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PECULIARITIES OF THE ILLUSTRATIVE PROBATION USAGE IN UKRAINE

The article addresses to the problem of the probation service functioning, which must be effective in solving simultaneously a task of socio-legal control over the execution of criminal penalties on sentenced persons who are registered in the probation, dismissed conditionally on a pre-term basis from serving a sentence in the form of imprisonment, and also tasks related with their socio-legal and psychological rehabilitation, social support and assistance.

The article highlights the issues related to the use of probation programs that reduce the risk of recidivism of crime through the socio-psychological methods application of working with convicts, which take into account not only the circumstances and severity of the crime, but also the individual and psychological peculiarities of the offender, his social situation, and the corresponding needs of society.

Key words: probation, social-educational work, convicts, probation programs.

Target setting. Today Ukraine takes the first place in the number of convicts serving sentences in places of deprivation of liberty. For example, according to the Ministry of Justice of Ukraine, the correlation of liberty deprivation and probation on 10/01/2018 in Ukraine is 1:1 (about 56.5 thousand people), whereas in Europe - 1:3 [1].

Taking a course on European integration, our country pledged to implement European norms in domestic legislation. Therefore, the society faces the task not only to reduce the number of punishments in the form of imprisonment, but to extend the practice of applying penalties not related to the deprivation of liberty with the use of socio-psychological methods of re-socializing the personality of the convicted person in order to prevent the new criminal offenses committing.

Actual scientific researches and issues analyses. In the study of this subject were involved the following domestic experts in the field of criminal law, criminology and criminal-executive law: Bandurka O.M.,

Betsa O.V., Bogatyrev I.G., Bogatyreva O.I., Dzhuzha O.M., Dryomin V.M., Knizhenko O.O., Kolb O.G., Khalimon S.I., Shkuta O.O., Yagunov D.V., Yakovets I.S., Yanchuk O.B. and others.

Purpose setting. The purpose of the article is to analyze the peculiarities of the use of probation programs in the practice of the authorized probation body.

Statement of basic materials of the research. The world community has already come to the conclusion that the use of such a measure of punishment as imprisonment is due, more likely, to political and cultural factors than to pragmatic considerations or the effectiveness of the system of punishment execution. It is obvious that the means of influence applied to offenders, for example, deprivation of liberty, often have the opposite effect and lead to the recidivism spreading.

To reduce the negative impact of these factors and prevent the commission of new crimes in European countries, a comprehensive system of measures and tools for rehabilitation of social-educational work has been developed. Such a system is a probation that reduces the risk of recidivism of crime through the application of socio-psychological methods of working with convicts, which take into account not only the circumstances and the severity of the crime, but also the individual psychological characteristics of the offender, his social situation, and the society needs.

According to the Law of Ukraine "On Probation", social-educational work is a deliberate activity of the probation body staff in order to achieve the aim of convicts' correction [2].

The social-educational work is conducted on the basis of an individual plan of work with the convicts, taking into account the risks assessment of committing a repeated criminal offense, and suggests a differentiated approach in providing counseling, psychological and other types of assistance, employment promotion, involvement in education, participation in educational activities and socially useful activities, conducting of individual-preventive work. Measures of social and educational work, together with supervision measures, are included in an individual plan of work with convicts.

One of the social work directions with convicts is the use of probation programs.

Legislative provisions on the application of probation programs in Ukraine came into force on January 1, 2018, in accordance with the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine to Ensure the Enforcement of Criminal Penalties and Realization of the Rights of Prisoners" dated 07.09.2016 No. 1492-VIII [3]. Accordingly, the development procedure and implementation of probation programs has already been approved by the Resolution of the Cabinet of Ministers of Ukraine dated January 18, 2017, No. 24 [4]. In the same way as the laws provisions on the application of probation programs, the mentioned Resolution of the Cabinet of Ministers of Ukraine came into force on January 1, 2018.

In many countries there are special programs for intensive probation: for drivers, committed crimes in a drunken state; socio-psychological training of sex offenders; a program of abstention from the use of alcohol, drugs; learning to control own emotions; prevention of criminal behavior, etc.

In our country, today there are three probation programs that are used by the court to the persons who are registered in the probation agencies and require the use of intensive psychological therapy in accordance with orders No. 1797/5 and Order No. 1798/5 dated June 11, 2018:

- 1) "change of criminal thinking";
- 2) "overcoming aggressive behavior";
- 3) "prevention of the psychoactive substances usage".

The number of hours, allocated to probation programs, depends on the probation program type, the methods of working with convicts, which can be held in micro groups either individually and from the subject of probation (adult or juvenile).

The probation body implements probation programs for persons dismissed from serving a probationary sentence during the supervisory probation.

Programs contain tasks, functions, features of the target group to which such a program is directed, information about the skills and knowledge that the subject of probation may receive from the results of the specified program passage; resources necessary for its realization; the content of the activities, as well as the procedure for passing the probation program and evaluating the results.

The Probation program "Change in Criminal Thinking" aims the achieving positive changes in the subject behavior of probation by developing and maintaining its skills for constructive and critical thinking, developing of reflection skills, planning and setting goals, and promoting the development of cooperation with the environment in relationships with environment and socially accepted norms of behavior. The target group of this program is an adult and a juvenile probation subjects who, based on the results of the risk assessment of committing a repeated criminal offense, have identified the risk factors that predetermine the program application, and which are inclined to dysfunctional behavioral manifestations, can not make informed decisions, plan positive changes in their own life and determine its purpose.

Application of this program for minors differs only in classes duration.

Probation program "Overcoming aggressive behavior" aims to achieve positive changes in the behavior of the probation subject, through the development of self-regulation skills of psycho-emotional states of anger management and aggressive behavior, tools expansion for effective interaction, readiness formation of adhering to specially acceptable norms and non-violent behavior models. This program is designed for adolescents and juvenile probation subjects who, according to the results of risk assessment of committing a repeated criminal offense, identified the risk factors that determine the Program application and are inclined to anger outbreaks and the manifestation of aggressive actions without proper understanding of the possible negative consequences, have a low level skills development of self-regulation. Number of lessons for minors is 11, for adults - 12.

Probation program "Prevention of the psychoactive substances usage". The goal is to achieve positive changes in the behavior of the probation subject through developing and maintaining the skills of effective self-control of the need for strategies awareness of reducing harm from the use of psychoactive substances and increasing the motivation to refuse their use. The target group is the probation subjects, in which, according to the results of the risks assessment of committing a repeated criminal offense, identified the risk factors that determine the program use and which abuse psychoactive substances

without proper understanding of the possible negative consequences, have a low level of development of skills of self-regulation. The number of lessons for adolescents is 13, for minors - 12 [5, 6].

Enterprises, institutions and organizations, regardless of ownership, may be involved in the probation programs implementation. In the case of probation programs implementation, it is assumed that volunteers will provide significant assistance for their implementation. Volunteer activities related to probation should be conducted in accordance with the Law of Ukraine "On Volunteer Activities". The volunteers of probation must exercise their powers under the guidance of the probation body staff [7].

It is appropriate to refer to Paragraph 7 of Article 2 of the Law of Ukraine "On Probation", in which the court for the correction and resocialization of convicts who are registered in the probation provided for probation programs, unfortunately, only for those dismissed from serving a sentence with a probation, although such programs may be relevant also for prison sentences not related to imprisonment (public and corrective labor, deprivation of the right to occupy certain positions or engage in certain activities) [2].

In this context, it should be noted that domestic criminal-executive legislation is based on the principles of the punishment combination with corrective action, and probative programs are aimed specifically at correcting the social behavior of convicts or its individual manifestations, the formation of socially favorable personality changes that can be objectively verified.

Consequently, we consider it necessary for the probative programs to be appointed not by a court decision, but to be used by the staff of the probation body to those categories of convicts who are registered in the probation and need correction, in accordance with an individual correction plan drawn up on the basis of an individual social study.

Application of such programs, in our opinion, will lead to a decrease in the number of convicts registered in the probation agencies, these programs should be appointed by the probation body, and not by the court after detailed examination of the client's probation and analysis of his personal affairs.

Another argument in favor of the opinion is that the type of probation program selected at the beginning of the term may vary

depending on the part of the punishment or other criminal-law measure and taking into account the changes that took place in the personality of the convicted person. Therefore, if necessary, the probation body staff could apply another type of probation program in order to achieve the ultimate goal of any punishment - correction of the convict [8, p. 140-141].

However, there are certain problems in the practice of the authorized probation bodies in the application of probation programs:

- not all personnel of the probation body have been trained on the implementation of these programs, given this, the effectiveness of these programs implementation is in doubt;

- in 2018, the majority of authorized probation agencies reduced the number of staff units of social workers and psychologists that could affect the quality of implementation of probation programs;

- authorized probation bodies are not always able to attract volunteers or specialists from social services for children and young people to work in these programs, since they do not function in all rayon centers;

- currently, the most urgent problem is the transfer of probation subjects living in remote districts from probation centers, with the implementation of probation programs, this problem will have a tendency to deepen, because participation in probative programs provides for the frequency of attending classes at least once a week.

Conclusions. Summing up the conclusions outlined in the article, we note that the Ministry of Justice of Ukraine for the implementation and greater effectiveness of probation programs should foresee the creation of probation accommodations of probation subjects during the passage of these programs;

All mentioned problematic issues concerning the implementation of the Law of Ukraine "On Probation" determine the urgent need for making appropriate changes to the legislative field, which, in turn, would ensure the tasks fulfillment related to the implementation of the probation institute.

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ОСОБЛИВОСТІ ЗАСТОСУВАННЯ НАГЛЯДОВОЇ ПРОБАЦІЇ В УКРАЇНІ

Стаття присвячена проблемі функціонування служби пробації, яка має ефективно вирішувати одночасно як завдання соціально-правового контролю за виконанням кримінальних покарань щодо засуджених, які перебувають на обліку в пробації, звільнених умовно-достроково від відбування покарання у виді позбавлення волі, так і завдання, пов'язані з їх соціально-правовою та психологічною реабілітацією, соціального супроводу та допомоги.

У роботі висвітлено питання, пов'язані із застосуванням пробаційних програм, які дозволяють зменшити ризик рецидивів злочинності шляхом застосування соціально-психологічних методів роботи із засудженими, що враховують не тільки обставини і тяжкість вчиненого злочину, а й індивідуально-психологічні особливості порушника, його соціальне становище та відповідні потреби суспільства.

Ключові слова: пробація, соціально-виховна робота, засуджені, пробаційні програми.