

**АНАЛИЗ ОПЛАТЫ ТРУДА ОСУЖДЕННЫХ В СТРАНАХ БЛИЖНЕГО
ЗАРУБЕЖЬЯ
Гаранова В. А.**

Аннотация

Данная статья посвящена изучению теоретических и практических аспектов организации труда и материального стимулирования труда для лиц, осужденных к лишению свободы в пенитенциарных заведениях Республики Узбекистан, а также изучению зарубежного опыта по вопросам организации и оплаты труда для данной категории лиц, в странах ближнего зарубежья, в частности, России, Белоруссии и Казахстана.

Ключевые слова: организация труда, мотивация, стимулирование труда, материальное стимулирование труда, оплата труда, социальное страхование, пенсионное обеспечение.

**ANALYSIS OF THE PAYMENT FOR THE CONVICTED IN THE COUNTRIES OF
THE NEAR ABROAD
Garanova V. A.**

Abstract: This article is devoted to the study of theoretical and practical aspects of the organization of labor and material incentives for labor for persons sentenced to imprisonment in penitentiary institutions of the Republic of Uzbekistan, as well as the study of foreign experience on the organization and remuneration of labor for this category of persons, in neighboring countries, in particular, Russia, Belarus and Kazakhstan.

Keywords: labor organization, motivation, labor stimulation, material labor stimulation, remuneration of labor, social insurance, pension provision.

Currently, there is a further process of legal integration of the Republic of Uzbekistan into the global economic space, the signing and ratification by Uzbekistan of a large number of progressive international normative legal acts in the field of the execution of criminal penalties and a preventive measure, consisting in isolation from society.

The President of the Republic of Uzbekistan Shavkat Mirziyoyev in his Address to the Oliy Majlis of the Republic of Uzbekistan dated January 24, 2020 noted that: "... it is advisable to adopt in the coming years new Civil, Criminal, Criminal Procedure, Criminal Executive Codes and the Code of Administrative Responsibility. At the same time, special attention should be paid to the implementation of advanced human rights standards in investigative and judicial practice" [1].

The execution of punishment in the form of imprisonment in the Republic of Uzbekistan is carried out by institutions for the execution of punishment. Penitentiary institutions include: pre-trial detention centers; colonies for the execution of punishment, including on the rights of medical ones; educational colonies; prisons; specialized hospitals for convicts.

The production and economic activities of institutions for the execution of sentences should be subordinated to the formation of convicts' need to engage in socially useful work.

Here it is necessary to pay attention to the fact that labor is not an obligation or a means of enrichment, but, first of all, a means of re-educating convicts.

Mandatory involvement of convicts in socially useful labor is one of the measures for the implementation of the state's criminal executive policy. This contributes to the correction of convicts, their resocialization and positive behavior during the period of serving their sentence, as well as their successful adaptation in society after release.

The most important task of correctional institutions is to organize the work of those sentenced to imprisonment. Convicted persons can and should work in industrial enterprises owned by correctional institutions, or in enterprises of other forms of ownership. The production and economic activities of institutions for the execution of sentences should be subordinated to the formation of convicts' need to engage in socially useful work.

The labor of prisoners can be expressed in the economic services of correctional institutions, as well as in individual labor activity. The working conditions of those sentenced to imprisonment are regulated by labor legislation.

Convicted persons are involved in labor, as a rule, in the production of these institutions, and in some cases in other enterprises, provided that adequate protection and isolation is ensured.

In the first case, in order to ensure full employment of convicts, increase the profitability of production enterprises at institutions for the execution of sentences, the country's leadership has developed a program of measures to improve the activities of institutions for the execution of sentences for 2018-2024 and approved by the relevant Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 904 of November 11, 2017.

In accordance with this decree, at 38 penal colonies, State Unitary Enterprises were created and a program for the development of these enterprises for 2018-2022 and a plan for a phased transition of the maintenance of penal institutions from budget funding to maintenance at the expense of the institution's own funds were approved.

The second type of recruitment is possible only for settlement colonies. At the same time, the use of labor of convicts sentenced to imprisonment at the facilities of economic organizations is regulated by the Model Agreement, which is concluded between a third-party organization and a colony-settlement. It is a form of recruitment of labor.

The labor of convicts held in penal institutions is organized in compliance with the labor protection and safety rules established by the labor legislation.

Persons sentenced to imprisonment may also be involved in work on the improvement of institutions for the execution of punishment and the adjacent territories, as well as on the improvement of cultural and living conditions without remuneration. Convicts are recruited to work without remuneration, as a rule, on a first-come, first-served basis, outside working hours, for no more than two hours a week.

For those sentenced to imprisonment, as a rule, a six-day working week is established in compliance with the maximum working hours established by labor legislation, they are given at least one day of rest every week. They are exempt from work on holidays. The duration of daily work (shift) on the eve of holidays (non-working) days is reduced for convicts by at least one hour.

The execution of criminal sentences in the Russian Federation is regulated by the "Criminal Executive Code" of the Russian Federation, which was adopted by the State Duma on December 18, 1996, and the "Standard Minimum Rules for the Treatment of Prisoners". Article 103 "Engaging convicts to work in prison" of the Criminal Executive Code of the Russian Federation formulates the basic principles of attracting prisoners to work in prison: "Everyone sentenced to imprisonment is obliged to work in places and jobs determined by the administration of correctional institutions" [4, p.8]

According to article 104 of the RF Penal Code "Working conditions of convicts to imprisonment", the working hours of convicts to imprisonment, labor protection rules, safety regulations and industrial sanitation are established in accordance with the legislation of the Russian Federation on labor. The time of the beginning and end of work (shift) is determined by the shift schedules established by the administration of the correctional institution in agreement with the administration of the enterprise where the convicts work. Taking into account the nature of the work performed by the convicts held in correctional institutions and prisons, the summarized recording of working time is allowed.

The time of attracting convicts to paid work is counted by them in the total length of service, which gives them the right to pension benefits. Accounting for the hours worked is entrusted to the administration of the correctional institution and is made based on the results of the calendar year.

Convicted persons in the Russian Federation have the right to an annual paid leave. In a correctional institution, it is 12 days. For over fulfillment of labor standards or labor in heavy work, convicted men over 60 years old and convicted women over 55 years old, the duration of the annual paid leave may be increased up to 18 working days, and for convicted minors - up to 24 working days. But in practice, this right, as a rule, is not exercised, since the mechanism for granting such leaves is poorly debugged.

According to article 105 of the RF Penal Code "Remuneration for the work of those sentenced to imprisonment", those sentenced to imprisonment have the right to remuneration in accordance with the legislation of the Russian Federation on labor.

Remuneration for the work of those sentenced to imprisonment is made in accordance with its quality and quantity at the rates and rates established by labor legislation. When calculating wages, convicts take into account all types of additional wages established for workers and employees of the relevant sectors of the national economy, with the exception of additional payments for length of service and remoteness. In addition, the bonus system applies to convicts in full.

The amount of remuneration for convicts who have worked the norm of working time fully determined for a month and fulfilled the norm established for them, cannot be lower than the established minimum wage. The remuneration of a convicted person for part-time work or part-time work week shall be made in proportion to the time worked by the convict or depending on the output.

The wages of convicts must be distinguished from the real amount of money that is credited to their personal account, since deductions are made from wages, pensions or other incomes to reimburse the costs of their maintenance, which include the cost of food, clothing and public services. Deductions on writ of execution and other executive documents are made from the remaining amount in the manner prescribed by law.

Part 3 of Article 107 of the Criminal Code of the Russian Federation deals with certain limits of deduction from wages, pensions and other incomes of convicts. The personal account of convicts is credited regardless of all withholding at least 25%, and to the personal account of men over 60 years old, women over 55 years old, disabled people of groups I and II, minors, pregnant women, women with children in children's homes - at least 50% of their accrued wages, pension or other income.

All convicts sentenced to imprisonment who are involved in labor in the Russian Federation are subject to compulsory state social insurance, and convicted women are also provided with benefits for pregnancy and childbirth in the manner established by the Government of the Russian Federation. Pregnancy and childbirth benefits are paid to convicted women regardless of their performance of labor duties and other circumstances [4, Article 98].

Convicted persons in the Russian Federation have the right, on a general basis, to state pensions in old age, in case of disability, loss of a breadwinner and in other cases provided for by the legislation of the Russian Federation. Pensions are paid to convicts by the bodies providing pensions at the location of the correctional institution by transferring pensions to the personal accounts of convicts.

Convicted persons who have lost their ability to work while serving imprisonment have the right to compensation for damage in the cases and in the manner provided for by the legislation of the Russian Federation.

Convicts in the Russian Federation have the right to compulsory pension insurance. The basis for social insurance of convicts to imprisonment is the fact of their involvement in work. It should be noted that the right to compulsory pension insurance in the Russian Federation is

exercised only in case of payment of insurance contributions. Convicts have the right on a general basis to the following types of pension provision: old age, disability, in case of loss of a breadwinner, in other cases stipulated by the legislation of the Russian Federation ... In this regard, from the wages of working convicts in accordance with Art. 107 of the RF PEC, mandatory contributions are made to the PFR, as well as other mandatory payments provided for by law.

The criminal executive legislation of the Republic of Belarus consists of the "Criminal Executive Code of the Republic of Belarus" dated January 11, 2000 No. 365-z and other acts of legislation of the Republic of Belarus that determine the procedure and conditions for the execution and serving of sentences, as well as the application of other measures of criminal liability.

According to article 7 "Correction of convicts and its main means" of this "Criminal Executive Code" correction of convicts is the formation of their willingness to lead the right obedient lifestyle. The main means of achieving the goals of criminal liability in the process of its application are the established procedure for the execution and serving of sentences and other measures of criminal liability, educational work, socially useful work, the receipt of an education by convicts, and social influence.

The main measure for the correction of convicts is educational work and socially useful work. According to Article 98, Chapter 13 of the PEC RB "Engaging convicts to work in prison", the administration of the correctional institution is obliged to involve convicts in socially useful labor, taking into account their gender, age, ability to work, health status and, if possible, specialty. At the same time: "Convicts are involved in labor in enterprises or production workshops of correctional institutions, as well as in other enterprises, regardless of their form of ownership, provided that the convicts are properly guarded and isolated. When the convicts are attracted to work, an employment contract (contract) is not concluded with them." [5, p. 35]

Convicts who have reached the generally established retirement age, as well as convicts who are invalids of I and II groups, are involved in labor at their request in accordance with the legislation of the Republic of Belarus on labor. Convicted minors are involved in labor in accordance with the labor legislation of the Republic of Belarus. The labor of convicts serving imprisonment in prison is organized only on the territory of the prison.

Refusal to work or unauthorized termination of work is a malicious violation of the established procedure for serving a sentence and entails the use of penalties.

According to article No. 99 "Working conditions of convicts to imprisonment" of the PEC RB, the time spent by convicts in paid work is counted in the length of service in the manner prescribed by the legislation of the Republic of Belarus. Accounting for the hours worked is entrusted to the administration of the correctional institution and is made based on the results of the calendar year.

In addition, convicts who have worked for at least eleven months in a calendar year are entitled to work leave of 18 calendar days for persons serving imprisonment in educational colonies and 12 calendar days for convicts serving imprisonment in other correctional institutions.

Leave for persons serving a sentence of imprisonment for the first time, as well as for the first time convicted of serious crimes for a term of up to five years, is granted both with leaving the correctional institution, and without leaving it, and for persons who have previously served a sentence of imprisonment , - within the correctional institution. Convicted persons who are obliged to reimburse the expenses spent by the state on the maintenance of children who are supported by the state have the right to work leave of seven calendar days.

Persons sentenced to imprisonment have the right to remuneration in accordance with the legislation of the Republic of Belarus, in particular with Article No. 100 of the PEC of the Republic of Belarus "Remuneration for the work of those sentenced to imprisonment."

Similarly to the Russian legislation, the amount of remuneration of convicts who have worked the monthly norm of working hours and fulfilled the standard of work established for them cannot be lower than the amount of remuneration established by the legislation of the Republic of Belarus for the performance of the relevant work. The remuneration of convicts for part-time work or part-time work week is made in proportion to the time worked by them or depending on the output.

The wages of convicts are subject to indexation in the manner and on the conditions stipulated by the legislation of the Republic of Belarus.

According to article No. 101, "Bringing convicts to imprisonment to work without wages," convicts to imprisonment can be involved in work without remuneration only for collective self-service, including cleaning and improving correctional institutions and adjacent territories.

Convicts who are invalids of I and II groups, convicts who have reached the generally established retirement age, convicted pregnant women are involved in work without remuneration at their request. In addition, convicts are involved in these jobs in the order of priority and in their free time. The duration of work should not exceed fourteen hours per week.

With holdings are made from the salary and income equivalent to it of those sentenced to imprisonment to reimburse the cost of food, utilities, personal hygiene products, clothing and footwear (except for the cost of special food, special clothing, special footwear and other necessary personal protective equipment).

Upon the expiry of the term of serving the sentence, the unreturned cost of clothing and footwear is written off to the costs of the estimate for the maintenance of the correctional institution. The procedure for calculating and reimbursing the cost of food, utilities, personal hygiene products, clothing and footwear (except for the cost of special food, special clothing, special footwear and other necessary personal protective equipment) subject to withholding is

established by the Ministry of Internal Affairs of the Republic of Belarus in agreement with the Ministry of Finance of the Republic of Belarus.

Reimbursement by convicts of expenses for their maintenance is made only after withholding income tax, compulsory insurance contributions to the budget of the state non-budgetary fund for social protection of the population of the Republic of Belarus, alimony for the maintenance of minor children, funds for reimbursement of expenses spent by the state for the maintenance of children under state support, amounts for compensation for damage caused by a crime or an administrative offense.

In correctional institutions, except for correctional colonies-settlements, no less than 25 percent of the accrued wages or other income is credited to the personal account of convicts, regardless of all deductions, and to the personal account of convicts who have reached the generally established retirement age, convicts who are invalids of I and II groups, convicted juveniles, convicted pregnant women, convicted women with children in children's homes of a correctional institution - at least 50 percent of their accrued wages or other income.

At least 10 percent is credited to the personal account of convicts who are obliged to reimburse the expenses spent by the state on the maintenance of children who are on state support, convicts who have not compensated for damage caused by a crime, moral harm and harm caused to the life and health of a citizen related to the crime committed, accrued wages and other income.

In order to improve the criminal executive policy of the Republic of Kazakhstan, a new Criminal Executive Code of the Republic of Kazakhstan of July 5, 2014 and the Law of the Republic of Kazakhstan "On Probation" of December 30, 2016 were developed and adopted. According to article No. 104 "Rights and obligations of convicts" and article No. 19 "Engagement to work" of the Criminal Executive Code of the Republic of Kazakhstan, convicts to imprisonment are obliged to work in places and jobs determined by the administration of the institution. The administration of the institutions is taking measures to create jobs to attract all able-bodied convicts to paid work.

When employing convicts, the administration is obliged to take into account their gender, age, state of health, ability to work, and, if possible, their specialty and its acquisition during the serving of the sentence. institutions, organizations and convicts. Convicts also have the right to engage in self-employment on the territory of institutions.

In addition, in accordance with Article No. 114 "Compulsory social insurance, social, pension provision" convicts employed in labor are subject to compulsory social insurance in accordance with the legislation of the Republic of Kazakhstan.

Convicted women are provided with social benefits in case of loss of income due to pregnancy and childbirth in accordance with the legislation of the Republic of Kazakhstan on compulsory social insurance.

Convicted persons have the right to social security and pension benefits in accordance with the legislation of the Republic of Kazakhstan.

According to article No. 120 of the Criminal Executive Code of the Republic of Kazakhstan "Working conditions and remuneration", the remuneration of convicts is carried out in accordance with the legislation of the Republic of Kazakhstan and cannot be lower than the established minimum wage.

Deductions from wages, pensions, benefits and other incomes of convicted sums under orders of execution or other enforcement documents are made in the manner prescribed by the legislation of the Republic of Kazakhstan, but not more than fifty percent of the total amount of these incomes. The amount remaining after the deductions is credited to the temporary allocation cash control account.

Execution of punishment in the form of imprisonment in the Republic of Uzbekistan is carried out by institutions for the execution of punishment in accordance with Article No. 91 of the Criminal Executive Code of the Republic of Uzbekistan.

The production and economic activities of penal institutions should be subordinated to the formation of convicts' need to engage in socially useful work.

Here it is necessary to pay attention to the fact that work is not an obligation or a means of enrichment, but, first of all, a means of re-education of convicts. Convicts to imprisonment are involved in labor taking into account their gender, age, health status, ability to work and, if possible, specialty. Convicts are involved in labor, as a rule, in the production of penitentiary institutions, and only in some cases in other enterprises, provided that adequate protection and isolation is ensured.

In the first case, in order to ensure full employment of convicts, increase the profitability of production enterprises at institutions for the execution of sentences, the country's leadership has developed a program of measures to improve the activities of institutions for the execution of sentences for 2018-2024 and approved by the relevant Resolution of the Cabinet of Ministers of the Republic of Uzbekistan No. 904 of November 11, 2017.

In accordance with this decree, at 38 penal colonies, State Unitary Enterprises were created and a program for the development of these enterprises for 2018-2022 and a plan for the phased transition of the maintenance of penal institutions from budget funding to maintenance at the expense of the institution's own funds were approved.

The second type of recruitment is possible only for settlement colonies. At the same time, the use of labor of persons sentenced to imprisonment at the facilities of economic organizations is regulated by the Model Agreement, which is concluded between a third-party organization and a colony-settlement. It is a form of recruitment of labor.

The work of convicts held in penal institutions is organized in compliance with the labor protection and safety rules established by labor legislation.

For those sentenced to imprisonment, as a rule, a six-day working week is established in compliance with the maximum working hours established by labor legislation; they are given at least one day of rest every week. They are exempt from work on holidays. The duration of daily work (shift) on the eve of holidays (non-working) days is reduced for convicts by at least one hour.

Deductions from the salary of persons sentenced to imprisonment are carried out in the manner prescribed by labor legislation, with an exception and restrictions provided for by the Criminal Executive Code of the Republic of Uzbekistan.

The time of work of convicts to imprisonment, during the period of serving the sentence, does not count towards the length of service that gives the right to receive a pension. In the Republic of Uzbekistan, deductions from the wages of those sentenced to imprisonment for state social insurance are not made. And since, in accordance with the procedure for calculating the types of earnings that give the right to receive a pension, the payment of state social insurance is a prerequisite, and then those sentenced to imprisonment in the Republic of Uzbekistan are not entitled to receive a pension.

As the analysis shows, the organization and remuneration of convicts in penitentiary institutions of the republics of the near abroad and the Republic of Uzbekistan has much in common, in particular, in all republics convicts are engaged in socially useful labor, in all republics their labor is paid in accordance with the law, they all have the right to annual paid leave.

However, in the Republic of Uzbekistan, unlike other republics of the neighboring countries, maternity benefits are not paid to convicted women, deductions from the wages of convicts to state social insurance are not made, and as a result, the time spent by convicts in paid work during the period of serving their sentence is not counted in the seniority.

In view of the above, the author proposes to partially adopt the experience of foreign countries (the Russian Federation, the Republic of Belarus and the Republic of Kazakhstan) in terms of the procedure for organizing and remunerating convicts in penitentiary institutions of the Republic of Uzbekistan, taking into account its specifics and current legislation.

Namely, to introduce compulsory social insurance of convicts by voluntarily paying monthly social insurance contributions from their wages. This will allow, in accordance with the legislation of the Republic of Uzbekistan, to include labor activity during the period of serving a sentence in the length of service, which gives the right to receive a pension, as well as to pay this category of workers for labor leave and sick leave (including for pregnancy and childbirth). Thus, the level of social protection of citizens serving sentences in penitentiary institutions of the Republic of Uzbekistan will increase.

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