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## RESOCIALIZATION OF PERSONS AT CONVICTION WITHOUT IMPRISONMENT

**Аннотация.** Настоящая статья посвящена расширению сферы применения наказаний в Республике Молдова, не связанных с лишением свободы и ресоциализации лиц, в процессе уголовного наказания, без лишения свободы.

**Ключевые слова:** без лишения свободы, адаптация к жизни в обществе, занятость, отношения с родственниками, социально-позитивные связи, личностно-профилактические действия, духовное развитие.

The main goal of the enforcement of sentences under criminal law is the correction of the convicted and their total integration into society after completion of punishment. In the periods of negative social changes and society crisis a part of the public has a psychological protection in the type of different compensatory reactions, such as addiction to alcohol, narcotics, manifestations of aggression to society, and also committing crime. Especially this concerns young people and aged ones who cannot blend in with the changed social relationships.

However, unsolvable at governmental level social problems, lead to crime committing, as far as they are just a link in the cause and effect relationship of a certain case. Axiological and normative person control has a dominant significance which characterizes the degree of his socialization (culture, education etc.), that finally defines the decision and act committing.

Human is a social creature and, in many respects, a product of microenvironment where he dwells, whether it is family, or school, or working staff, or group of the same age people and so on.

The realization of life goal of a human depends on three components: biological preconditions, society, where the person lives, and the person's personal qualities [1].

So, it is clear that his life experience will depend on this microenvironment. In many cases it may have a negative influence and may lead to a criminal activity.

The common improvement tendency of the system of execution of the punishment under criminal law in the Republic of Moldova can be briefly characterized as a need to introduce alternative punitive measures.

In the early 90' all over the world the policy in the field of criminal punishments leaned in favor of alternatives to imprisonment. Besides human considerations that have already been expressed for many years, there are given purely pragmatic arguments from the point of view of expense for

imprisonment and its consequences which in a number of countries make legislators take measures in reduction of sentences to the immediate imprisonment.

As a result of constant criticism, expressed by the majority of prestigious international organizations and fora, alternatives to direct imprisonment such as penalties, probation, and work in favor of society have become a part of the system of criminal punishments in the Republic of Moldova.

The seriousness of applying above mentioned types of punishments is seen in the fact that besides the restrictions of the offender in everyday life, they become a threat to the direct imprisonment in case of disregard of the imprisonment conditions. In the case of applying types of non-custodial penalty, the court establishes the term of the punishment in the form of imprisonment but suspends its execution for the period of probation. The possibility of applying types of non-custodial penalty consequently depends on the term of imprisonment prescribed on the concretely given case.

The only preliminary condition of the delay is non-committing of criminal deeds by the offender in his further life. An additional preliminary condition of the delay is the presence of concrete mitigating circumstances in the given case.

The strictness of the treatment at the suspended imprisonment is defined mainly by two factors: interference into personal life, accompanying the delay, and duration of the period of probation. The period of probation, as a rule, depends on the gravity of the offence and on the offender's personality.

As for the responsibilities, which go together with the suspended imprisonment, the majority of the legislators look through different variants. Besides "traditional" methods, such as supervision made by the probation officer (internal affairs bodies) or prescriptions concerning way of life, there are also imposed obligations for indemnity or reparation of the damage caused by the criminal act of crime. Such kinds of offenders are usually those persons who have committed insignificant crimes, which are not characterized by high aggression, but live their own life without realizing the consequences of their deeds.

Therefore, prepared specialists, who could impart social skills and influence on the way of life, must work with this category of law-breakers. The priority of repressive starts over the preventive ones, insufficient differentiation and individualization of influence, inappreciation of the importance of resource provision, passion for large-scale events, mass forms of influence, frequently to the detriment of the individual work can be referred to the fundamental shortcomings of the earlier worked conception of the crime control in the whole.

From the point of view of the international legal acts, it is not sufficient just to take repressive measures of punishments. Standard minimal rules of the United Nations concerning the measures, that are not connected with the imprisonment (The Tokyo rules), directly show (p.10.3) that their purpose is "to help the law-breaker work over himself taking into account the character of the legal wrong committed by him.

The given rules suppose a huge purposeful work with the condemned. Paragraph 13.1 directly shows that "various methods must be worked out, such as individual work, group therapy, programmes according to the place of dwelling and special behaviour with different categories of law-breakers" [2]. At the same time paragraph 13.3 writes that in order to do this it is necessary to carry out diagnostic actions in studying biography, personality, inclinations, level of mental development of the condemned, his system of values, circumstances that led to the crime committing.

Along with the regulations of common character, which determine basic rights and liberties of a person and a citizen, the international acts contain requirements that directly concern the rules of the condemned and the rules of behaviour with them.

In the first place, the Universal Declaration of Rights of 1984 must to be referred to these types of acts. It tells that people, who are inflicted a criminal punishment, must not be exposed to the forced arrest; torture and cruel, inhumane and humiliating kinds of treatment and punishment are forbidden. A person must be subjected only to those restrictions that are determined by law exclusively with the view of certain recognition and respect of rights and meeting just moral requirements.

Another legal act of universal character is the International Treaty of Civil and Political Rights of 1966. It tells about the regulations concerning the treatment with the condemned and mainly: everyone, who is sentenced to death penalty, has the right to appeal for pardon; the work, that must be

done by the person who is in the prison on the basis of legal court order, or the person on conditional discharge, must not be seen as a “forced and compulsory” labour. The penitentiary system must provide a special regime for the condemned whose essential purpose is correction.

Convention for the prevention of torture and other cruel, inhuman and humiliating forms of treatment and punishment of 1984 is also among important international acts of universal character. It underlines that no circumstances whatever they are can excuse a torture. Code of behaviour of the officials maintaining the order of 1979 also refers to such kind of acts. Along with this, Universal Community passed a number of special acts that directly refer to the maintenance of the persons who are imprisoned, execution of sentences and treatment with the condemned. Minimum standard rules of treatment with the prisoners of 1955 are principal ones. They are supplied by certain acts of European Union among which European penitentiary rules, European Convention on Human Rights and European Convention for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment should be distinguished.

Also it should be taken into account that international legal acts along with the norms-principles contain norms- recommendations that are not compulsory for the states which ratified them, although they are exposed to maximum control in law-making activity.

The inclusion of the Republic of Moldova into the European process must make us follow more advanced standards in penitentiary sphere.

The development of service for the execution of sentences not connected with the imprisonment is defined by the contemporary criminal policy of the state which is directed to the expansion of punishment application that serve as alternatives to imprisonment concerning those persons who have committed crimes of little and average gravity. The expansion of the sphere of punishment application not connected with the imprisonment gives to those who took a false step a real right to resocialization without isolation from society, in which necessity arises in case of social deviation of a person caused mainly by social breach.

Resocialization is an orientated and expedient complex system of influence on the condemned person with the aim of mastering (repeatedly or for the first time) socially approved norms, values, samples of behaviour, restoration of the lost or inactive social skills and habits of behaviour for the further inclusion into the social life. At its core the process of resocialization is analogous to the process of socialization of a personality. And resocialization is understood as a “restoration” of repeated mastering social experience by missocialized personality.

The core of the idea of resocialization of the condemned person is the regulation about “subject development of a personality”, the main point of which is to make person develop in social and spiritual way, to correct his aim imposed by “educative” measures is impossible, and the condemned people can and must change their behaviour themselves [3].

In other words, it is necessary to create conditions for the change of person’s development, to stimulate his work over himself. Due to the fact that the motives of criminal behaviour depend on the great number of personal and social factors, for solving the problem of resocialization of criminals it is necessary for each of them to use differential and individual approach that presuppose the usage of more effective and suitable forms and methods of work with them.

Many investigators mention in their works that success of resocialization depends on three groups of factors.

The first group includes the personality of the condemned person himself: his world outlook, traits of character, temperament, intellect, sense of justice, morality, morals, ethics and so on [3].

The second group includes conditions of the environment that the person is surrounded by, social and demographic information about the personality of the condemned: education, speciality, working practices, presence of habitation and registration; family and relations with it; job and satisfaction with it and relations with colleagues at work, relations with members of small groups and so on; tactics of the workers of law machinery [3].

The third group includes factors connected with the stability of asocial directions and influencing on the process of resocialization, - degree of social detachment of the personality, the character of act of crime, its duration, and condition of the microenvironment where he is a part of it [3].

This information must become the starting point for the realization of the main task of the punishment execution not connected with the imprisonment.

The goals of resocialization in the process of criminal punishment without imprisonment are the following:

- solving the problem that caused the committing of crimes and prevention of further crimes;
- set of generally preventive and individually preventive measures, functionally focused personally on non-adaptive behaviour;
- Preventive work within integration of individual social experience and engaging in work and other permissible activity;
- Activity of a larger scale on restoration of links with the relatives, rise in socio-psychological adaptation and spiritual development of the personality.

In the process of resocialization of the condemned without imprisonment, punishment execution authorities at the local level should have a close cooperation with the agency of state administration, carry out a number of practical measures in enforcement of collaboration with the agency of local public government, with the Office of Public Prosecutor, with the commissions for cases of minors, social assistance centres, human rights organizations and non-governmental organizations, labour office, health authorities and educational institutions.

It is very important primarily to form a high motivation for conscious participation in the process of resocialization at the condemned without imprisonment, because the problem of productive life in the society can be solved only by joint efforts of both condemned and local execution officers [4].

Basic elements of rendering assistance to the condemned in their socio-psychological reorientation are the following:

1. In ordinary sphere of serving the sentence:

- ensuring labour conditions for the condemned in accordance with the law; timely decision of all questions that the condemned have in their everyday life; rendering of assistance in conflict resolution with the relatives, in labour collective, with other people and organisations.

2. In work on self-development:

- teaching fundamentals of building relationships in the society, training psychological stability to unfavourable factors, ways of self regulation of the emotional state; giving classes on studying questions of self-improvement, especially with minor convicted.

3. In the sphere of rendering assistance:

- provision of individual psychological consulting service with diagnosis of personality characteristics, forecasts of behaviour forms in different life situations, concrete psychological assistance under adverse psychological states and in determination of goal set in life, socio-rehabilitation assistance by means of participation of the convicted without imprisonment in training programmes of working out skills for orientation in different social institutions [5].

Studying foreign experience shows that probation officers successfully apply socio-rehabilitation programmes of work with different categories of the condemned.

The given programmes are aimed at teaching the condemned skills of lawful life in the society, ways of self-control over behaviour and favour the change of way of thinking of criminals that finally have an influence on the crime prevention.

By reference on this, there is a necessity of working out a programme for forecasting behaviour of the condemned in the penal enforcement system that will allow to classify all the condemned who are registered in the local executive office, according to the risk degree of repeated committing of crimes by them and, consequently, to plan implementation of preventive work with them applying correction programmes.

For the realization of the results of forecasting behaviour of the condemned local executive offices need to use psycho-correctional programmes, "Decline of aggression in violent convict", "Anger management" and so on.

Besides this, it is advisable to organize all the psycho-correctional work according to the stages, solving certain problems of change of the participants' personality and behaviour characteristics at each stage.

The usage of prognostic and psycho-correctional programmes by the local executive office in its practical activity will provide crime alleviation among the convicted without isolation from the society and their resocialization.

As the basic efficiency factor of the process of resocialization with the condemned without imprisonment is their successful adaptation to life in the society: job placement, good relations with the relatives, acquisition of socio-positive relations and many others.

The solution of these problems will allow creating conditions for transition to crucially new quality of home criminal executive system in the part of the punishment execution not connected with imprisonment.

The concept “resocialization of the convicted” means an organized process of restoration of the social status, lost or inactive social skills, reorientation of social aims by way of the inclusion of the convicted into new positively oriented relationships and types of activities, it is a set of professional actions realization of which must result in the ability of the condemned to lead a lawful way of life in future and carry the social responsibility for his own life and life of the people who are around him.

Resocialization of the convicted must be seen as important as punishment execution itself and correction of the convicted. Psychological change in the appraisal of necessity to help and support in general sense of correction influence on the convicted and discharged prisoner from the side of society is also important because the solution of such kind of problems is impossible to realize without the help of the society.

Resocialization of the convicted is considered successful when useful for the society relations of the discharged prisoner are build in main life spheres and they have no essential deviation, (good relationships in family, presence of habitation, registration at place of residence, full-time job, participation in social work, helpful leisure activity, academic and cultural upgrading and so on.)

Normally adapted discharged prisoner breaks with the criminal environment and other people whose behaviour is characterized as antisocial, does not misuse alcohol, and does not commit wrongs.

Main problems of resocialization of persons served the sentence are their professional orientation and job placement, good situation in the family, in the bosom of relatives, and also in the bosom of friends, acquainted people, neighbours. As it was said above, in most cases the former convicted have tension with the surrounding people, as a rule he meets resentment and indifference.

Analysis of historical data and results of social investigation clearly reveals the importance of this theme. Special measures should be taken by the legislation, firstly, those that guaranty respect of rights for those who served a sentence, those that provide change of the form and direction of the preventive work. It is hardly to meet in our country, but we can meet centres, funds, movements, committees, that appear and function, whose purpose is not to leave our lost sons and daughters without comprehensively social assistance, to ease their lot and help them to lead good life. In a word, there comes understanding of the main problem, its extent and potential impact.

As new approaches concerning some categories of the discharged people it is suggested to organize foster care through the centres of social adaptation (this form of social control is stronger than social observance, but milder than administrative supervision), in cases when tight control over behaviour of an individual is not done. At the same time there should be organized social observation by the centre of social adaptation and under its control over the persons who do not come under administrative supervision, did not turn to correction during serving the sentence or break laws after discharging.

Social ones are irenic efforts of the church, its contribution to restoration and establishment of human norms and values. It seems that we do not speak about religious societies as a collective subject of social adaptation centre, but about the participation of religious people and religious figures as individuals in the work of the centre [5].

The complicated process of resocialization, re-education and coming back to the society of the people committed crimes that started at the first interrogation by examining magistrate, ends after the whole adaptation to the conditions of standard existence in the normal social environment.

As a result of this, it is necessary to find closer connections between public institutions, state authorities and community in order to perform effective adaptation process of imprisoned people. According to the author’s point of view the solution of the given problem is possible by passing the law “About the social assistance to persons who served the sentence”. It is necessary to promote

preventive work at the state level, to use civil means in the control of homelessness, in solving problems of early crime prevention and to orient justice mainly to defense of rights and interests of minors.

Thus, the phenomenon of resocialization needs to be seen both as a process and result, where the social worker's role in social assistance of convicted people at the correctional institution is very important.

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