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Modern Means of Correction and Resocialization of Convicted Persons

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Abstract

The transition from penalty as the main purpose of punishment to correction of behavior and resocialization of convicted persons in the process of service of punishment requires updating and improvement of the criminal-executive system of Ukraine, further active development of the probation system in general, and especially penal system. The solution of the existing shortcomings in the sphere of criminal punishment and trial is possible only by means of a consistent system reform based on scientific principles, implemented in practical area, which should be based on the stage-by-stage updating of the existing system to the modern, as transparent and understandable for the public, one of the main tasks of which will be to ensure the observance of human and civil rights. The creation of a scientific foundation for the functioning of such a system is the purpose of this scientific research. According to the set goal, the study uses a combination of both general scientific and special methods and methods of scientific knowledge, the application of which allowed to analyze the range of issues related to the correction and resocialization of convicted persons in a comprehensive manner. The current state of the criminal-executive system of Ukraine now requires updating of theoretical and adapting the legislative base by introducing foreign experience into the Ukrainian system of criminal penalties. Active development requires the system of appointment and execution of alternative punishment. Improving the system should be organized in such a way as to apply punishment to the person who committed the crime, without prejudice to its personality, and on the contrary to promote its full resocialization, which will, as a result, reduce the level of crime. Introduction of modern technologies in the work of bodies and institutions of criminal punishment and probation execution should become one of the key directions of reform implementation

Keywords:

criminal punishment; amendment; resocialization; probation; penal system

Introduction

In order to effectively implement the latest methods of criminal punishment system, it is important to consider and understand historical age of evolution, changes in views and approaches to punishment not only in Ukraine, but also in the world as a whole [1]. The origin of the idea of imprisonment in order to influence the internal world of the offender for his ceasing of his roots is

reached by early Christianity. The conceptual foundations of prison sentence as a fine punishment were formed in the XVIII century by the English, French and Italian rulers and thinkers. It was implemented in practice in the New World in the form of Pennsylvanian system, Auburn system and progressive penal system. In particular, the essence of the Auburn prison system is that prisoners are placed in separate cells only at night, and

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work all day together, but with the observance of strict silence [2]. Another type of prison system is a Philadelphia, or a Pennsylvanian, which is based on the principle of single content of the sentenced person in the cell [3]. Auburn prison later became a prototype of general detention, and the Philadelphia single. And different principles of detention in the above systems are conditioned by different understanding of what constitutes a means of correction of the sentenced person and under what conditions of detention the aim of correction of the offender can be achieved. The progressive system also turns out that the regime and conditions of punishment in the form of imprisonment during the term of punishment should change depending on the behavior of the defendant [4].

The latter, despite criticism and modification, were borrowed by European countries, where the concept of lawful influence under conditions of isolation has come a new look. It should be noted that the elements of the prison, namely, the division and classification of prisoners, labor, decent conditions of detention, the procedure of punishment (regime), training, moral and religious support, and still remain complex criminal-executive process. Most European countries, starting from the second half of the XIX century, have consistently introduced different models of legal influence. There are penal, therapeutic, resocialization, prison management, etc. Ukraine began this path only in the 90's XX century, since by that time Soviet justified labor doctrine, which was established in the post-war period and envisaged strengthening of educational influence on prisoners during the punishment. Work, professional training, teaching of the working profession were the main component of the legal-educational influence and further adaptation of offenders to social-useful life [5]. Later it was abandoned and began to search for new ideas and paradigms in view of international standards and foreign practices. Trying to revive the penal concept of the XIX century as the main purpose of punishment in the form of imprisonment, the group of Ukrainian scientists, mainly psychologists and teachers, spoke for renaming the criminal-executive system into a penitentiary system. The main task of the penal system was to resocialization of the prisoners. And its foundation is the educational influence and readiness of the most condemned to be dissolved in their criminal actions. It is the doctrine of resocialization, as seen by Ukrainian penitentiary teachers and psychologists, and has been enshrined in the Criminal-Executive Code of Ukraine in 2003¹ and is still preserved.

Article 6 of the Criminal-Executive Code of Ukraine² defines that "the correction of the convicted person is a process of positive changes that take place in his

personality and create his readiness for self-governing law-enforcement behavior. Resocialization is the conscious restoration of a full-fledged member of society convicted in social status; its return to an independent, generally accepted social and normative life in society. The necessary condition of resocialization is the correction of the sentenced person. The main means of correction and resocialization of prisoners are established procedure of execution and execution of punishment (regime), probation, socially useful work, social-educational work, general educational and professional-technical training, public influence". The probation, as a means of correction of convicts, appeared not so long ago in the Criminal-Executive Code of Ukraine³, only in 2016, after the adoption in 2015 of the Law of Ukraine "On Probation"⁴. However, probation is not the only modern remedy for convicts who appear in the modern world. We propose to consider the digitalization as one of the modern means of correction and resocialization of prisoners.

The purpose of the article is comprehensive scientific analysis of the current state of the newest means of correction and resocialization of the above-mentioned and development of proposals for further implementation of the updated system of measures of collection influence on the behavior of the convicted persons without harm to his person in accordance with the requirements of time and norms of international law. To achieve this goal we consider it expedient to perform *the following tasks*: to consider available technical means and methods of use of modern technologies in the process of execution of punishment, correction and resocialization of convicted persons; to carry out comparative-legal analysis on the basis of experience of foreign countries; to develop innovative methods of using innovative technologies during the appointment, execution and execution of punishment, preparation of prisoners for discharge, discharge and post adaptation of prisoners.

Materials and Methods

According to the set goal and tasks, the author used a combination of general scientific and special practices and methods of scientific knowledge, the application of which allowed to analyze the range of issues concerning modern means of correction and resocialization of convicted persons through the prism of modern technologies. Methods of comparative-legal and documentary analysis were used during the study of historical aspects of the system of punishment execution and their reflection in the modern system of criminal punishment execution. The historical periods of the legislative initiative and their implementation in modern realities were analyzed separately with the help of this method. In addition, the

¹Criminal-Executive Code of Ukraine. (2003, July). Retrieved from <https://zakon.rada.gov.ua/laws/show/1129-15#Text>.

²*Ibidem*, 2003.

³*Ibidem*, 2003.

⁴Law of Ukraine No. 160-VIII "On Probation". (2015, January). Retrieved from <https://zakon.rada.gov.ua/laws/show/160-19#Text>.

State Criminal-Executive Service of Ukraine were compared with the local systems of foreign countries.

Due to the statistical method it was possible to carry out statistical data on the total number of prisoners and defendants, as well as the bodies and institutions of punishment execution and subdivisions of the authorized trial body. The method of statistical analysis allowed to compare data with the previous years, and the legal-comparative method allowed to compare them according to certain criteria of paid services, which were planned to be introduced earlier with available at the moment. The prognostic method was used to predict the legal regulation of the mentioned issue in the future. In addition, the method of legal forecasting is used, which forms an opportunity to continue the research of the topic on the basis of the results obtained earlier, and as a result, implementation in the legislation of international, and in the activity of bodies and institutions of punishment and probation service of modern technical means.

Results and Discussion

Every day we face the need to introduce changes in the existing directions of economic, political and social activity, caused by the transformation of the world and society. Thus, there is an additional factor necessary for the effective implementation of reforms, which is the adequacy, flexibility and conformity of political, economic and social elites of the impact of globalization changes. This leads to the creation of new priorities in all spheres of social, economic and political life in the country, their adaptation in accordance with the directions of development of the European Union and concrete programs of their implementation to the Ukrainian society. In addition, there is a need for a consistent and comprehensive analysis of the country's key indicators on the basis of these international ratings and indices, implementation of the processes of "digitalization" at the political level, and the virtualization of the economy and society. Research of mechanisms of realization of such programs is an important stage of forecasting of further European prospects of the Ukrainian society. The main direction of Ukrainian reform today should be active development and implementation of road maps of modern projects. Special attention should be paid to the issue of "aging of professions", which takes place directly in the process of preparing the professional staff members, and therefore causes the traditional university education, and as a result becomes the reason for the change of social structure of society. Today, the analysis of social changes is based on redistribution of the society from the positions of the middle class removal, and as a result of the society structuring into three main groups of the population from the point of view of social employment and activity: "creative class", "service class" and "unnecessary" class [6; 7].

A question arises: What class to bring the prisoners who are going to be released from punishment? On the one hand, there is a need to improve new electronic capabilities, and on the other hand, as noted by the Minister of Digital Affairs of the Republic of Poland, M. Zagursky: "Digitalization should not complicate people's lives – it should provide tangible benefits" [8]. For global understanding of the statistics of the structure of the system of execution of criminal penalties of Ukraine, it is worth pointing out that as of January 1, 2022, 148 institutions of the authorities and institutions of execution of sentences, 589 units of the authorized bodies on probation were assigned to the Ministry of Justice of Ukraine. In addition, 29 institutions are located in separate areas of Donetsk and Luhansk regions, on temporarily occupied territories.

As of 01.01.2022, the total number of persons who are in the bodies and institutions of execution of the punishment of Ukraine is 48 259. Of them: In 12 pre-trial detention centers and 17 punishment institutions with the function of the pretrial detention center all remained – 17 352 persons (for comparison in 2021 16 673 persons were held); among them, 1 026 women (for comparison in 2021 there were 997 women), 116 minors (for comparison in 2021, 127 persons). Thus, the number of all persons who are kept in custody has decreased by 679 persons per year (the year before has decreased by 829 persons) [9].

Therefore, the importance of the issue of proper information and technical support for the activities of the State Criminal-Executive Service of Ukraine (hereinafter referred to as the State Criminal-Executive Service of Ukraine) in the day of technological progress, innovation development and achievements is indisputable. This is due to the fact that the current state of affairs of the State Council of Ukraine in this sphere is quite unsatisfactory. Therefore, in accordance with the order of the Cabinet of Ministers of Ukraine dated September 13, 2017 No. 654-r "On the Adoption of the Concept of Reforming (Development) of the Pension System of Ukraine for 2017-2020"¹ (hereinafter – the Concept), the ways of development and reform of the DHW of Ukraine were approved in accordance with modern realities. As a result, the Concept envisages the main tasks for solving existing technological problems: "To introduce modern information technologies into the activity of the authorities, institutions of punishment and pretrial detention centers, in particular to create a complex electronic register of convicted persons and persons taken under custody, as well as subjects of probation; to introduce modern and to modernize existing technical means of protection, including systems of video surveillance, in establishments of execution of punishment and pretrial detention centers; to replace outdated telecommunication equipment and means of communication"².

¹Resolution of the Cabinet of Ministers of Ukraine No. 654-p "On Adoption of the Concept of Reforming (Development) of the Penal System of Ukraine". (2017, September). Retrieved from <https://zakon.rada.gov.ua/laws/show/654-2017-%D1%80#Text>.

²*Ibidem*, 2017.

Such a direction of reforming the State Executive Service of Ukraine taking into account the current state of development of society and social relations and active process of digitalization of all areas of residential activity are insufficient, it would have to be expanded and divided into four blocks:

I. Tasks to solve existing technological problems (introduction of modern information technologies in the activity of bodies and institutions of punishment execution and investigation isolators).

II. Providing services to convicted and imprisoned prisoners through the prism of digitalization.

III. Involvement in the process of psycho-correction of behavior of convicted (correction) digital systems.

IV. Quality preparation of prisoners to return to society by full-fledged citizens (resocialization), who are able after their release from prison to self-managed behavior and ability to use modern means of life, so that they do not fall into the "class of unnecessary" [10].

If we consider **the first block**, a lot of programs have been prepared in this direction, but unfortunately, they are ineffective. This is due to the fact that today more than 90% of the available complexes of technical means of perimeter protection and 33% of other types of engineering and technical means of protection and supervision of penal institutions and pretrial detention centers of the State Executive Service of Ukraine are in unsatisfactory technical condition, as a result of repeated over travel of the boundary period of exploitation, moral and physical deterioration, therefore, the technical level of equipment of the penal institutions and investigators by means of protection can be assessed as unsatisfactory [11].

The main tasks to solve existing technological problems: Introduction of modern technologies, in work of bodies and institutions of execution of punishment and pretrial detention centers, for example, creation of complex electronic register of prisoners and persons taken under custody, as well as subjects of probation (now this project is already intimidated, Half a year the pilot versions of such registers on the basis of Holosiivsky District Probation Department of Kyiv and Kyiv Pretrial Detention Center) are in force; introduction of modern and modernization of available technical means for perimeter protection and ensuring observance of human rights, installation of the newest effective system of video surveillance, in the establishments of punishment and pretrial detention centers, including application of breast video monitors for employees; replacement of outdated equipment and means of communication. However, most of these projects cannot exist because not all punishment institutions have access to the broadband Internet.

Second block. It was proposed to provide and organize realization of several paid services, in particular services on sale of condemned and imprisoned food products and items of primary necessity through

Internet resources. However, this practice has not taken place due to a number of technical and political reasons. In contrast to this, at the legislative level, changes have been made to a number of normative-legal acts, which is why today, in accordance with Ukrainian legislation, persons sentenced to imprisonment and persons detained can receive parcels and transfers without restriction in their number. According to the legislator, this should help to improve the operational situation, because the accused will receive high-quality and tasty food from relatives and friends, and thus, it will be possible to assume that the quality of food will become better. But is it really true? Measures to solve one problem cause a number of others. Now, the sending and delivery is the main way of delivering prohibited items to the institutions of punishment execution. Daily operational staff throughout Ukraine are checking hundreds of thousands of parcels, and most of them can find prohibited items or food. It is not always drugs or weapons. Often, these are products that cannot be transferred because they cannot be checked according to sanitary norms, or products whose quality is questionable. Effective verification of every banker, check-in or transfer across the country requires the involvement of a large number of employees in this process. In some institutions, the execution of punishment due to a large staff deficit (about 5000 thousand for the service in general) is difficult to implement. Separately, it is worth paying attention to the fact that many prisoners are being punished far from the place of residence. This is connected with the process of optimization (conservation and liquidation) of the penal institutions, which is currently taking place in the system of the State Criminal-Executive Service of Ukraine, due to the reduction of the number of prisoners, but, unfortunately, it is not ineffective. This problem can be solved in a way that has long been introduced in their prison systems by progressive world countries, in particular our closest neighbors: Czech Republic, Poland, Slovakia, etc.

For example, in the penal system of California long ago forgotten about the parcels and transfers, which relatives and friends of prisoners themselves buy in shops, form and bring or send to institutions, moreover – they are forbidden. If convicted persons need to buy something that they lack, they have huge catalogs, through which they can buy almost everything that is in supermarkets, except alcohol and perishable products or contain yeast and many sugar [11; 12]. In addition, it is appropriate to consider the possibility of a wider introduction of distance learning system, development of a system of administrative services rendered to convicted persons by means of Internet resources (passport registration, pension registration, etc.). This circle can be extended further. The introduction of these capabilities will, first of all, enable the convicted to use modern electronic resources, expand the range of services the accused will be able to use, as well as reduce the time to receive these

services and will reduce the number of employees involved in the provision of these services.

One of the innovations in the implementation of paid services for convicted persons in Ukraine is the possibility of using paid cameras of improved comfort for prisoners who are imprisoned. And since 07/24/2020, a new service has been launched – payment for use of paid cameras in advance. Under the terms of the service receipt – any person taken under detention, has the right to provide the pretrial detention center with confirmation of payment of “services in advance” and to use the corresponding paid service within six months from the date of the respective payment. Payment of the service may be made without specifying the specific time of the stay in custody. If during the specified term the person will not be taken under custody and not get into the investigator’s detention facility, the funds for unused days will be credited to the special fund of the state budget of the investigator’s detention facility as charitable aid [13].

The service can be used in nineteen punishment institutions, where the experimental project on rendering of paid services is launched. These are the state institutions: “Kyiv pretrial detention center”, “Lviv pretrial detention center”, “Chernihiv pretrial detention center”, “Zaporizhzhya pretrial detention center”, “Vilnyansky penitentiary facility (No. 11)”, “Dnipro penitentiary facility (No. 4)”, “Kharkiv pretrial detention center”, “Poltava pretrial detention center”, “Sumy pretrial detention center”, “Zhytomyr penitentiary facility (№ 8)”, “Khmelnysky pretrial detention center”, “Chernivtsi pretrial detention center”, “Vinnytsia penitentiary facility (No. 1)”, “Rivne pretrial detention center”, “Lutsk pretrial detention center”, “Chortkivska penitentiary facility (No. 26)”, “Zakarpattia penitentiary facility (No. 9)”, “Ivano-Frankivsk penitentiary facility (No. 12)” [13].

The application for “pre-service” can be submitted both in writing and in electronic form through the automated system “on-line house of justice”. In the application it is necessary to specify: the place of rendering the service (the name of the pretrial detention center), the calendar period (day, week, month), for which it is planned to pay for the use of the paid camera, the consent of the payer on crediting of funds for unused days to the special fund of the state budget of the investigator as charitable aid. After payment the payer will receive confirmation with the payment ID (digital or QR code). At the same time, in case of absence of free places in cells with improved household conditions at arrival to the investigator of the person taken under custody, on which the “pre-service”, administration of the pretrial detention center will return funds to the cashless account of the payer from which the payment or cashless account was made, indicated by the person taken under custody [13].

As of 01/01/2022, 44 certificates for the total amount of 130225 UAH were purchased, in particular:

- Kyiv – 12 000 UAH (month);
- Kyiv – 500 UAH (3 days);
- Kyiv – 3 123 UAH (30 days);

– Kyiv – 8 000 UAH (4 days*2000 UAH – separate payments);

- Kharkiv – 1 000 UAH (day);
- Zaporizhzhya – 200 (day);
- Ivano-Frankivsk – 295 UAH (day);
- Ivano-Frankivsk – 290 UAH (day) [9].

Third block. The most important thing is that this process was positive and the accused himself realized the need to acquire these skills, that it will be necessary for him, both during punishment and in future life. Today, social and psychological work with convicted people in Ukraine takes place in three forms. There are mass, group and individual. Scientists all over the world have recognized that individual work is effective, but taking into account the fact that professional employees are not enough for carrying out qualitative social and psychological work for different reasons, therefore their lack can be filled with modern means of electronic analysis and influence. For example, to the accused to understand the harmful consequences of his offense, the pain that the victim has inflicted, with the help of electronic devices it is possible to modulate the process and the course of the crime, only the accused acts as the victim, and the offender another subject [14]. By providing an opportunity to conduct electronic correspondence by the convicted with relatives and friends, administration and socio-psychological staff can control the psycho-emotional state of the accused and on their part influence the psycho-correction of the person behavior. In order to understand how much the accused has reviewed their views on life in the process of preparation for release, electronic programs of differentiation the behavior of the accused can be introduced. This is not a large list of the possibilities that can be achieved with electronic devices in the process of psycho-correction of person behavior [15].

Fourth block. Considering that persons who are punished in places of restriction of liberty are deprived of the possibility to move simultaneously with the rapid changes taking place in the world, and after a certain period of time being released and falling into the society, where their behavior is no longer controlled, this process of preparation for release should start from the moment of their imprisonment and getting into prison. Today the statistical data of the State Criminal-Executive Service of Ukraine show the following criminal state of the prisoners: 851 persons sentenced to imprisonment for more than 10 years; 6 091 persons for murder; 2 599 persons for serious bodily injury; 6 408 persons for robbery and robbery; 11 082 persons for theft; 582 persons for rape; 9 persons for crimes against the foundations of national security [9]. Therefore, after their return, after 5-10 years of imprisonment in civil society, if they are not prepared, they will feel themselves in a “class of unnecessary”, which may push a new crime. The process of their training in the use of modern means of digital technologies is aimed at supporting the development of progressive digital skills and competencies should be close to secondary education and professional training.

Conclusions

Today, the State Criminal-Executive Service of Ukraine is already taking some steps toward updating and upgrading the criminal punishment system. For their further effective implementation we consider it expedient to constantly, consistent and thorough research of the possibilities of the system of carnival execution, by gradually integrating the theoretical postulates into practical activity first in pilot projects, and after their analysis and on a nationwide scale. The measures mentioned in this study, if implemented, should improve not only the quality of services rendered to convicted prisoners, who are

punished, increase the impact of social and psychological workers on the psycho-correction behavior of prisoners, provide opportunities for proper approach to this process to return those citizens who violated the law to society, and as a result, it is possible to ensure a reduction of the rate of repeat crimes. To organize this process, it is necessary to include in the road map of Ukrainian reforms a separate direction, concerning realization of rights of prisoners, USI of digitalization and technical development. To provide financing and control over implementation by the Government, so that this is not a regular Concept that will not be implemented.

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Сучасні засоби виправлення та ресоціалізації засуджених

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Анотація

Перехід від кари як основної мети покарання до корекції поведінки та ресоціалізації засуджених у процесі відбування покарання потребує оновлення та вдосконалення кримінально-виконавчої системи України, подальшого активного розвитку системи пробації, зокрема пенітенціарної. Передумовою усунення наявних недоліків у сфері виконання кримінальних покарань і пробації є здійснення послідовного реформування систем, що ґрунтуватиметься на наукових засадах, упроваджених у практичну діяльність, поетапному наблизенні наявної системи до сучасної, максимально прозорої та зрозумілої для громадськості, одним з основних завдань якої буде забезпечення дотримання прав людини та громадянина. Створення наукового фундаменту для забезпечення функціонування такої системи і є метою цього наукового дослідження. Відповідно до поставленої мети в дослідженні використано сукупність як загальнонаукових, так і спеціальних методів та способів наукового пізнання, застосування яких дозволило всебічно проаналізувати коло питань, що стосуються виправлення та ресоціалізації засуджених. Сучасний стан кримінально-виконавчої системи України нині потребує оновлення теоретичної бази та приведення у відповідність законодавства шляхом впровадження зарубіжного досвіду в українську систему виконання кримінальних покарань. Активного розвитку потребує система призначення та виконання альтернативних покарань. Удосконалення системи потрібно організувати в такий спосіб, щоб застосовувати покарання до особи, яка вчинила злочин, не завдаючи шкоди для її особистості, а навпаки – так, щоб сприяти її повноцінній ресоціалізації, що дасть змогу знизити рівень злочинності. Упровадження сучасних технологій у роботу органів та установ виконання кримінальних покарань і пробації має стати одним з ключових напрямів реформування

Ключові слова:

кримінальні покарання; виправлення; ресоціалізація; пробація; пенітенціарна система