

## Briefing paper #1

“The full contribution which our prisons can make towards a permanent reduction in the country's crime-rate lies also in the way in which they treat prisoners.

*The Former President of South Africa, Nelson Mandela, June 25, 1998*

# IMPORTANCE OF PREVENTION OF CORRUPTION AMONG PRISON STAFF

Overview of Kazakhstan prison system practice, best international practice and practical recommendations to prevent corruption in prison system

IMPORTANCE OF PREVENTION OF CORRUPTION AMONG PRISON STAFF

This publication was prepared by Salamatov Eskali - National expert of Penal Reform International (PRI) in Central Asia in the framework of realisation of the project “Development of Central and Regional government accountability and good governance in law enforcement system to combat corruption in Kazakhstan”, implemented with the support of the British Embassy in Astana.

The contents of the publication does not necessarily reflect the views of Penal Reform International and the donor organisation. The contents of this document are the sole responsibility of the author.

Astana, 2017

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INTRODUCTION

Kazakhstan, as a full-fledged subject of international law, implements the anticorruption policy, the result of which is the ratification of the UN Convention against Corruption in 2008 and the adoption of a number of laws in this field. Anticorruption program documents have been continuously implemented since 2001. The current Anticorruption Strategy is designed for 2015-2025. In addition, the laws “On Combating Corruption” dated November 18, 2015 and “On the Civil Service of the Republic of Kazakhstan” dated November 23, 2015, the Ethical Code of Civil Servants of the Republic of Kazakhstan (the Rule of office ethics of civil servants) dated December 29, 2015, and others acts have been adopted in the country. At the same time, it has been acknowledged that insufficient transparency when making decisions influencing the most important issues of social life, lack of proper civilian control and of consideration of public opinion in activities of the state apparatus lead to excessive bureaucracy, administrative barriers and abuse of power, which, in aggregate, form negative factors that contribute to the growth of corrupt practices. Due to acts of corruption, wrongful extraction of tangible and intangible values takes place and leads to the undermining of interests of the public and deterioration of state authority<sup>1</sup>.

United Nations Convention against Corruption as of 31 October 2003 (article 5)

**Each State Party shall, in accordance with the fundamental principles of its legal system, develop and implement or maintain effective, coordinated anticorruption policies that promote the participation of society and reflect the principles of the rule of law, proper management of public affairs and public property, integrity, transparency and accountability.**

In the legislation of Kazakhstan, corruption is understood as “illegal use of powers of office and related opportunities by persons holding public office, persons authorized to carry out state functions, persons equated to persons authorized to carry out state functions, and officials in order to receive and use personally or through intermediaries material (non-material) benefits and advantages either for own self or third parties, as well as bribery through benefits and advantages”<sup>2</sup>.

<sup>1</sup> Anticorruption strategy of the Republic of Kazakhstan for 2015 – 2025, approved by the Presidential Decree No. 986 of the Republic of Kazakhstan dated December 26, 2014.

# A BRIEF DESCRIPTION OF THE PENITENTIARY SYSTEM

Structurally, the penitentiary system of Kazakhstan is composed of: the Committee of the Criminal and Executive System (central apparatus), territorial departments, institutions and probation agencies directly executing penal sanctions. The majority of the employees of the penitentiary system are officers who perform law enforcement service and are given special ranks.

The Criminal and Executive System most deeply engages with the National Guard that is responsible for the following tasks:

- security of penitentiary system institutions;
- control and supervision over the behavior of convicts<sup>3</sup>;
- escort of convicted persons and persons in custody.

In 2011, the Crime and Execution System was once again returned to the Ministry of Internal Affairs from the Ministry of Justice. Currently, it is a structural subdivision of the internal affairs bodies. In accordance with the law “On Internal Affairs Bodies” dated April 23, 2014, it is the responsibility of internal affairs bodies to implement the penal system state policy. Accordingly, the Ministry of Interior Affairs bears full responsibility for the state of affairs within the system of executing penal sanctions, including corrupt practices.

The European Code of Police Ethics, Recommendations (2001)<sup>10</sup>, The Committee of Ministers of the Council of Europe

«There shall be a clear distinction between the role of the police and the prosecution, the judiciary and the correctional system».

On the status of the prison system within the government structure of countries with a stable democracy, there's practice that excludes subordination of prisons to police. This is explained by the need to prevent abuses, including corruptive ones that inevitably arise under the functions of the penitentiary system in the interests of the criminal prosecution and charge.

The following is stated in literature on this subject: “In terms of segregating functions, it is important to note the need for clear organizational delineation between the police and the prison administration. The main responsibility of the police is to investigate a crime and arrest criminals. Once an individual is detained or arrested, he/she must be brought before a judicial authority as soon as possible and, after that, must remain in custody of the prison system. In many countries, the prison administration is subordinate to the Ministry of Justice. It is one of the ways to ensure segregation of functions and focus on the close engagement that should exist between the judiciary and the penitentiary systems”<sup>4</sup>.

Finding a system to enforce penal sanctions in one or another government structure body, as well as transferring it from one agency to

another, should not affect compliance with international standards on treating prisoners and the quality of prison management.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

**Rule 1**  
**All prisoners shall be treated with the respect due to their inherent dignity and value as human beings. No prisoner shall be subjected to, and all prisoners shall be protected from, torture and other cruel, inhuman or degrading treatment or punishment, for which no circumstances whatsoever may be invoked as a justification. The safety and security of prisoners, staff, service providers and visitors shall be ensured at all times.**

# FACTORS ASSOCIATED WITH CORRUPTION IN PENITENTIARY INSTITUTIONS

Research shows that corruption in prisons has increased latency. The main advantage factor for such latency is the **closed nature of the prison system.**

The closed nature of prison institutions – is the main requirement for their functioning. Places where convicts are detained belong to secure facilities and that is why free access to all prisons around the world is prohibited. Due to this fact, the society does not have an objective picture of occurrences within the penitentiary institutions, and, to a great extent, many state structures

have an idea of what this field is from official information and reports of representatives of the Crime an Execution System.

At the same time, the isolation of the penitentiary system creates ideal conditions for the spread of corruption within it. Convicts do not have the opportunity to refer to the anticorruption service or other law enforcement agencies unhindered and directly about being forced to take illegal actions, such as giving bribes.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

**Rule 56**  
**1. Every prisoner shall have the opportunity each day to make requests or complaints to the prison director or the prison staff member authorized to represent him or her.**

**2. It shall be possible to make requests or complaints to the inspector of prisons during his or her inspections. The prisoner shall have the opportunity to talk to the inspector or any other inspecting officer freely and in full confidentiality, without the director or other members of the staff being present.**

**3. Every prisoner shall be allowed to make a request or complaint regarding his or her treatment, without censorship as to substance, to the central prison administration and to the judicial or other competent authorities, including those vested with reviewing or remedial power.**

**4. The rights under paragraphs 1 to 3 of this rule shall extend to the legal adviser of the prisoner. In those cases where neither the prisoner nor his or her legal adviser has the possibility of exercising such rights, a member of the prisoner's family or any other person who has knowledge of the case may do so.**

<sup>2</sup> Law of the Republic of Kazakhstan «On Combating Corruption» dated November 18, 2015

<sup>3</sup> The aforementioned responsibilities do not apply to institutions for juvenile offenders, women, pretrial detention facilities and the only institution in Kazakhstan named prison.

<sup>4</sup> Andrew Coyle. A human rights approach to prison management. Handbook for prison staff. – London, the International Centre for Prison Studies, 2002

In accordance with the Article 14 of the PEC of Kazakhstan “In institutions and bodies that execute punishments, special mailboxes are provided to convicted individuals to submit claims of unlawful actions of their officials. Once a week, these applications are withdrawn by the prosecutor together with representatives of the institution's administration or another body executing the punishment, based on which an act is drawn. Special mailboxes are installed on the territory and premises of institutions and bodies executing punishment, in places accessible to convicted individuals.”

However, as practice shows, these mailboxes in many institutions do not inspire confidence in convicted individuals because the users are not safe from persecution or revenge on the part of institution staff. There is a law that prohibits filing of a complaint to the detriment of the convict who submitted a claim (Paragraph 9 of Article 14 of the PEC).

A convicted individual, serving the sentence of deprivation of liberty and avowing to corrupt acts of the institution staff, automatically deteriorates his position and is pressured. Generally, the convicted person is subjected not only to psychological pressure from the institution staff, but, what is more dangerous, to physical abuse from other prisoners that cooperate with the institution's administration on various terms.

The fact that the claimant will remain in this institution and is dependent of those whose corrupt actions he reported on, significantly reduces the likelihood of identifying prison corruption through submitting claims.

Law of the Republic of Kazakhstan “On Combatting Corruption” dated November 18, 2015

**Article 24. Notice of corruption offenses**  
**3. The person who reported the fact of corruption offense or otherwise assisting in the fight again**

In Kazakhstan, legislatively, effective legal instruments to protect victims, witnesses and other participants of criminal proceedings have been adopted. In addition to Chapter 12 “Ensuring the safety of persons involved in criminal proceedings” of the Criminal Procedure Code, a fleshed-out law “On the State Protection of Persons Participating in the Criminal Procedure” dated July 5, 2000 is in force.

Article 7 of this law provides security measures, such as:

- An official warning about a possible prosecution is issued to the person from whom the threat of violence or other acts prohibited by criminal law stem;
- A restriction on access to information about the protected person;
- Personal protection, protection of home and other property;
- Provision of weapons, means of individual protection and technical means, in the permitted manner;
- Temporary placement in a safe place;
- Ensuring information confidentiality regarding protected persons;
- Replacement of documents;
- Change of appearance.

However, these security measures within prison conditions are not effective. A convicted person who has reported of corruption will, nevertheless, remain, if not in this, then in another institution. Therefore, aware of the negative consequences for themselves, for example, at the time of parole, convicts will not risk entering into conflict with the staff of the institution.

Thus, the closed nature of penitentiary institutions, as a necessary requirement for the safety of society, creates favorable conditions for the latency of prison corruption.

The degree to which institutions are closed can be different and depends on the transparency of the prison system as a whole. Nevertheless, society has the right and should be able to monitor places of detention and receive reliable information about the situation within them through

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

**Rule 83**

**1. There shall be a twofold system for regular inspections of prisons and penal services:**

**(a) Internal or administrative inspections conducted by the central prison administration;**  
**(b) External inspections conducted by a body independent of the prison administration, which may include competent international or regional bodies.**

**2. In both cases, the objective of the inspections shall be to ensure that prisons are managed in accordance with existing laws, regulations, policies and procedures, with a view to bringing about the objectives of penal and corrections services, and that the rights of prisoners are protected.**

In this sense, public control instruments such as the National Preventive Mechanism (Chapter 9 of the PEC) and the Public Monitoring Committee (Chapter 8 of the PEC) have been created and are functioning in Kazakhstan. It should immediately be noted here that their competencies do not include the identification, prevention and fights against corruption. Thus, the national preventive mechanism acts as a system to prevent torture and other cruel, inhuman or degrading forms of treatment or punishment (Article 39 of the PEC), and the public monitoring committee was formed to publicly monitor the respect of the rights, freedoms and legitimate interests of convicted individuals held in institutions and bodies that execute punishments, under the terms of their detention conditions, medical and sanitary provision, organization of labor, training and leisure (Article 33 of the PEC).

However, if reports from convicted persons are received on corruptive actions of the administration of the institution, members of the public monitoring committee and participants of the national preventive mechanism, law enforcement agencies should be forwarded this information (appeal). Otherwise, criminal liability may arise for the failure to report a crime or for concealing a crime.

In this context, the construction of the Article 49 of the PEC regarding the interaction of the Human Rights Ombudsman with state bodies, including law enforcement agencies, raises certain questions. According to the meaning of the norm, based on reports of the participants of the national preventive mechanism, the Human Rights Ombudsman is under no obligation, but has the right to refer to law enforcement agencies with a petition to commence pre-trial investigation against an official who violated human and civil rights and freedoms.

It is not difficult to imagine that violation of human rights can be expressed in the refusal of the head of the institution to respect legal rights of the prisoner to receive due benefits, for example, in the form of relaxing the term for serving punishment, accompanied by extortion.

Taking into account the abovementioned, Article 49 of the PEC requires further elaboration and clarification

Another factor contributing to the latency of penitentiary corruption is the **mutual interest in corrupting prison staff and convicted individuals**. Of course, not all prisoners and not in all situations, benefit from such a relationship. When it comes to strong-willed, communicative and enterprising convicts or convicts with increased material and financial resources, as practice shows, they quickly establish personal informal contacts with the administration of the institution. This gives them privilege over the majority of prisoners; they undeservedly receive positive reinforcements, and also avoid negative reinforcements for obvious violations. As a result, this positively influences the consideration of issues such as the transfer of convicted individuals within the institution from one condition of serving punishment to another, parole, replacement of the unexpired term of the sentence of deprivation of liberty with other mild penalties etc.

Also, corruptive contacts with the management of an institution help convicts receive additional visits, parcels and telephone conversations, live in separate improved sleeping rooms, be exempt from general activities, such as parading, cleaning the grounds, and so on.

In the majority of convicts this, naturally, creates feelings of injustice and in their minds undermines the authority of the criminal executive system.

Code of honor of civil servants of the Republic of Kazakhstan (Rules of ethics of civil servants) dated December 29, 2015

**To be a public service is an expression of special confidence of the society and the state and places high demands on the moral and ethical standards of public servants. The society expects that the public servant would put all his strength, knowledge and experience in their professional activities carried out impartially and honestly serve their country - the Republic of Kazakhstan.**

Also, corruptive relationships often result in the transportation of various banned items inside the institution by the staff: alcoholic beverages, narcotic drugs, money, cell phones and other items and things in demand among prisoners. In some cases, the employees carry forbidden items for a certain reward from the prisoner, his/her relatives or friends. In other cases, these acts are committed for commercial purposes, that is, items are purchased outside the institution at a low price and resold to a convicted person at a higher price. In addition, prohibited items can come through parcels when a responsible officer of the institution, for a certain reward, does not prevent it.

Of course, this does not happen in all institutions, but only in those where the level of corruption is high enough. In such institutions, convicted individuals, regardless of the ban, have cash

to bribe the staff of the institution and use mobile communications, which are in turn used to establish corrupt contacts between the staff and the right people on the outside.

The prohibited items that enter the penal and correctional institutions create a multiplicative effect. So, the prohibited items, in particular money, alcoholic drinks, narcotic drugs and psychotropic substances, form around themselves an infrastructure supported by illegal actions of convicted individuals.

The anticorruption strategy of the Republic of Kazakhstan for 2015-2025, approved by the Decree of the President of the Republic of Kazakhstan dated December 26, 2014

**The level and quality of sociological research devoted to the study of corruption issues and the effectiveness of state anticorruption measures leave much to be desired.**

Attempts to find any up-to-date official statistics on prohibited items seized were unsuccessful. The latest such statistic is provided in the Program for the development of the penitentiary system in 2012-2015: "So in recent years, the number of prohibited items seized has been growing annually. So, from illicit trafficking, in 2011 alone, more than 11 million tenge, more than 11 tons of alcoholic beverages, more than 10 thousand mobile communication equipment and about 12.5 thousand units of piercing-cutting items were confiscated"<sup>5</sup>.

Another point of interest is the issue of subjects of delivery and transfer of prohibited items to convicted persons, an answer to which was also not found. Therefore, let us turn to the research of Russian scientists.

This will rather fitting and comparable, since the organization of execution of imprisonment in Kazakhstan and Russia are similar for known historical reasons.

Thus, according to survey results of workers of correctional institutions, the following persons deliver to the territory of correctional institutions and pass prohibited items to convicted individuals: civilian employees - 28%; relatives and acquaintances of convicted individuals - 25.1%; convicts who are free to move without an escort - 11.6%; other citizens who have access to correctional facilities-5.3%; certified employees - 38.4%<sup>6</sup>. As evidence shows, two thirds of violations - 66.4% are committed by certified employees and civilians, that is, by people who work for an institution on a regular basis.

According to the Rules of visiting penitentiary institutions, all persons attending the institution, including the staff of the penitentiary system and National Guard servicemen who serve in this institution, should be warned about the liability for carrying prohibited items and then undergo a screening procedure, including passing through a stationary metal detector and body search with a portable metal detector.

However, as the sample interview of current employees of penitentiary system institution in Kazakhstan has shown, this requirement is not always fulfilled. The reasons for this are: connivance on the job, friendly relations between employees, reluctance to spoil relations with colleagues, lack of exactingness on this issue from the management, the established practice to not check each other, and

<sup>5</sup> Approved by Resolution No. 775 of the Government of the Republic of Kazakhstan dated June 9, 2012

<sup>6</sup> Markov V.P., Sivtsov S.A. The main factors contributing to the spread of corruption in the penitentiary system of Russia. // Penitentiary system journals . 2011, No. 4, p. 19.

sometimes complicity in the carrying of prohibited items.

“Rules of conduct of penal system institutions”, approved by the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated November 17, 2014 No. 819

**16. The personnel of institutions are not allowed to enter into any relations with convicted persons and their relatives, not motivated by the interests of the service, as well as use their services, not regulated by the correctional law and these Rules.**

Corrupt relations between employees and prisoners result in the administration of the institution gradually losing control over the institution. First of all, to stop unofficial corruption ties is always more difficult than to start, as there is resistance from convicted individuals who are accustomed to receiving personal benefits from this.

Second of all, any employee who permitted oneself to receive material or financial benefits from the prisoner automatically becomes a hostage of this relationship. In such a case, some administrative functions gradually and informally transfer into the hands of a small number of prisoners who, through psychological and physical abuse, infiltrate the majority of convicted individuals, the so-called prison subculture, from which they and the corrupt part of the administration of the institution derive material benefits.

This is how such a situation is described in European sources: “In penitentiary systems of some countries, people that head prisons lost control of their institutions and allowed strong

groups of prisoners to create an illegal monitoring system, both over prisoners and over the staff. Sometimes this happens due to prisons being understaffed. Often, the administration demonstrates special treatment towards such prisoners in terms of providing living quarters, food and other amenities, which encourages them to supervise or manage other prisoners. Such relationships are always open to abuse and should not be tolerated.

The overwhelming majority of prisoners will react positively to a firm and fair method of management by the staff because if the staff does not maintain management of the prison in their hands, this void is then filled with strong and willful prisoners. Alternatively, if there is a lack of firm enough management from the top management, then, individual staff members may establish their own informal management methods. In either case, life for the majority of prisoners becomes very unpleasant”<sup>7</sup>.

The experience of many countries shows that the issue of illegal carrying of prohibited items inside the institution by the staff is best solved in the following way – for employees responsible for oversight and monitoring to demonstrate qualities such as integrity, professionalism and incorruptibility. A super-modern scanning equipment can also be installed at the entrance of an institution, but under corruptive conditions it will be absolutely useless.

The United Nations Standard Minimum Rules for the Treatment of Prisoners (Nelson Mandela Rules)

**Rule 77**  
**All prison staff should behave and fulfill their duties in such a way that be an example for prisoners and win their respect.**

A lot depends on the head of the penitentiary institution. For example, in Kazakhstani institutions there is no practice to search the representatives of senior management and sometimes the persons who follow them inside the prison. Usually this procedure is limited to checking documents and issuing a pass. However, if the head of the institution, like in Western countries, will demand a quality inspection, then the attitude of the inspection service to other employees will be of the same principle.

## CORRUPTION RISKS IN THE PENITENTIARY SYSTEM

**It is important to identify the weak areas in the activities of penitentiary institutions, that contain the most favorable conditions for abuse of power. In other words, identification of corruption risks leads to effective fight against corruption in the penal system.**

The Anticorruption Strategy of the Republic of Kazakhstan for 2015-2025, approved by the Decree of the President of the Republic of Kazakhstan dated December 26, 2014

**The identification and minimization of corruption risks, conditions and causes of its occurrence is a basic link in the combating corruption system. Assessment of the corruption risks, level of their prevalence in various spheres and sectors help to identify gaps in the state regulation (including regulatory and legal) of anti-corruption activities, problems in mechanisms of state legal regulation, as well as development of measures aimed at improving law enforcement practices in the anticorruption activity.**

The analysis of legislation, prison practice and selective interviewing of former convicts showed that the greatest corruption risks exist in areas where the sensitive rights of convicts are affected, and prison personnel has discretionary powers to make a decision in this sphere. In particular, detainees are very sensitive to:

- receiving encouragement and punishments;
- determination of the degree of their behavior in accordance with the PEC;
- transfer from one detention conditions to another within the institution;
- getting visits from relatives, phone calls, parcels;
- transfer to another institution;
- consideration of the issue of parole and commutation of the undischarged portion of sentence to a milder form of penalty by court.

Despite the variety of these issues, they play a very important role in the lives of convicts. Thus, the collection of encouragement and punishments directly affects the determination of the behavior on a 6-level scale, which includes 3 positive and 3 negative degrees. In turn, these degrees influence upon the detention conditions within the institution. This includes the number of permitted visits with relatives, telephone calls, parcels, the limit of pocket money for personal needs. The behavior degrees also influence on the issue of changing the type of institution, i.e. worsening or easing the detention conditions. Finally, the history of penalties and rewards is considered by court when examining issues of parole and commutation of the undischarged portion of sentence to a milder form of penalty.

<sup>7</sup> Andrew Coyle. A human rights approach to prison management. Handbook for prison staff. – London, the International Centre for Prison Studies, 2002

The United Nations Standard Minimum Rules for the Treatment with Prisoners (Nelson Mandela Rules)

**Rule 95**

**Each prison institution should have a system of privileges and develop various treatment methods with different categories of prisoners to encourage them to good behavior, develop a sense of responsibility, instill an interest in their re-education and seek their cooperation.**

Thus, encouragement or punishment, received by the convict, is a key issue that directly affects his future life in the penitentiary institution. According to the survey, a chain of corruption risks begins in the so-called progressive system of serving sentences.

In accordance with the Article 128 of the PEC, the convicts are given the following incentives for the good conduct, conscientious attitude to work, study, active participation in the voluntary entities and educational activities, and taking measures to recover the damage caused by the crime:

- 1) the announcement of gratitude;
- 2) rewarding with a gift;
- 3) bonus;
- 4) additional short-term visit in prison;
- 5) consent for spending additional money for the purchase of food and essentials on public holidays. The amount of money is up to one monthly calculation index;
- 6) early removal of the previously imposed penalty;
- 7) permission to spend weekends and holidays outside the institution from 9-00 to 18-00 (regarding the convicts serving a sentence in a minimum-security institution).

The following measures of punishment for the violation of the established order of serving punishment are provided by the Article 131 of the PEC:

- 1) comment;
- 2) reprimand;
- 3) disciplinary fine in the amount of up to two monthly calculation indicators;
- 4) disciplinary confinement for the period of up to fifteen days;
- 5) transfer to single cell for a period of up to six months;
- 6) the abolition of the right to reside outside the dormitory, prohibition of leaving the institution territory during free time for up to thirty days (regarding convicts serving a sentence in a minimum-security institution).

The Article 133 of the PEC authorizes the heads of institutions and relevant persons, performing their duties, to apply the encouragement and punishment measures. Deputy heads of the institution have the right to apply incentive measures in the form of: 1) declaration of gratitude; 2) permission to spend extra money on food and essentials; 3) early removal of the penalty, previously imposed by the deputy head of the institution on the underage; and impose penalties in the form of comments and reprimands.

Encouragement and punishment issues and their procedures are regulated by the criminal-executive legislation. As it is noted above, the receipt of incentives and penalties is a very sensitive issue for convicts, since it directly affects their legal position.

The distinctive feature of these encouragements and punishments lies in the fact that a person, being in prison,

inevitably receives, and therefore, is dependent on them. In a free society, a person can be successful without any incentives or be an outsider without penalties. However, a permanent evaluation of the prisoner's personality is necessary at the penitentiary institutions, and the results of this assessment are attached in his personal file. Since the places of imprisonment are based on the principle of will suppression (especially in the post-Soviet countries) and where almost every step of the convict is painted, then it takes little effort to obtain reprimand. In most cases, bad relations with the institution staff are enough to receive penalty for the slightest slip in observing the established order of serving punishment.

Receiving encouragement is the main motivation for a good behavior. From the point of view of penitentiary system, good behavior is a behavior that indicates a person's fitness for life in isolation, and not in a free society after release. Therefore, demonstration of high level of commitment to the requirements of the institution are necessary to receive encouragement. The Article 11 of the PEC obliges convicts to fulfill only legitimate demands of prison personnel, but the isolation and full dependence force to fulfill any requirements in order to confirm their loyalty to the administration of the institution and receive incentive.

Law of the Republic of Kazakhstan "On Public Service", dated November 23, 2015

**Article 50. Disciplinary offenses that discredit the public service**  
**1. This Law recognizes the following acts of civil servants as disciplinary offenses**

**discrediting the civil service:**  
**2) use of their official powers in solving issues related to the satisfaction of their own or close relatives' material interests;**  
**4) rendering undue preference to physical and (or) legal persons in preparation and decision-making;**  
**11) obvious obstruction to physical or legal persons in the exercise of their rights, freedoms and legitimate interests;**  
**16) for the performance of their state or equivalent functions acceptance of any remuneration in the form of money, services and other forms from individuals...**

A survey of prison staff confirmed that large corruption risks lie precisely in the punishment and encouragement measures. As noted above, wealthy convicts try to establish unofficial relations with responsible staff of the penal correction agencies, allowing them to receive undeserved encouragement and avoid collecting or prematurely withdrawing the imposed punishments.

A survey of prison staff confirmed that large corruption risks lie precisely in the punishment and encouragement measures. As noted above, wealthy convicts try to establish unofficial relations with responsible staff of the penal correction agencies, allowing them to receive undeserved encouragement and avoid collecting or prematurely withdrawing the imposed punishments. The risk of corruption abuse is especially increased during the period preceding the trial about possible parole and commutation of the undischarged portion of sentence to a milder form of penalty. In such cases, court usually considers the characterizing materials submitted by the administration of the institution. Because of corruption factors, these documents may not have information about the previous penalties of the convicted person.

It is quite easy to remove extracts of orders for penalties from personal file in order to create an imaginary positive opinion about a prisoner. In this case, the paper trail of previous penalties will remain only in the official documents of the institution (nomenclatural files). No one will recheck them without special order.

"Rules for the conduct of educational work with prisoners sentenced to deprivation of liberty", approved by the order of the Minister of Internal Affairs of the Republic of Kazakhstan dated August 13, 2014 No. 508

**22. In the event that the convicted persons have actually served part of the sentence, and in order to solve the possible resolution of the issue of changing the detainment conditions, the type of institution, and parole, the Detachment Chief makes a description on the convicts, according to the Annex 7 of this Regulation, which is attached to a personal case.**

One of the ways to neutralize this corruption-related factor could be the creation of database of convicts with full information about them. With the aim of the verification of materials submitted by the penalty institutions to the courts, the prosecutor's office, as well as the judges while considering the applications of the convicted persons, could use this data and have more complete and objective information about the convicts. Such official databases are used in many developed countries, where a limited number of officials have access to them through personal electronic key.

Creation of a similar database was repeatedly initiated in Kazakhstan. Thus, "development and implementation of a centralized automated database" were included into the Plan of Program for the Development of the Correctional System in the Republic of Kazakhstan for 2012-2015. 617 million tenge<sup>8</sup> were budgeted for this activity in 2015.

Later, this idea migrated to the Action Plan for the implementation of the State Program for Further Modernization of the Law Enforcement System of the Republic of Kazakhstan for 2014-2020. 615.9 million tenge<sup>9</sup> were budgeted for its creation and implementation during 2014-2015.

Ethical code of civil servants of the Republic of Kazakhstan (Rules of Service Ethics of Civil Servants) dated December 29, 2015

**5. Civil servants must:  
13) not allow the misdemeanors and other offenses, for which disciplinary, administrative or criminal liability is provided by law.**

## CONCLUSION

The above material does not cover all aspects of corruption in the penal system. There are corruption-related spheres that are common to all public service agencies, for example: public procurement, writing-off of material resources, "personnel business", etc. Only a few corruption aspects that arise between the staff of the penitentiary institutions and the convicts are mentioned in this work.

The quality of the prison staff, namely, their moral-volitional features are crucially important in the fight against corruption. Convicted persons, confronted corruption abuses by employees in prisons, feel powerless. Attempts to resist this problem in conditions of isolation lead to a deterioration in their position. So, they are forced to accept the existing rules of interaction that are behind the scenes. Consequently, this completely undermines the criminal-executive concept of the state, based on the idea of correcting criminals.

The state should pay more attention to the criminal-executive system, increase its authority in the public consciousness and make its activities transparent, as well as make the penitentiary service more prestigious. Andrew Coyle, one of the leaders of the International Center for Prison Studies, noted: "in any democratic society the work in prison is a public service. Prisons, as well as schools and hospitals, are organizations that to be administered by civil authorities for the benefit of society. The prison authorities must, to one extent or another, report to the parliament, and the public should regularly receive information about the situation there. Ministers and senior executives should make it clear that they highly value the work done by prison officials, and the general public should always remember that work in prison is an important public service"<sup>10</sup>.

<sup>8</sup> Approved by the Decree of the Government of the Republic of Kazakhstan dated June 9, 2012 No.775

<sup>9</sup> Approved by the Decree of the Government of the Republic of Kazakhstan dated April 1, 2014 No. 292

<sup>10</sup> Andrew Coyle. Approach to the management of the prison from the standpoint of human rights. Guide for prison staff. - London,