

O METODOLOGII BADAŃ W NIEKTÓRYCH DZIEDZINACH WALKI Z PRZESTĘPCZOŚCIĄ

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Adnotacja. W artykule porusza się problematykę dotyczącą stanu i istoty metodologii badań w dziedzinie walki z przestępczością, wyznaczono potencjalne możliwości poszczególnych metod poznania treści zjawisk społeczno-prawnych i procesów, m. in. dotyczących zagadnień działalności karno-wykonawczej. Również zaproponowano autorskie sposoby bardziej wydajnego wykorzystania metod naukowych dla oceny istniejącego stanu zasad prawnych w organach i instytucjach wykonywania kar.

Słowa kluczowe: metodologia; badania; metoda; dziedzina wykonywania kary; działalność karno-wykonawcza; zasady badań naukowych; organy instytucje wykonywania kar.

ABOUT RESEARCH METHODOLOGY IN SOME AREAS OF THE FIGHT AGAINST CRIME

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Abstract: The article deals with the state and essence of the methodology of investigations in the field of combating crime, identified the potential of certain methods of knowledge of the content of socio-legal phenomena and processes, which, in particular, relate to issues of criminal-executive activity, as well as proposed author's variants of more effective use of scientific methods for assessing the current state of law and order in penitentiary institutions and institutions.

Key words: methodology; research; method; scope of punishment; criminal-executive activities; principles of scientific research; penal organs and institutions.

ПРО МЕТОДОЛОГІЮ ДОСЛІДЖЕНЬ У ДЕЯКИХ СФЕРАХ БОРОТЬБИ ІЗ ЗЛОЧИННІСТЮ

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Анотація. В статті мова ведеться про стан і сутність методології досліджень у сфері боротьби із злочинністю, визначені потенційні можливості окремих методів

пізнання змісту соціально-правових явищ і процесів, що, зокрема, стосуються питань кримінально-виконавчої діяльності, а також запропоновані авторські варіанти більш ефективного використання наукових методів для оцінки існуючого стану правопорядку в органах та установах виконання покарань.

Ключові слова: методологія; дослідження; метод; сфера виконання покарань; кримінально-виконавча діяльність; принципи наукових досліджень; органи та установи виконання покарань.

Formulation of the problem. The current state of combating recidivism in Ukraine, including the sphere of punishment, objectively determines the necessity of intensifying scientific research and applying in this connection existing methodologies, new technologies and doctrinal approaches in science.

This problem is particularly relevant because of the fact that in recent years there have been significant organizational and legal changes in the system of penitentiary bodies and institutions, which since 2012 have been completely subordinated to the Ministry of Justice of Ukraine, and from May 2016, they work according to other principles of management activity, when instead Territorial departments for the execution of sentences of the State Penitentiary Service (SPS) of Ukraine established interterritorial directorates of the Ministry of Justice of Ukraine [1].

In addition, in connection with the tragic events in the East of Ukraine, the annexation of Crimea and the actual military aggression of the Russian Federation against our state, the quantitative and qualitative structure of the convicts has changed significantly, new types of crimes have appeared, and the number of persons brought to justice has increased for their commission, as well as in general, the state of law and order and crime was worsened both in Ukraine and in the area of execution of sentences, in particular.

These circumstances and caused the choice of the topic of the article, its object, goals and objectives, the priority of which is the justification of the need to increase the intensity and efficiency of scientific research in the organs and penitentiary institutions in order to ensure criminal-executive activities at a higher organizational, legal and other levels.

State of research. As shown by the study of scientific literature, issues of the methodology of research in the field of crime prevention, along with experts in the theory of law, are actively engaged in criminologists and academics of criminal-executive law, namely: O. M. Bandurka, VI I. Borisov, I. G. Bogatyryov, VV Golina, B. M. Golovkin, T. A. Denisova, O. M. Dzhuzha, A. P. Zakalyuk, O. G. Kolb, I. M. Kopotun, V. Ya. Konopelsky, VO Merkulova, AV Savchenko, A. Kh. Stepanyuk, V. M. Trubnikov, I. S. Yakovets and others.

Along with this, it is worth noting that scientific developments do not fully reflect contemporary socio-legal realities of combating crime, including the sphere of execution of punishments, which became decisive when deciding to select the subject of research in this scientific article.

Statement of the main provisions. In science, under the methodology of research understand the system of approaches, methods and methods of scientific research, the theoretical basis of their use in the study of state-law phenomena [2, p. 618]. At the same time, as rightly concluded by MS Kellman, the general nature of the methodology is that it acts as a kind of art (technique) of any research [3, p. 7]. Proceeding from this and the etymological meaning of the word "methodology", he

derived the following elements: a) science; b) the way to it; c) the way of using this path, as action (work), in order to establish the truth, correctness of knowledge [3, p. 7]. However, in his opinion, in the general epistemological notion of methodology, each individual goal (the element of research) can not be in itself: in the methodology of law there is a single goal. It is, first of all, the epistemological moment of knowledge of law [4, p. 710]. Moreover, although epistemology itself is autonomous as a subject of knowledge, however, it is virtually devoid of enormous importance and for the technique of methodology as a science, in fact, applied [4, p. 711].

As shown by the study of scientific literature, the basis of the methodology of legal science are, in particular:

1. Philosophical-ideological approaches (materialistic or idealist, dialectical or methodological, recognition or denial of objective social, including state-legal patterns and the possibility of their knowledge, gaining true knowledge about them).

2. General scientific methods, that is, those which are used in all or in most sciences (structural, functional, ascension from abstract to concrete, etc.).

3. Group methods, that is, those that apply only in a particular group of sciences (in particular, sociological research methods).

4. Special methods, that is, acceptable for the study of the subject of a single science (in this article - a method of investigating criminal-executive phenomena and processes).

5. Research methods, which are divided into empirical (methods of detecting, fixing, collecting, systematizing information about facts and phenomena) and theoretical (methods of interpretation, explanation of the collected data, construction of concepts, concepts, forecasts, etc.) [2, p. 618].

These methodological approaches were used in this scientific article in studying issues related to the content of crime control in the field of execution of sentences, as well as determined the methods of research, selected topics. At the same time, the following common methodological postulates, known in science, were observed: a) the objective conditionality of the chosen methods of studying his subject; b) the need to establish a unified truth, the probability of which can be proved and verified by means of certain objective criteria; c) the ability of the research method to approach the disclosure of the social essence of the studied phenomena, but not to conceal, obscure it [2, p. 619] and take into account the peculiarities of the research that is taking place in the field of execution of sentences [5, p. 11].

In addition, in the course of this study, the general principles of the methodology of scientific research were followed, namely: 1) the principle of unity of theory and practice; 2) the principle of objectivity; 3) the principle of a comprehensive study; 4) the principle of unity of the historical and logical; 5) the principle of systemicity; 6) the principle of determinism; 7) the principle of development; 8) the principle of authenticity [6, p. 15].

Again, with the application of the research methods indicated in this scientific paper, the fundamental rule of methodology was followed: each method, regardless of its value, is part of the methodology, but not by the methodology itself as a science - the knowledge of the knowledge of the ways leading to the truth in the legal field [4, p. 710].

In general, the study of the object and subject of this research was carried out according to the following methodology:

1. Analyzing statistics on the state of crime in the organs and penitentiary institutions of Ukraine, it was found that almost half of them fell into disrepute with the requirements of the administration of the Ministry of Health (Article 391 of the Criminal Code of Ukraine).

Thus, an idea emerged and the subject of this research was formed, considering that statistics on the prevention of crimes do not exist at the level of a specific institution for the enforcement of sentences (hereinafter - the Ministry of Justice), or in general, according to the system of the State Criminal-Enforcement Service of Ukraine (hereinafter - DKVS) as regulatory legal acts on statistics, this issue is still not regulated [7].

2. On the basis of the study of theses and scientific publications, which in varying degrees addressed the prevention of malicious disobedience to the requirements of the administration of the UVP in 1991-2017, as well as regulatory legal acts related to the regulation of the identified issues (QC, CRC, PVR UVP, departmental instructions on the issues of protection, supervision and safety in the PIs, other sources, including the international legal nature), the purpose and objectives of this study were formulated.

3. Based on the generalization of the above-mentioned empirical materials and the processing of survey questionnaires of various respondents related to the selected subjects of the study, and the study of archival criminal proceedings under Art. 391 of the Criminal Code of Ukraine, working hypotheses concerning the results of this research were put forward. At the same time, it should be noted that the scientific search was carried out with the permission of the interterritorial directorates of the Internal Affairs Department of the Ministry of Justice of Ukraine in the Ministry of Justice, located in the Volyn, Kyiv, Rivne and Kharkiv regions, and covered practically all the regions of our state.

Sufficient also was the number of persons involved in the anonymous poll - 514 sentenced to imprisonment and 433 persons from the staff of the UVP. At the same time, the number of questions posed for respondents not only corresponded to the number and content of the research objectives defined in this thesis, but also covered issues related to the general knowledge of respondents about the subject of this study (types of crime prevention, the content of malicious disobedience, foreign experience on the identified issues; and so on).

4. The study of scientific works on preventive activities in the field of execution of sentences, as well as the results of research methods used in this work, allowed to generalize and document the overall results of this study.

5. On this basis, we can state that the results obtained in the course of this study can be implemented in various spheres of social activity (law-making, practical and educational process).

So in general terms one can imagine the methodology of research of this scientific development, which is based on the results of those scientific investigations conducted on the identified problems.

Summarizing during the above-mentioned search of the information obtained, it was possible to deduce two modern (1918-2018 pp.) Periods during which the legal and legal framework for combating the criminal disobedience of the convicted to the lawful requirements of the administration of the UVP was formed and functioning, and appropriate legal practice was applied regarding their application, namely:

a) the so-called Soviet period covering 1918-1991, when Ukraine was part of the USSR and reflected the content of the political regime and criminal-executive policy, which in the present term is called "totalitarian" and "anti-popular" [8, c . 3].

As I. Y. Boiko accurately remarked on this, the formation of Soviet law in Ukraine was closely linked with the organization and formation of Soviet power and the formation of a state apparatus [9, p. 338].

In general, the estimation of this historic period of development of Ukraine, the researchers gave as follows: one hundred years passed - enough time to evaluate and draw conclusions, to formulate the moral imperative of historical memory, to throw down the darkness of the Soviet propaganda about "the very human of people", consciously free up from "The ghost of communism" and its idols. Enough of "ghosts" to wander Europe, it's time for us to go ahead! [10, p. 4];

b) the modern Ukrainian period that has developed during the period of Ukraine's independence (1991-2018 pp.) and is connected with the development of the domestic system of law and legislation, especially since the adoption of the Constitution of Ukraine in 1996 [11], including with regard to the sphere of the execution of punishments and the issues studied in this scientific article.

As V. Ya. Tatsiy concluded in connection with this, with the adoption of the Constitution of Ukraine in June 1996, the process of national state-building came to a new legal level, which stabilized at that time the socio-political and socio-economic situation in Ukraine, determined the program of movement to the political ideal - a democratic, social, legal state, in which a person is recognized as the highest social value [12, p. 3].

Conclusion. Summing up the study, it should be noted that the state of prevention of crimes related to the malicious disobedience of the administration of the UVP is influenced by a number of circumstances established in this work, namely:

a) the historical practice of execution - the serving of sentences in the Soviet period of the functioning of the sphere of execution of punishment in Ukraine (1918-1991 pp.);

b) the location of penitentiary organs and institutions in the system of the Ministry of Internal Affairs of Ukraine (1991-1999), which prioritized the issues of the fight against crime, and not the corrective-resocialization process, which has somewhat different social purpose and forms, methods and means influence on the person of the offender (Article 6 of the CEC of Ukraine);

c) the unsystematic, chaotic and logical nature of the reforms carried out in the field of the execution of sentences in Ukraine, starting in 1991 at the present time, beyond which the main actors - convicted and staff of the Internal Affairs Committee of Ukraine;

d) insufficient level of scientific research in the field of execution of punishments of Ukraine in relation to prevention of crimes, including issues related to the content of malicious disobedience of the administration of the Ministry of Health;

e) blind and senseless introduction of international experience in national legislation and practice related to the organization of execution and serving of sentences, in the absence of adequate financial, logistical, personnel and other opportunities of the state and society in today's socio-economic conditions of development of Ukraine.

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