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Some of the issues of change of the correctional institution or persons serving a sentence in a correctional colony and under adulthood

This article examines the issues associated with the transfer of the colony's convicts has reached a fixed age in the colony of general regime, transfer of the convicted persons from educational colony only in penal colony of general regime violates their right to change the type of correctional institution with more lenient conditions of detention, the role of convicts serving a sentence in a correctional colony of general regime for the crimes in the field of persons transferred from a correctional colony. Legislative measures to eliminate the negative consequences associated with the transfer of convicted persons from educational colony are proposed. The author comes to conclusion about the necessity of development of the state program of complex measures aimed at the successful social adaptation of this category of prisoners after release.

Некоторые вопросы изменения вида исправительного учреждения лицам, отбывающим наказание в воспитательной колонии и достигшим совершеннолетия

В настоящей статье рассматриваются вопросы, связанные с переводом из воспитательной колонии осужденных, достигших установленного законодателем возраста, в исправительную колонию общего режима. Перевод осужденных из воспитательной колонии только в исправительную колонию общего режима нарушает их право на изменение вида исправительного учреждения на учреждение с более мягкими условиями содержания. Влияние осужденных, отбывающих наказание в исправительной колонии общего режима, на криминализацию лиц, переведенных из воспитательной колонии. Предлагаются законодательные меры по устранению негативных последствий, связанных с переводом осужденных из воспитательной колонии. Автор приходит к выводу о необходимости разработки государственной программы, предусматривающей комплекс мероприятий, направленных на успешную социальную адаптацию данной категории осужденных после освобождения.

Keywords: young offenders; convicts; colony of general regime; colony-settlement; criminal subculture; conditions of detention; latency.

Ключевые слова: воспитательная колония, осужденные, колония общего режима, колония-поселение, криминальная субкультура, условия содержания, латентность.

The Penal Code of the Russian Federation (further PEC of RF) isn't prescribed by a possibility of moving of the convicts who are serving sentence in educational colony and reached the age established by the criminal and executive legislation as the bases for change of a type of correctional facility to the correctional facility with a softer detention regime, than the standard regime penal colony. Appointment of correctional facility with a softer detention regime to the person serving time in the educational colony and reached 18 or 19-year age on the basis which the type of correctional facility changes and positively characterized can act as one of the measures stimulating his further right obedient behavior.

The convicts transferred from educational colony to the standard regime penal colony according to p.1 of the art. 120 of PEC of RF are located on the usual conditions of keeping regardless from what conditions of keeping of educational colony they have been transferred. Continuing to serve sentence in the standard regime penal colony on the usual conditions of keeping, the convicts within six months have to prove the correction in order that conditions of keeping with usual have been changed them to the facilitated. In the facilitated conditions of keeping they have to serve not less than one quarter of sentence of punishment in order that the type of correctional facility in softer party has been changed them, and they could be transferred to the settlement colony.

In essence this precept of law fixes a need of repeated proof by the condemned committed a crime at minor age his correction.

Transfer of the convicts who have reached 18 years from educational colony to the standard regime penal colony has a number of additional negative factors.

First, recently activization of activity of the institutions executing criminal penalty in the form of imprisonment, on the regime strengthening, development of a system of educational work, has led in general to some improvement of an operational situation in the correctional facilities. Statistical data on the registered crimes committed in the institutions providing isolation from the society confirm the external satisfaction with a criminal situation in the penal correction system. Such evaluation is given by the employees of the Federal service of execution of punishment (further FSEP) that, in our opinion, doesn't reflect a true situation. It is explained by dependence of opinions of the staff of FSEP from the official estimates of the developed situation. In many researches the complication of a criminological situation in the places of detention is quite reasonably noted that it is connected with a lack of real corrective actions on the convicts and causes the need of definition of special measures of criminal and executive coercion, improvement of a use of other cures of the convicts. It is also necessary to consider specifics of execution of the punishment in educational colonies and its difference from the corrective colonies of ordinary regime. In particular the forms, methods, ways of carrying out educational work, regime actions, attitude to the socially useful work, getting the general and professional education.

Secondly, it is also necessary to consider that at the age of 18 – 19 years at the persons serving the sentence, moral qualities imparted in the educational colonies haven't received due fixing. These persons owing to the certain objective and subjective reasons are still psychologically unstable and are good stuff for distribution of the criminal subculture, criminal traditions and customs. This category of persons serving sentence in the form of imprisonment in the corrective colonies of ordinary regime easily give in to the criminal infection. In the places of detention different groups of the convicts of negative orientation resisting to the administration of correctional facilities are created. These groups of convicts commit crimes in the conditions of corrective labor colony, do essential harm to correction of the convicts, destabilize a situation in the jails. In the places of detention mutual criminal "infection" of convicts, their self-organization which is characterized by the imposing of customs, traditions and the hierarchy occurring in the criminal environment takes place. The community of prisoners has created the standard system (system of concepts). This system of concepts is inherent both for men's, and for women's penal colonies. The minor convict is "good stuff" for instilling of criminal subculture and its further distribution, transfer of criminal experience. These persons who have arrived from the educational colony are ideal for commission of the offenses provided by the art. 116 of PEC of RF.

It isn't also a secret the fact that commission of crimes in the institutions providing isolation from the society is characterized by the high level of latency in particular at commission of the crimes of convicts connected with the violent acts concerning other the convicts. The existing system of reporting of the corrective labor colonies doesn't allow reflect authentically information on the committed crimes by the convicts during serving the sentence in the form of imprisonment. Persons, not interested to adhere to the criminal customs and traditions, as a rule, are exposed to the rigid physical impact, the choice is provided to them, or to adjoin the criminal world, or to belong to a caste of offended.

Thirdly, during the present period in the corrective colonies of ordinary regime for women there are 61% of the persons who were earlier involved in serving sentence in the form of imprisonment, from them at a recurrence of crimes 35%, at a dangerous recurrence of crimes 19%, at the especially dangerous recurrence of crimes 7%, 45% serve sentence for murder commission, causing heavy harm to the health, 15% – persons having alcoholic and drug addiction, more than 10% of prisoners suffer from frustration of mentality. In the corrective colonies of ordinary regime for men there are over 60% for commission of serious crimes, 45% serve sentence for commission of murder or causing heavy harm to the health. About 20% – persons with the alcoholic and drug addiction, more than 15% of prisoners suffer from frustration of mentality¹. These circumstances act as the reasons promoting involvement of minors in the criminal list of convicts. The transfer of convicts from educational colony in the colony of the settlement will allow avoid their criminalization.

¹ According to the conducted researches.

The given factors allow come to a conclusion about that the placement of minor convicts into the corrective colony of ordinary regime will bring to creation of the real prison universities of underworld. Rational use of financially household base of educational colony will allow the state save considerable budgetary funds.

Realization of the right for change of a type of correctional facility of the person serving imprisonment in the educational colony reached 18 or 19-year age and positively characterized is elimination of a legislative gap and ensuring legal equality of the convicts.

On the basis above stated I suggest add the p. 2 of the art. 78 of PEC of RF with the "d" point of the following contents:

"d") from the educational colonies in the colony settlement for persons, condemned for the crimes committed on imprudence, and also the persons condemned to imprisonment for the commission of deliberate crimes of small and average weight, who were earlier not serving imprisonment on reaching 18 years by the convicts who are in the facilitated or preferential terms of contents and who have served not less than one quarter of sentence of punishment. To the persons who have left on the facilitated and preferential terms of contents less than one quarter of term of punishment, and also contained under the usual conditions of keeping on reaching 18 years in the corrective colony of ordinary regime, or in the colony settlement for persons, condemned for the crimes committed on imprudence, and also the persons condemned to imprisonment for commission of deliberate crimes of small and average weight, who were earlier not serving imprisonment at the discretion of court. The persons which are contained on the strict conditions of keeping are transferred to the standard regime penal colony on the usual conditions of keeping";

To state the p. 3 of the art. 140 of PEC of RF in the following edition "All convicts who are on the strict conditions of keeping, reached age of 19 years are transferred for further serving sentence from educational colony or from the isolated site of educational colony functioning as a corrective colony of ordinary regime, in the corrective colony of ordinary regime. The persons serving sentence in the facilitated or preferential terms of contents and who have served not less than one quarter of sentence of punishment are transferred for further serving sentence to the colony settlement. To the persons who have left on the facilitated and preferential terms of contents less than one quarter of term of punishment, and also contained under the usual conditions of keeping to the corrective colony of ordinary regime, or to the colony settlement at the discretion of court".

Therefore, it is also necessary to add the "g" point of the art. 128 of PEC of RF after the words "transferred from" with the words "educational colony".

Also we consider expedient adding into the p.1 of the art. 120 of PEC of RF the offer of the following contents: "Under the facilitated conditions in the corrective colony of ordinary regime the convicts to imprisonment who have come to this correctional facility from educational colony and contained in the usual or facilitated serving sentence conditions serve sentence". As the convicts are transferred to this correctional facility, not because he is malicious violators of the

established order of serving sentence, and in connection with achievement of the established age.

Transfer from the educational colony to the colony settlement will allow send the convicts to that territorial subject of the Russian Federation in which he lived. Detention regime in the colony settlement under the resolution of the chief of correctional facility allows the convicts live together with the relatives, trustees in difference from the educational colony. This circumstance will allow the persons transferred from the educational colony keep socially useful connections with the family, relatives, trustees.

Socialization of this category of convicts after release needs to be built in close cooperation with the regional services of social protection, health care, education, public and human rights organizations, district police officers, police officers and the criminal and executive inspections whose activity has to be directed, first of all, on assistance in the labor and household arrangement, vocational training. It is necessary to develop the state program providing the complex of actions directed to the successful social adaptation of this category of convicts after release.

Literature and the sources: