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Correction and Resocialisation of Persons Sentenced to Imprisonment in the System of Means of Implementing the Tasks of Criminal Executive Legislation

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Abstract

Any area of legal regulation, in particular the execution of criminal sentences, is necessarily based on fundamental constitutional principles, which are the basis for the development of relations between the rule of law and the individual. These principles include: the inseparability and inviolability of rights and freedoms of the individual; the rule of law; mutual responsibility of the state and the individual; limited and subordinate state power; strict subordination to the law in the activities of all state bodies and officials, etc. At present, the problems of compliance with the rights and legal interests of citizens in places of detention are urgent. Based on the results of empirical research on the correction and resocialisation of convicts to imprisonment in the system of means of implementing the tasks of the criminal-executive legislation, the author's interpretation of the concept of "resocialisation of convicts to imprisonment" is proposed, according to which, it is a process of positive changes in the personality of a convicted person due to the application of legal, organisational, pedagogical, psychological, educational, and other measures of influence to eliminate the negative value orientations of convicts, the consequences of their isolation, fixing the results of correction, providing them with assistance after serving their sentence and promoting their adaptation in the social environment. It is proved that when determining the type of penitentiary institutions, it is advisable to apply the criterion of openness/closeness of these institutions only to institutions that execute sentences in the form of imprisonment. The formulated conclusions deepen knowledge about the object of research and contribute to the study of the process of execution and serving sentences by convicts. The purpose of the study is to determine the specific features of correction and resocialisation of persons sentenced to imprisonment in the system of means of implementing the tasks of the criminal-executive legislation. During the preparation of the study, general and special scientific methods of cognition were used, in particular: historical, philosophical and legal, comparative, systemic, functional, and generalisation. The criminal-executive legislation of Ukraine regulates the procedure and conditions for the execution and serving of criminal sentences to protect the interests of the individual, society, and the state by directing efforts to correct and resocialise convicted persons, prevent the commission of new criminal offences by both convicted and other persons, and prevent torture and inhuman or degrading treatment of convicted persons. The state respects and protects the rights, freedoms, and legal interests of convicts, provides the necessary conditions for their correction, resocialisation, social and legal protection, and personal safety. The main tasks of resocialisation of convicts can be considered the restoration and expansion of their positive ties and relations with society, the development of an integral personality capable of an objective attitude both to the surrounding world and to oneself; changing the orientation of the individual; creating a system of moral, ideological, legal beliefs in accordance with the norms and values accepted in society; the development of the ability of stable independent law-abiding behaviour for persons serving sentence after serving a sentence

Keywords:

resocialisation; regime of execution of punishment; detention; sentenced to imprisonment; correctional colony; legal status; penitentiary institutions

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Introduction

In countering crime, the state applies a substantial number of economic, social, legal, organisational, political, cultural, and educational measures. Punishment in this case is a means of protecting society and citizens from criminal encroachments. The application of this measure is conducted both by threatening such punishment as is included in the sanction of each criminal legal regulation and by implementing it, that is, further resocialisation of persons who have already committed crimes.

Resocialisation is the process of an individual's acceptance of social norms and cultural values that have been lost, improperly learned earlier, or updated at a new stage of social development. In a way, resocialisation involves the individual's assimilation of certain values and norms that are radically different from those acquired earlier. Resocialisation is associated with the destruction of negative anti-social standards and values learned by an individual in the process of associalisation, desocialisation, instilling values and actions accepted by society; it resembles primary socialisation since it must radically place the accents of reality in a new way [1].

The purpose of the study is to determine the specific features of correction and resocialisation of persons sentenced to imprisonment in the system of means of implementing the tasks of the criminal-executive legislation.

Results and Discussion

Resocialisation should be considered the renewal of lost social values and experience of communication, behaviour, and life activity, as a process that occurs within the framework of readaptation and contributes to the restoration of adaptive capabilities of a person to existing norms and rules of behaviour. However, it is impossible to create a certain resocialisation environment without first achieving the creation of normal living conditions for a person in a penitentiary institution (PI): safe living, healthy nutrition, free access to objective information about life outside the PI, high-quality medical care, fair treatment of PI personnel, organisation of the regime, etc.

In working with convicts and in the conditions of the penitentiary system, this process involves several interdependent planes: as the main goal of the social and psychological service of the PI, as a psychological and pedagogical process that ensures the achievement of this goal, as an internal process of qualitative changes in consciousness, feelings, and behaviour of the individual. Resocialisation of convicts is the restoration of their socialisation within the framework of social forms of life activity and motivation for socially useful activities.

According to Yu. Baranov [2], the means of resocialisation of convicts are: the regime (the established

procedure for the execution and serving of sentences), pedagogical work, education, professional training and labour education, and restoration of ties with representatives of society. Means of resocialisation of convicts are used considering the type of punishment, the personality of the convicted person and the desire to return to socially acceptable forms of life.

Resocialisation of convicts serving sentences in the form of imprisonment is quite difficult since the loss of social connections and socially useful traits are deep, and sometimes irreversible [3].

The need to examine the problems of resocialisation of convicts increases in connection with the further reform of the Ukrainian penitentiary system, the priority area of which is the application and implementation in the national criminal-executive legislation of international standards of detention of convicts, which are aimed at ensuring the successful adaptation of convicts to conditions of isolation, and to form models of behaviour necessary for successful entry into society after their release.

Resocialisation is not a one-time instant procedure, it occurs in two stages: during the serving of the sentence and after it. The main tasks of the first stage of resocialisation of convicts are to level out or minimise the negative aspects caused by the isolation of the convicted person from society, prepare them for a law-abiding life in freedom, and the second – to help them in social adaptation after release from serving their sentence. It is resocialisation that should ensure the restoration and expansion of socially useful ties and relations with the society of a person released from prison, the development of an integral personality capable of an objective attitude both to the world around them and to oneself, a worldview choice focused on universal and national values [4].

Effective resocialisation of convicts to imprisonment can only be provided on the basis of: maximum consideration of the specific features of the psyche of convicts, age, gender, health status, interests, prospects for further life in society; creation of a system of individual and differentiated influences of social, pedagogical, psychological, legal area; considering the level and nature of social behaviour, and the specific features of responding to specific psychological and pedagogical situations of convicts. In places of detention, resocialisation is considered an integral process of correction, re-education, social and pedagogical support of a convicted person using punitive, educational, occupational therapy, and other technologies in the PI [5].

During the implementation of resocialisation, the main activities of the PI are also determined, which consist of the assimilation by convicts of elementary norms, values, and knowledge necessary and sufficient to be included in life in society.

Therewith, it sets specific requirements for the conditions of serving sentences. They must be sufficient at least to ensure that the convicted person does not lose the skills and abilities of behaviour practised in the normal conditions of society.

In isolation from society, the personality of the convicted person undergoes significant changes, as a result of which the values that ensure individual existence become the most significant for them, and the values that reflect the social essence of a person become secondary. This fact is confirmed by numerous studies by both foreign and Ukrainian researchers.

In conditions of isolation, convicts create the necessary conditions for stimulating their lawful behaviour and achieving the ultimate goal of the criminal-executive legislation – protecting the interests of the individual, society, and the state. The implementation of such a goal is conducted through the prism of fulfilling the tasks that arise before the criminal-executive legislation, in particular through the definition of the principles of the execution of criminal punishment, where differentiation and individualisation of the execution of punishments contribute to the implementation of its other components. After the end of the sentence, the convicted person again enters society, the norms of which they must adhere, but due to certain reasons, they are not always able to comply with them, because it becomes a difficult task for such a person to adapt to society. That is why the problem of resocialisation of convicts is a priority in the work of the PI.

According to N.Ye. Kolesnikova [6], resocialisation can be considered a multifunctional concept: it can be interpreted as a function of the PI, as a task of specialists of the penitentiary system, as a process of transformation of a person's life experience to change social behaviour, as a tool for managing the process of reintegration of criminals into society, as a technology for working with convicts or as an alternative to serving a sentence.

Therewith, M.S. Rybak [7] interprets resocialisation as an adjustment of the personality traits of a convicted person in giving it features necessary and sufficient for life in a certain positive or neutral, from the standpoint of public safety, social group.

In turn, N.O. Krainova [8] suggests considering the resocialisation of convicts a process of restoring a socialised individual, conducted by applying to a person who has committed a crime and is convicted of it, a set of legal, organisational, psychological, pedagogical, educational, and other measures of influence at various stages of criminal liability to prevent the repeated commission of illegal acts.

In turn, N.F. Ufimtseva [9] considers the resocialisation of convicts to be a long process, which is a complex set of psychological, pedagogical, economic, medical, legal, and organisational measures aimed

at forming each convicted person's ability and readiness to include after serving a sentence in the usual living conditions of society. The researcher assumes that resocialisation determines the main activities of correctional institutions. It involves the assimilation of basic norms, values, and knowledge necessary and sufficient to be included in the life of society. This will help the convicted person at the first stages to relatively successfully perform the necessary number of roles in the normal conditions of society, and in the future, it will serve as a basis for restoring the appropriate functions of a normal member of society.

Resocialisation is a complex (system) of legal, organisational, pedagogical, psychological, educational, and other measures of influence that are conducted at various stages of the implementation of criminal liability to change antisocial attitudes, systems of value orientations, counteract antisocial degradation of the individual, correct illegal behaviour, prevent crimes, create normal conditions for further socialisation.

O.I. Osaulenko [10] notes that resocialisation is the process of forming positive traits in a person that contribute to a respectful attitude towards the person, society, work, moral norms, customs, traditions, and stimulate law-abiding behaviour; in this sense, it is the purpose the correction process.

The process of resocialisation is complex and time-consuming. Therefore, on the way to achieving the goal of the sentence, there are certain difficulties in implementing this procedure. In this regard, several main problematic aspects can be distinguished, related to: the development of positive attitudes in the convicted person, poor-quality training of PI employees, isolation of the convicted person and, as a result, the inability to overcome their personal psychological problems, etc. Undoubtedly, all these factors complicate the process of resocialisation in both psychological and social areas. In working with convicts in the conditions of the penitentiary system, this process is non-stop and has several interdependent planes: it appears as the main goal of the social and psychological service of the PI; as a psychological and pedagogical process that ensures the achievement of this goal; as an internal process of qualitative changes in consciousness, feelings, and behaviour of a person. Considering the above, the resocialisation of those sentenced to imprisonment should be considered the process of positive changes in the personality of the convicted person as a result of applying legal, organisational, pedagogical, psychological, educational, and other measures of influence to eliminate the negative value orientations of convicts, the consequences of their isolation, fixing the results of correction, providing them with assistance after serving their sentence and assist in their adaptation in the social environment.

Resocialisation is a rather complex and contradictory phenomenon not only in terms of theoretical justification but also for practical implementation, first of all – for the staff of bodies and PI and those employees who are involved in working with convicted persons released from prison. On the one hand, such a situation can be interpreted as the result of the establishment of the concept of "resocialisation" of convicts, which is one of the main categories of the national science of criminal-executive law; at the same time, such a situation cannot have a positive impact on the practice of execution-serving a sentence in the form of imprisonment.

In Article 6 of the Criminal Executive Code of Ukraine, the main means of correction and resocialisation of convicts define the established procedure for performing and serving sentences (regime), socially useful work, social-educational work, general education, vocational training, and public influence.

It is the regime that is the tool by which convicts are resocialised and punished while the convicted person is serving a criminal sentence. Execution and serving of a criminal sentence are conducted under the conditions of the regime established in places of detention, which, being a certain procedure for the execution and serving of a sentence in terms of legal content, are regulated by the norms of criminal-executive law. The regime of detention is a complex legal phenomenon, which should provide for a clear concept fixed at the normative level since the regime of execution and serving of a sentence in the form of detention should ensure the implementation of the most important functions, the achievement of which will also determine the achievement of the tasks of punishment. In places of detention, the regime performs several functions, first of all, it is punishment for the crime committed.

According to O.G. Kolba [11], punishment as an element of the purpose of a sentence is, on the one hand, a forced necessity of the state to respond to the criminal behaviour of guilty persons, and on the other – a preventive measure, a prerequisite for the correction and resocialisation of convicted persons by restraining the desire to commit a new crime and inhibiting their destructive actions. The preventive content of the application of punishment involves preserving the socially useful properties of the convicted person, limiting their criminogenic properties, preventing torture and inhuman or degrading treatment by the staff of the PI, and countering the commission of crimes and other offences among other persons in isolation from society [11].

The regime is also one of the most concentrated means of implementing punishment and coercion. It provides for the isolation of convicts established by the relevant regulatory regulations, constant

supervision of them, fulfilment of their duties, realisation of their rights and legal interests, observance of personal safety of convicts and staff, separate detention of different categories of convicts, different conditions of detention depending on the type of CI, changing the conditions of serving sentences.

According to O.S. Steblinska [12], detention is an extreme measure of the response of the state to the commission of a crime by a person. Serving this type of sentence in the PI entails restrictions on the convicted person, including isolation, regime, constant supervision, and control. Such conditions affect the individual in different ways, and therefore the consequences of this influence are diverse.

O.V. Khoroshun [13] considers characteristics of the regime of execution and serving of a sentence in the form of detention to be strict and precise legal regulation of the regime of serving a sentence; the possibility of applying coercive measures to ensure compliance with the rules of the regime in case of their non-compliance by a convicted person; the factual implementation of the rules of the regime in the process of executing and serving a sentence.

In the criminal-executive legislation, there are several positions on the definition of the concept of "regime". It is defined as the order and conditions in places of detention, the rules of conduct established in the PI, and some researchers consider the regime in a narrow and broad sense.

In particular, M.O. Struchkov proposes that the regime, labour, and political-educational work are the main and mandatory means of the process of correctional labour influence on convicts. This position was also supported by O.S. Mikhlin, actively using the concepts of "order" or "rules of behaviour", rather than "regime" in the papers.

The regime of detention is one of the main measures to correct convicted persons, to encourage their law-abiding behaviour, which is directly provided for by the criminal-executive law. In penal institutions, the regime is a procedure of treatment established and regulated by the norms of law, mandatory for convicted persons, containing elements of punishment, which is aimed at achieving the tasks of detention. The regime is a procedure regulated by the norms of criminal-executive law for the execution and serving of a sentence, which ensures the correction of a convicted person and preparation for life in society.

The main purpose of the regime of serving a sentence is educational influence on convicts, and compulsory regulation of their way of life teaches order and conscious compliance with the established rules of behaviour, disciplines and accustoms them to the need for work, respect for the law, norms of coexistence established in society, and other positive features.

A regime in a broad sense is considered to be a set of measures by which the process of correcting prisoners is conducted. The regime in this context provides for the regulation of all aspects of the life of prisoners in the PI, in particular, socially useful and educational work. The regime in a narrow sense provides for the establishment of certain rules for the isolation of convicts, their behaviour, rights, and obligations due to the fact of serving a sentence, regulating the order of mobility within the place of detention, regulating the forms of communication of prisoners with the surrounding world, a system of measures of punishment and encouragement [14].

The conditions for serving a sentence in the PI determine the legal provisions that establish the right of restriction and obligations regulated by the current legislation for convicts, the fulfilment of which is ensured by the possibility of applying coercive measures established by the criminal-executive legislation. The regime simultaneously plays an active role in the system and interaction of fixed assets of correction and resocialisation of convicts. Different conditions of detention in places of detention are created for convicts depending on conscientious behaviour, responsible attitude to work, compliance with the established rules (tasks), or the type of the colony. Among the functions of the regime in places of detention, it is important to distinguish between the main ones – those for which it is created and regulated by law, and those that ensure its implementation. First of all, the regime provides for a punitive function, since criminal law is implemented through regime requirements and the right of restrictions. By implementing punishment, the rules of the regime encourage the convicted person to comply with the requirements of the law, and not to violate discipline.

Therewith, the regime is also a means of correcting convicts, and it also creates legal and organisational conditions for other means of correctional influence on convicts (educational, socially useful

work, general education and vocational training), establishing a compulsory procedure for their application. This is the main function of the regime. The most important of them is preventive, related to the prevention of offences both on the part of convicts and on the part of other persons. Regime norms require compliance with the relevant rules not only for convicts and the administration but also for other persons located on the territory of the colony or on premises where regime requirements are established.

Based on an empirical study of the correction and resocialisation of convicts to imprisonment in the system of means of implementing the tasks of criminal executive legislation, the author's interpretation of the concept of "resocialisation of convicts to imprisonment" is proposed, according to which it is a process of positive changes in the personality of the convicted person due to the application of legal, organisational, pedagogical, psychological, educational, and other measures of influence to eliminate negative value orientations of convicts, the consequences of their isolation, fixing the results of correction, providing them with assistance after serving their sentence and promoting their adaptation in the social environment [15].

Conclusions

The criminal-executive legislation of Ukraine regulates the procedure and conditions for the execution and serving of criminal sentences to protect the interests of the individual, society, and the state by directing efforts to correct and resocialise convicted persons, prevent the commission of new criminal offences by both convicted persons and other persons, and prevent torture and inhuman or degrading treatment of convicted persons. The state respects and protects the rights, freedoms, and legal interests of convicts, provides the necessary conditions for their correction and resocialisation, social and legal protection, and their personal safety.

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Виправлення та ресоціалізація засуджених до позбавлення волі в системі засобів реалізації завдань кримінально-виконавчого законодавства

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Анотація

Будь-яка сфера правового регулювання, зокрема виконання кримінальних покарань, неодмінно ґрунтується на основоположних конституційних принципах, які є підґрунтям для розвитку відносин між правовою державою та особою. До таких принципів належать: невід'ємність, непорушність і недоторканність прав та свобод особи; верховенство права; взаємна відповідальність держави й особи; обмеженість і підзаконність державної влади; суворе підпорядкування закону в діяльності всіх державних органів і посадових осіб тощо. Нині актуальними є проблеми дотримання прав і законних інтересів громадян, що опинилися в місцях позбавлення волі. Метою статті є визначення особливостей виправлення та ресоціалізації засуджених до позбавлення волі в системі засобів реалізації завдань кримінально-виконавчого законодавства. Під час підготовки статті використано окремі загальнонаукові та спеціально-наукові методи пізнання, зокрема: історичний, філософсько-правовий, порівняльний, системний, функціональний, узагальнення. За результатами емпіричного дослідження виправлення та ресоціалізації засуджених до позбавлення волі в системі засобів реалізації завдань кримінально-виконавчого законодавства запропоновано авторське трактування поняття «ресоціалізація засуджених до позбавлення волі», згідно з яким це процес позитивних змін особистості засудженого внаслідок застосування правових, організаційних, педагогічних, психологічних, виховних та інших заходів впливу з метою усунення негативних ціннісних орієнтирів засуджених, наслідків їхньої ізоляції, закріплення результатів виправлення, надання їм допомоги після відбуття покарання та сприяння їхній адаптації в соціальному середовищі. Доведено, що під час визначення виду установ виконання покарань критерій відкритості/закритості цих установ доцільно застосовувати лише до установ, що виконують покарання у виді позбавлення волі. Сформульовані висновки поглиблюють знання про об'єкт дослідження, сприяють вивченню процесу виконання та відбування покарання засудженими. Кримінально-виконавче законодавство України регламентує порядок й умови виконання та відбування кримінальних покарань з метою захисту інтересів особи, суспільства й держави завдяки спрямуванню зусиль на виправлення та ресоціалізацію засуджених, запобігання вчиненню нових кримінальних правопорушень як засудженими, так й іншими особами, а також запобігання тортурам і нелюдському або такому, що принижує гідність, поводженню із засудженими. Держава поважає та охороняє права, свободи й законні інтереси засуджених, забезпечує необхідні умови для їх виправлення і ресоціалізації, соціальну й правову захищеність, їхню особисту безпеку. Головними завданнями ресоціалізації засуджених можна вважати відновлення та розширення її соціально корисних зв'язків і відносин із суспільством, розвиток цілісної особистості, здатної до об'єктивного ставлення як до навколишнього світу, так і до себе; зміна спрямованості особистості; створення системи її моральних, ідейних, правових переконань відповідно до прийнятих у суспільстві норм і цінностей; формування в осіб, які відбувають покарання, здатності до стабільної самостійної законослухняної поведінки після відбування покарання

Ключові слова:

ресоціалізація; режим виконання покарання; позбавлення волі; засуджений до позбавлення волі; виправна колонія; правовий статус; установи виконання покарань