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SPECIFIC CHARACTERISTICS OF ORGANIZING THE ACTIVITY OF WORKING WITH PERSONS UNDER THE CONTROL OF THE PROBATION SERVICE

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ABSTRACT

The author indicates the purpose of probation, lists the categories of persons under the control of probation service and their rights in this article, moreover, explains his opinion using the rules specified in the relevant literature. Furthermore, the article outlines the existing problems and panacea to address them in the activities of the probation service to ensure the rights and legitimate interests of the persons under probation control and in their moral correction activities.

KEYWORDS

Purpose of probation, categories of persons under the control of the probation service, rights of persons under the control of the probation service.

INTRODUCTION

The large-scale reforms have been implemented in the Republic of Uzbekistan in recent years to ensure human rights and the rule of law, and to improve the judiciary sphere. Thus, the new political environment, necessary for bringing democratic reforms to a higher

level, are created in our republic by virtue of these enhancements.

The consistent maintenance of the policy of improvement of criminal, criminal-procedural and criminal-executive legislation, widespread introduction of the welfare principle to the system of criminal

punishments and their execution in accordance with the purpose of the Resolution No. PR-60 of the President of the Republic of Uzbekistan dated on January 28, 2022 “On the Development strategy of new Uzbekistan for 2022-2026” [1].

Liberalization of the system of criminal punishments in our country and the systematic organization of the execution of these punishments are aimed at the moral correction of the persons serving the punishment, preventing them from committing further crimes, and protecting the rights, freedoms and legal interests of the prisoners.

It is emphasized in the internationally recognized Standard minimum rules for the treatment of prisoners (Nelson Mandela rules) that: “Returning the prisoner regularly to life in the community is utmost. There is a pressing need to have a centralized and coordinated organization that releases the prisoner, helps convicts to find their place in society, determines the probation period and provides them with effective social assistance by taking into account the characteristics of the persons deprived from liberty [2].

Consequently, the Probation Service and its local divisions have been established under the Public security Department of the Ministry of internal affairs of the Republic of Uzbekistan and its regional divisions according to the Presidential Decree of the Republic of Uzbekistan, “On measures to fundamentally improve the criminal-executive legislation” adopted on November 7, 2018 [3].

One of the main tasks of the probation service in this decision is defined as moral correction of convicts and further prevention of crime.

The main purpose of probation is to correct the offenders and return them to the life of the society by

effective control over their behavior, without separating them from the society.

The legislative literature clarifies content of the purpose of probation as well. In particular, the purpose of probation in these literatures, is to prevent recidivism and to consider it as one of the means of individual crime prevention [4, p. 274.], ensuring public safety by moral correction of convicts, prevention of further crimes by them [5]. Additionally, the literatures provided for compensation for the damage caused, reconciliation with the victim, assistance in social adaptation of individuals, counseling on social and legal issues, restoration of social relations, employment, general and professional education, medical and other assistance, etc. [6, p. 44].

The categories of persons supervised by territorial probation units of the Probation service of the Public security department of the Ministry of internal affairs of the Republic of Uzbekistan are as follows:

- 1) the persons sentenced to a punishment in the form of deprivation of certain rights;
- 2) the persons sentenced to mandatory community service;
- 3) the persons sentenced to punishment in the form of correctional works;
- 4) the persons sentenced to imprisonment;
- 5) the persons sentenced to probation;
- 6) the persons paroled from serving their sentence;
- 7) the minors released from penitentiary establishments.

Probation units in accordance with the procedure established by the regulatory legal documents are providing the rights and legal interests of the persons under control indicated above.

Taking into account the Constitution of the Republic of Uzbekistan [7], the Criminal-executive Code [8] and other legal documents, persons under probation control have the following rights:

- to obtain information about the established prohibitions (restrictions) and obligations, the procedure for serving the sentence, the conditions of probation supervision, and about his/her rights and obligations;
- to apply with applications, proposals and complaints;
- to complain about actions (inaction) of probation service officers in accordance with the procedure established by law;
- to take care about his/her health conditions, including to receive medical care in outpatient clinics and inpatient settings according to a medical deduction;
- to ask for and receive information about types of assistance and advice;
- to have safe working conditions in accordance with the labor legislation, rest, leave, as well as receive payment for labor;
- to have social welfare, including a pension in accordance with the law;
- to demand the politeness and courtesy of probation officers to himself/herself;
- to use the services of an interpreter or sign language translator if necessary.

Persons under probation service may have other rights in accordance with the legislation.

77.660 persons were registered in probation units in 2022. Among them 70.553 are men, 7.107 are women, 23.225 are youth, and 588 are minors. Probation units provided practical assistance to these persons, namely:

- to obtain social and legal assistance to 29.635 persons, in housing, ID card, pension, social welfare etc;
- to employ 26.598 persons;
- to receive medical and psychological counseling to 1809 persons;
- to education 262 persons;
- to place in vocational training to 481 persons;
- to retrain professional skills to 657 persons [9].

It is expedient to indicate the following existing problems and their solutions in the activities of the probation service to ensure the rights and legal interests of the persons under supervision and their moral correction:

1. The persons sentenced to correctional work are subject to supervision by the district probation service at their place of residence in the practice of court. However, prisoners under supervision are serving their sentence in the form of correctional work in an enterprise, institution or organization located in another district. For instance, a prisoner living in Mirzo Ulug'bek district of Tashkent city is placed under supervision by the probation service of this district, but he is being recruited to work in Chilonzor or Uchtepa district, located 20-25 kilometers away. The problem is that the probation officer is not always be able to supervise the prisoners in such a case. According to the analysis, 60-70 percent of prisoners serving correctional sentences in Tashkent work and serve their sentences in other districts. Therefore, it is expedient to include the provisions on the supervision of convicts sentenced to correctional work by the court by the probation units of the district where they work, in the criminal-executive law of the Republic of Uzbekistan or in other normative legal documents under the law.

2. Some of the convicts sentenced to correctional work by the court face difficulties in finding suitable work. Because when a convict applies for job, there are cases where the administration of the enterprise, institution or organization refuses or offers low-wage occupations or positions. This leads to the violation of the right of the convict to work specified by law. However,

It is stipulated that the Ministry of Employment and Poverty reduction of the Republic of Uzbekistan cooperates with the Probation service in providing employment to persons under the supervision of probation units. This is envisaged in the decision of the Cabinet of Ministers of the Republic of Uzbekistan No. 84 of February 14, 2020 “On additional measures to effectively organize the activities of the probation service of internal affairs bodies” [10].

At present, the number of convicts is 187 persons who have been sentenced to correctional work by the court in Tashkent, but still find it difficult to find job. To address this issue, it is permissible to specify in the judgment the enterprise, institution or organization that provides work to the convict based on his profession, and the court sends a notification to this enterprise, institution or organization with its document. It is obvious that the enterprise, institution or organization may be subject to administrative liability in accordance with the Article 181 of the Administrative Code of the Republic of Uzbekistan for non-execution of a court document (Failure to take necessary measures based on a private judgment (decision) of the court). Furthermore, according to the Article 232 of the Criminal Code of the Republic of Uzbekistan (Failure to execute a court document) increases the responsibility of the administration of the enterprise, institution or organization under the threat of criminal liability.

3. It is necessary to establish a system of individual approach to positively influence the behavior of persons under probation control by involving inspector-psychologists. In this case inspector-psychologists ought to provide the measures to effectively work with the person under probation control sincerely repents for the crime s/he committed and goes to the path of strict recovery. In order to effectively organize this system, the “Program of individual work with persons under probation control” should be developed, in which special attention should be paid to the following issues:

firstly, to assign educational-disciplinary measures to the person under probation control, taking into account his/her individual characteristics and the details of the crime he committed (for example, conducting an interview with the family of the supervised person who committed a crime within the framework of the family with the participation of a specialist (educator, psychologist), his worldlooking and studying their interests, providing practical assistance in finding solutions to their economic and other problems, etc.);

secondly, to determine preventive measures in order to prevent offences by the person under probation control (for example, carrying out constant explanation of the causes and conditions of committed crimes and their results, presenting influentive spiritual and cultural video fragments);

thirdly, to implement drastic measures to assist the person under probation control in social, legal, medical, psychological assistance, their occupation of education and profession, as well as their employment (for example, it is expedient to develop legislative acts that determine cooperative mechanisms for abovementioned issues with the Ministry of Economy

and finance, Ministry of Healthcare, Ministry of Preschool and school education, Ministry of Employment and Poverty reduction and other concerned agencies. It is important to note that if the responsible person of organization do not undergo the previously mentioned tasks in these acts they shall be relevant subject to liability measures. It is advised to widely use the opportunities of community service to undergo these measures.

4. It is also significant to develop “Disciplinary education programs” in order to systematically implement moral correction of persons under probation control. The involvement of inspector-psychologist, teacher and other persons who have a positive influence on the education of persons under probation supervision in the program is of paramount importance. It is expedient to announce a letter of thanks to them, if the persons under the probation control completed the activities and tasks of the educational program and maintain the way to recovery. The establishment of a mechanism for cancelling the previously applied disciplinary measures and making recommendations on early parole before serving their sentence is considered to be extremely efficient.

The recovery of persons under probation control should be determined based on the following criteria:

firstly, the fact that the person under probation control has a conscientious attitude to work, fulfills the established labor norms, has consciously developed the skills of independent work, and has increased interest in education and vocational training;

secondly, a positive description of the person under probation control among the community in the place of living, working and education, his/her attitude

towards this community (respect and positive treatment), his/her care and good attention to his family, and the fact that he is trying to provide them financially;

thirdly, the fact that the person under probation control has not committed a crime, complies with the restrictions and prohibitions set by the court or the set obligations, fulfills the legal requirements of the officers of the probation units, etc.

5. It is crucial to introduce digital technologies and electronic system of accounting of persons under probation control.

6. It plays central role to organize special courses for gradual education, retraining and advanced training of probation service staff.

7. It is essential to prepare educational-methodological and educational-methodical manuals for the staff of the Probation service and regional probation units of the Public security Department of the Ministry of internal affairs of the Republic of Uzbekistan. Additionally, to place manuals` e-version on the portal of the probation service for practical use, to ensure that they are constantly changed taking into account the ongoing reforms in terms of ensuring the rights, freedoms and legal interests, implementing effective preventive measures of the persons under probation control.

CONCLUSION

In conclusion, sufficient provision of the rights, freedoms and legal interests of the persons under probation control by the territorial probation units of the Probation service of the Public security Department of the Ministry of internal affairs of the Republic of Uzbekistan is a clear example of the

implementation of the idea that, “First - a person, then - society and the state” as emphasized in the words of the President [11].

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