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## Leading practices of development of probation service

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## Abstract

**Relevance.** Criminal punishment is a legal consequence of the committed crime. The probation institute exists as an alternative to imprisonment and is aimed at the rehabilitation and correction of offenders, the prevention of crimes, and the provision of social assistance to convicts.

**Purpose.** The purpose of the study is to identify the main directions in world practice that exist in the field of re-education of convicts and the prevention of relapse in the future. The tasks of the study should include the study of the features of the organizational and legal activities of the probation service and their employees, the practice of preventing such crimes in different countries, as well as familiarization with the main means of overcoming such problems in the process of law enforcement.

**Methodology.** The main methods of scientific research were analysis and synthesis, with the help of which different methods and approaches were identified in resolving the issue of reforming convicts and analysing new approaches to convicted persons who committed various crimes and belong to different segments of the population.

**Results.** As a result of the study, an analysis was made of international practice regarding the rehabilitation and correction of people who are serving a suspended sentence, as well as the correctional system, in particular, penitentiary probation in different countries. Familiarization with various methods, tools, rehabilitation programs, experiments in the field of corrective justice was carried out. Based on the fundamental documents that regulate the processes of parole, the opinions of legal scholars concluded that the humanization of criminal processes has a positive result not only for those convicted of crimes, but also for the welfare of society as a whole. A comparison was made between the use of imprisonment and parole. An analysis of the criteria for the correction of convicts was carried out, taking into account their age, gender, and social status.

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**Conclusions.** Based on the results of the analysis, an assessment was made of the factors that influence the degree of reduction in the social danger of a probationer, as well as the prevention of recidivism. Based on the results of this study, new approaches and methods were proposed for the introduction of probation officers into the correctional service, including non-traditional ones, such as victimization, and mediation.

**Keywords:** social standards; alternative method; social rehabilitation; suspended sentence; mediation; victimization.

## **Introduction**

The institution of probation has a place in the legislative framework of different states. In the United Kingdom and the United States, this institution is called probation, in Japan, suspended sentence, in Austria, conditional release from punishment. As a result, standard international rules have emerged in the world community that regulate sanctions alternative to imprisonment. In the Tokyo Rules adopted by the UN General Assembly on December 14, 1990, the principles are enshrined, which are based on the effectiveness of measures applied to offenders and aimed at their social rehabilitation and correction [1]. Recommendations in the European Rules for the Execution of Sentences and Other Measures without the Isolation of Offenders from Society, which were adopted by the Council of Europe in 1992, consider conditional punishment not as an alternative method, but as the main measure of punishment, which should be applied in the first place [2]. At the Convention on the Rights of the Child 1989, principles are enshrined that are aimed primarily at the natural rights of the child. According to the Convention, the death penalty and other degrading punishments cannot be applied to persons under 18 years of age. It calls for arrest, detention, and imprisonment to be used as a last resort [3].

In connection with the development of international law and the growth of social standards in society, the approach to the issue of correction and adaptation of offenders has recently changed significantly. In this regard, the functions and tasks of probation officers have changed. It depends on what tasks are assigned to the correctional authorities of the state, in which the organizational structure the service will function. So in most cases, their employees work in the police, prosecutors, and courts and are part of the system. However, there is the experience of some countries when probation is located on the basis of social security authorities. For example, in Israel, only qualified, licensed social workers can become probation officers. The Israel Probation Service serves both minors and adults and is part of the social security system under the Ministry of Social Affairs and Social Services [4].

The probation service in the UK has undergone global changes over the past decade. This practice has shown that such reforms do not always bring positive changes. In 2014, the government of the country's Conservative-Liberal Democratic coalition made reforms, during which the functions of the correctional agency were transferred to private rehabilitation companies. The result of this innovation was a general decline in the quality of the probation service, which led to the fact that offender services were returned to the public sector [5]. The practice of reducing the use of imprisonment and replacing it with alternative methods has emerged in many countries. In particular, it occupies a special place in the system of execution of criminal penalties in the United States. It is a separate structure aimed at the socialization and

rehabilitation of convicted offenders. Analysing the general trend of the criminal policy of the states of the European and world community, it can be noted that the development of various forms of probation ensures a steady reduction in the use of punishment in the form of deprivation of liberty and its replacement with other measures and sanctions [6].

The processes of humanization of criminal and executive legislation in the course of reforms of the law enforcement system have also affected the Republic of Kazakhstan. The system of execution of criminal sentences and the country's penitentiary service has endured a severe crisis in the post-Soviet regime. The modern probation of the Republic of Kazakhstan can be considered as a system not of a penitentiary regime for the execution of sentences, but of social and legal control over persons who have committed a crime and aimed at the resocialization of convicts. An important achievement of the probation system in Kazakhstan in recent years can be considered that after gaining state independence, the number of prisoners in the country decreased by almost four times [7]. At present, reforms are also taking place in the justice system in the Republic. They are based on the process of digitalization of data, informatisation of services, and precedence of cases. The digitalization of judicial proceedings implies the possibility of direct participation of citizens in procedural proceedings without leaving home, which creates conditions for the control of the judicial process, both by state bodies and by participants in the process. The process of digitalization of judicial proceedings is an important component of the entire law enforcement system. Such reforms make their own adjustments to the probation service as a whole [8]. Judges, when deciding on conditional early release from punishment, motivate their decision by a combination of necessary circumstances that characterize the personality of the convicts. At the same time, it is based mainly on information provided by the administration of the institution about convicts, which is of a formal nature. In connection with the reform of the probation service in the Republic of Kazakhstan, employees on probation are given the opportunity to submit to the court an opinion on the correction of the convict and the possibility of applying to him on parole. The court, studying the materials of the probationary service, makes an appropriate decision on early release [9].

The Government of the Republic of Kazakhstan implemented a number of important provisions of international documents into the Criminal Executive Code, such as the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, the Code of Principles for the Protection of All Persons Subject to Detention or Imprisonment, the United Nations Standard Minimum Rules regarding the treatment of prisoners (Nelson Mandela Rules). As a result, over the five years of the new Criminal Executive Code, nineteen times

amendments and additions were made to its provisions. Such an approach to reforms in the law enforcement system contributes to an increase in the efficiency of the execution of criminal punishment and creates conditions for preventive activities in the field of conditional execution of sentences [10]. The Republic of Kazakhstan has supported joint UN initiatives, in particular in preventing radicalization among clients who are serving sentences in prisons and those on probation for crimes related to terrorism. The results of an international investigation found that prisons create an environment in which convicts can spread extremist and violent ideologies. When they enter prison, they become vulnerable, lose their identity and need protection. Therefore, the prison and probation services, as the authorities responsible for pre-trial detention, prisons, parole, are considered as participants in the prevention of recidivism. As part of such a program, they work with clients convicted of crimes related to terrorism and prepare them for release [11].

European countries have expressed concern about the presence of violent extremists in their prisons, as well as the fate of women and children returning from areas under the control of the Islamic State. The high level of psychological trauma and indoctrination poses a threat to their reintegration to local living conditions, and also entails the risk of an increase in the level of crime among these segments of the population. Obviously, this topic goes beyond criminal justice and parole. However, research in this area provides conceptual clarity on what programs modern society needs to ensure the well-being and safety of women and children [12].

The problem of this study is the lack of theoretical development of various aspects of probation, the lack of uniformity in the practice of its application. The purpose of the study is to identify innovative forms of organization and functioning of the probation system in the practice of different countries, to identify the most effective methods of influencing offenders of different categories in order to socialize them in the process of executing punishment.

## **Materials and Methods**

For a deep and comprehensive study of the topic, an analysis was made of a number of scientific articles published in international journals and collections on topics related to the methods and legal levers that govern the issue of restorative justice and the institution of probation. Familiarization with basic regulatory documents, such as the Tokyo Rules adopted by the UN General Assembly on December 14, 1990 [1], Recommendations of the Council of Europe on the execution of sentences and other measures without isolating offenders from society [2]. Recommendations to the UN Member States to reduce the Organization's overcrowding and non-custodial measures are reflected in the United Nations Minimum Standard Rules regarding the appeal with prisoners (Nelson Mandela Rules), adopted by the General Assembly in December 2015 [13]. IN framework juvenile justice reviewed Convention on the Rights of the Child 1989 [3], and also, United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules) [14]. International

standards that concern the rights of women serving conditional punishment, granted by United Nations Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders (Bangkok Rules) [15].

Using the concretization method, the practice of applying new approaches and methods in different countries aimed at the correction and rehabilitation of offenders was studied. Using this method, it was possible to get acquainted with individual works of authors who studied the policy of states in the field of applying the practice of probation work in relation to socially unprotected citizens, such as minors, drug-addicted criminals and convicted women. Using the method of analysis, problems were identified that arise in the execution of sentences in relation to the affected persons, as well as the role of the victim in sentencing and applying a suspended sentence. Based on the dialectical and systemic method, using the example of the country of Belgium, the main reasons for the ineffectiveness of imprisonment were identified and the features of probation services in the United States, Japan, and Germany were studied [16]. With the help of synthesis, the main principles of law enforcement activities in countries were studied on the basis of international regulations, as well as framework decisions of the European Union in the field of mutual recognition of decisions in criminal cases in order to apply a unified approach to punishments for offenders who do not live in the country of conviction [17].

Using the method of induction, based on individual cases in world practice, a general conclusion was made about the probation system under international law and its place in restorative justice. The method of deduction was also used, where, from general knowledge and understanding of human rights, a conclusion was formed about the features of preventing their violations in the execution of criminal punishment. Using an analogy, identical methods of probation services applied to offenders based on the local legal framework and justice system were investigated. Using the method of generalization, problems of international scope were identified, in particular on issues in the field of mutual recognition of decisions in criminal cases and cooperation between countries in accordance with international standards. Using the modeling method, new tools for the socialization of offenders, such as victimization of the individual and mediation, as well as their implantation in the system of corrective justice, are considered.

## **Results**

Criminal offenses cause significant harm both to individuals and to society as a whole. Various state bodies are involved in the process of restoring law and order: the police, the prosecutor's office, the courts and correctional institutions. In the past few decades, the concept of restorative justice has been introduced into these structures. It is aimed not at the application of punitive measures, but at the correction, resocialization, and rehabilitation of offenders. Against this backdrop, many alternative methods have emerged to apply to offenders, which should positively influence them and thereby improve the overall well-being of society. A special place in restorative justice is occupied by the world practice of

working with juvenile delinquents. The implementation of the principles of juvenile justice throughout the world, as set out in the United Nations Convention on the Rights of the Child, is monitored by the Committee on the Rights of the Child [12]. According to the Beijing Rules, Member States should strive to create conditions to ensure all the rights proclaimed in the Convention for persons under 18 years of age and to provide an environment conducive to personal development, education, and medical care. Such conditions should minimize the possibility of committing crimes and offenses [14].

Although the United Nations Convention on the Rights of the Child has been ratified by all countries (except the United States), not all states are able to enforce its principles. The example of England and Wales, which signed the Convention in 1991, illustrates the failure of modern juvenile justice to adequately protect their rights and welfare. The author P. Gray in his article explored the changes that have taken place in recent years in policy and practice in relation to juvenile delinquents [18]. As a result of cuts in government spending, the entire probation system was restructured. In practice, the introduction of restorative justice has brought about changes in the professional orientation of probation officers. In the course of the study, the author identified three main models of work with juvenile offenders: “management of offenders”, “targeted intervention of specialists” and “first of all, children and youth”. An example of innovative implementations of juvenile justice can be the experience of the Israeli Juvenile Probation Service. In the context of these changes, they see their clients not as criminals, but as people who have made a mistake, who need to be directed in the right direction and ensure their law-abiding future [4].

A similar practice of applying the restorative justice model has also been introduced in China. The Victim-Offender Reconciliation Program was used to encourage

offenders and victims to mediate their disputes. Here, restorative justice acts as the main concept of reconciliation of the parties in the criminal process, and also influences the decision on probation. This means that compensation and the relationship of the offender with the victim are closely related to the likelihood of receiving a probationary period [19]. The principles of restorative justice have been applied in different ways in different countries. However, the whole concept of the work of probation services is aimed at reducing the negative consequences of imprisonment and avoiding overcrowding of prisons. It boils down to replacing the punitive measures of punishment of criminals with a suspended sentence. In order to inform the community about criminal justice and incarceration in various processes, a number of offences have been investigated in the Scandinavian countries.

Comparing drug offenders and the sanctions they received from the Finnish judiciary, no significant differences were found between offenders sentenced to imprisonment and those who received non-custodial sentences (fine or suspended sentence), for general relapse and drug-related relapse [20]. However, another study found that incarceration has a more pronounced criminogenic effect on drug-addicted offenders than on other categories of offenders, effectiveness, where the effectiveness of imprisonment is questioned. K. Beyens on the example of Belgium in his work considered the concept of public works and labour punishment as an alternative method of influencing criminals and the features of its application in practice [21]. In that country, community service for adults was introduced in 1994 as a condition of probation at the sentencing level and as a condition of mediation at the prosecution level. The reasons for the ineffectiveness of imprisonment and its alternatives are illustrated by the example of methods of criminal punishment for drug-related crimes introduced in Belgium (Tables 1 and 2).

**Table 1.** The main reasons for the ineffectiveness of imprisonment

First reason	Imprisoning petty offenders does not solve the global problems of organized crime.
The second reason	Imprisonment does not contribute to rehabilitation.
Third reason	Stigmatization after imprisonment reduces the chances of establishing personal relationships, finding work and housing after release.
Fourth reason	Financial costs associated with the inadequacy of imprisonment.
Fifth reason	Deprivation of liberty does not take into account individual needs and motives for committing crimes.

Source: [16].

**Table 2.** Overview of alternatives to prison at charge level, sentencing level and execution level using Belgium as an example

Probation	The judge may suspend the sentencing or suspend the execution of the sentence under certain conditions.
Grant of parole	Deciding not to detain a suspect. The suspect must comply with certain conditions for a certain period of time.
Mediation in criminal cases	Making a decision in agreement with the suspect and the victim on compensation for the harm caused. Additional conditions may be imposed, such as compensation, treatment, education, service, reprimand, settlement.
Public Works	Performing unpaid work for the benefit of society for a certain period. The suspect must give formal consent to the judge.

Electronic monitoring	Electronic surveillance can also be used as the main punishment. Part of the prison sentence is enforced in the community with a combination of control and rehabilitation, such as a prohibition to leave the house, an obligation to actively seek professional employment, or to participate in a therapeutic program.
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Source: [16].

Some states in the US have implemented legal enforcement procedures for those convicted of drug-related offences. It involves the transfer of those convicted of non-violent drug offences to drug treatment instead of imprisonment or as a condition of probation. The U.S. criminal justice system is interested in such a policy because it promises to reduce recidivism caused by substance-related criminal activity and is more cost-effective and rehabilitative. As a result, it was found that legal enforcement directly contributes to favourable outcomes in the treatment of drug addicts. However, several other studies found no significant differences between the two approaches. Thus, it is not yet possible to draw a final conclusion about the effectiveness of the use of legal coercion in general [22].

The State of California passed the Substance Abuse and Crime Prevention Act, also known as Proposition 36, on November 7, 2000. The legislation's program involves the collaboration of criminal justice and public health professionals. It is based on the proposal of treatment for drug addiction instead of imprisonment. The effectiveness of such a program is ensured by providing drug treatment as an alternative method of reducing the prison population. Proposition 36 went into effect July 1, 2001, and provides \$120 million annually for five years to treat these drug addicts. As a result, by July 2006, when the original funding for the program ended, more than 150,000 people had received Proposition 36 treatment, and California taxpayers had saved about \$1.3 billion [23].

An example of restorative justice described in the article by the authors E. Dieu et al. [24]. It concerned a recidivist thief with aggravated circumstances, but who caused minimal harm and was punished with minimal terms. Within the framework of the PARIS programme, the Probation Service of the French Department, together with the Service for the Execution of Sentences, Social Reintegration and Victims Assistance, have attempted to introduce restorative justice in the context of non-custodial sentences. In the case of Luis, an attempt was made to victimize his financial, physical, psychological prejudices. Thus, the recovery program was an alternative to public-judicial measures, causing a potential therapeutic effect on the future path of the offender.

In the article about the connection of communicative patterns of parole and probation agents, the ways of communication of parole agents are highlighted. Since the costs arising from recidivism go beyond the costs of victims, offenders, law enforcement agencies, courts, probation authorities are required to take a new approach to offenders and apply additional corrective measures. Here, special attention must be paid to self-efficacy of female offenders in job search and employment. The relationship between how probation workers talk to clients and how this contributes to women's job search and employment has been explored with women who have

been placed on probation or paroled. This method of public oversight is most common in the United States. The effectiveness of this method has been confirmed because parole and probation agents have a unique opportunity to influence the outcomes of women at different stages of participation in the criminal justice system [25].

The rules developed by the United Nations concerning the treatment of female prisoners and non-custodial measures for female offenders (the Bangkok Rules) recognize that prisons are generally ineffective in combating female delinquency and often harm them. They interfere with the social reintegration of women, and limit their opportunities for a fruitful and law-abiding life after release. A pioneering attempt at conflict resolution and mediation through negotiation between victims and offenders has been introduced in the UK. The essence of the experiment was mediation and reparation between the victim and the offender at various stages of the criminal justice process. However, projects of this kind require financial support from the state. The authors of the article believe that this type of spending is unreasonable, since they are of secondary importance for the criminal justice system and the treatment of offenders [26]. In any case, it can be found that criminal liability, sentencing, and imprisonment will be more positive for those who attend mediation compared to those who go through a standard trial [27-30].

An important place in the system of restorative justice in the criminal process is occupied by the identity of the victim. This position is reflected in the work on the Italian practice of criminal justice. According to the author, based on the principles of mediation, the side of the offender and the victim, with the help of a conflict mediator, should take an active role in an attempt to mutually resolve the conflict that arose as a result of the crime [27]. In other words, the victim must take an active part in the criminal process. Understanding the identity of the victim helps to determine the correct vector of work with all participants in mediation. The procedural role of each of them is brought to the first place. For example, Italian lawyers are distrustful of the victim for the sole reason that the side of the civil plaintiff is created to compensate for the damage caused by a criminal offence [31; 32]. This sore point remains a topic for discussion and research by specialists in jurisprudence, sociology, and psychology [28; 33-35].

In general, the institution of probation does not stop at generally accepted methods of influencing criminals. The international experience of other countries on the use of the probation institution shows that the probation service prevents crime by reducing re-offending associated with criminological recidivism, limits the further criminalization of the offender, effectively contributes to the reduction of imprisonment, and therefore reduces the costs of the state correctional system for the maintenance of prisoners (Table 3).

**Table 3.** Features of probation services in different countries

Great Britain	Under modern English criminal law, probation is an alternative form of imprisonment. Differentiation of crimes for which a conditional sentence can be applied due to the insignificance of the crimes, the presence of extenuating circumstances, the social characteristics of the offender.
Germany	The court issues a suspended sentence under the following conditions: the convict has promised not to commit a crime in the future; repents of his deed and has a positive attitude towards it; he was sentenced to imprisonment for up to one year. The probationary period is supervised by a court-appointed assistant and additional obligations are placed on the prisoner, such as restitution and community service, but criminal law prohibits the imposition of obligations that are clearly impracticable.
Japan	In Japan, probation is based on a stay of execution. If during the probationary period the duties assigned by the court are violated, and the offender commits a crime again, the suspension of serving the sentence is cancelled, and the earlier sentence comes into force. The suspension of the execution of the sentence occurs under certain circumstances: if the defendant has a previous conviction, but was not sentenced to imprisonment or a more severe punishment within five years after his serving; if during the probationary period the convicted person fulfils the duties established by the court in compliance with all the rules, does not commit another socially dangerous act, and the deferment of serving the sentence is not cancelled by the court.
USA	In US criminal law, probation is a form of criminal punishment based on two institutions – a suspended sentence and a suspended sentence. Under federal law, probation is mandated by the criminal laws of all states. However, there is a difference in probation depending on the state.

Source: [17].

Based on the study of the significance of the institution of probation in the legislation of other countries, a number of main functions of the service can be distinguished: collecting information about the offender to help the court determine the most effective type of punishment; social

adaptation of convicts to conditional punishment and their control activities; supervision of parolees; ensuring the execution of punishments not related to deprivation of liberty; assistance to victims of crime; participation of service personnel in mediation processes (Table 4).

**Table 4.** Types of probation

Pre-trial	Formation of a pre-trial report on the socio-psychological characteristics, assessment of the risk of re-commission of a criminal offence, as well as a conclusion on the possibility of correcting the offender without imprisonment.
observant	Provides a set of measures aimed at correcting social behaviour, the formation of socially favourable changes in the personality of the probation client.
Penitentiary	Assistance to convicts who are serving a sentence in the form of restriction or imprisonment for a certain period in resolving issues of labour and domestic arrangements after release.

Source: [29].

Based on this, the main task of modern restorative justice is to balance the rights and interests of the parties to the criminal process in the context of sentencing and probation decisions, in order to supervise probation measures and alternative sanctions. This goal is also proclaimed in a special legal instrument for the transmission of judgments and decisions on probation within the territory of the European Union.

## Discussion

Comparison of international legislation in the field of restorative justice with the effectiveness of the forms and methods of probation services in different countries allows to find new advanced ways to influence offenders for their further implementation.

The author C. Faraldo, using the example of framework decisions adopted in the territory of the European Union to implement the principle of mutual recognition of decisions in criminal cases, traced the initiatives of the European community with their focus on the social rehabilitation of convicts [17]. The easing of appropriate probation measures and alternative sentences for offenders not domiciled in the country of conviction is being introduced

to reduce the use of prison sentences by foreigners and non-residents, allowing them to serve their sentences at their place of residence in their home country. Minimum standard rules United Nations regarding the appeal with prisoners (Nelson Mandela Rules), adopted by the General Assembly in December 2015, recommend that UN member states strive to implement measures that help reduce prison overcrowding. These include alternative practices of pre-trial detention, promoting access to justice and legal protection mechanisms, and the use of rehabilitation and social reintegration programs [13; 36; 37].

In the Republic of Kazakhstan, recently, the state policy is aimed at the humanization of criminal justice in relation to minors. The international practice of working with children in conflict with the law is taken into account, which actualizes the needs of children in special work and special assistance [38-40]. Authors S. Stelmakh et al. in their article systematized the results of a study of the health status of adolescents in conflict with the law in the East Kazakhstan region [30]. In their opinion, in order to reduce the risks of repeated conflicts with the law and to plan wellness programs, it is necessary to understand the basis of well-being – the state of mental health of children. In the

region where the highest rates of juvenile delinquency were observed, experiments were carried out in which new techniques were applied, such as MAYSI-2 and STAB. The MAYSI-2 is a 52-question questionnaire that a teenager needs to complete within 15 minutes. In another STAB antisocial behaviour questionnaire, participants were asked to rate different types of behaviour such as physical aggression, social aggression, and rule-breaking. The purpose of these experiments was to identify children at risk of suicidal behaviour, who have mental health problems, who are in conflict with the law.

Arabic authors S. Sulieman et al. work was carried out to study an adapted training program for the replacement of aggression, which was applied at Al Balqa University in Jordan [31]. The experiment was prompted by the need for an alternative solution to expelling students from the university and an initiative by the Department of Justice to support public sentencing for offenders. The concept of this program is to focus on social standards of human rights. This pilot implementation was investigated by a number of authors from Jordan. S. Brandon in his work compared the tasks of correctional officers with the interests of persons who were serving sentences [32]. To do this, an experiment was conducted that examined the life experiences of individual probation officers and their influence on the corrective behaviour of offenders sentenced to prison or probation. The essence of the program was the use of various programs by employees, such as drug treatment, anger management and cognitive therapy. Many of them were unaware of the positive impact of such practices, leading the author to believe that service providers do not understand their role in reducing recidivism and need additional training [41-43].

Authors from Kazakhstan I. Mukherjee, et al. studied the impact of violent behaviour of police officers against sex workers on the implementation of HIV prevention measures in Kazakhstan [33]. The rise in HIV incidence in Eastern Europe and Central Asia has given impetus to the study of this topic. A survey of women who engage in prostitution and use drugs showed that almost all of them experienced violence from police officers. Authors from Kazakhstan G. Zhunisbayeva et al. describe the problems of resocialization of citizens released from places of deprivation [34]. In the concept of the legal policy of the Republic of Kazakhstan, the highest values of a person, his dignity, rights, and freedoms come to the fore. Therefore, the adaptation of former convicts is the task not only of probation authorities, but also of all other state bodies, as well as non-state organizations [44; 45]. Such an approach to the problems of convicted citizens requires a constant response from the legislature [46].

Kazakh scientists R.N. Klyuchko and G.S. Dzhumashev, analysing the legislation on probation, came to the conclusion that with the adoption of the new Penal Code of the Republic of Kazakhstan in 2014, the powers of probation services were expanded, as well as the categories of persons in respect of whom probation control is established [9]. They identified four types of probation: pre-trial probation; conditional sentence; penitentiary institution, probation; post-prison probation. Thus, the state implements an anti-criminal policy, which implies the re-socialization of convicts and their social adaptation [47; 48]. The results of the study contribute to increasing the

effectiveness of probation control and further study of problems in the field of probation. Y. Anuarbek and T. Zharkenova in their article considered the problem of employment for former offenders [35]. In their opinion, one of the tasks of the probation service is to help convicts return to society and find a job that should ensure a decent existence, solve problems with housing, health, family creation and, therefore, reduce the problem of recidivism. However, criminal backgrounds often make it difficult for ex-convicts to find such work, as employers are not always willing to hire ex-offenders [49-51].

In earlier studies, the probation service of different countries was analysed, as well as the legislative framework on the basis of which it operates. They concluded that the international probation system finds its expression in such concepts as criminal law, restriction of liberty, probation, deferral of punishment for pregnant women and women with young children, parole from serving a sentence, punishment in the form of community service [36; 52]. Similar conclusions were made by author I. Palvanov from Uzbekistan [37]. He analysed all the functions of the probation service in the country with the help of comparative practice on the example of other countries. According to the Constitution of the Republic, a person, his life, health, honour and dignity, inviolability and security are recognized as the highest value. In this regard, reforms are being carried out in the country aimed at the use of probation as an alternative to imprisonment. On the basis of the probation service, a whole system of adaptation of former prisoners, profiling and preventing recurrence of violations in the future, will be created [53].

Thus, the social rehabilitation of a probation client involves a set of measures that, in cooperation with penitentiary institutions, as well as other state bodies, are designed to provide assistance to convicted persons serving a suspended sentence and persons whose sentence is coming to an end in matters of determining the place of residence, employment providing medical assistance. To date, the issue of creating a body responsible for the program of mediation between the victim and the offender remains open. Since victim-offender mediation is closely linked to criminal justice procedures, it is not excluded that probation, which is part of restorative justice, could become such a body.

## **Conclusions**

The legal analysis of the development of alternative measures of criminal punishment for crimes not related to deprivation of liberty within the framework of the probation institute of different countries is based on international practice in relation to convicts. This approach changes the traditional ideas about the methods of punishment for crimes and ways to prevent them. The protection of natural human rights comes first. According to international standards, the purpose of criminal punishment is conceptually the correction and re-education of the guilty person. Such standards have been developed thanks to continuous and multilateral international cooperation in the field of human rights. The essence of the work of the executive system is to assist in the moral, professional and educational development of offenders through labour practices, educational, cultural and

recreational activities. These include addressing the special needs of offenders with special needs. And include programs dealing with substance dependence, mental or psychological conditions, anger, and aggression that can lead to re-offending behaviour.

International standards also stipulate that rehabilitation work should be carried out throughout the entire process of serving a sentence and should serve as a prevention of re-offending. Such an approach should favourably influence both the personality of the offender and the well-being of society as a whole. The practice of probation in different states has general trends provided for in the fundamental legislative documents, and also has its own legal, organizational and functional features, which are largely determined by national legislation. As in other areas of society, there are vulnerable groups of the population. These include minors, drug addicts, women who, taking

into account their special needs and needs, need a special approach in the execution of the sentence. Accordingly, there are rules enshrined in international law regarding rehabilitation methods for vulnerable groups of the population. In this regard, it is necessary to continue the search for alternative methods and methods that can enable convicts, after serving their sentences, to continue a full life within the law.

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#### Conflict of Interest

None.

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## **Провідні практики розвитку служби пробації**

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## **Анотація**

**Актуальність.** Кримінальне покарання є правовим наслідком вчиненого злочину. Інститут пробації існує як альтернатива позбавленню волі і спрямований на реабілітацію та виправлення правопорушників, запобігання вчиненню злочинів, а також надання соціальної допомоги засудженим.

**Мета.** Метою дослідження є визначення основних напрямків у світовій практиці, які існують у сфері перевиховання засуджених та запобігання рецидиву в майбутньому. До завдань дослідження слід віднести вивчення особливостей організаційно-правової діяльності служби пробації та їх працівників, практики запобігання таким злочинам у різних країнах, а також ознайомлення з основними засобами подолання таких проблем у процесі правоохоронної діяльності.

**Методологія.** Основними методами наукового дослідження стали аналіз та синтез, за допомогою яких було виявлено різні методи та підходи у вирішенні питання виправлення засуджених та проаналізовано нові підходи до засуджених осіб, які вчинили різні злочини та належать до різних верств населення.

**Результати.** У результаті дослідження було проведено аналіз міжнародної практики щодо реабілітації та виправлення осіб, які відбувають умовне покарання, а також системи виконання покарань, зокрема пенітенціарної пробації в різних країнах. Проведено ознайомлення з різними методами, інструментами, реабілітаційними програмами, експериментами у сфері виправного правосуддя. На основі основоположних документів, які регулюють процеси умовно-дострокового звільнення, думок вчених-юристів зроблено висновок, що гуманізація кримінальних процесів має позитивний результат не тільки для засуджених за злочини, а й для добробуту суспільства в цілому. Проведено порівняння між застосуванням позбавлення волі та умовно-дострокового звільнення від відбування покарання. Проведено аналіз критеріїв виправлення засуджених з урахуванням їх віку, статі та соціального статусу.

**Висновки.** За результатами проведеного аналізу здійснено оцінку факторів, які впливають на ступінь зниження суспільної небезпеки суб'єкта пробації, а також на запобігання рецидиву злочинів. За результатами дослідження запропоновано нові підходи та методи впровадження офіцерів пробації в діяльність кримінально-виконавчої служби, в тому числі нетрадиційні, такі як віктимологія та медіація.

**Ключові слова:** соціальні стандарти; альтернативний метод; соціальна реабілітація; умовне засудження; медіація; віктимізація.