

UDC 343.8

DOI <https://doi.org/10.32849/2663-5313/2021.7.12>**Yan Streliuk,***PhD in Law, External Doctoral Student at the Department of Law Enforcement and Anti-Corruption Activities, Interregional Academy of Personnel Management, 2, Frometivska street, Kyiv, Ukraine, postal code 03039, StreliukYan@ukr.net***ORCID:** orcid.org/0000-0002-4209-2017

Streliuk, Yan (2021). Conceptual principles of general social prevention of criminal offenses in closed penal institutions in Ukraine. *Entrepreneurship, Economy and Law*, 7, 78–84.

CONCEPTUAL PRINCIPLES OF GENERAL SOCIAL PREVENTION OF CRIMINAL OFFENSES IN CLOSED PENAL INSTITUTIONS IN UKRAINE

Abstract. *The purpose* of the article is to outline the range of issues relevant to Ukraine concerning the implementation of general social measures by state authorities and local self-government bodies, public organizations, etc. for preventing criminal offenses and express an original opinion on certain ways of their solution. **Results.** The article reveals the challenging issues of studying general social prevention of criminal offenses in closed penal institutions in Ukraine. It analyses domestic scientific perspectives on general social prevention of criminal offenses in closed penal institutions of the State Penitentiary Service of Ukraine. The author identifies the subjects of general social prevention of criminal offenses in closed penal institutions in Ukraine, as follows: the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine and other public authorities, local self-government bodies, other subjects preventing criminal offenses (the Prosecutor's office, court, the police, the Security Service of Ukraine). **Conclusions.** The author put forward a set of actions to improve the system of general social prevention of criminal offenses in closed penal institutions: 1) it involves overall, not partial, financing of the penitentiary system of Ukraine from the State Budget of Ukraine, especially in the part of creation of European conditions of execution and service of punishment in the form of deprivation of liberty provided for by the relevant Law of Ukraine; 2) overhaul of the CPI with replacement, maintenance of engineering and technical and other means of security, supervision, in particular, using the latest technologies; 3) the construction of new and reconstruction of existing pre-trial detention centers and penal institutions according to international standards (individual chamber or no more than two defendants, full video surveillance of these persons at all objects of living, strict criminal and legal measures for attempts of delivery (transfer, transportation, sending, etc.) of prohibited items to places of imprisonment); 4) the creation of appropriate conditions for ensuring effective social protection of personnel of the State Penitentiary Service of Ukraine, including through providing fair salaries sufficient to attract and maintain penal bodies and institutions; 5) adoption by the Verkhovna Rada of Ukraine of the Law of Ukraine "On the Penitentiary System of Ukraine" which shall provide for the creation of appropriate legal, organizational and other conditions for effective public control over criminal executive activities in Ukraine, improving the effectiveness of control over the execution of sentences by the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, other state executive authorities, the results of which should be brought to the public in the prescribed manner.

Key words: general social, prevention, criminal offense, closed penal institution, subjects.

1. Introduction

Problem statement. The application of measures of general social prevention of criminal offenses in closed penal institutions (hereinafter – the CPI). is an important issue regarding the implementation of the Strategy for reforming judicial system and proceedings and related legal institutions for 2015–2020 (approved by the Decree of the President of Ukraine № 276/2015 as of May 20, 2015) (On the Strategy for reforming judicial system

and proceedings and related legal institutions) and the Concept of reforming (development) of the penitentiary system of Ukraine (approved by the Order 654-r of the Cabinet of Ministers of Ukraine as of September 13, 2017) (On approval of the Concept of reforming (development) of the penitentiary system of Ukraine, 2017).

Analysis of recent research and publications. Problems of general social prevention of criminal offenses in

the CPI in Ukraine have been studied by the following scientists: L.V. Bahrii-Shakhmatov, O.M. Bandurka, V.S. Batoryhareieva, I.H. Bohatyrov, A.I. Bohatyrov, V.V. Vasylevych, V.O. Hlushkov, V.V. Holina, B.M. Holovkin, V.K. Hryshchuk, O.M. Humin, I.M. Danshyn, T.A. Denysova, O.M. Dzhuzha, V.M. Dromin, A.P. Zakaliuk, V.V. Kovalenko, O.H. Kolb, I.O. Kolb, I.M. Kopotun, O.M. Kostenko, Ya.Yu. Likhovyt'skyi, O.M. Lytvak, O.M. Lytvynov, S.S. Miroshnychenko, Yu.V. Orlov, M.S. Puzyrov, A.Kh. Stepaniuk, B.M. Trubnykov, V.O. Tuliakov, I.S. Yakovets, V.I. Shakun, O.O. Shkuta et al.

It should be noted that such measures are aimed at the comprehensive solution of the issues of functioning of the penitentiary system of Ukraine and search for adequate responses to criminal offenses in the CPI. Because of this, the author advocates the opinion of the Italian criminologist Cesare Beccaria: "It is better to prevent crimes than to punish them" (Beccaria, 2014, p. 222).

Scientific perspectives, ideas, opinions and provisions published and realized by domestic scientists in monographs, textbooks, educational manuals in the relevant field are a significant basis for the study of the general social prevention of criminal law in the CPI of Ukraine.

However, despite the considerable number of works devoted to the prevention of criminal offenses in penal institutions, there are problems and difficulties in their practical realization that, in the author's opinion, deepens the discussion of this issue.

The purpose of the article is to outline the range of issues relevant to Ukraine concerning the implementation of the general social measures by the state authorities and local self-government bodies, public organizations, etc. for preventing criminal offenses and express an original opinion on certain ways of their solution.

2. Prevention of crime as a kind of social activities

Given that penitentiary crime is a variety of common crime, its prevention in the CPI refers to general social, special criminological and individual measures of prevention.

For instance, this was the focus of works by domestic scientists O.H. Kolb, A.V. Kyryliuk, M.S. Puzyrov, who studied the prevention of crimes among the defendants in the penal institutions and argued that a comprehensive approach to the prevention of criminal offenses among the defendants should be developed in all the chains of the penitentiary system (Dzhuzha, Vasylevych, Cherniei, Cherniavskyi, 2020, p. 563).

At the same time, according to academician A.P. Zakaliuk, prevention of crime as a kind of social activity belongs to such important

areas of the latter as social control and social prevention. Therefore, the scientist argues that this variety has its own specific subject and its particular purpose, namely: the subject is activities concerning deterrent of the action of the crime determinants, first of all, its causes and favourable conditions, to limit, neutralize and, if possible, eliminate their actions. He believes that this determines functional community and meaningful connection of all elements of prevention activities: its scope, nature, goals, subjects, objects, etc., one of which is the general social prevention of crime (Zakaliuk, 2007, p. 323).

Therefore, taking into account the ideas of A.P. Zakaliuk and other domestic scientists-criminologists, in particular: V.V. Holina, B.M. Golovkin, M.Y. Valuiska (Holina, Holovkin, Valuiska, 2014, p. 143); O.D. Kolb, A.V. Kyryliuk, M.S. Puzyrov (Dzhuzha, Vasylevych, Cherniei, Cherniavskyi, 2020, p. 563), A.I. Bohatyrov (Bohatyrov, 2019, p. 321), the general social prevention of criminal offenses in closed penal institutions should be interpreted as a set of state and non-state measures of legal, organizational, technical, financial and other nature, which are realized by the relevant subjects of preventive activities and aimed at deterring criminal offenses in closed penal institutions.

Moreover, the identification of the reasons and conditions for criminal offenses in the CPI and the necessity to activate scientific research on this issue are evidenced by the empirical materials collected in the course of this study. For instance, the response to the question whether criminal offenses in CPI can be prevented at the general social level (of state, society, its groups, etc.) was positive by 28% of the total number of interviewed convicted persons in these institutions, was disagreement by 43%, and the rest expressed the frequency of such prevention. For its part, 45% of the staff of the CPI answered this question positively, 5% did not agree only, and every second interviewee said about the relative importance of measures of general social prevention.

Therefore, domestic literature review reveals that the general social prevention of criminal offenses in the CPI should be considered as one of the most important aspects of social policy, i. e. social reaction of the state and society to crime (Holina, Holovkin, Valuiska, 2014, pp. 144). This position is also supported by domestic criminologists O.M. Dzhuzha, E.M. Moiseiev, V.V. Vasylevych, who believe that the measures of this kind of prevention are aimed at positive influence on formation of the person of all members of society (Dzhuzha, Moiseiev, Vasylevych, 2001, p. 62).

Taking into account the approaches developed in criminology to the phenomenon under study, it should be noted that now Ukraine has a range of subjects that somehow carry out measures of general social prevention of criminal offenses in the CPI; however, it is still early to argue that their activities are systematic. Ukrainian scientists O.M. Bandurka and L.M. Davidenko advocate the above position and state that further development and improvement of the system of subjects of crime counteraction require determination of their competence, rights and duties, establishment of communication channels between them; organization of interaction; legal support (Bandurka, Davidenko, 2003, p. 105).

The practical component of these issues is under focus of the publication "Seven circles of hell of the penitentiary system" by S. Kolesnyk and Ye. Yenin. It highlights the current state of affairs in execution and serving a sentence in the form of imprisonment for a certain term in Ukraine. In particular, according to the results of special studies in the field of execution of sentences in 2019, the administration fully controls the situation only in 30 out of 150 penitentiary institutions, and in other cases, such management is formal because the institutions are governed not by legal rules but primarily by the rules of the criminal environment (so-called criminal subculture). In such CPIs, the sentenced are subject to the "thief's duty" in which means of payment include prohibited items, products and substances (money, drugs, alcohol etc.) (Kolesnyk, Yenin, 2019, p. 105).

The above is confirmed by the results of this study and is the outcome of the inconsistent preventive activities of the administration and staff of the CPI, and the low efficiency of the use of options of general social prevention of crimes. As for the measures of general social prevention of criminal offenses in the CPI, attention should be paid to state programs, strategies, concepts, etc., developed at the level of the parliament, the President of Ukraine, the Cabinet of Ministers of Ukraine and central state executive authorities.

Nowadays, the direct statutory act regulating the essence of prevention of criminal offenses in the CPI is the Concept of reforming (development) of the penitentiary system of Ukraine (On approval of the Concept of reforming (development) of the penitentiary system of Ukraine, 2017). In particular, Section 1 of this Concept states that the penitentiary system existing in the country requires structural reform, one of the tasks of which is to develop legislation on functioning of pre-trial detention centres and enforcement agencies in accordance with the legislation of the European

Union, which has a direct relation to the issues under consideration.

In view of the above, an important step is to strengthen the Concept's objective – the further reform of the penitentiary system of Ukraine for the undeniable observance of human and civil rights and humanization of the penal mechanism, establishing conformity between the tasks and functions of such bodies, on the one hand, structure and their number, on the other, and financing, on the third, since the system has been funded in the amount of 40% of the need (Section II of the Concept) (On approval of the Concept of reforming (development) of penitentiary system of Ukraine, 2017).

Consequently, the physical infrastructure of the operating penal institutions (113 correctional facilities, 12 pre-trial detention centres and 6 training facilities) is outdated: most buildings and constructions are far from perfect, and some are in a critical condition, that is why conditions of detention of convicted and imprisoned persons are not provided. Thus, this fact increases the probability of entry of prohibited objects, products and substances into the place of deprivation of liberty, and also reduces the effectiveness of prevention in this area (Section III of the Concept). In addition, the level of technical equipment of pre-trial detention centres and penal institutions with means of security (more than 90% of available complexes of technical means of perimeter security and 33% of other types of engineering and technical means of security and supervision of these establishments are in unsatisfactory technical condition due to multiple exceeding the service life limit, moral and physical expiry (Section III of the Concept) (On approval of the Concept of reforming (development) of penitentiary system of Ukraine, 2017).

These circumstances are determinants that facilitate the criminal offenses in the CPI. Therefore, it is quite obvious that the current national legislation of Ukraine (annual State Budgets, Tax Code of Ukraine, etc.) should be modified in the part of penitentiary. Nevertheless, given the current state of penitentiary and recurrent crime and the problem of counteracting so-called "code-bound thieves" (On Amendments to Certain Legislative Acts of Ukraine Concerning Liability for Crimes Committed by the Criminal Community, 2020) in Ukraine, and an ineffective regulatory mechanism for this issue in the Law of Ukraine "On National Security of Ukraine", the author supports the proposal by K.H. Makhnitska regarding the need to supplement part 2 of article 12 "Security and Defence Sector Composition" of this Law with the such a body as the State

Penitentiary Service of Ukraine (Makhnitska, 2021, p. 137).

With regard to other measures of general social prevention of criminal offenses in the CPI, they are also mentioned in the Law of Ukraine "On Protection of Public Morality" (part 1, art. 1) which defines the concept of "public morality" as a system of ethical norms formed in society on the basis of traditional spiritual and cultural values, ideas about good, honour, dignity, public duty, conscience, justice (On the protection of public morality, 2003). Unfortunately, in the relevant legal regulation, the legislator did not prescribe the harmful nature of the influence of criminal subculture on the population and prevention measures on this issue. Although, the negative influence of subculture affects the moral foundations of society, especially those relating to children and youth.

According to the practice and findings of special scientific research, having found oneself in detention facilities, a person faces such a phenomenon as "the second life". K.V. Muraviov argues that this phenomenon is an informal system of self-organization of convicted persons, which has been forming over decades. That is why, self-organization, like any other system, includes role and social stratification of members, availability of particular rules of conduct (laws, customs, traditions), as well as the punitive system (in case of rules' violation) (Muraviov, 2000, p. 151).

3. National strategie in the field of human rights, combating crime and national security of Ukraine

However, this study proves that at the state (general social) level, the issue of prevention of influence on public morality, public order and public safety of criminal subculture has not become relevant and practically significant. This conclusion relies on the analysis of modern national strategies in the field of human rights, combating crime and national security of Ukraine. First of all, the National Human Rights Strategy recently adopted by the Presidential Decree is aimed at uniting society in terms of the realization of values of human rights and freedoms, which are guaranteed and protected on the basis of equality and non-discrimination principles (On the National Strategy for Human Rights, 2021), but does not fully cover the issues in this field.

At the same time, it should be positively noted that this Strategy defines the issue of improper conditions of detainment of persons, who are in pretrial detention facility or penal institutions, non-provision of proper medical care to such persons, as well as a lack of effective legal protection (para. 4, § 2) (On the National

Strategy for Human Rights, 2021). This issue has never been raised during the consideration of the prevention and counteraction to the tortures, cruel, inhuman or degrading treatment or punishment.

Such irresponsibility has led to the fact that at present, according to Section III of the Concept of reforming (development) of penitentiary system of Ukraine, buildings of the operating pre-trial detention centres have been constructed more than 200 years ago (pre-trial detention institutions compose 12% of the total); from 100 to 200 years ago (58%); from 50 to 100 years ago (14%); from 10 to 50 years (14%) (On approval of the Concept of reforming (development) of penitentiary system of Ukraine, 2017). In the author's opinion, the definition of this one at such level will definitely have a positive impact on the situation and there are sincere hopes that the above provisions will be implemented.

It should be noted that due to the fact that the Ministry of Justice of Ukraine implements the public policy in the field of execution of sentences and probation (part 1, art. 11 of the PC of Ukraine), but it is not a law enforcement body, law enforcement reform can only be discussed in terms of bodies and institutions, which directly execute criminal sentences under article 50 of the CC of Ukraine.

The staff turnover in the State Penitentiary Service of Ukraine has a negative impact on the effectiveness of the implementation of preventive social measures in this area due to low salaries of the staff of the CPI, low level of social protection of working persons and pensioners of the State Penitentiary Service.

Analysed the content of the provisions of the Law of Ukraine "On the Execution of Judgments and the Application of the Case-Law of the European Court of Human Rights", one can state with confidence about the international control over the observance of human and citizen rights and in the field of execution of sentences of Ukraine.

The activities of the relevant subjects are recognized today as a separate chain of social measures to prevent criminal offenses in the CPI. The activities in this area are regulated by the legal instruments issued by:

a) the Verkhovna Rada of Ukraine, which is empowered by section IV of the Constitution of Ukraine (art. 85) and the Regulations of the Verkhovna Rada of Ukraine to adopt laws (para. 3, art. 85), approve the State Budget of Ukraine and supervise its execution (para. 4, art. 85), establish the principles of domestic (para. 5, art. 85) and take other actions

concerning, in particular, the legal and regulatory mechanism of execution of sentences of Ukraine (Constitution of Ukraine, 1996);

b) the President of Ukraine, who is empowered by Section V of the Basic Law, in particular, art. 106, to approve relevant legal regulations (Concepts, strategies, etc.), including ones relating to the execution of sentences (Constitution of Ukraine, 1996);

c) the Cabinet of Ministers of Ukraine, the powers of which are enshrined in Section VI of the Constitution of Ukraine (art. 116), as well as in the Law of Ukraine “On the Cabinet of Ministers of Ukraine” (On the Cabinet of Ministers of Ukraine, 2014);

d) other state executive authorities (local public administrations of different levels) (On local state administrations, 1999);

e) local self-government bodies (On Local Self-Government in Ukraine, 1997);

f) other subjects of crime prevention, including ones related to subjects of special and criminological prevention of crimes.

4. Conclusions

To sum up the findings of the study of general social measures for preventing criminal offenses in the CPI, the author highlights the following:

1) overall, not partial, financing of the penitentiary system of Ukraine from the State Budget of Ukraine, taking into account that other sources do not provide urgent needs of the CPI, especially in the part of the creation of European conditions of execution and service of punishment in the form of deprivation of liberty;

2) overhaul of the CPI with replacement, maintenance of engineering-technical and other means of security, supervision, in particular, using the latest technologies as provided by art. 103 of the PC of Ukraine;

3) construction of new and reconstruction of existing pre-trial detention centres and penal institutions according to international standards (individual or dual cell; full video surveillance of these persons at all sites, strict criminal-legal measures for attempts of delivery (transfer, transportation, sending, etc.) of prohibited items to places of imprisonment);

4) creation of appropriate conditions for ensuring effective social protection of personnel of the SPS of Ukraine, including by paying them as professional workers with a status that civil society can respect, as mentioned in para. 76 of the European Prison Rules, whose salaries shall be adequate to attract and maintain bodies and penal institutions (para. 79.1 of these rules);

5) adoption by the Verkhovna Rada of Ukraine of the Law of Ukraine “On the Penitentiary System of Ukraine”, which shall provide for the creation of appropriate legal, organizational and other conditions for effective public control over penal activities in Ukraine, improving the effectiveness of control over the execution of sentences by the Verkhovna Rada of Ukraine, the President of Ukraine, the Cabinet of Ministers of Ukraine, other state executive authorities, the results of which should be brought to the public in the prescribed manner.

References:

- Bandurka, A.M., Davidenko, L.M.** (2003). *Prestupnost v Ukraine: prichyny i protivodeistvie [Crime in Ukraine: causes and counteraction]*. Kharkov: Osnova (in Russian).
- Bekkaria, Ch.** (2014). *O prestupleniakh i nakazaniakh [About crimes and punishments]*. Kiev (in Russian).
- Bohatyrov, A.I.** (2019). *Antykryminohennyi vplyv na zlochynnist u mistsiakh nesvobody Ukrainy [Anti-criminogenic impact on crime in places of detention in Ukraine]*. Kherson: Helvetyka (in Ukrainian).
- Dzhuzha, O.M., Moiseiev, Ye.M., Vasylevych, V.V.** (2001). *Kryminolohiia [Criminology]*. Kyiv: Atika (in Ukrainian).
- Dzhuzha, O.M., Vasylevych, V.V., Cherniei, V.V., Cherniavskiy, S.S.** *Kryminolohiia [Criminology]*. Kyiv: Maslakova (in Ukrainian).
- Holina, V.V., Holovkin, B.M., Valuiska, M.Yu.** (2014). *Kryminolohiia [Criminology]*. Kharkiv: Pravo (in Ukrainian).
- Kolesnyk, S., Yenin, Ye.** (2019). Sim kil pekla penitentsiarnoi systemy [Seven circles from the penitentiary system]. *Dzerkalo tyzhnia. Ukraina – Mirror of the week. Ukraine*. Retrieved from: https://zn.ua/ukr/internal/sim-kil-pekla-penitentsiarnoyi-sistemi-333623_.html (in Ukrainian).
- Konstytutsiia Ukrainy: Zakon Ukrainy** [Constitution of Ukraine: Law of Ukraine] (1996). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/254k/96-вр#Text> (in Ukrainian).
- Makhnitska, K.H.** (2021). Kryminalno-vykonavchi zasady zapobihannia potraplanniui do zasudzhennykh, pozbavlenykh voli, zaboronykh predmetiv [Criminal-executive principles of prevention of getting to convicts, imprisoned, forbidden subjects]. *Candidate's thesis*. Kyiv (in Ukrainian).
- Muraviov, K.V.** (2000). “Areshtantska spilnota” yak suspilno-psykholohichniy fenomen u mistsiakh pozbavleniia voli [“Prison community” as a socio-psychological phenomenon in places of imprisonment]. *Problemy penitentsiarnoi teorii i praktyky – Problems of penitentiary theory and practice*, no. 5, pp. 151–157 (in Ukrainian).
- Pro Kabinet Ministriv Ukrainy: Zakon Ukrainy** [On the Cabinet of Ministers of Ukraine: Law of Ukraine] (2014). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/794-18#Text> (in Ukrainian).

Pro mistseve samovriaduvannia v Ukraini: Zakon Ukrainy [On local self-government in Ukraine: Law of Ukraine] (1997). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/280/97-вп#Text> (in Ukrainian).

Pro mistsevi derzhavni administratsii: Zakon Ukrainy [On local state administrations: Law of Ukraine] (1999). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/586-14#Text> (in Ukrainian).

Pro natsionalnu bezpeku Ukrainy: Zakon Ukrainy [On National Security of Ukraine: Law of Ukraine] (2018). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/2469-19#Text> (in Ukrainian).

Pro Natsionalnu stratehiu u sferi prav liudyny: Ukaz Prezydenta Ukrainy [On the National Strategy for Human Rights: Decree of the President of Ukraine] (2021). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/119/2021#Text> (in Ukrainian).

Pro skhvalennia Kontseptsii reformuvannia (rozvytku) penitentsiarnoi systemy Ukrainy: Rozporiadzhennia Kabinetu Ministriv Ukrainy [On approval of the Concept of reforming (development) of the penitentiary system of Ukraine: Order of the Cabinet of Ministers of Ukraine] (2017). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/654-2017-p#Text> (in Ukrainian).

Pro Stratehiu reformuvannia sudoustroiu, sudochynstva ta sumizhnykh pravovykh instytutiv na 2015–2020 roky: Ukaz Prezydenta Ukrainy [On the Strategy for reforming judicial system and proceedings and related legal institutions for 2015–2020: Decree of the President of Ukraine] (2015). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/276/2015#Text> (in Ukrainian).

Pro vnesennia zmin do deiakykh zakonodavchykh aktiv Ukrainy shchodo vidpovidalnosti za zlochyny, vchyneni zlochynnoiu spilnotoiu: Zakon Ukrainy [On Amendments to Certain Legislative Acts of Ukraine Concerning Liability for Crimes Committed by the Criminal Community: Law of Ukraine] (2020). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/671-20#Text> (in Ukrainian).

Pro zakhyst suspilnoi morali: Zakon Ukrainy [On the protection of public morality: the Law of Ukraine] (2003). *rada.gov.ua*. Retrieved from: <https://zakon.rada.gov.ua/laws/show/1296-15#Text> (in Ukrainian).

Zakaliuk, A.P. (2007). *Kurs suchasnoi ukrainskoi kryminolohii: teoriia i praktyka* [Course of modern Ukrainian criminology: theory and practice], vols. 1–3. Kyiv: In Yure (in Ukrainian).

Ян Стрелюк,

кандидат юридичних наук, здобувач кафедри правоохоронної та антикорупційної діяльності, Міжрегіональна Академія управління персоналом, вулиця Фрометівська, 2, Київ, Україна, індекс 03039, StrelukYan@ukr.net

ORCID: orcid.org/0000-0002-4209-2017

КОНЦЕПТУАЛЬНІ ЗАСАДИ ЗАГАЛЬНОСОЦІАЛЬНОГО ЗАПОБІГАННЯ КРИМІНАЛЬНИМ ПРАВОПОРУШЕННЯМ У КРИМІНАЛЬНО-ВИКОНАВЧИХ УСТАНОВАХ ЗАКРИТОГО ТИПУ В УКРАЇНІ

Анотація. *Метою статті* є окреслення кола актуальних для України питань, пов'язаних із реалізацією органами державної влади й місцевого самоврядування, громадськими організаціями тощо загальносоціальних заходів запобігання кримінальним правопорушенням, а також виклад власної думки стосовно окремих шляхів вирішення зазначених питань. **Результати.** Статтю присвячено проблемним питанням дослідження загальносоціального запобігання кримінальним правопорушенням у кримінально-виконавчих установах закритого типу в Україні. Проаналізовано наукові позиції вітчизняних учених стосовно загальносоціального запобігання кримінальним правопорушенням у кримінально-виконавчих установах закритого типу Державної кримінально-виконавчої служби України. Виокремлено суб'єктів загальносоціального запобігання кримінальним правопорушенням у кримінально-виконавчих установах закритого типу в Україні, з-поміж яких головними є Верховна Рада України, Президент України, Кабінет Міністрів України та інші органи державної влади, органи місцевого самоврядування, інші суб'єкти запобігання кримінальним правопорушенням (прокуратура, суд, поліція, Служба безпеки України). **Висновки.** Запропоновано численні заходи для поліпшення системи загальносоціального запобігання кримінальним правопорушенням у кримінально-виконавчих установах закритого типу: 1) повне, а не часткове фінансування пенітенціарної системи України з Державного бюджету України, зокрема, у частині створення європейських умов виконання та відбування покарання у вигляді позбавлення волі, що передбачено відповідним законом; 2) проведення капітального ремонту установ із заміною чи переобладнанням інженерно-технічних та інших засобів охорони й нагляду, зокрема, з використанням новітніх технологій; 3) побудову нових і реконструкцію існуючих слідчих ізоляторів та установ виконання покарань згідно з міжнародними стандартами (покамерне одиничне або тримання не більше двох засуджених, повне відеоспостереження за цими особами на всіх об'єктах життєдіяльності, суворі заходи кримінально-правового характеру за спроби постачання (проносу, провозу,

пересилання тощо) заборонених предметів у місця позбавлення волі); 4) створення належних умов щодо забезпечення ефективного соціального захисту персоналу Державної кримінально-виконавчої служби України, зокрема й шляхом встановлення заробітної плати цих осіб на рівні, що має бути достатнім для їх залучення та утримання органів та установ виконання покарань; 5) прийняття Верховною Радою України Закону України «Про пенітенціарну систему України», у якому необхідно передбачити створення належних правових, організаційних та інших умов для здійснення ефективного громадського контролю за кримінально-виконавчою діяльністю в Україні, підвищення ефективності контролю за сферою виконання покарань в Україні з боку Верховної Ради України, Президента України, Кабінету Міністрів України та інших органів державної виконавчої влади, результати якого мають бути доведені в установленому порядку до суспільства.

Ключові слова: загальносоціальний, запобігання, кримінальне правопорушення, кримінально-виконавча установа закритого типу, суб'єкти.

The article was submitted 15.07.2021

The article was revised 04.08.2021

The article was accepted 24.08.2021