



Probation Service in Russia: Policy Choice and Development Prospects

SERGEI A. STAROSTIN

Kutafin Moscow State Law University (MSAL), Moscow, Russia, SASTAROSTIN@msal.ru, <https://orcid.org/0000-0002-0108-7916>

NADEZHDA V. ANISKINA

Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, AniskinaN555@yandex.ru, <https://orcid.org/0000-0002-7185-5730>

Abstract

Introduction: the article is devoted to the study of issues related to the formation of the state probation service in the Russian Federation and legislative regulation of its activities. *Purpose:* to study organization and activities of the probation service of Russia with regard to the specifics of functioning of the penal enforcement system of the Russian Federation. *Methods:* our research is based on the dialectical method of scientific cognition. The article uses general scientific (analysis, synthesis, induction, etc.), private scientific and special methods of cognition (comparative legal, formal legal, statistical). *Results:* general characteristics are given and specific features of the use of the probation institute are identified within the framework of the state penitentiary policy. It seems possible to determine key features of the probation service in Russia, such as comprehensive solution to the issue of social adaptation and resocialization of convicts by establishing three types of probation – sentencing (executive), penitentiary and post-penitentiary; identification of a wide list of probation subjects endowed with an appropriate amount of powers with regard to the specifics of the activity; organization of work with convicts according to specially formed individual programs; maintaining a register of convicts involved in the probation program. The draft Federal law “On probation in the Russian Federation” (Project ID01/05/04-22/00126333) is analyzed. It is determined that this draft law is largely of a framework nature. In particular, the procedure for interaction and coordination of probation subjects’ activities is not described; there are no provisions on the exercise of control and supervision over the probation service; principles of the probation service functioning are not disclosed; the procedure for filling out and maintaining a personal file of the convicted person engaged in probation is not presented; and probation terms in relation to persons under administrative supervision are not considered. *Conclusions:* taking into account the study of foreign experience, the authors outline possible prospects for the probation service development in Russia, give certain proposals to improve the system of non-custodial sentences execution. In order to effectively organize activities of the service being created in Russia, it is necessary to develop a high-quality legal framework regulating the institute of probation, ensure interdepartmental interaction of probation subjects, establish a system of qualification requirements for probation service positions, proper material, resource and scientific support, use progressive international experience of similar services, and take into account the specifics of Russian conditions.

Key words: penal enforcement system; probation; Federal Penitentiary Service of Russia; penal enforcement inspectorates; individual program of resocialization; social adaptation and social rehabilitation.

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Introduction

With the penal enforcement system of the Russian Federation being reformed, the legislator is concerned about developing a set of measures aimed at reducing recidivism of crime among persons both serving criminal sentences and those released from places of deprivation of liberty. To a large extent, this interest is due to the need to maintain public order and public safety at the proper level, including the general level of security and legality in the field of execution of criminal penalties.

The issues to prevent recidivism due to the functioning of the probation service became particularly relevant during the spread of the COVID-19 coronavirus infection in the world [10], since the years of 2020–2021 witnessed a widespread decline in people's income levels around the world, which undoubtedly triggered commission of new crimes and administrative offenses.

In Russia, the main functions for preventing convicts from committing new crimes and offenses are assigned to correctional institutions and penal enforcement inspectorates. In foreign countries, this function is fulfilled by to a special entity, the probation service, whose activities are aimed at preventing crimes committed by convicts. The word “probation” comes from the Latin verb “probare” – “to investigate, to test, to take care of” [6].

The institute of probation is actively used in most foreign countries, where work with persons sentenced to punishments, not related to isolation from society or released from prison, is organized by specially created services. At the same time, it should be emphasized that the probation service in foreign countries, in addition to performing the main functions aimed at preventing and reduc-

ing the recurrence of crime among convicts, implements social rehabilitation activities in relation to a wider range of persons who have violated the law.

Research methods

Our research is based on the dialectical method of scientific cognition. When preparing the article, general scientific methods of cognition, special methods of legal science and individual methods of social sciences were used.

The general scientific methods applied in the work include the following: induction and deduction, comparison and analogy, synthesis and generalization, statistics and system analysis. Private scientific methods, such as comparative-legal, normative-logical, helped solve the research tasks. Some problems were considered as intersectoral due to the stated tasks to conduct a comprehensive analysis of described relations.

The methodology is based on the scientific analysis of statistical data of the Federal Penitentiary Service of Russia, the Ministry of Internal Affairs of Russia, and the Prosecutor General's Office of Russia, as well as the foreign legislation regulating activities of the probation service.

Discussion

Having considered foreign experience in organizing activities of the probation service, we concluded that this type of activity has quite deep historical roots. As a rule, probation services carries out work with the following categories of convicts: persons received suspended sentence; deferred sentence; convicts whose term of serving a sentence in penal institutions goes to an end; conditionally released; persons to whom alternative punishments to deprivation of liberty are applied; persons who have served their sentences in

places of deprivation of liberty and who need post-penitentiary adaptation and resocialization.

As A. Sh. Gabaraev and A.V. Novikov note, there are significant differences in the nature, functions and organizational structure of the probation service in foreign countries [2]. In particular, in England and Finland, a convicted person is supervised by a special official (agent or assistant, probation commissioner) for a certain period of time or undergoes a correctional course based on an individual program [11, 13]. The experience of Sweden is also interesting, where volunteers and social workers are widely involved in activities of probation services [12].

In Sweden, the probation service and the prison administration form a single agency, the so-called national administration. In India, probation officers serve directly in the prison department. In Japan, Kenya and the Republic of Armenia, the probation service is subordinate to the Ministry of Justice. Moreover, in the Republic of Armenia, it is an independent type of the state civil service, probation officers fill the appropriate positions in the probation service according to the approved nomenclature of civil service positions.

Organizationally, the probation service can also function as an independent agency in close contact with institutions of the penitentiary system. For example, in England, the probation service is subordinate to an independent local committee, which includes magistrates and civilians who enjoy authority in society. In the USA the probation service is subordinate to courts and local governments. In a number of European countries, for example, in Hungary and Estonia, the probation service is integrated into the judicial system [5].

As you can see, probation services can be not only of state, but also non-police, non-penitentiary origin; often functions in the field of probation are assigned to civil departments and volunteers.

Regardless of the specifics of organization of activities and the structure of the probation service in foreign countries, inspectors of the probation service are engaged in supervision of the execution of the sentence imposed by the court alternative to imprisonment; provi-

sion of advice and assistance in the performance of the duties assigned by the court; assistance in convicts' social adaptation (assistance in finding a job, study, place of residence).

In Russia, at the legislative level the need to create conditions for preparing released persons for further post-penitentiary adaptation through the probation service was reflected back in 2008 in the Concept for long-term socio-economic development of the Russian Federation for the period up to 2020. Then it was specified in the Concept for development of the penal enforcement system of the Russian Federation up to 2020 and the Concept for development of the penal enforcement system of the Russian Federation for the period up to 2030.

Although practitioners and scientists showed considerable interest in the probation service from 2010 to 2020, it was not integrated in the structure of the penal enforcement system; thus, this direction for the penal system development should be prolonged in a new Concept. During this period, only individual attempts were made to introduce elements of the probation service in the field of execution of criminal penalties. So, for example, in the Vologda Oblast, employees of the penal enforcement inspectorate, when working with conditionally convicted juvenile offenders, implemented the project "Real". It was aimed at social adaptation, formation of socially approved behavior and recidivism prevention among minors. A specialized service was also created for this category of convicts, in particular, the service of socio-psychological support for minors in the detention center, preparing for release from the educational correctional facility or returning from a special educational institution of a closed type (for example, the Decree of the Government of the Vologda Oblast No. 1052 of September 7, 2012 "On approval of the strategy of actions in the interests of children in the Vologda Oblast for 2012–2017").

So, the probation service formation had been discussed in Russia for a long time; however, it was only at the beginning of 2022 that the Minister of Justice of the Russian Federation, K.A. Chuichenko, during a personal meeting with Russian President V.V.

Putin, substantiated the idea of the need to create a position of Deputy Director of the Federal Penitentiary Service of Russia, who will deal with probation issues and begin work on creating an independent specialized service within the framework of the structure of the Federal Penitentiary Service of Russia [9]. It is assumed that the probation service in Russia will be established by the middle of 2023; the number of staff of the Federal Penitentiary Service of Russia will amount to about 50 thousand people.

Moreover, on April 4, 2022, the Ministry of Justice of the Russian Federation submitted a draft Federal law "On probation in the Russian Federation" (Project ID01/05/04-22/00126333), which includes legal and organizational foundations of the probation service in the Russian Federation. Currently, the procedure of public discussions regarding the text of the draft regulatory legal act has already been completed and an independent anti-corruption examination – conducted; the final version of the draft law is being worked out.

According to K.A. Chuichenko, the draft law is aimed primarily at resocialization of convicts. This service will help solve one of the main problems of the Russian penal system, namely, preparation of prisoners for life in freedom. According to the authors of the draft law, the new probation service will deal with social adaptation and rehabilitation of prisoners not only during their stay in penal institutions, but also after their release from prison.

It is assumed that probation will be created on the basis of existing criminal enforcement inspectorates. According to official statistics of the Federal Penitentiary Service of Russia, as of April 1, 2022, there were 81 of them with 1,348 of their branches; 489,825 people were registered with them [4]. After the entry into force of the law on probation in the Russian Federation, in addition to the general duties of monitoring execution of criminal penalties in the form of compulsory and correctional labor, restriction of freedom, monitoring of probation prisoners and persons released from serving sentences on parole, penal enforcement inspectorates will assist former prisoners in their life arrangement outside the walls of correctional institutions [3].

In international practice, the institute of probation is used as a rule when it comes to the execution of sentences alternative to imprisonment. At the same time, the draft law "On probation in the Russian Federation" provides for the implementation of 3 types of probation: sentencing (executive), penitentiary and post-penitentiary. We believe that this circumstance indicates a more comprehensive approach of the legislator to solving the issue of preventing commission of new crimes and offenses among convicts and other persons who have violated the law.

According to the Ministry of Justice of the Russian Federation, sentencing probation will include measures applied by penal enforcement inspectorates in the execution of punishments not related to convicts' isolation from society.

Penitentiary probation is introduced in institutions that carry out punishments in the form of forced labor or imprisonment, and focused on correcting convicts, as well as preparing them for release.

Post-penitentiary probation provides for resocialization, social adaptation, as well as social rehabilitation of persons who are released from institutions executing criminal punishments in the form of imprisonment or forced labor and find themselves in a difficult life situation.

In the field of post-penitentiary probation, almost all probation subjects will be involved in one way or another. It is required to organize its work in cooperation with bodies, institutions and organizations that are subjects of probation, medical, educational and other organizations. At this stage, the authorized entities will provide universal assistance in employment, obtaining general (secondary vocational) education, vocational training and advanced training, social services, and choosing a medical organization.

In our opinion, post-penitentiary probation should not be considered as a measure of a criminal-legal nature, since the system of relations with a person released from places of deprivation of liberty, to a greater extent, is of administrative and legal regulation, and the subjects of probation involved at this stage of building relationships with the person engaged in probation pursue completely differ-

ent goals and objectives. In this case, we are also talking about the need to build correct relationships with civil society institutions, state authorities and local self-government bodies when assisting in the preparation of basic documents that a person may need to settle outside the walls of a correctional institution, in particular, a passport of a RF citizen, personal insurance policy number, personal tax reference number, medical policy number, which naturally implies the need to apply to relevant state authorities for their registration (for example, the Migration Department of the Ministry of Internal Affairs of the Russian Federation of the relevant municipality, tax inspectorate, insurance organization, etc.). Probation service employees should provide all possible assistance in registering a person at place of residence or temporary stay, and finding employment.

Thus, probation in modern interpretation acts "as a set of measures applied to convicts and persons released from institutions executing sentences in the form of forced labor or imprisonment who find themselves in a difficult life situation, including their resocialization, social adaptation and social rehabilitation, protection of the rights and legitimate interests of these persons, control and supervision of their behavior, prevention of their committing crimes and offenses" (Article 5 of the draft law on probation). Hence, the main task of creating the probation service in Russia is to assist a person in returning to a normal life in society.

Work with convicts will be provided on the basis of individually formed programs to restore and form socially useful ties, get employed after release, get education, unemployment benefits, medical care, counseling on social and legal issues, including psychological assistance. Every convict involved in the program will be registered and it will take them a year to complete it. At the same time, the relevant ministry emphasizes that the probation program for the convicted person will be carried out exclusively on a voluntary basis.

According to Article 6 of the analyzed draft law, the probation subjects include commissions for minors' affairs and protection of their rights, thus a separate direction to work

with juvenile offenders is singled out in the probation service activities. We believe that this area of activity should be based on the juvenile justice principles.

The probation service is not focused on providing financial or material assistance to probation facilities. At the same time, it should act as an intermediary and assist in establishing relationships between convicts and other federal executive authorities, executive authorities of constituent entities of the Russian Federation, local self-government bodies, public associations and organizations.

A detailed study of the powers of employees of the penal enforcement inspectorates shows that the goals and objectives they implement coincide with the basics of the functioning of the probation service. At the same time, the probation service formation on the basis of the penal enforcement inspectorates provides for a significant expansion of the powers of the latter in the sphere of public relations under consideration. So, at present, inspectorates are not assigned functions related to social adaptation and rehabilitation of convicts. They do not assist in registration at place of stay (residence), preparation of necessary documents (passport, medical policy) and social payments (benefits), establishment of new social ties and restoration of old ones, do not provide psychological support. Hence, employees of the penal enforcement system, who will work in this field, should be competent in legal support, communication and social services, as well as psychology.

The organizational and managerial component of building a new probation service should be based on the formation of the staff of specially trained employees. A.I. Abaturov and A.A. Korovin note that probation service employees should be selected and appointed to the appropriate position, in case they meet qualification requirements for replacement of such positions to cope with the tasks assigned to them [1].

Thus, in most European countries (for example, Austria, Denmark, the United Kingdom, the Netherlands, Italy, Spain and Luxembourg), probation officers are subject to qualification requirements for the level of education. Preference is given to persons with a bachelor's degree in law, psychology, theol-

ogy, pedagogy or social work. In a number of countries, in particular, France, Germany and Ireland, in addition to similar requirements for the level of education, additional requirements for work experience are imposed.

In Denmark, probation service inspectors are required to be trained in specialized social work schools or a training center. In addition, in Denmark and France, various optional courses are regularly organized for probation service inspectors, during which employees take part in various trainings that form skills of working with special categories of convicts (drug addicts, alcoholics, persons with various kinds of mental disabilities). Organization of professional education and advanced training of probation officers, as a rule, is entrusted to the agency in charge of them [7].

Despite the importance of staffing the probation service with employees with necessary professional competencies, there are no provisions in the draft law on probation that establish basic requirements for persons applying for the relevant positions of the probation service. At the same time, we believe that it is not possible to talk about effective institutional development of a specialized service on the basis of penal institutions, in particular, inspectorates, without the availability of high-quality personnel that meets qualification requirements and has necessary professional competencies.

In addition to institutions of the penal enforcement system, the subjects of probation are federal executive authorities, state authorities of RF subjects, commissions for juvenile affairs and protection of their rights, state institutions of the employment service, social service organizations. To achieve crucial goals of probation for resocialization, social adaptation and social rehabilitation of persons, various commercial and non-profit organizations, as well as public associations can be involved (Article 6 of the draft law on probation).

The draft law on probation is largely of a framework nature. On the one hand, the draft law makes it possible to establish multiplicity of probation subjects and a list of their powers in the sphere of public relations under consideration, on the other hand, it leaves open the question of interaction of probation subjects and coordination of their activities. The draft law does not specify how the proba-

tion service will be managed, controlled and supervised; the probation service functioning principles are not disclosed; the procedure for filling out and maintaining a personal file of the person engaged in probation is not described; and the issues of probation to persons under administrative supervision are not considered. As we can see, many issues remained unresolved, which indicates the need to finalize the draft law.

We believe that to solve most of the issues we have identified, a new position of Deputy Director for the Probation Service will be assigned to the new position being introduced in the structure of the Federal Penitentiary Service of Russia. The adoption of the Federal law "On probation in the Russian Federation" will be the starting point for making changes to certain norms of criminal, penal, administrative and other branches of legislation.

Moreover, the Ministry of Justice of the Russian Federation empowers subjects of the Russian Federation to adopt regional state programs in this area, as well as measures to economically stimulate the organizations employing convicts. It seems that effective functioning of the probation service is achievable through close cooperation between probation officers and those who implement programs formed at the regional level that take into account territorial specifics and have a social and rehabilitation orientation. Public organizations and enterprises, including commercial ones, should be involved in work with persons engaged in probation.

We propose a fundamentally new approach to forming the probation service staff. Among other things, it is necessary to introduce new ways and methods to finance the service being created. In addition, it seems extremely important to introduce social ordering technology into the work of the department when solving probation issues, where the probation service will act as the customer, and a specialized service of another department, a public or commercial organization – the contractor.

Regions should work out special programs to employ persons engaged in probation. Employment centers should act as one of the active subjects of the probation service, they will be entrusted with the main function of organizing the search for work for former

convicts. We believe that public-private partnership will be one of the key forms of interaction between the state and civil society institutions to address the issues of employment of persons released from places of deprivation of liberty. Participation of the state and business in creation and organization of enterprises on mutually beneficial terms will not only solve the problem of employment of former convicts, but also a number of socially significant tasks. These enterprises should have psychologists and other social specialists who will assist in social adaptation and resocialization of persons released from prison. The solution of the issue of employment of persons released from their places of imprisonment will ultimately reduce tension in society and overall rates of crime and administrative offenses committed.

Despite positive experience of the probation service functioning in foreign countries, probation subjects may face the following problems in the process of implementing functions of social adaptation and resocialization of convicts. First, organization of the probation service will lead to a significant increase in the burden on the staff of panel enforcement inspectorates. So, in the period from 2008 to 2021 the number of persons registered with inspectorates remained at a consistently high level with a slight reduction in their total number, in particular, in 2008 their number was 558,346, in 2021 – 489,825. At the same time, the number of inspectorates during this period almost halved from 2,440 in 2008 to 1,429 in 2021. At the same time, the number of persons deregistered from inspectorates in connection with conviction for a new crime increased by 66.39% (in 2008 – 10,845, in 2021 – 16,335) [8]. The solution to this problem is seen in a certain increase in the staff of panel enforcement inspectorates, competent to work in new conditions.

In the penal enforcement system of the Russian Federation, the legislator assigned probation functions to employees of correctional centers. Correctional centers execute punishments not related to deprivation of liberty in the form of forced labor. Nowadays there are about 200 correctional centers and isolated areas functioning as such. Indeed, the presence of an extensive system of cor-

rectional centers on the territory of Russia can encourage courts to impose alternative types of punishments, the execution of which will allow convicts be part of the society. As K.A. Chuichenko noted, “according to the current law, 180 thousand convicts are entitled to it” [9].

Based on the above, we can conclude that the probation service needs sufficient personnel in terms of the number and level of professional training. The workload of each probation service employee should be comprehensively assessed, taking into account the specifics of the amount of work performed, since a general lack of human resources can limit possibilities of organizing activities of the probation service.

In addition, for the purpose of high-quality professional training of probation subjects, it will be necessary to develop specialized training, retraining and advanced training programs for probation service employees. They should be based on positive foreign experience in organizing the work of probation service subjects and involve scientific capacities of the Research Institute and institutions of higher education of the Federal Penitentiary Service of Russia.

We believe that reduction in recidivism of crimes and administrative offenses committed by convicted persons will be one of the key indicators to assess effectiveness of probation in Russia. Currently, recidivism accounts for about 44% of cases of crimes committed. According to the report of the Ministry of Internal Affairs of Russia, for the eight months of 2021, more than half (59.4%) of the crimes investigated by the department were committed by persons who had previously committed crimes. According to the Prosecutor General’s Office, in 2021, 58.2% of those who committed crimes did it again.

Results

A comprehensive analysis of the scientific literature on the issue under consideration and foreign legislation has made it possible to establish that around the world the tasks assigned to probation services differ. At the same time, the differences are not only in the functions they implement, but also in organizational structure. In the Russian Federation, the probation service formation is provided

for in the organizational and legal framework of the penal enforcement system of the Russian Federation on the basis of institutions that perform criminal penalties in the form of imprisonment and forced labor, as well as penal enforcement inspectorates.

We believe that one of the key indicators to assess probation effectiveness in Russia is the reduction in recidivism of crimes and administrative offenses committed by convicted persons.

Prospects to create and organize functioning of the probation service in the Russian Federation are largely determined by a number of circumstances, such as:

- it is necessary to develop a high-quality legislative framework that acts as the legal basis for activities of bodies (institutions) and organizations entrusted with the functions of probation;
- creation of the probation service based on interdepartmental cooperation will serve as an impetus for organizational and managerial transformations;

- effective functioning of the probation service is not possible without proper human, material, resource and scientific support;

- formation of the probation service in the Russian Federation should be carried out with regard to progressive international experience of similar services and the specifics of Russian conditions.

Thus, the probation service formation in Russia is a natural stage in the penitentiary system development. The application of foreign countries' experience help realize this project in the shortest possible time.

The focus of the Ministry of Justice of the Russian Federation on setting up an independent specialized probation service within the framework of the structure of the Federal Penitentiary Service of Russia, whose activities will be aimed at forming socially useful connections, professional and work skills among convicts, through the implementation of individual adaptation programs, will lead to reduced rates of recidivism among convicts.

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INFORMATION ABOUT THE AUTHORS

SERGEI A. STAROSTIN – Doctor of Sciences (Law), Professor, professor of the Department of Administrative Law and Procedure of the Kutafin Moscow State Law University (MSAL), Moscow, Russia, SASTAROSTIN@msal.ru, <https://orcid.org/0000-0002-0108-7916>

NADEZHDA V. ANISKINA – Candidate of Sciences (Law), Senior Lecturer of the Department of Administrative Law Disciplines of the Law Faculty of the Vologda Institute of Law and Economics of the Federal Penitentiary Service of Russia, Vologda, Russia, AniskinaN555@yandex.ru, <https://orcid.org/0000-0002-7185-5730>

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