Law. The Court appointing suspended sentence: establishes probation control and puts execution of certain obligations on convict; legislatively fixes the functions of accomplishing assistance to conventional convicts in social and juridical help, defining the main directions; duties for conventional convicts have obligatory character, a responsibility for their non-execution is set; in case of prolonging the probation period the conventional convicts come within a strong probation control (attendance for registration 4 times a month plus control with electronic devices); an inspector of the criminal-executive inspections has a right to make a report about administrative offenses under the Article 336 of the Code of Administrative offenses in relation to the under-controlled people (appearance in a state of intoxication, insulting human dignity and social morality); to the competence of the local executive bodies is added the creation of regional programs for job placement and rendering social assistance for convicts under the record of the probation service.

Although, the probation service will be staffed with the psychologists, inspectors for job placement

and other social workers (sociologists, psychologists, teachers, and others; departments executing punishments are criminal-executive inspections in the structure of which are functioning the probation services (point 3) of item 2, Article 5-2 of the Law "About Departments of Inner Affairs of the Republic of Kazakhstan").

The famous Russian scientist, Natalya Khutorskaya claims: "The probation service is a huge responsibility, to predict the behaviour of the convict in the future, to offer a system of measures for convict's correction". [6]

4. Using tracking electronic devices

Under the abovementioned the question of improving the control over the convicts under alternative ways of imprisonment with a wide range of using tracking electronic devices is actualizing. The world experience has shown a broad usage of electronic bracelets in punishment, not related to imprisonment, for example: law-enforcement authorities of the USA widely use the tracking electronic devices on the convicts. The ones sentenced to a short period, have a right to apply Court for change of imprisonment to home arrest and wearing GPS-bracelets.

Wearing electronic bracelets is used in such countries as Sweden, Great Britain, and Germany towards the sentenced without deprivation of freedom, conventional convicts, and conditionally discharged convicts.

Learning the European experience has shown that using electronic bracelets in the Republic of Kazakhstan will be referred to conventional convicts and the sentenced to limitation of liberty.

According to part 1 of Article 45 of the Criminal Code of the Republic of Kazakhstan the court, setting a punishment of limitation of liberty, charges the convict to execution of a number of obligations: not to change the place of living, work, or education without informing specialized authorities; not visiting defined places; at the time free from work or education not to leave the place of living; not to go to other places without permission of specialized authorities. As shows the experience, persons sentenced to this type of punishment, live in various places, which does not let an inspection control officer execute control over the convicts' obligations set by the Court. For instance, the obligation "at the time free from work or education not to leave the place of living" means that the convict must not leave his place of living from 23-00 in the evening to 07-00 in the morning and the control has to be organized in this time.

Proceeding from the logic of punishment execution, each human settlement of the region has to

be provided with one staff position which is not practically possible. In this way, during 8 months of 2011 through registration of the inspections passed 6402 convicts sentenced to freedom restriction (2007 - 1078; 2008 - 1704; 2009 - 2351; 2010 - 3259) among them: 35 (2007 - 12; 2008 - 19; 2009 - 43) of the convicts committed repeated crime; in relation to 91 convict the freedom restriction was changed into imprisonment for violation of the terms of sentence serving (2007 - 12; 2008 - 24; 2009 - 38; 2010 - 70), and 31 convict (2007 - 25; 2008 - 30; 2009 - 51) was announced for retrieval by the court adjudgement.

According to Article 63 of the Criminal Code of the Republic of Kazakhstan, if after giving sentence of disciplinary/correcting works, restriction in military service, imprisonment, the Court makes conclusion of an opportunity of correction of the convict without serving a sentence, then the Court proclaims to consider the fixed sentence conditional.

A conditionally convicted person is recognized as hiding from control whose place of living was not fixed during fifteen days from the moment of absence for registration to the inspection. Registration of a conditional convict at the inspection is required twice, and in case of intensified probation control 4 times a month.

Besides, according to the criminal-executive legislation the conditional convicts have to come to the inspection for registration twice a month as well as on a call. However, convicts, referring to various problems do not come to the inspection. As a result an inspection officer has to go to the place of living of the convict, in absence of a vehicle and the remote settlements. Often convicts change the permanent locality without permission of the inspection, therefore, the inspection officers have to organize the first searching activities and adjudge the search for them. Thus, during 8 months in 2011 year through registration of the inspections passed 24991 conditional convicts (2007 - 29254; 2008 - 36182; 2009 - 34515; 2010 - 35101), among them within 8 months of 2011 year 292 convicts committed a repeated crime (2007 - 45; 2008 - 499; 2009 - 819; 2010 - 871); in 293 cases of convicts committing administrative offenses and deviation from control the probation has been repealed (2007 - 237; 2008 - 366; 2009 - 359; 2010 - 432), referring to 1057 convicts the period of probation has been prolonged (2007 - 372; 2008 - 512; 2009 - 797; 2010 - 1341), and in the cases of 245 convicts the court issued an adjudgement for the search for them (2007 - 526; 2008 - 546; 2009 - 525; 2010 - 537). Studying the results of foreign experience, in 2010 the Committee of the Criminal Executive System (CES) introduced a suggestion on opportunity of using tracking

electronic devices towards the above mentioned persons.

It was supported by the Government and on 18.01.2011 there was set the Law of the Republic of Kazakhstan № 393 - IV "About introducing changes and additions into several legislative acts of the Republic of Kazakhstan referring to the further humanizations of criminal legislation and intensifying guarantees of legality of criminal process".

By the indicated above Law the Code of Criminal Procedure (Article 140 "Measure of suppression") and the Criminal-Executive Code (Article 178-1, item 1 Article 53 and item 6 Article 182) were supplemented with the norms, giving the bodies of criminal prosecution the right to use tracking electronic devices for control over the persons under sentence of suppression without imprisonment, the criminal-executive inspections - to keep conditional convicts and prisoners under observation and department of public safety - control over the persons, released on parole.

This Law in the part of using tracking electronic devices came into effect on July 1, 2012.

Introduction of tracking electronic devices permits: to expand application of penalties in the form of restriction of freedom and probation; to increase the control of the conditional convicts; timely detect violations committed by conditional convicts and sentenced to restriction of freedom; timely define the location of the convict; decrease the number of people declining from the control; decrease the number of prisoners; considerably reduce the expenses for custody of prisoners.

Besides, the norms, ensuring the using of electronic devices of tracking by probation service referring conditional convicts, are provided in the Article 182 of the Criminal Executive Code (CEC), introduced by the Law "About introduction of changes and additions into several legislative acts of the Republic of Kazakhstan over the questions of probation service".

Taking into account the changes and in order to implement Articles 53 and 182 of the Criminal Executive Code (CEC) of the Republic of Kazakhstan the orders, referring to the use of tracking electronic devices have been worked out.

Regarding the conditional convicts this control is set by the order No. 157 of the Ministry of Internal Affairs "About confirmation of the Rules of activity of the probation service of the criminal-executive inspections" of March 19, 2012.

Referring to the sentences to restriction of freedom this has been provided in provision 4, fixed by the order No. 141 of the Ministry of Internal Affairs "About several questions of Execution of

Punishments, not related to isolation of the convict from society" of March 14, 2012.

For providing an appropriate control and taking the information on location of the convicts the tracking electronic devices are used.

Commander or a person replacing him, according to the restriction, established to the convict by the Court, based on the information, characterizing his personality as well as on a technical opportunity of installing certain equipment, makes a decision to use tracking electronic devices during putting the convict to the personal register, as well as for further execution of the punishment.

The decision of using tracking electronic devices towards the convicts is formed in the resolution that is announced to the convicts and the people living with them, herewith is explained the responsibility of the convicts for destroying the devices. An officer on duty of using tracking electronic devices within three working days from the moment of issuing the resolution organizes the installation of necessary equipment, explains the convicts the peculiarities of exploitation of tracking electronic devices, and gives a manual of exploitation under the signature of the convict.

Equipment of tracking electronic devices are installed directly on the convict, on his place of living or staying for the purpose of organizing control of following the restrictions set by the Court.

However, we must remember that some methods of surveillance, including electronic monitoring have the potential to intrude significantly on people's rights of privacy and perhaps other rights as well. Not only convicts, but in some circumstances their families and friends may be affected as well. This Rule insists on a level of surveillance and personal intrusion that is proportionate to the seriousness of the offence(s) and to the need for community safety.

So, The European Probation Rules declare: "The level of technological surveillance shall not be greater than is required in an individual case, taking into consideration the seriousness of the offence committed and the risks posed to community safety". [7]

An officer on duty of using tracking electronic devices: collects information using data of monitoring desk, about following restrictions of conditional convicts; in case of taking the information of facts of destroying, non-sanctioned taking off the tracking electronic devices, violation of restrictions fixed by the Court gives report to the commander, or the person replacing him and makes all necessary notes in register book of the violations. The officer immediately gives report to the commander or the person replacing him about all

fixed facts of refuses and problems in work of the tracking electronic devices, writing down in the register book of problems of the tracking electronic devices and control. In case of problems in work of the tracking electronic devices the officer takes measures of defining and getting rid of them. In case of incapability of further usage of tracking electronic devices towards the convict because of technical problems, or due to the changes in restrictions set by the Court, the Commander or the person replacing him cancels the use of tracking electronic devices or changes the order of using and a set of applying technical equipment, taking into account a certain motivated resolution. The officer, responsible for use of the tracking electronic devices, during three working days from the moment of issuing the order organizes removing (exchange) of necessary tools.

If the convict refuses the fact of violation, checking is organized through verification of data taken via tracking electronic devices. If the tracking electronic devices were damaged (destroyed) by the convict a report is made.

To define the cause of damage and violation the tracking electronic devices are directed to the technical service section of the Department of criminal-executive system of the region.

The types of tracking electronic devices are defined by the Government; thereto a special resolution project of the Government has been prepared which passes through the process of approval in governmental organizations.

5. What has been changed by us?

Firstly, the order of application of the citizens was deleted from the main statements of the Rules, because according to the requirements of the Law "About normative legal acts" of March 24, 1998 such norms are not an object of pointed Rules. However, this does not mean that it is not necessary to examine the applications of the citizens. The order of examining the applications of the citizens is regulated by the order of the Ministry of Internal Affairs of 2012, No. 225 "About adoption of the Instruction on examination, permission of applications of individuals and legal entities, consultation of citizens in the bodies of Internal Affairs of the Republic of Kazakhstan".

According to the Rules it has been provided that the probation service while registering a conditional convict sentenced for probation must explain the order of organizing and finishing probation control of the convict, also sets the days of the convict's attendance to the probation service for registration - as this does not mean that you only once set the dates and the citizen has to come only these days, the interval between registration has to be 15 days. It is

necessary to start from the given opportunities of the convict, taking into account working days and holidays; an order of execution of obligations charged by the Court, as well as bringing to responsibility for their non-execution.

After that conditional convicts give recognizance not to leave that is filed in the general case of the convict.

Conditional convicts: report to the Probation Service about their behavior, they do not write explanations, explanations are written about the facts of offence committed by the convict; execute obligations charged by the Court; attend twice and in intensive control of the probation four times a month for register as well as on call of the Probation service; inform the probation service about planning departure from the city or region; change the place of living/locality on permission that is by personal informing of the probation service; complain the activity (non-activity) of the officers of probation service in the order fixed in the Laws of the Republic of Kazakhstan.

Besides serving social and legal help/assistance to a convict a probation Service officer controls how a conditional convict follows all obligations charged by the Court. In order to provide a certain control, and taking necessary information of location of the convicts the probation service uses tracking electronic devices.

By the mentioned law were introduced changes to the part 5 of the Article 63 of the Criminal Code, according to which the court setting a suspended sentence defines a probation control and puts execution of certain obligations in the convict's hands.

This norm points out that if in the past the Court was able to put or not to put the obligations, now the legislator binds the Court put these obligations in the convict's hands.

Also, changes have been introduced in the Article 64 of the Criminal Code (CC) and Article 184 of the Criminal Executive Code (CEC). Thus, in case of conditional convict committing administrative offense, encroaching on social order and morality, the juvenile rights, upon personality and in the sphere of family relations, for which he (convict) had been punished with disciplinary action, intentional damage of the tracking electronic devices, as well as for absence at the registration without valid cause, changing of the place of living without permission of the probation service, and also for not executing obligations put on convict by the Court; Probation Service submits proposal to the Court about prolonging the probation period and fixing an intensive probation control. Moreover, gives the conditional convict a written notification of

opportunity of canceling the suspended sentence in case of repeated offenses, written in the present item, disobedience of legal demand, as well as insulting or threat of committing violence towards the controlling unit officers.

In this case, it is necessary to explain that in relation to those conditional convicts, who were under the record of the criminal executive inspections before coming into force of the law "About making amendments and additions in some legislative deeds of the Republic of Kazakhstan concerning the questions of probation service" cannot be set probation as well as intensive probation control. In this connection, toward the conditional convicts who made a violation of the requirements of part 2 Article 64 of the Criminal Code (CC), the criminal executive inspection makes proposal to the court only for prolonging of the probation period.

If comes the verdict applying Article 63 of the Criminal Code, where the probation period is not provided and the obligations are not put, mentioned in part 5 of Article 63 of CC, you need, according to the item 12 of the Article 543 of the Criminal Procedural Code (CPC), to appeal to the Court, which had fixed the sentence about setting a probation control and giving obligations.

Moreover, the Minister of Internal Affairs signed an order "About some questions of execution of punishments without isolation of the convict from the society" of March 14, 2012, No. 141, which is registered in the List of the governmental registration of normative legal acts under No. 7592. This order is different from the previous order No. 172 as each type of punishment has been formed as an appendix to this order: Rules of organization of execution of the punishment in form of deprivation of rights to occupy defined positions or do a defined kind of work, set as a main as well as additional to the main punishment in the form of fine, corrective works, restraint of freedom or to public work, and in case of suspended sentence according to the appendix 1 of the present order; Rules of executing punishment in the form of public work according to the appendix 2 to the present order; Rules of organizing work of the criminal executive inspections for executing corrective works according to the appendix 3 to the present order; Rules of using the tracking electronic devices and organization of work of the criminal executive inspections for execution of control over sentenced to restriction of freedom according to the appendix 4 to the present order; Rules of confiscation of governmental awards according to the appendix 5 to the present order; Instruction for the control after the convicts with adjournment in executing punishment according to the appendix 6 to the present order; Instruction for execution of the first

investigative actions towards the convicts deviating from serving the sentence, absent at the place of serving the sentence in a defined period and left the place of living, work, or education without permission; and presenting the Court a proposal for announcing a search of the convicts according to the appendix 7 to the present order.

Appendixes to each Rule are not similar to each other, thus it is necessary to take them into account while issuing sentences of the convicts.

6. Rendering social-legal assistance

As it has been mentioned, the Government adopted a decree "About confirmation of the Rules of rendering social-legal assistance to the conditional convicts" of April 28, 2012, No. 542. They are developed to realize the item 6 of article 182 of the Criminal-executive code of the Republic of Kazakhstan and define the order of rendering social-legal assistance to the conditional convicts.

The Baroness Doctor Vivien Stern said: "The probation service of criminal executive inspections is rendering assistance of the conditional offenders in taking social-legal help. The probation officer must be seen, essentially as a professional caseworker, employing, in a specialized field, skills which he holds in common with other social workers, skills which, if it opens up to him hopes of constructive work". [8] Local executive organs, non-governmental and other organizations are rendering assistance to the probation service in implementing social-legal assistance for conditionally sentenced according to the individual program.

Local executive organs, while forming a program of development of the territory and/or strategic plans provide a number of activities in rendering social-legal assistance to the convicts under control of the probation service.

Into an individual program of rendering social-legal assistance to the convicts is included an information about requirements for social-legal assistance to the conditional convicts. One copy of the individual program is added to the general case of the conditional convict, the second is given to the convict under signature. In case the conditional convict is needed for taking additional information or assistance, as well as adjudication of an intensive probation control certain corrections are added in the individual program by mutual consent.

Conditional convict twice a month, and under intensive probation control four times a month comes to the probation service and reports back to it about his behavior, executing of obligations charged on him by the Court, as well as about received social-legal assistance. If the conditional convict refuses from the social-legal assistance then the probation service

officer makes a special act which is filed to the general case.

The act of refusal of the conditional convict from the social-legal assistance is filed to materials sent to the Court for prolonging the probation period, for cancelling the suspended sentence, for adjudication of an intensive probation control.

Upon expiration of the probation period the conditional convict is taken off from registration in the probation service, although rendering social-legal assistance organized by the governmental or other organizations is continuing by the individual program.

If the Court pronounces a search for the conditional convict among three working days after taking a special resolution of the Court, the probation service directs information to the local executive organ and to the appropriate organization for stopping the social-legal assistance.

The main direction of social-legal assistance to conditional convicts is rendering assistance in education, having profession, finding a job, medical treatment, as well as providing legal help.

Medical aid is presented at the Governmental health organizations in the form of guaranteed free medical aid.

In order to serve medical aid the probation service sends copies of individual program to the governmental health organization at the place of living of the conditional convict.

Conditional convicts with unfinished secondary education are sent to school by place of living of the convict.

For giving legal advice the probation service sends the individual program to the local executive organizations/bodies.

In assisting conditional convicts to find a job the local executive organizations/bodies accomplish the following activities: give vacant work places within investment projects framework, realized through the program of forced industrial-innovative development; bring conditional convicts not having competitive jobs to the seasonal farm works; employment of conditional convicts on the vacancies quota.

In case of arising requirements of the conditional convicts in taking other kinds of assistance the probation service sends the copy of the individual program to special organizations by the place of living of the convict.

Sending of a copy of the individual program to the local executive organs, health and education services/organizations and other governmental and non-governmental organizations must be realized by the probation service during 3 working days after making the individual program.

After receiving the copy of the individual program the local executive organizations, governmental bodies, as well as non-governmental organizations inform the probation service about offering an assistance or impossibility of the rendering.

It is necessary to mention that conditional convicts are able to complain on illegal activities of the probation service officers, employees of local executive organs, as well as workers of governmental and non-governmental organizations, rendering social-legal assistance of established legislative order.

All over the world you see the same people in prison. Overwhelmingly the people in prisons in Europe as in Kazakhstan ones, are the same people - mostly poor, in bad health, mostly mentally ill; the women have mostly had a life of violence and sexual abuse; the young people are the orphans, the street children and the products of the reformatories that do not reform. And the British researcher, Marilyn J. Gregory said: "For all these people alternatives to prison are needed and help from the society is needed. It is in that sense - for reasons of social justice - that we really need alternatives to prison. It is also good social policy and it makes societies safer". [9]

Finally, the article 29, paragraph 2 of the Universal Declaration of Human Rights declares: "In the exercise of his rights and freedoms, everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society". [10]

According to the Committee of Criminal Executive the System of the Ministry of Internal Affairs of the Republic of Kazakhstan and to the date the Criminal Executive Inspection for 2012 year, 2180 persons who were under supervision of Police. And for the same period only 15 crimes registered during this probation. For example, in the Pavlodar region was committed only one crime. That time of the probation was registered 92 people. These data indicate some important positive trend and by making some definite forecast for the future, we can conclude:

- The tendency of decrease of criminal relapse that registered during this probation should not be taken as a success;
- This tendency is to give result after the experiment of the probation;
- We can not talk about any success without the creation of a full probation service, standards, stress, local places, communications and staff salary;

Finally, excluding for the public opinion and the creation of the social services of that probation service is doomed to failure.

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