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PUBLIC-PRIVATE PARTNERSHIP PROJECTS IN INCREASING EFFICIENCY OF PENAL INSTITUTIONS PRODUCTION SECTOR

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Abstract

Today public-private partnership (hereinafter - PPP) is one of the most efficient forms of cooperation of the state and business. This form of interaction between the state and private capital is especially in demand in the areas most important for the state. The production potential of the penal institutions enables them to participate in the process of re-socialization of convicts through the organization of paid labor. However, there are certain restrictions imposed by the penitentiary system which impede the organization of direct contacts between suppliers and customers and prevent the promotion of the manufactured products on the market. All this makes it necessary to work out theoretical, legal and organizational grounds, as well as administrative mechanisms aimed at improving the efficiency of the interaction of the state and penal institutions. The PPP projects developed in this sphere should be established for specific purposes of mutually beneficial cooperation between public and private structures.

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1. Introduction

The potential capabilities of the production facilities of the penal institutions of the Russian Federation can be implemented in the best way only as a result of the close collaboration of the Federal Penitentiary Service of Russia with state authorities and business sector. The modern concept of the development of the penitentiary system is aimed at the social and labor development of persons serving sentences in prisons.

The issues of state regulation and the interaction of the penal system and the business community, the employment of convicts were widely covered in the works of domestic scientists, such as Dibrova et al. (2018), Kozin et al. (2019), Ragulin et al. (2019) and others. The study of their theoretical views in this direction is of great importance.

A significant contribution to the development and solution of problems of public-private partnerships in Russia was made by such domestic scientists as Varnavsky et al. (2010). Among foreign researchers of this problem, one can distinguish Bergere (2016), Bult-Spiering and Dewulf (2016), Anderson (2020), Caiyun et al. (2018), Demmou and Wörgötter, (2015), Floor et al. (2019), Pinz et al. (2017), Papadopoulos et al. (2018), Stevens and Kanie (2016).

It is stated that there are no scientifically based studies supported by specific calculations in this direction. Therefore, it is expedient to carry out further research in the direction of increasing the efficiency of manufacturing products in labor adaptation centers and production workshops of the correctional system by means of applying public-private partnership mechanisms.

2. Problem Statement

In the penitentiary system there are centers for the labor adaptation of convicts, in which jobs have been created for the purpose of their professional training, the formation of their willingness to be included in normal living conditions after serving the sentence. In addition, attracting convicts to socially useful work in the above centers solves the problem of reimbursing money on writ of execution. The total amount to be recovered is about 130 billion rubles. The ongoing work on the primary employment of such convicts allowed to increase compensation in 2019 by 31 %. One of the main problems in organizing the labor adaptation of prisoners is the significant depreciation of fixed assets. Currently, in correctional facilities there are about 110 thousand units of technological equipment with a total depreciation of 73 %, 17 % of them are unusable. Products manufactured with the use of such equipment have a high cost. This does not allow correctional institutions to compete with other manufacturers and to be full-fledged market participants. On average, there is one unit of production equipment per five able-bodied convicts, and in some institutions this indicator is from 15 to 20 convicts per unit. Unfortunately, according to the results of the measures taken, one can note a steady downward trend in the number of convicts involved in labor activity, accompanied by a decrease in production volume, which indicates the insufficient workload of the manufacturing sector of the penal system with orders.

3. Research Questions

In this situation, the penitentiary system acquires modern sewing, woodworking, metalworking equipment and agricultural machinery at the expense of profit from production activities. At the same time, the existing production capacity is 58 % loaded due to the lack of state, municipal or commercial orders. In these conditions, we assume that there are two main problems to be solved for the introduction of changes in the production sphere: increasing the involvement of state, regional and municipal authorities in placing orders at the production facilities of the penal system and attracting the private capital to mutually beneficial participation in PPP projects. Another topical issue examined in this article is whether labor adaptation centers created as structural units of correctional institutions can interact with «organizations of any legal form» for the organization of labor of prisoners sentenced to deprivation of liberty.

4. Purpose of the Study

At the legislative level, provisions on state support for the penal institutions in the organization of production activities are fixed. These norms stipulate the obligation of the state authorities to place orders at the correctional institutions' own production facilities. In addition, they also provide for the participation of the regional administration bodies in ensuring the employment of convicted persons at the expense of their own budgets. The penitentiary system independently organizes direct cooperation with federal executive bodies to place orders for the manufacture of clothing as the sole supplier. Unfortunately, these legal regulations have not been widely applied. As a result, the national correctional institutions are forced to independently seek orders for manufacturing goods and rendering services in order to keep prisoners busy at their labor adaptation centers and production workshops. At the same time, it should be recognized that half of the income of any penal institution is received from commercial organizations that are not state or municipal customers. In 2018, the share of non-state orders amounted to 45 % of total production. The successful solution of the issues of social rehabilitation of convicts depends on the effective interaction of the penitentiary system with the authorities of the regions and local self-government.

5. Research Methods

It should be noted that Federal Law No. 224 regulating the application of public-private partnerships in our country fully confirms the correctness of the chosen direction. The cooperation of the penitentiary system with the non-state sector will become a serious basis for the effective financing and functioning of the production workshops of the national correctional institutions (Kozin et al., 2019). Entrepreneurs, businesses, especially regional ones, in the conditions of a shortage of skilled workers, and areas for expanding their activities, are interested in developing such cooperation (Ragulin et al., 2019) indicate the increase of close interaction of the state institutions and private capital in the production sector of the penitentiary system. But there are a number of features that are encountered in the process of such interaction. These peculiarities concern, on the one hand, state organizations, and on the other, the penal system itself, which is interested in the development of the cooperation with business community. However, we cannot but mention the existence of some problematic issues (Bult-Spiering & Dewulf, 2016) that need to be addressed: lack of information support, lack of allocation of funds for participation in exhibitions,

outdated equipment that does not allow the development of modern production. In the course of the study, a questionnaire for the survey was developed, which was sent to some territorial correctional institutions of our country and to the representatives of business communities located in different regions of Russia. In total, 100 respondents were involved in the survey, but answers to questions were received from 78 respondents. Thus, as a result of the survey, we have identified factors that influence the efficiency of interaction between production units of correctional institutions of the penal system and business structures, presented in table 01.

Table 01. Factors affecting the effectiveness of the interaction of production units of correctional institutions of the penal system with business structures

№	Factors ensuring the effectiveness of business interaction with production units of penal correctional institutions	Factors obstructing the effectiveness of business interaction with production units of penal correctional institutions
1	Free transfer of production facilities	Competition among manufacturers of similar products
2	Inexpensive labor	Unscrupulous suppliers
3	The ability to train staff to meet the needs of a partner	Low qualification of labor of prisoners sentenced to imprisonment
4	Access to the product market	Loss of time and vehicle downtime associated with special access control
5	Individual approach to each client	Underdeveloped legal acts
6	Reduction or complete absence of costs for the protection of their technological equipment and products	Some provisions of Federal Law No. 44
7	Meticulous quality control	Difficulties in coordinating the opening of new types of industries
8	Ready-made production facilities and communications, loading mechanisms and platforms	Lack of cash settlement
9	Low cost of production	

Source: the table is based on the data obtained by the authors as a result of the survey.

The penitentiary system, together with business structures, carries out the main organizational measures to develop solutions for the effective interaction in the manufacturing sector. These measures include the selection of supervisors in the executive authorities and local self-government for the public-private interaction, holding seminars, posting information on products produced by correctional institutions on the official websites, participation of penal system representatives in the meetings of collegial bodies, events with the participation of enterprises and business organizations. Having assessed the consequences of the contractual relationship between the institutions of the penal system and business structures based on the results of the survey, we can identify the potential effects and existing problems of this interaction (table 02).

Table 02. Potential effects and problems in the interaction of production units of penal correctional institutions with business structures

№	Potential effects	Problems
11	Attracting additional investment in the production sector of penal institutions	Late payment for products by customers
22	Achieving maximum employment of convicts in penal institutions	Possible interruptions in orders for the production of products under short-term contracts
33	Education of convicts sentenced to deprivation of liberty to professions in demand on the labor market	Disruptions in the supply of raw materials for production. Increase in working capital
44	Increasing the volume of manufactured and sold products	The methodology for determining the cost of services has not been developed
55	Market expansion	Lack of systematic loading of production capacities of penal institutions
66	Improving the efficiency of payments for claims of convicts	Decrease in volumes of own production by penal institutions
77	Capacity utilization	Depreciation of own equipment with the loss of the possibility of updating it in the institutions of correctional system
88	Involvement of idle production areas in the production cycle of penal institutions	Violation of the shelf life of finished products
99	Providing personal protective equipment and clothing for prisoners sentenced to imprisonment by counterparty	Actual profitability of products manufactured under a tolling scheme may differ from that recommended by the order of the federal authorities of the penal system
110	Highly qualified civilian counterparty's personnel	Decreased economic independence of the manufacturing sector of the penal institutions
111	Reimbursement of expenses for the maintenance of prisoners	
112	Investments in penal institutions in the form of equipment, repair of buildings and structures	
113	Economic risk reduction	
114	Reducing the costs of maintaining production facilities, machine tools and equipment of penal institutions	

Source: the table is based on the data obtained by the authors as a result of the survey.

In order to attract business structures to collaborate with the penal system it is expedient to consider some benefits provided by the national tax code for the activities of non-governmental organizations involved in organizing labor activities of convicts. Among these benefits we can mention a tax exemption for 1) vehicles of the federal correctional institutions; 2) property of the penal institutions used to carry out the functions assigned to these organizations; 3) land plots used for the direct implementation of the functions assigned to these correctional institutions. As for the specific characteristics of the land

allotment order, they were examined in the works of such authors as Dibrova et al. (2018), who concluded that unused agricultural land should be cultivated or transferred to lease relations for its further cultivation, and land resources of the penitentiary system are no exception.

6. Findings

The cooperation of business structures with the institutions of the executive system has its positive aspects for everyone. The official information of the Ministry of Industry and Trade should include the integrated data on the production activities of the penal system and continue to work towards posting information on the resources of the penal system for the business community. Products manufactured in penal institutions can be of high enough quality, but they do not always find their customers, because the business community does not receive the necessary generalized information on the range of products, prices, and free production sites. The official websites of the territorial penal institutions comprise insufficient information related to these organizations. All this information is scattered and does not provide a complete picture of the alleged goods and services throughout the country. A positive example is the experience of the Republic of Karelia, where recommendations have been issued that provide that all bids by executive authorities for the competitive procurement of goods produced by correctional institutions should contain an official refusal by the department of the Republic of Karelia to supply the specified goods. At the same time, it is important to note that last year 70 regional penal institutions received state orders in the amount of more than 1 billion rubles, which resulted in the employment of additional 1.5 thousand prisoners. The federal authorities of the correctional system signed cooperation agreements with the national and regional chambers of commerce and industry. These agreements facilitated the production activities of small and medium-sized enterprises and led to the production increase by 440 million rubles. The authorities of the subjects of the Russian Federation, heads of local governments, and representatives of the business community visited correctional institutions and contributed to the promotion of placing state, municipal and commercial orders at the penal production workshops, as well as to placing commercial equipment at their labor adaptation centers. As a result, only state contracts were concluded for more than 200 million rubles, about 600 convicts were brought to work. First of all, these are correctional institutions of the Kamchatka, Arkhangelsk and Belgorod regions.

The question naturally arises - can labor adaptation centers, created as structural units of correctional institutions for the labor use of prisoners, interact with «an organization of any legal form»? Having examined the regulatory legal acts, we came to the conclusion that today there are no legal rules related to this question for the reasons mentioned below. Firstly, according to the national legislative acts labor adaptation centers are structural units of institutions performing punishment. They do not have legal, economic and financial independence. They are entrusted with the tasks of implementing the requirements of the penitentiary system of the Russian Federation in terms of organizing vocational training for prisoners sentenced to deprivation of liberty, bringing them to work and securing their labor skills.

Secondly, it can be concluded that the subject of legal regulation is the activity of those institutions that carry out the punishments indicated in it: correctional institutions where they are serving their sentences to imprisonment. There is a contradiction related to the interpretation of the penal system arising from the content of the national Penal Code. The Penal Code of the Russian Federation stipulates that penitentiary

institutions are not only correctional and educational colonies, medical correctional institutions, and prisons. In addition to them, pre-trial detention centers also include pre-trial detention facilities (in relation to convicts left to serve their sentences), penal inspections, correctional centers and detention centers (the latter has not been put into effect). The list of types of enterprises, institutions and organizations included in the penal system has been approved by the state government decree of 01.02.2000 No. 89. All of the above necessitates making appropriate amendments to the Law of the Russian Federation No. 5473-1 of July 21, 1993.

Thirdly, the centers for the labor adaptation of convicts and the training and production (labor) workshops of correctional institutions located inside correctional institutions are organized taking into account regime requirements that provide for the isolation and separate detention of different categories of prisoners according to the type of penal institutions assigned by the court ruling. Thus, the principle of differentiation and individualization of the execution of sentences is being implemented by the national penal system. Due to this, the working conditions of convicts in labor adaptation centers (workshops) of correctional institutions carry the elements of «punishment» and are significantly different from the working conditions of civil organizations where convicts are forced to be involved in labor work. For this reason, the labor use of persons sentenced to forced labor at the production facilities of labor adaptation centers located inside correctional facilities becomes impossible. As a proposal for resolving the issue of interaction between business structures with the territorial bodies of the penal system (colony settlements, labor adaptation centers for convicts, sections functioning as correctional centers), in order to develop intra-departmental counterparty relations between correctional institutions (especially for those institutions where there is no production sector) it is advisable to develop and legally approve a model agreement governing the procedure, rights and responsibility of the parties. Due to the fact that the correctional colony-settlement is assigned to the type of penitentiary institution, the decision to liquidate or change the type of institution is made by the Russian Ministry of Justice.

There are issues that need to be addressed at the federal level, such as the placement of equipment in the territories of the penitentiary system, the interaction of the penitentiary system with the business community, incentives for entrepreneurs, as well as the introduction of amendments to regulatory documents.

Issues related to the possibility of attracting convicts to forced labor at the production facilities of correctional institutions together with business representatives need to be studied with regard to the current regulatory framework governing the labor relations of persons sentenced to forced labor. The development of regulatory and legal documentation related to PPP projects is also recommended by authors such as Caiyun et al. (2018).

As for the correctional institutions, it is necessary to conduct a detailed monitoring of the procurement provisions of the Federal Law No. 44 of 04.05.2013 in order to bring it to the actual situation with procurement in institutions. Currently, several amendments to this Federal Law are being worked out. And it can be noted that the relevant departments (the Federal Antimonopoly Service of the Russian Federation, the Ministry of Finance of the Russian Federation) also work in this direction. In order to load all the capacities of correctional institutions, it is necessary to maximize the use of the resources of these institutions, including the ones used in the implementation of national priority and regional projects. Legal

restrictions will always affect the activities of the manufacturing sector of the penal system and its effectiveness. Federal Law No. 44 needs adjustments that take into account the specifics of the penal system in providing state orders to correctional institutions. The possibility of increasing the efficiency of the production sector of the penitentiary system may lie in the formation of a general mechanism of public-private partnership. The same opinion was reached by Pinz and other researchers on various infrastructure projects (Pinz et al., 2017).

7. Conclusion

To increase the efficiency of correctional labor adaptation centers and production workshops, it seems expedient to attract private capital through the implementation of public-private partnership projects. For this it is necessary to conclude contracts between correctional institutions and commercial organizations, as it has also been stated by Bergere (2016). At the present time, the penitentiary system is looking for the opportunities of attracting private capital based on the federal law on public-private partnerships, municipal-private partnerships. At the same time, the existing restrictions in this area do not permit penal institutions to fully use the state property and transfer it to commercial organizations for joint production. In this regard, it is expedient to make amendments to the legislation in relation to the specific characteristics of the penal system.

In the existing market conditions, there are a number of legislative restrictions affecting the competitiveness of state-owned correctional institutions and complicating the organization of procurement activities. So, the problems of placing state and municipal orders at the production facilities of penal institutions include the lack of quotas in the amount of 15 % of the total annual procurement of customers by analogy with small businesses. In addition, under the current legislation, it is extremely difficult for penal institutions to ensure the continuity of the production process, which is hampered by the long periods of competitive procedures for the purchase of fuels and lubricants and spare parts, which are essential for the timely execution of the main state contract. At the same time, commercial organizations are ready to attract low-skilled labor from among convicts to work, but they cannot deliver manufactured products to institutions without competitive procedures. Also, the legislation does not allow the transfer of real estate facilities of penal institutions for the use by commercial organizations to host production without tenders or auctions. Given the above factors, it is necessary to work out certain amendments to federal laws and decrees of our country with appropriate financial and economic justifications.

For the efficient development of the correctional labor adaptation centers and production workshops it is advisable:

- to increase the number of convicts involved in labor by placing state, municipal, commercial orders at the production facilities of the system;
- to provide determination of the minimum volume of placing state orders at the penal production facilities;
- to promote the involvement of the regional authorities and local self-government in the organization of labor of convicts;

- to work out regional programs to provide the employment of convicts, as well as to establish a preferential tax regime for commercial entities.

In modern conditions it is impossible to increase the efficiency of the production activities of penal institutions without removing a number of factors that inhibit this process as it has also been indicated by Radchenko and Soloviev (2020). At present, we need to develop new ideas related to legal, economic and organizational mechanisms of improving the involvement of convicts in paid labour in the conditions of market relations.

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