

RE-SOCIALIZATION OF CONVICTED PERSONS: STAGES AND METHODS

Maksym Kalatur, Scientific Institute of Public Law
Yuryi Levchenko, National Academy of Internal Affairs
Tetiana Myroniuk, National Academy of Internal Affairs
**Valentyna Hrankina, Donetsk Law Institute of the Ministry of Internal
Affairs of Ukraine**
Yevhenii Huzenko, National Academy of Internal Affairs

ABSTRACT

Description: The aim of the article is to study the key principles of forensic provisions, on which the effective implementation of the program of re-socialization for convicted persons is based both during the entire period of serving their sentences and at the initial stage after release. The subject of the study is some aspects of the re-socialization of convicts in Ukraine.

Methodology: Research methods are chosen taking into account the object, subject,

Purpose of the Study: The study used general and special methods of legal science. In particular, the methodological foundations of the study are the following scientific methods: dialectical method, structural method, the methods of classification and grouping, logical and semantic method, hermeneutic method.

The Results of the Study: The study proposed a vision of the strategy, ways and mechanisms of re-socialization of convicted persons both during the entire period of their imprisonment and at the initial stage after release.

Practical Implications: It has been established that the means and methods of correction and re-socialization of convicts shall be applied taking into account the type of punishment, the identity of the convict, the nature, degree of public danger and motives of the committed criminal offense and the behavior of the convict while serving the sentence.

Value/Originality: This article discusses a range of issues related to the process of correction of convicts; in particular, it is devoted to the socio and legal concept of re-socialization of the convicted persons. Attention is also paid to certain factors that hinder the achievement of the goal of correction and re-socialization of convicts. Particular emphasis is placed on the description of the concept of “re-socialization of convicted persons”, stages and methods of re-socialization. A lot of works of leading scholars in the area of penal law are analyzed.

Keywords: Mechanism of State Regulation, Re-Socialization, Convicted Persons, Methods, Stages, Means.

INTRODUCTION

One of the social problems, which has long been and remains the subject of discussion by scholars, is to determine the optimal ways to achieve the goal of correction and re-socialization

of convicted persons. The solution to this problem is organically linked to the fight against crime and, above all, to its most dangerous manifestation-recidivism. Moreover, correction and re-socialization is of fundamental importance for addressing a wide range of issues of social and practical activities of society not only to prevent and eradicate crime, but also to prevent social deviations in general.

Ensuring the correction and re-socialization of convicted persons is also one of the most important activities at the present stage of development of the criminal execution agencies system in order to secure the safety of society and the possibility of its normal functioning in the context of protecting the rights and freedoms of an individual and citizen from unlawful encroachments. It is determined that the organized crime and recidivism have the greatest impact on the security situation in Ukraine, largely due to the imperfection and inefficiency of criminal execution agencies in ensuring the implementation of general and special prevention and educational function of punishment, as well as correction and re-socialization of convicts (Kutiepov, 2019).

One of the fundamental criteria that testifies to the civilization and level of legal culture of any State is the state of observance and protection of the rights of its citizens, including convicts, as well as the effective re-socialization of former criminals. It is re-socialization of a person released from prison, which is designed to ensure the restoration and further development of his (her) socially useful ties, relations with society, the formation of a harmonious personality, who can objectively estimate himself (herself) and the surrounding world, respect universal and national values (Barash, 2016).

The issue of finding a rational mechanism for correction and re-socialization of convicts for a certain period of time has been studied by a number of scholars, but unanimity on the order of its implementation has not been achieved. Thus, we will focus our attention on certain problems that arise in the process of correction and re-socialization of convicted persons, sentenced to the imprisonment for a certain period, as well as after their release from penalty institutions.

MATERIALS AND METHODS

The methodological basis for the Article is the dialectical method, which is used in the study of such concepts as “*correction*” and “*re-socialization*” in the sphere of penal law. The method of analysis and synthesis was applied to compare the concepts of “*correction*” and “*re-socialization*”. The structural method, the methods of classification and grouping helped in identifying the stages of re-socialization, categorizing the methods of influencing convicts used in the process of their re-socialization, as well as the means of correction and re-socialization of convicts. These methods are also used in structuring the forms of regulatory influence on the released prisoners. The logical and semantic method was used to determine the essence and significance of the methods and means of regulatory influence on the convicts. The hermeneutic method was applied for scientific analysis of the provisions of domestic legislation in terms of their application in the process of correction and re-socialization.

The theoretical basis for the Article is scientific works in the area of legal theory, constitutional, criminal and penal law.

RESULTS

In this regard, it is necessary to analyze the existing legal framework, which regulates the issues under consideration in Ukraine, taking into account the tasks of modernization of law enforcement and judicial authorities (Yunin et al., 2018; Drozd et al., 2019).

Successful re-socialization of convicted persons should provide *“positive changes associated with the purposeful formation of self-directed social and normative behavior of such persons that will allow them to smoothly integrate into society, which, surely, requires effective mechanisms of State regulation and the use of appropriate functions, methods and tools”* (Karaman, 2010). Their effect should be aimed at creating favorable conditions for this process, protecting the interests of society by solving the problems of convicts and neutralizing the causes that contributed to the commission of criminal offenses by these persons, maximum neutralization of the consequences of imprisonment, etc.

The enshrinement of the notions of *“correction”* and *“re-socialization”* in the Penal Code of Ukraine Code (Law of Ukraine, 2003) has significantly influenced the discussion in this regard. Part 1, Art. 6 of the Penal Code of Ukraine define the concept of *“correction of the convicted persons”*. Correction means the process of positive changes that occur in his (her) personality, which creates his (her) readiness for self-directed law-abiding behavior.

The correction must be understood as forcibly influencing the convict to make adjustments to his (her) socio-psychological properties, to neutralize negative attitudes, to enforce the provisions of the law on criminal liability, and even better, to instill respect for the law. Achieving such a result is recognized as a legal correction, which is an important result of the application of punishment, a significant indicator of its effectiveness. Re-socialization, according to the Penal Code, is a conscious restoration of a convict in the social status of a full member of society; returning him (her) to an independent generally accepted social and normative life in society. *“Re-socialization”* is a complex socio-legal category that encompasses various aspects of the renewal of social ties both during and after serving a sentence. That is why re-socialization is divided into penitentiary and post-penitentiary in penitentiary pedagogy.

Penitentiary re-socialization is the development of law-abiding behavior in a penitentiary institution; post-penitentiary re-socialization includes a set of measures for employment and living arrangements and establishing ties with the released person for the purpose of his (her) further social rehabilitation after release, as a result of which the social status of the convict is restored and he (she) can return to an independent life (Nezhyvets et al., 2009).

Re-socialization in penitentiary pedagogy is a process of restoration of a person as a social full member of society, which is carried out on the basis of the application of a set of legal, organizational, psychological, educational and other measures at different stages of criminal responsibility to return him (her) to independent social life. The problem of re-socialization is quite complex, it is a large-scale socio and legal problem. It is impossible to talk about the final re-socialization of the convict directly while serving the sentence; during this period it is only possible to take certain steps to ensure its achievement after release. The main prerequisites for a successful correction are the willingness and goodwill of the convicts themselves and the establishment of links between criminal execution agencies and free society (Mykhailova, 2014). The purpose of correctional method is to preserve their health and dignity, to foster a sense of responsibility and skills that will help them to reintegrate into society, to comply with the rule of law, and meet their own needs after release. A necessary condition for re-socialization is the

correction of the convict. The main means of correction and re-socialization of convicts are enshrined by the law: the established procedure for execution and serving the punishment (regime), probation, community service, social and educational work, general and vocational training, social influence. The identified remedies are designed to ensure the preservation of the physical and mental health, human dignity of convicts, the formation of a sense of social responsibility and skills that will contribute to their successful return to society, compliance with the law and their needs after release. These components are reflected in the process of re-socialization (Pampura, 2011).

“*Correction*” and “*re-socialization*” are key categories for the application of a large number of rules of penal law, which should be understood as a set of governmental and non-governmental measures defined by penal enforcement legislation, other regulations in the area of enforcement and serving of sentences, corrective influence on the consciousness of persons convicted of crimes to achieve the main goal of punishment-execution.

DISCUSSION

Thus, one of the social problems, which has long been and remains the subject of discussion by scholars, is to determine the optimal ways to achieve the goal of correction and re-socialization of convicts who are released. The solution to this problem is organically linked to the fight against crime and, above all, to its most dangerous manifestation—recidivism. Moreover, correction and re-socialization is of fundamental importance for addressing a wide range of issues of social and practical activities of society not only to prevent and eradicate crime, but also to prevent social deviations in general.

It is also worth noting the extraordinary popularity of the criminal subculture. According to the domestic expert Husak (2009), the growing influence of the criminal subculture on society, the romanticizing its archetypes, have become a socio-cultural reality of Ukraine today. Providing the necessary conditions for the re-socialization of convicts is one of the functions of the State, which is implemented through appropriate mechanisms of regulatory influence. Despite the fact that the study of the conceptual foundations of mechanisms of State regulation of social processes is given much attention by scientists, there is no common concept of the “*mechanisms of State regulation*”, as well as the single approach to its interpretation, although it is most often used by scholars to “*characterize certain management actions at the level of State, industry, region, individual institution, process, etc.*” (Meltiukhova, 2010).

Therefore, when analyzing socio-legal nature of re-socialization in accordance with the statements of scholars and practitioners who have studied the legal, pedagogical and social aspects of this process, it is necessary, fore and foremost, to identify the stages of re-socialization, as well as methods and forms of re-socialization of convicts. Accordingly, the stages of re-socialization are divided (classified) into:

1. Pre-penitentiary stage of re-socialization;
2. Re-socialization in places of detention (penitentiary);
3. Re-socialization after release from penal institutions (post-penitentiary).

The analysis of the relevant literature has shown that the psychological methods of influencing convicts used in the process of their re-socialization are distinguished on three grounds. According to the form of use, there are methods of individual and group influence; by

the method of use-direct and indirect; by the main purpose-the method of persuasion, the method of regulating mental states, the method of transmitting information or conversation, the method of suggestion and self-suggestion, psychological and pedagogical experiment, the method of creating situations, psychotherapeutic methods. We, in our turn, emphasize the following methods: administrative; economic; normative-legal, organizational, socio-psychological and socio-pedagogical. Let's consider them in more detail:

Administrative Methods

The ways to influence the activities of enterprises, institutions, organizations, officials and citizens by government agencies by directly establishing their responsibilities, the order, based on power and the state of subordination (Kutiepov, 2019). Their feature is that they are based on power, discipline, responsibility, direct influence on the object and are implemented through the hierarchy of management through the implementation of job descriptions, duties and orders. In practice, they acquire the following forms of management: organizational, administrative and disciplinary (Ryzhykov, 2015);

Economic Methods

Indirect ways to influence the behavior of objects. The application of these methods means the creation of such economic conditions that have positive influence on interest in performing a particular job, in increasing productivity. They do not explicitly specify what and how to do (Holovaty, 2014; Holovaty, 2015). These methods have the following forms of regulatory influence: settlement, motivational, transactional and socio-economic;

Normative and Legal Methods

These are based on the development and publication of legal norms that regulate relations between public authorities, State and public institutions, as well as individual citizens. The application of these methods ensures the protection of the rights, interests of convicts, prevention of torture, inhuman or degrading treatment, as well as protection of the interests of society and the State by creating conditions for correction and re-socialization of convicts, prevention of new crimes. They determine the general principles of re-socialization, social adaptation and rehabilitation of convicted persons, as well as the participation of various actors in these processes and ensuring the legal regulation of their relationship. The following legal acts are used at different levels: at the highest (national) level-the Constitution of Ukraine, laws of Ukraine, decrees of the President of Ukraine, resolutions and decisions of the Verkhovna Rada of Ukraine, resolutions and orders of the Cabinet of Ministers of Ukraine; at the central level-departmental and interdepartmental by-laws, orders; at the regional level-orders and decisions of sessions issued by local public administration bodies and local self-government bodies, respectively, procedures and agreements on interdepartmental cooperation; at the local level-regulations, instructions, etc., which regulate the internal organizational activities of a particular government (Melnychenko, 2008);

Organizational Methods

Coordinate the interests of subjects and objects in the process of their interaction through the following forms of regulatory influence: determining the procedure for participation of subjects and objects in certain measures to implement the process of re-socialization of convicts; assistance in concluding agreements (contracts) on co-operation; providing the necessary consultations, medical, psychological, socio-pedagogical, rehabilitation, legal and other services to convicts; exchange of information between the subjects and objects involved in the process of re-socialization; conducting mutual reconciliations regarding the registration of convicts; creation of necessary and sufficient conditions for correction and re-socialization of convicted juveniles by means defined by the legislation, and also realization of social rehabilitation programs and social patronage (support); involvement of necessary entities (State and public institutions) and their resources in the implementation of re-socialization at any stage of this process; co-ordination and control over the implementation of interdepartmental activities of all entities, implementation of programs (plans); monitoring of the obtained results; development of various methodological recommendations, programs and plans, including individual ones, for correction and re-socialization of convicts, based on the results of in-depth study of their personality, taking into account the causes and conditions of antisocial behavior of convicts, anticipation of appropriate personality correction, as well as the measures to prevent them from committing new crimes, etc.

Socio and Psychological Methods

These are used for neutralization of a certain deformation of the consciousness of convicts, obtained as a result of de-socialization, acquired antisocial norms, values, stereotypes of deviant and delinquent behavior, counteraction to maladaptation and for the development of self-esteem, responsibility and social significance.

Besides, they facilitate the formation of tolerant and impartial attitude towards convicts in society, which will contribute to the restoration of their social status and successful reintegration. These methods are implemented through the following forms of regulatory influence:

Social Form

Social form assists in the formation and reorientation of an individual, promoting his (her) harmonious development, self-development and self-realization in the society, restoring social status of the convict, establishing socially useful ties, re-positive socialization in society by forming self-governing law-abiding behavior of a juvenile (motivation, explanation, coercion, involvement of convicts in active social life);

Psychological Form

Psychological form promotes corrective influence on the consciousness of the convict regarding the attitude to the criminal act (repentance), learned norms of behavior, values, neutralization of desocialization influence on the person (especially if the juvenile is sentenced to imprisonment);

Moral and Ethical Form

Moral and ethical form leads to the formation of social values, changing the system of ideological, moral, legal beliefs of convicted juveniles, in accordance with accepted norms and values in society, as well as their further restoration, preservation or initial assimilation (moral stimulation, ethical education, beliefs);

Socio and pedagogical methods are the set of techniques and methods used to stimulate and develop the potential of the individual, constructive activities to change an unfavorable life situation or to solve some problems.

Re-socialization influence on convicted takes different forms, which can be classified: by the object—individual, group, mass (conversations, beliefs, observations, testing & questionnaires); by the types of activity of convicts—forms of educational, labor, permit, public activity; by the areas—mental, moral, legal, socio-ideological, labor, sanitary, aesthetic, physical, sexual education (Karaman, 2010).

The main means of correction and re-socialization of convicts are the established order of execution and serving of punishment (regime), socially useful work, social and educational work, general and vocational training, social influence.

The means of correction and re-socialization of convicts shall be applied taking into account the type of punishment, the identity of the convict, the nature, degree of public danger and motives of the committed criminal offense and the behavior of the convict while serving the sentence.

The means are the methods of educational, spiritual, economic, moral, legal, psychological and educational nature, the use of which is aimed at improving the health, physical and spiritual development of convicts, deprivation of various harmful addictions, education, preparation for conscious social and normative life in society, establishing stable ties with the outside world, through the creation and implementation of individual programs, organization of general, vocational training of convicted juveniles, cultural and educational activities, improving their legal culture, involving convicts in community service, physical education and sports, the formation of skills in a healthy lifestyle, creating conditions for the development of juvenile skills and abilities that will help successfully reintegrate into society, providing psychological assistance in the process of serving a sentence, where special attention should be paid to convicts in general and to the established order of execution and serving a sentence (regime), community service, social and educational work, general and vocational training, social influence in particular.

It is worth noting that European countries have already accumulated sufficient positive experience in the re-socialization of criminals serving sentences of imprisonment.

Most European countries apply such a measure of punishment as imprisonment to their citizens, and such a preventive measure as detention, rightly believing that the isolation of a person, in most cases, does not contribute to his (her) re-education or correction (Krysiuk, 2016).

According to the European experience, the distribution of convicts should be aimed at:

1. Separation of those prisoners who may use the joint accommodation to their advantage or who may adversely affect the others;
2. To contribute to such accommodation of prisoners, this facilitates their correction and social reintegration, while taking into account the requirements of governance and security.

European experience presupposes and assumes an individual approach to specific cases and situations in the execution of sentences. The system of execution of criminal punishments in developed foreign countries tends to use alternative measures of punishment. Such alternatives to direct imprisonment, as fines, suspended sentences and probation, as well as public condemnation and various forms of community service became a part of the criminal punishment system in a number of European countries. It is believed that the severity of the regime of conditional imprisonment is determined mainly by two factors: interference with privacy, associated with postponement, and the length of the probation period. They believe that harsh conditions of imprisonment lead to minimal re-socialization. Further research in this direction should be aimed at socio-legal research of the conditions of serving sentences in Ukrainian penitentiaries and the prospects for the use of alternative methods of punishment of convicts.

CONCLUSION

Thus, having studied the criminal law meaning of the concept of “*re-socialization*” in detail, as well as the forensic principles of the process of re-socialization of long-term prisoners, we came to the following conclusions:

1. The basic forensic principles of re-socialization of persons sentenced to imprisonment and restriction of liberty are individual crime prevention with respect to long-term prisoners; prevention of recidivism during all stages of the process of re-socialization of convicted persons; study of socio-demographic features that characterize the identity of the detained offender with a view to further use them to individualize approaches to the re-socialization of certain categories of convicts.
2. It is necessary to take into account the positive experience of the European States in legislative regulation of the basic organizational aspects of re-socialization, as well as active participation of the State, in particular by providing appropriate conditions for convicts, their social protection and involvement in vocational training.
3. The legislative definition of the term “*re-socialization*” needs to be adjusted; in particular it is necessary to specify the degree of State participation in re-socialization processes, indicating the peculiarities of their implementation in both penitentiary and post-penitentiary periods of the convict’s life.
4. Achieving legal correction of convicts is possible only after their moral correction.
5. The process of re-socialization as a form of restructuring the identity of a convict is much more complex and lengthy than the process of correction. Successful re-socialization is, first of all, an irresistible desire of the convict to become a law-abiding citizen of the country.
6. The gaps in the organization of the educational process with convicts, their insecurity in employment and living conditions, deliberate failure of the heads of enterprises, institutions or organizations to employ the released persons, is a catalyst for their recidivism.

Naturally, the issue of re-socialization should not be considered in isolation from the socio-economic conditions of any State. The experts have proven that crime has deep social roots, so one of the prerequisites for solving this problem is successful reforms, and not just in law enforcement system.

REFERENCES

- Barash, Y.Y. (2016). Criminological principles of re-socialization of long-term prisoners. *Scientific Bulletin of the National Academy of Internal Affairs*, 4(101), 99-109.
- Drozd, O., Pavlenko, S., & Sevruk, V. (2019). Theoretical and legal analysis of foreign experience on illegal amber production: Environmental and economic aspects. *Asia Life Sciences*, 2(1), 1 – 19.

- Holovaty, M. (2014). Multiculturalism as a means of nations and countries interethnic unity achieving. *Economic Annals-XXI*, 11(12), 15 – 18.
- Holovaty, M. (2015). The state and society: The conceptual foundations and social interaction in the context of formation and functioning of states. *Economic Annals-XXI*, 9(10), 4 – 8.
- Husak, A.P. (2009). The influence of antisocial environment on violent behavior of minors. *Scientific Journal Chronicles of KUL*, 2(1), 256-261.
- Karaman, O.L. (2010). Legal bases for social and pedagogical work with juvenile convicts. *Social Pedagogy: Theory and Practice*, 2(1), 63 – 70.
- Krysiuk, Y.P. (2016). Modern practice of sentencing: The experience of the United States and Western Europe. *Law and Society*, 3(1), 153 – 157.
- Kutiepov, M.Y. (2019). Problematic issues of the activity of penitentiary facilities and their impact on the reformation and re-socialization of prisoners sentenced to imprisonment. *Legal Scientific Electronic Journal*, 5(1), 247 – 250.
- Law of Ukraine. (2003). *Penal code of Ukraine of July 11, no. 1129-IV*. Retrieved May 01, 2020 from zakon4.rada.gov.ua/laws/show/1129-15
- Melnychenko, O.A. (2008). *Improving the level and quality of life of the population: The mechanism of State regulation*. Monograph. Charkiv: Magister.
- Meltiukhova, N.M. (2010). *Public administration as a unity of activity and relations*. Monograph. Charkiv: Magister.
- Mykhailova, I. (2014). Juvenile probation as a mechanism for preventing juvenile delinquency. *National Law Journal: Theory and Practice*, 6(1), 224 – 229.
- Nezhyvets O., Zhuk L., & Zhuk I. (2009). *Re-socialization of convicts and persons released from prisons: A monograph*. Kyiv: Kondor.
- Pampura, I. (2011). Features of re-socialization of juvenile convicts in penal institutions. *Legal psychology and Pedagogy: Scientific Journal*, 2(10), 274–277.
- Ryzhykov, V.S. (2015). Economic culture: Historical aspects, analysis and development prospects in the conditions of economic relations of the market type. *Actual Problems of Economics*, 163(1), 52 – 58.
- Yunin, O., Sevruk, V., & Pavlenko, S. (2018). Priorities of economic development of Ukraine in the context of European integration. *Baltic Journal of Economic Studies*, 4(3), 358 – 365.