

Thus, bodies established for the purpose of exercising public control on the initiative and with the assistance of the object of control itself are doomed to low efficiency.

Speaking more specifically about public control in the Armed Forces, it is worth noting a significant gap in the absence of subjects of public control over the activities of the General Staff of the Armed Forces of Ukraine and its subordinate units. Today there is a need to create a permanent independent body of public control focused on covering the facts of corruption in the military sphere. It is very important that this body has its own resources and authority to apply all existing procedures.

The second significant gap is the lack of a legal act that would regulate the mechanisms of public control, rights and responsibilities of its objects and subjects. Regulatory regulation of public control can contribute to the quantitative and qualitative growth of public associations, institutional and resource capacity, improvement of control technology. The lack of a solution

to this issue deprives us of the most effective tool in the field of preventing corruption.

Conclusions. Thus, in modern realities, public control is underdeveloped, in the defense sector it is only imitated. To improve the effectiveness of public control, it is first necessary to create proper legal regulation of the mechanism of this control, then create favorable conditions for the existence of subjects of control and their proper functioning.

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PROBLEMS OF RECIDIVISM PREVENTION JUVENILE PROBATION

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Abstract

This article highlights the effectiveness of the institution of probation as a mechanism for preventing recidivism of juveniles. A study of the legal framework as the basis of the probation service, the relationship between the system of supervision and social and educational measures and changes in the process of correction and resocialization. The positive social effect on probation subjects has been clarified. The need to introduce the institution of probation as a tool for the humanization of criminal justice in relation to recidivism of juveniles is noted.

The article examines probation as a new tool in the mechanism of prevention of recidivism among juveniles. The main idea is not punishment, but assistance in the rehabilitation and resocialization of a minor - it is covered through the use of a system of alternative types of punishment in combination with supervision and social and educational measures. Thus, juvenile probation is an effective system of supervisory, social, educational and preventive measures that allows for the effective prevention of juvenile delinquency.

In this context, attention should also be paid to the type of probation, such as penitentiary, which is manifested in the provision of social assistance to juveniles released from prisons. But, unfortunately, to confirm the effectiveness of the probation service in this direction, it is impossible to provide statistics. The core of probation activities for minors is the implementation of probation programs, which is a set of measures aimed at correcting social behavior or its individual manifestations, the formation of socially favorable personality changes. Relevant court decisions are submitted to the center, which is a subdivision of the probation body. According to this decision, the sector staff summon the convict, acquaint him with the procedure and conditions of either serving a sentence or release from probation, as well as conduct social and educational work according to an individual plan, taking into account the assessment of the risk and needs of the juvenile.

Keywords: probation, criminal justice, recidivism of juvenile delinquency, resocialization of convicts, criminal offenses.

On May 10, 2018, the Ministry of Justice held a constituent meeting of the working group on the development of bylaws on the effective implementation of the penitentiary system for juveniles on the basis of the Interdepartmental Coordination Council for Juvenile Justice. The meeting was attended by the adviser of the Interdepartmental Coordination Council - Ph.D. Solomiya Starosolska, Director of the Probation Center - Oleh Yanchuk, representatives of the Ministry of Justice of Ukraine, the Ministry of Social Policy of Ukraine, the Ministry of Education and Science of

Ukraine, the Administration of the State Penitentiary Service of Ukraine, the Presidential Commissioner for Children's Rights, NGOs. The members of the group discussed the new procedure for the implementation of penitentiary probation in Ukraine, as well as future plans for the development of guidelines for its use.

In particular, the meeting discussed a new procedure for cooperation between penitentiary institutions, probation authorities and social care entities in preparation for the release of persons serving sentences of imprisonment or imprisonment for a certain period.

Iryna Yakovets, First Deputy Director of the Probation Center, noted that the adopted Procedure will allow to help convicts much more effectively not only to socialize but also to reduce the risk of recidivism after their release from prisons. "The new Order gives us access to personal affairs, which will allow us to promote socialization and fulfill our responsibilities more effectively. In addition, we will facilitate the provision of social services to prisoners, in particular by clarifying procedures and appeals. Currently, the social and educational service in the colonies does not have enough staff and resources to prepare for the release of all convicts. Probation will take over part of this burden," Iryna Yakovets said [1].

The participants of the meeting discussed that after the adoption of the new Procedure, information on its application will be collected, and after that methodological recommendations for the use of penitentiary probation, in particular, for minors, will be developed. In addition, another working group of the Interagency Coordination Council on Juvenile Justice is developing a methodology for assessing the risks and needs of juveniles in correctional facilities. These tools will comprehensively and effectively promote the adaptation of children after educational institutions. The members of the working group discussed that penitentiary probation mechanisms still need to be improved over time. It is currently proposed to consider proposals for the participation of employment centers in the preparation of persons for dismissal, as well as the creation of additional training activities that would allow persons in detention to explore new opportunities. [1].

Since the introduction of the probation institute in Ukraine in 2015, the question of creating a new system of work with minors who are in conflict with the law has arisen. That is, imprisonment is used as a last resort. Such an institution as juvenile probation is quite new and progressive in the legal system of Ukraine, and therefore little studied. Some scientists, such as I.G. Bogatyrev, VM Burdin, VV Василевич, B.B. Zemlyanska, VV Kovalenko, T. Marshall, IM Михайлова, M.I. Хавронюк, Д.В. Yagunov et al., Developed scientific statements on the practical aspects of probation in Ukraine. However, researchers have not paid enough attention to the role of juvenile probation as a factor in preventing juvenile delinquency. The aim of the study is to analyze the activities of the established institute of juvenile probation as an effective tool for correcting juvenile convicts, preventing them from committing repeated criminal offenses, as well as their resocialization and reintegration. Probation (from the Latin. Probatio - probation) - a legal category of international law that defines the name and activities of the institution, whose competence has historically been to organize work with persons convicted of a criminal offense and sentenced to punishment, excluding imprisonment, or released from -under custody. According to IM Mikhailova, in a broad sense, it is possible to understand the institution of probation as a form of social and legal control, which combines measures of educational influence on criminals who are at large in probation [3].

Overcoming juvenile delinquency is one of the most socially acute issues of Ukrainian society. Over

the past 15 years, there has been a tendency to reduce juvenile delinquency. Until 2004, 31-33 thousand crimes committed by minors and with their participation were registered in Ukraine every year. Since 2005, the number of such crimes has decreased to 26.5 thousand, and in 2006 this figure reached 20 thousand. Since 2009, the downward trend has become even more noticeable: 15,445 crimes committed by minors have been registered (share - 5, 2%), then in 2010 - 17342 crimes (share - 5.3%) [2], in 2011 - 17846 (share - 5.6%), in 2012 (until 20.11.2011) - 14,238 crimes (share - 5.0%) [3]. During 2013–2018, the statistics were as follows: in 2013, the number of juvenile crimes was 8781 (share - 1.5%), in 2014 - 7467 (share - 1.4%), in 2015 - 6647 (1.3%), in 2016 - 5230 (0.9%), in 2017 - 5608 (1.1%), in 2018 - 4750 (0.9%) [4].

Despite the visible positive trend, it should be noted that such a decrease in juvenile delinquency is due not only to its actual decline, but also a gradual decrease in population, migration among the younger generation, lack of official statistics from the regions of the anti-terrorist operation - occupied Luhansk and Donetsk areas, ARC. Minors as a special social group are the formative basis of the present and future of the Ukrainian nation, so the change of anti-social attitudes of this category of criminals for the rehabilitation and reintegration of children who have committed offenses in the community should be under the auspices of mercy. World practice shows that the principle of "punish, not imprison", which is further transformed into re-education and warning against re-offending, is successfully implemented through the legal institution of probation. The essence of probation is to impose a range of restrictions and obligations imposed by the court on the offender for the purpose of his social rehabilitation [6].

During the supervision in the probation bodies 1228 minors were registered, 1002 persons are registered, 166 persons are clients of the juvenile sectors, 970 persons are released from serving a probation sentence, 32 persons are sentenced to community service, 1 person is released serving a probation sentence, 6 convicts who have committed repeated crimes after reviewing the procedure and conditions of serving a sentence. The main purpose of such centers is the introduction and implementation of probation programs based on international standards for the protection of the interests of the state, society and man with the use of measures aimed at correcting convicted or suspended juveniles, prevention and prevention of recidivism. Centers according to the standard of an effective model of juvenile probation, according to the Ministry of Justice of Ukraine, implement their tasks and functions in the form of assessing the risks and needs of minors, compile a pre-trial report on such persons, develop procedures for juvenile probation staff, develop methods of gender-oriented work with minors, cognitive-behavioral approach, motivational counseling and correctional and preventive programs "Anger Management", "Learning to manage emotions", "Choice for change", "Life skills". In addition, special tools of probation have already been developed taking into account the

age and socio-psychological characteristics of this category of convicts: risk assessment of repeated criminal offenses, pre-trial report, probation programs. Statistics illustrate that since the beginning of the year on 01.03.2019 within the pre-trial probation for pre-trial reports received 468 court rulings, 302 pre-trial reports, 270 of them prepared with the participation of the accused, 278 - with the conclusion of the possibility of correction without restriction or imprisonment [8].

The legislative definition of probation is a system of supervision and social-educational measures applied by a court decision and in accordance with the law to convicts, execution of certain types of criminal punishments not related to imprisonment, and providing the court with information characterizing the accused. According to Art. 12 of the Law, probation for minors is probation for persons aged 14 to 18, carried out taking into account the age and psychological characteristics of minors [7].

In the section "Basic measures for the development of criminal justice for minors" the Decree of the President of Ukraine provides a list of the following probation measures: 1) improvement of preventive and preventive work; 2) creation of an effective system of rehabilitation of juveniles who have committed offenses, with the aim of their re-education and resocialization. The Order of the Cabinet of Ministers of Ukraine approved the action plan for the implementation of the Concept for the Development of Juvenile Justice in Ukraine. The central provision is paragraph 4 of the Order - the establishment of a probation service, one of the functions of which should be to ensure adequate patronage of juveniles serving sentences in special educational institutions or released from them, to promote their social adaptation and reintegration. Since 2010, within the framework of the partnership between the Ukrainian and Canadian groups on the project of reforming the criminal justice system for juveniles, methods and work programs used in juvenile probation have been developed, and a model of a juvenile probation center has been developed. The normative basis is the Decree of the President of Ukraine "On the Concept of Criminal Justice for Juveniles in Ukraine" dated 24.05.2011 № 597/2011 and the Order of the Cabinet of Ministers of Ukraine "On approval of the action plan for the implementation of the Concept for the development of criminal justice for juveniles in Ukraine" dated 12.10.2011 № 1039-r. At the time of the adoption of these two legal acts, no basic provisions had been developed for the establishment of a separate institution, such as a probation body, but the foundations for its further formation had been laid [9; 10].

Probation as a new tool in a mechanism for preventing crime among juveniles proves its effectiveness and is quite justified. The main idea is not to punish, but to help the rehabilitation and rehabilitation of a minor - is highlighted through the application of an alternative punishment system in combination with supervisory and social and educational measures. Consequently, juvenile sampling is the effective system of supervisory, social, educational and preventive measures, which enables effective prevention of juvenile crime.

It is also worth paying attention to probation, as a penitentiary, which is manifested in the provision of social assistance to minors who are released from prisons. Unfortunately, it is not possible to provide statistics to confirm the effectiveness of the probation service in preventing the recurrence of minors. The basis of probation for minors is the implementation of relapse prevention programs, which is a set of measures aimed at correcting social behavior or its individual manifestations, the formation of socially favorable personality changes. Relevant court decisions are submitted to the relevant structural units of probation for execution. According to these decisions, employees summon the convict, acquaint him with the procedure and conditions of serving a sentence or release from probation, as well as conduct social and educational work according to an individual plan, taking into account the risk and needs of the juvenile. It is significant that all visitors to the probation department are its clients, they are not treated as criminals, ie the treatment of minors here is significantly different from the treatment in places of imprisonment. Qualified and specially trained staff of juvenile probation centers, taking into account the peculiarities of adolescence, based on the theory of juvenile delinquency and developed methods for assessing the risks of recidivism: conducts interviews with minors to gather information, establish contact and maintain trusting relationships persons; provides acquaintance of minors with educational and preventive programs; performs cognitive-behavioral intervention and work with adolescents in view of their traumatic experience; conducts motivational counseling. Applying an individual approach to juveniles who are in conflict with the law and neutralizing the factors that contributed to their offenses can significantly reduce the risk of re-offending and imprisonment. Statistics show that only a small proportion of juveniles registered with probation and receiving assistance at juvenile probation centers relapsed.

So, as we see, the main functions of probation in addition to preventing recidivism are resocialization and correction of convicted juveniles that takes place in the community, without isolation from society, separation from family, communication with peers, which prevents harm to psycho-emotional state and does not distort consciousness. and values. Due to the humanization of the approach to punishing juveniles through the use of probation, modern scholars and practitioners identify a number of significant changes, namely: the involvement of minors in various socially useful activities, which instills a positive attitude to their duties and forms a sense of responsibility; study of new forms of social interaction; development of socially useful hobbies; mastering the prescriptions of moral and legal norms as their own life attitudes; psychocorrection through training programs, which lays the foundations of knowledge, skills, abilities and guidelines necessary to change risky behavior. Under modern conditions, Ukrainian society needs to develop new approaches to improving the system of criminal justice for minors, which meets international standards.

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LEGAL APPLICATION QUESTIONS OF DISCIPLINARY PENALTIES IS TO ARBITRAGE MANAGING IN UKRAINE

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ПИТАННЯ ПРАВОЗАСТОСУВАННЯ ДИСЦИПЛІНАРНИХ СТЯГНЕНЬ ДО АРБІТРАЖНИХ КЕРУЮЧИХ В УКРАЇНІ

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Abstract

In the article a study is undertaken of organizational and legal questions of legal application of disciplinary penalties is undertaken at bringing in to disciplinary responsibility of the arbitrage managing on results of professional activity. The current legislation of Ukraine is system analysed, in particular Code of Ukraine from procedures of bankruptcy. A legislative vagueness in relation to bringing in to disciplinary responsibility of the arbitrage managing and absence of clear normative interpretation is certain in relation to application of disciplinary penalties to arbitrage managing in a sphere of procedures from bankruptcy.

Анотація

У статті проведено дослідження організаційно-правових питань правозастосування дисциплінарних стягнень при притягненні до дисциплінарної відповідальності арбітражних керуючих за результатами професійної діяльності. Системно проаналізовано чинне законодавство України, зокрема Кодекс України з процедур банкрутства. Зроблено висновки щодо законодавчої невизначеності притягнення до дисциплінарної відповідальності арбітражних керуючих та відсутність чіткого нормативного тлумачення стосовно застосування дисциплінарних стягнень до арбітражних керуючих у сфері процедур з банкрутства.