

## WPLYW ŚRODOWISKA ZEWNĘTRZNEGO NA KSZTAŁTOWANIE PRZESTĘPCZEJ MOTYWACJI W ZAKRESIE WYKONANIA KAR

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**Streszczenie.** Autor artykułu naukowego analizuje osobliwości działalności w zakresie wykonywania kar, a także istniejących w prac naukowych w zakresie treści mechanizmu indywidualnego zachowania przestępczego. Autor identyfikuje trzy warunkowe grupy czynników środowiska zewnętrznego, które wpływają na jej wdrożenie. Do pierwszej grupy można odnieść czynniki mikrosocjalne, które powstają w procesie aktywności życiowej personelu instytucji wykonywania kar (IWK), a także, w szczególności, aktywności zawodowej. Druga grupa obejmuje okoliczności, które wpływają na zachowanie przestępcze i są badane w kryminologii jako sytuacja kryminogenna. Do trzeciej grupy - zachowanie ofiary korupcji i innych przestępstw w zakresie wykonywania kar, czyli czynniki specyficzne, które również określają przebieg zdarzeń i wzajemny wpływ czynników w mechanizmie indywidualnego zachowania przestępczego. Podsumowując, autor artykułu zaznacza, że czynniki środowiska zewnętrznego w mechanizmie kształtowania motywacji przestępczej w zakresie wykonywania kar mają rozgałęziony, wielowymiarowy charakter. Jednocześnie informacja o nich pogłębia zrozumienie genezy działalności przestępczej analizowanej kategorii, pozwalają na sformułowanie poglądu na temat szerszego zakresu czynników jej determinacji, co jest ważne dla podniesienia skuteczności działalności zapobiegawczej.

**Słowa kluczowe:** przestępstwo, motyw, kara, środowisko, czynniki, osoba, instytucje.

## EXTERNAL ENVIRONMENT INFLUENCE ON CRIMINAL MOTIVATION FORMATION IN THE SPHERE OF PUNISHMENT EXECUTION

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**Abstract.** The author of the scientific article analyzes the peculiarities of activity in the sphere of execution of punishments, as well as the current developments in the science regarding the content of the mechanism of individual criminal behavior. The author identifies three conditional groups of environmental factors that affect its

deployment. The first group includes microsocioal factors that are formed in the process of life of the personnel of the UPM, in general, and professional activity, in particular. Prior to second group - circumstances that influence criminal behavior and are investigated in criminology as a criminogenic situation. By third group - the behavior of the victim of corruption and other criminal offenses in the sphere of punishment, that is, victim-specific factors that also determine the course of events and mutual influence of factors in the mechanism of individual criminal behavior. In conclusion, the author of the article notes that the factors of the external environment in the mechanism of formation of criminal motivation in the sphere of punishment have a branched, multivariate character. At the same time, information about them deepens the understanding of the genesis of criminal activity of the analyzed category, allows to form an idea of a wider range of factors of its determination, which is important for improving the effectiveness of prevention activities.

**Keywords:** crime, motive, punishment, environment, factors, person, institutions.

## ВПЛИВ ЗОВНІШНЬОГО СЕРЕДОВИЩА НА ФОРМУВАННЯ ЗЛОЧИННОЇ МОТИВАЦІЇ У СФЕРІ ВИКОНАННЯ ПОКАРАНЬ

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**Анотація.** Автор наукової статті аналізує особливості діяльності у сфері виконання покарань, а також існуючих в науці напрацювань щодо змісту механізму індивідуальної злочинної поведінки. Автор виділяє три умовні групи факторів зовнішнього середовища, що впливають на її розгортання. До першої групи можна віднести чинники мікросоціального характеру, що формуються в процесі життєдіяльності персоналу УВП, загалом, та професійної діяльності, зокрема. До другої групи – обставини, які впливають на злочинну поведінку та досліджуються в кримінології, як криміногенна ситуація. До третьої групи – поведінку жертви корупційних та інших кримінальних правопорушень у сфері виконання покарань, тобто віктимогенні фактори, що також зумовлюють перебіг подій та взаємовплив чинників в механізмі індивідуальної злочинної поведінки. У висновку автор статті зазначає, що фактори зовнішнього середовища в механізмі формування злочинної мотивації у сфері виконання покарань мають розгалужений, поліваріативний характер. Водночас, інформація про них поглиблює розуміння генези кримінальної активності аналізованої категорії, дозволяє сформуванню уявлення про більш широкий спектр чинників її детермінації, що має значення для підвищення ефективності запобіжної діяльності.

**Ключові слова:** злочин, мотив, покарання, середовище, фактори, особа, установи.

***Problem solving in general and its connection with important scientific or practical tasks.*** As the practice of combating criminality proves, individual criminal behavior is an integral human activity act, integral qualities of which are determined by subjective and objective unity [1, p. 285]. A crime is an open, dynamic system, that brings not only physical, informational changes to external environment of a personality, but “feels” the latter’s influence on itself. The indicated circumstances are usually divided into macro-social, meso-social (including legal ones – components of legal regulation in the sphere of punishment execution) and micro-social, according to the level of their reproduction in criminological doctrine. If the first two groups are traditionally studied in criminality determination problems bloc, the latter one is studied while investigating criminal personality in its genesis and individual criminal behavior mechanism. As A.P. Zakaliuk noticed, that external environment conditions, determining the chances of a person to realize motives, he takes into account, elaborating his actions realization plan, take appropriate place in fulfilling the functions of both motive formation stage and the stages of taking and realizing decisions of committing a crime (*Zakalyuk A. P., 2008, p. 283-285*). Strictly speaking, it is impossible to understand criminal behavior motives, beyond the connection with a person’s life, with the influence he was subjected to, and which determined his personality peculiarities. Yu. M. Antonian goes on to say, that the problem of motives is mostly the problem of their origin, external and internal factors, they are stipulated by in the course of individual personality history (*Antonyan Yu. M., 2004, p. 88*).

O.S. Novakov is of similar opinion, who, within the framework of special criminological research of militia workers’ criminality, pointed out that their criminal activity is based on a situation, consisting not only of contradiction between reality and necessity, but reflecting emergence of sharp-conflict relationship of a personality and environment (*Novakov O.S., 2002, p. 194-195*). That’s why the question about the role of environment factors in the genesis of individual criminal behavior in the sphere of punishment execution is worth asking. Answering this question one should be aware of the fact, that the indicated factors are not homogeneous. They are different in terms of content, time, rise place, action, influence intensity, combination with criminal personality inner (psychic) processes and phenomena. According to the analyses of activity peculiarities in the sphere of punishment execution and present scientific works about individual criminal behavior content, three conventional groups of external environment factors influencing its development can be distinguished. The micro-social factors, formed in the process of PEI personnel vital functions in general, and professional activity, in particular, can be referred to the first group. The circumstances, influencing criminal behavior and are studied in criminology as criminogenic situation, can be referred to the second group. The behavior of a victim of corruptible and other criminal offences in the sphere of punishment execution, that is, victimogenic factors, stipulating the course of events and factors interplay in individual criminal behavior mechanism can be referred to the third group.

As the practice affirms, micro-social factors influence every link of criminal activity – from necessity actualization, motive formation to post-criminal behavior. Moreover, micro-social factors at the final development stage combined with crime victim behavior, environment infrastructure peculiarities, natural factors, etc., form criminogenic situation. In this point, micro-social factors are basic conditions integrated with personality qualities, make certain life situation criminogenic. Being individual

criminal behavior mechanism components, external environment factors are traditionally grouped in criminology into four blocs: family, educational institution, working collective, the closest every-day surroundings. The same differentiation due to its universal character (which is affirmed by both court practice and criminological researches) in general outline turns out to be reasonable for analyses of criminal behavior in the sphere of punishment execution.

It is a matter of common knowledge, that family is a primary and the most influential centre of personality socialization, of its vital activity on the whole. But this influence can be either positive or negative, producing long stressful situations, anxiety and other subjective unfavourable processes and states. Though scientists' position is debatable, the attention can be paid to another thing: nowadays there is a certain tendentiousness of analyzing the influence of family surroundings factors on criminal personality formation and the mechanism of committing some crimes, which is not always based on the proper empiric base. There are a lot of reasons for that state of affairs. The main reason consists in both subjective and objective limits of access to information about a certain family. Scientific literature observes with good reasons, that main factors of family every-day relations criminalization are as follows: 1) age and sex discrepancy of spouses; 2) unsatisfactory conditions of their life and considerable difference of social roles and statuses; 3) breach of normal family structure and housekeeping; 4) the state of psychic and physical health; 5) drawbacks of social and psychological communication of spouses, including difference in value orientation, emotional levels; 6) abuse of alcohol or drugs, etc..

Thus, official activity in a number of cases appears as:

a) instrumental sphere of private interests satisfaction. These interests are mostly visualized in the spectrum of striving for receiving advantages of property character, based on necessary settling family conflicts, determined by family unsatisfactory material provision. In this aspect, the results of PEI personnel survey, conducted by Competence Centre of Bila Tserkva college of PEI personnel professional training in 2010, are symptomatic. Almost 40% of respondents indicated their social defenselessness. Experts estimate money supply as unsatisfactory, which influences negatively the prestige of work in PEI of Ukraine. According to the Centre survey, 80% of PEI workers admitted absolute low pay rate (*Shnajder G.J., 1994, p. 58*). V. K. Shkarupa points out, that under the conditions of social inequality, lack of property supply takes socio-vital threat format (*Shkarupa V.K., 1996, p.112*). Especially acute this problem is felt in the synthesis with permanent family conflicts, occurring because of inability to provide family with a proper degree of well-being. It's important to remark, that this inability is formed as integral feeling, image of non-conformity to the present social informational context, full of material attributes of social security.

b) generalized zone of substitution aggressive reaction development. Their action is described in compensation mechanism categories of existential unbalanced (uneasy, depressive and other inadaptable) states, determined by family conflicts. Lack of possibility, for this or that reason, of reacting to real or pretended source of personal threat causes the shift of reaction focus towards other extra-family objects. As far as criminality in the sphere of punishment execution is concerned, mostly convicts are such objects, who are subjected to violent crimes (exceed of powers). Thus, subjectively unacceptable object is substituted for acceptable one of destructive influence realization, followed by temporary calm, changing into new phases of anxiety providing an external

irritant is preserved. This research results show that parameters (character, direction, reasons) of such influence are rather diverse and can be grouped in the following blocs:

1. The influence of negative corporative customs (traditions), promoting PEI personnel legal nihilism development, scornful attitude towards service interests, profitability, etc. Such customs can include: a) tradition of drinking alcohol at service, which was admitted by 21% of PEI personnel respondents (*Shnajder G.J., 1994, p. 59*); b) mutual guarantee, due to which disciplinary and other offences (including crimes) can be hidden, their committing can be indulged. Studying artificial latency problems, I.P. Rushchenko points out, that it is much more complicated than it can seem at first sight. Here historical traditions, ways of organizing law enforcement officer activity, consciousness and mentality stereotypes are intersected. Hiding corruptible and other criminal offences in the sphere of punishment execution is a stable work style, considered by many practical workers as the only possible behavior style. That's why the strategy of PEI personnel crime prevention must include attempts aimed at undermining fundamental principles of reproducing destructive inside-the-system traditions.

2. Negative microclimate in the collective, mobbing and scornful attitude of administration towards workers. The results of PEI personnel survey, conducted by Competence Centre of Bila Tserkva college of PEI personnel professional training in 2010 on the theme "PEI personnel professional deformation", prove that such problem exists. Almost 22% of the respondents admitted that it is one of the most substantial reasons of professional deformation (*Shnajder G.J., 1994, p. 58*). But this problem is acute due to the circumstance, that professional deformation caused by the indicated factors action, is actually an intermediate link in PEI personnel criminal behavior determination mechanism. In this aspect, the research results, conducted in the USA by the Workplace Bullying & Trauma Institute, studying the problem of oppressing workers at place of work, should be paid attention to. It is established that mobbing causes considerable changes in working behavior, as it influences personnel health. The survey respondents mentioned the following reactions to mobbing: stress (76%), paranoia (60%), headache (55%), alienation feeling (41%), doubts, shame and the feeling of fault (38%). In 35% of cases the respondents noticed changes in body weight, in 28% - provoking into excessive use of alcohol, cigarettes, drugs, food. Every fourth respondent (25%) thought of suicide or violence against other people. Transferring these data to PEI personnel official activity enable the conclusion, that negative microclimate among these institution staff, authoritarian, oppressive administration style, mobbing are essential factors of external environment, influencing taking and realizing decisions of criminal authority exceed as regards convicts.

3. Purposeful involving colleagues in criminal activity. It concerns young, inexperienced workers of PEI personnel. They are drawn to negative practice, above mentioned destructive customs, traditions formed and kept among PEI personnel. In this point Yu.M. Antonian is right in his reflections of certain psychological peculiarities of criminal behavior mechanism of a person influenced by the complex of external destructive micro-social factors (*Antonyan Yu. M., 2004*). Criminals are almost unable "to rise" above the situation, to look at it from the side, to choose another way of behavior, except illegal (*Antonyan Yu. M., 2004, p. 92-93*). According to such analytical scheme Yu.M. Antonian describes formation and activity of the so called dependent criminal (*Antonyan Yu. M., 2004*). Along with this, as it was established in the course of the present research, involving PEI personnel in criminal activity by its colleagues has

similar, but not identical mechanism. The point is more about a conformist personality, that about a dependent one. According to V.S. Medvediev, the theory and practice of the judicial system know two types of involving law enforcement officials in illegal (criminal) activity: the first one is non-concretized, when other person's actions are the propaganda of criminal way of life, recruiting new adherents of criminal world, reinforcing consciously criminal ranks, forming independent motive, intention of officials to perform a certain illegal (criminal) action; the second one - concretized, consists in forcing (active persuading) into participating in crimes, as co-executor or accomplice because of legal incompetence, ignorance, little life experience, and a number of psychological characteristics, which don't allow to understand to the full the danger of future illegal actions or resist confidently the negative external influence. In addition to that, when a law enforcement officer is involved in illegal, criminal activity, his situational reaction becomes dull, which causes overestimating (underestimating) proper possibilities. It's important to mark, that negative changes emerging by stealth, have on the whole tendentious and firm character. From subjective point of view, this phenomenon is connected with introducing psychological protection mechanism, with dominating illusive vision of reality and himself, total self-justification. Afterwards, primary PEI personnel involving in criminal activity by more experienced, influential colleagues causes further consolidating anti-social characteristics of a personality. In this connection, raising the problem in this part of the monograph, criminogenic influence of convicts on PEI personnel is worth discussing. So, Competence Centre survey results in Bila Tserkva college of PEI personnel professional training, about 15% of PEI personnel admit this influence being of strongly pronounced negative character. In this connection, two types of criminogenic influence of convicts on PEI personnel should be distinguished:

a) permanent influence of criminal subculture, the so called criminal infection: PEI personnel perceiving values and anti-social inclinations, spread and being stable in certain groups of convicts – the so called “thieves”. B.M. Diomin made analogical conclusion in his research, remarking that convict environment influences negatively the personality of criminal and executive system worker, raising the degree of his de-socialization, criminalization (*Dyomin V. M., 2007, p. 19*). Yu.M. Antonian supports the opinion, that the influence of criminals under imprisonment on any personality is rather specific, as it is a concentrated negative influence (*Antonyan Yu. M., 2004, p. 112*). In this context O.G. Krykushenko marks, that criminal subculture is certainly, marginal, as some of its elements are inevitably intersected with modern civilization, its norms, but this penetration is at the same time a battle field with civilization (*Krykushenko O.G., 2015, p. 71*). Actually, criminal subculture is symbiosis of civil and marginal criminal (prison, in particular) legislation. But the synthesis of norms and systems is conventional; if general (civil) culture is a peculiar adaptation field for criminal subculture, the indicated subculture is a factor of destroying the institutions of non-formal social control for civil culture;

b) involving PEI personnel in criminal activity by convicts. O.V. Sakhnik observed, that PEI personnel performing daily official duties, usually feels convicts' open or hidden resistance, their representatives don't only attempt to realize illegal intentions, to deceive officials, but to make them become a devoted accomplice, abettor in criminal actions, participant of criminal gangs, often ignoring all social norms, applying rude psychological pressure (*Sakhnik O.V., 2014, p. 108*). As it was established in this research, in some cases criminal relationship between PEI personnel and convicts

turns out to be rather stable, and can have hereditary character if convict contingent changes. Still, most of them are short, limited to several “mutually advantageous” criminal deals, after which convicts collaborate with PEI operational subdivisions personnel and help to catch their PEI personnel accomplices in a crime.

So, PEI personnel is ascertained to perform its official activity under specific external micro-social conditions. They can often be of personal destructive, criminogenic character, have both criminal executive (connected with official activity) and extra criminal executive formation source. At the same time, the indicated factors don't determine criminal behavior directly, but indirectly. Criminogenic situation is an essential intermediate element between them and a certain criminal act. As A. P. Zakaliuk noticed, in a number of cases, realizing criminal intention, a person faces the conditions and circumstances, he could not predict. Depending on them, and adapting to them, a person changes the planned scheme, and sometimes gives up realizing his intention, at least, under these certain circumstances. As a matter of fact, criminal display mechanism combines a personality and external environment (*Zakalyuk A. P., 2008, p. 283-285*). K. Ye. Igoshev is worth agreeing with, as he denotes, that crime motive is concretized in social legal form and meaning only in connection with certain vital activity conditions, certain situations (*Igoshev K. Ye., 1974, p. 68*). V.N. Kudriavtsev agrees to it, saying that deviating from social norm takes place when a certain subject has insoluble contradiction between certain life situation and social norm, obliging or forbidding specific behavior. In other words, a certain life situation is a factor, breaking (suspending) social norm action (*Socialnyye otkloneniya., 1989, p.173*). Thus, criminogenic situation is a peculiar trigger, catalyst of criminal activity, subject's inner readiness for which was formed for the reasons, irrespective of situational circumstances combination. Applying typology method of criminogenic situations of committing corruptible and other criminal offences in the sphere of punishment execution, based on the analyzed data of criminal cases and proceedings, the following types of the indicated situations can be distinguished:

1. According to the character of quasi-legal activity in the sphere of punishment execution:

1) situations stipulated by applying (abusing) subjective law from PEI personnel special legal status structure: a) external conditions available, treated by PEI personnel at absolute discretion, having discretionary powers. Yu.V. Orlov's considerations are essential in this context, for he investigated criminogenic aspects of legal regulation and mentioned, that discretion is characteristic of a person as an intelligent human being, and a feeling of law norms social qualities is in many respects individualized, depending on education level, perception or non-perception of the present power political course, etc. (*Orlov Yu.V., 2010, p. 120*). Groundless, excessive power discretion belongs to normative legal acts corruptibility criteria (p. 1.4, 2.1, 2.2 of Methodology of conducting anti-corruptible expertise). As the given research shows, the system of legislative and by-law normative legal acts, PEI personnel activity is based on, should be scientifically thoroughly revised, to decrease criminogenic characteristics of discretionary powers, determining corruptible crimes: b) external conditions available, treated by PEI personnel wrongly (intentionally or inadvertently) as motives for applying physical force, special means, firearm;

2) situations stipulated by performing legal duties from PEI personnel special legal status structure. At the same time, such situations, depending on emergence

intensity, legal facts change, obliging PEI personnel to engage in some activity, can be divided into two groups: a) situations of normal (usual) intensity of performing official duties, requiring PEI personnel to take ordinary, predicted actions, provided for by official instructions and regulations; b) situations of increased intensity of PEI personnel performing official duties. As A.P. Zakaliuk mentioned, situation estimation defectiveness is caused by its complication, transience. Criminal display mechanism then begins from the last stage: decision taking and realization (*Zakalyuk A. P., 2008, p.312*). Such situations can be caused by convict's escape from places of imprisonment or from custody, mass riots, convict group disobedience, fires in closed punishment execution institutions, etc. As judicial practice proves, such cases also concern PEI personnel neglect of official duties.

2. According to realization sphere of PEI personnel official powers: 1) situations of normalizing criminal executive relations in case of convicts' breaking them; 2) situations of operational administration of PEI or body property; 3) situations of PEI personnel official activity, aimed at preventing, stopping and solving crimes, committed by convicts; 4) situations of PEI personnel organizational and instructional powers, concerning personnel administration.

3. According to formation source: a) situation created by convicts: 1) connected with their illegal behavior treating: other convicts; PEI personnel; established order of serving a service; 2) connected with legal behavior – attempts of subjective rights realization, corresponding to PEI legal duty; b) situations created by the very PEI personnel, including driving itself to alcoholic drunkenness state; c) situations arisen owing to PEI personnel (as a guilty subject) combination of extraordinary, pathological circumstances: psycho-physiological exhaustion, organism affection, etc.; d) situations arisen owing to combination of objective natural a or social factors.

4. According to the place, criminogenic situations can be divided into those arising: 1) in PEI personnel office; 2) in living quarters; 3) in cell type rooms; 4) in production premises; 5) in closed PEI educational and other rooms. In the course of the given research it was established, that at present the following criminological meaningful situations-obstacles in the way of PEI personnel committing a crime, can be distinguished: 1) convicts do not come to PEI for communication one by one; 2) other convicts know about the time a convict visits PEI personnel specific office; 3) communication takes place on the territory under video-surveillance; 4) organization of proper controlling PEI personnel service, at night, in particular.

**Thus, the conducted** research of external environment factors in the mechanism of forming criminal motivation in the sphere of punishment execution proved their branched, poly-variant character. Along with this, the information about them deepens understanding the analyzed category criminal activity genesis, enables to form the idea of wider spectrum of its determination factors, which is of great importance for preventive activity efficiency increase. The analysis of criminal behavior victimogenic factors in the sphere of punishment execution, that adds knowledge about its reproduction regularity, is the aim to be achieved.

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