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Zlyvko S.V.

Ph.D. in Law,

Associate Professor of the Department of Administrative,

Civil and Commercial Law and Process

Academy of the State Penitentiary Service, Chernihiv

ORGANIZATIONAL AND LEGAL PROVIDING OF PENITENTIARY AND PROBATION INTERREGIONAL DEPARTMENTS ACTIVITY

Legal acts, which regulate the activity of Penitentiary and Probation Interregional Departments, are analyzed in the article. Place and role of Interregional Departments in administrative system are analyzed. Current state and directions of organizational and legal providing improving of Interregional Departments activity in conditions of reforming. Author's definition of the concept of Probation Interregional Department is given. Development and implementation into practice Regulations about Penitentiary and Probation Interregional Departments are proposed.

The proposal, concerning the development and introduction into practice the Regulation about Penitentiary and Probation Interregional Departments is urgent. On the basis of verified in practice and scientifically substantiated principles, the organizational and legal bases of the activity of Penitentiary and Probation Interregional Departments should be unified in it. Urgency of such legal act is also confirmed by the conclusion that the lack of clearly defined competence of Penitentiary and Probation Interregional Departments creates numerous problems in daily activity and this is negative phenomenon in law enforcement activity of the Ministry of Justice as a whole, which affects citizens' rights and freedoms.

Key words: *Department, organizational and legal providing, execution of criminal crimes, territorial bodies, Interregional Department.*

Target setting. Deep socio-economic and political transformations in Ukraine are connected with the implementation of the officially proclaimed course of integration into Europe and the necessity to bring the norms and standards of internal life of our society in accordance with European norms and standards. Implementation of recommendations of the Council of Europe concerning adhering to the requirements of the European Prison Rules has led to changes in

criminal and executive policy of the state and, as a consequence, to reforming of legal and organizational foundations of penitentiary bodies and institutions activity in order to bring them in accordance with world standards. Appropriate reforms of Penitentiary System are important steps towards European integration.

It should be emphasized that the reform of Penitentiary System of Ukraine is an integral part of administrative reform aimed at optimizing the system of governance of penitentiary bodies and institutions, streamlining the relations between the authorities of various hierarchical levels, and, as the result, eliminating the system of punishment from crisis. Improving the legislation in the direction of strengthening the protection of citizen's rights and freedoms and ensuring the implementation of criminal penalties requires, first of all, a clear definition of the structure of Penitentiary System, the theoretical substantiation of the essence of legal status of penal bodies and institutions, ways and directions of their activities improving [1, p. 35].

Existing complex of problems of Penitentiary System of Ukraine to a certain extent is due to insufficient scientific substantiation from the standpoint of the Theory of Administration and Administrative Law, that is why, the relevance of the article is connected, firstly, with the necessity to analyze the principles of current legislation on the activities of territorial bodies of the Ministry of Justice - interregional departments of execution of criminal punishments and probation (further referred to as interregional administrations) in order to identify problematic and insufficiently regulated issues of their legal and organizational provision; secondly, with the need for the development of scientifically substantiated recommendations for improving the activities of interregional administrations in order to achieve the goals set by current legislation.

Actual scientific researches and issues analysis. While the development of the state took place, there was the formation of legal

science, including in the field of management of the State Criminal and Executive Service of Ukraine (further - the SCES of Ukraine). Among the modern Ukrainian studies, which to some extent relate to specifics of the territorial bodies of the DKVD of Ukraine activity, it is worth mentioning scientific achievements of Aliiev R.V., Barash Ye. Yu., Halai A. O., Grechaniuk S. K., Denysova T. A., Dodin Ye. V., Zabarnyi H.H., Kaliuzhnyi R. A., Kolodii A.M., Puzyrnyi V. F., Stepaniuk A. Kh., Stetsenko S. H., Yahunov D. V. and other scientists.

However, today structural, functional and organizational transformations in Penitentiary System revealed some gaps in the studying of functional, organizational, legal and managerial provision of many branches of the system of penitentiary bodies and institutions. In connection with this, it is necessary to analyze the main components of the organization of inter-regional departments activities, taking into account the present realities and the departure from the stereotypes of the Soviet corrective labor system, which are still being found in modern Penitentiary System of Ukraine.

The purpose of the article is to identify problematic and insufficiently regulated issues of legal and organizational support of territorial bodies of the Ministry of Justice (interregional departments) activities and to develop scientifically substantiated recommendations for improving their activities in order to achieve the goals set by current legislation.

The statement of basic materials. Depending on the procedure of formation, the legislation distinguishes the status of territorial bodies of central bodies of Executive Power. In one case, territorial bodies of the Ministry can be formed as legal bodies of Public Law. In this case, they are liquidated, reorganized upon the submission of the Minister by the Cabinet of Ministers of Ukraine within the limits of the maximum number of civil servants and employees of the Ministry

and funds provided for maintenance of the Ministry. Otherwise, territorial bodies of the Ministry can be formed, liquidated, reorganized by the Minister as structural subdivisions of the apparatus of the Ministry that do not have the status of a legal body, in agreement with the Cabinet of Ministers of Ukraine [2, p. 31].

The creation of territorial bodies of the Ministry of Justice (interregional departments) was not a one-time act, but became the result of permanent transformations of organizational and legal foundations of the System of Execution of Criminal Punishments throughout the period of its existence. Thus, according to Article 9 of the Law of Ukraine "On the State Criminal and Executive Service of Ukraine", in order to ensure fulfillment of the tasks of the State Penitentiary Service of Ukraine, the central executive body on implementation of punishments creates territorial authorities - departments in the Autonomous Republic of Crimea, regions, in the city of Kiev and Kiev region, in the city of Sevastopol. And according to the Resolution of the Cabinet of Ministers No. 348 dated May 18, 2016 "On Elimination of Territorial Bodies of the State Penitentiary Service and the Formation of Territorial Bodies of the Ministry of Justice", 24 territorial bodies (regional) of the State Penitentiary Service are liquidated as legal bodies of Public Law and territorial bodies of the Ministry of Justice - six interregional departments on the execution of criminal penalties and probation are formed as legal bodies of Public Law [3, p. 1, 2]. The same differences are found in a number of other rules of normative legal acts that provide organizational and legal support for interregional administrations activities and determine their legal status.

Thus, in Clause 1 of "the Standard Principle on Territorial Bodies of the Ministry and other Central Executive Authority", approved by the Resolution of the Cabinet of Ministers of Ukraine dated May 25, 2011 No. 563 [4], it is stated that the territorial bodies of the Ministry and other central executive authorities can be formed in the Autono-

mous Republic of Crimea, regions, in the city of Kyiv and Sevastopol, districts, districts in cities, in the cities of regional, republic (Autonomous Republic of Crimea) and as interregional (which powers extend to several administrative territorial units) territorial bodies, if provided for by the principle on the Ministry and other central executive body.

Consequently, we draw attention to the fact that the formation of interregional departments as territorial bodies of the Ministry of Justice should be provided for in the Principle on the Ministry of Justice. But in this Principle, approved by the Cabinet of Ministers of Ukraine from July 2, 2014, No. 228, the establishment of interregional departments as territorial bodies is not discussed at all. It is only mentioned that concerns organizational and managerial activity of the territorial bodies of the Ministry of Justice, namely:

- The Ministry of Justice, in accordance with the tasks entrusted to it, provides explanations on issues related to the activities of its territorial bodies, analyzes the results of its activities and takes measures to improve the efficiency of the functioning of territorial bodies, organizes the consideration of citizens' appeals on issues related to the activities of its territorial bodies, provides control over the work of structural units of territorial bodies of the Ministry of Justice, which ensure the implementation of powers in the sphere of enforcement of decisions and determines the basis all directions of activity of interregional departments on execution of criminal penalties and probation of the Ministry of Justice;

- The Ministry of Justice in order to organize its activities controls the activities of territorial bodies of the Ministry of Justice;

- The Ministry of Justice exercises its powers directly and through territorial bodies of the Ministry of Justice established in the established manner [5].

In accordance with the first paragraph of clause 3 of the "Regulation on the Main Territorial Departments of Justice of the Ministry of Justice of Ukraine in the Autonomous Republic of Crimea, in regions, cities of Kyiv and Sevastopol", approved by the order of the Ministry of Justice of Ukraine of June 23, 2011 No. 1707/5 [6], one of the main tasks of the Main Territorial Department of Justice is the implementation of state policy in the area of Probation, which does not correspond with the Law of Ukraine "On the State Criminal and Executive Service of Ukraine". Particularly, the Article 1 of the mentioned Law states the following: "The State Criminal and Executive Service of Ukraine has the task to implement state policy in the field of execution of criminal punishments".

However, Clause 2 of the Resolution of the Cabinet of Ministers of Ukraine dated May 18, 2016 No. 343 "Some Issues of Optimization of the Activities of the Central Executive Bodies of the Justice System" [7] stipulates that the Ministry of Justice is the legal successor of the State Penitentiary Service that is being liquidated in the implementation of state policy in the field of execution of criminal penalties and probation.

Consequently, having considered and conducted the analysis of the above normative legal acts that regulate the activity of territorial bodies of the Ministry of Justice (interregional departments), we conclude that the normative-legal base on this issue, in addition to having certain inconsistencies, is insufficient. In particular, to date, the Regulation on Interregional Criminal Penalties and Probation Offices has not been drafted or approved.

Thus, the formation of inter-regional departments was a consequence of the interaction of the penitentiary system with the objective conditions for its functioning. The peculiarity of the administrative and territorial division of Ukraine and the location of the penitentiary institutions, the need to exercise control over the distribution of fi-

nancial resources, directed by the state for the maintenance of prisoners and the activities of correctional institutions, necessitate the implementation of centralized governance by state authorities, which can be achieved through the creation of intermediate administrative structures, which are interregional administrations on the execution of criminal penalties and probation

The analysis of the place and role of interregional offices in the management system of subordinate institutions allows the following conclusions to be drawn. First, interregional administrations are state authorities of branch competence. Secondly, they occupy an intermediate position in the system of governance between the central executive body on the execution of criminal penalties and institutions and penal institutions and directly administer them. Thus, interregional administrations are a very important link in the existing management system, because they play a key role in bringing the state policy in the field of execution of criminal penalties and probation to a specific institution or penal institution and further implementation of its main provisions.

Interregional administrations act as participants and coordinators of the administrative, executive, production and economic activities of subordinate units, as well as the main controlling body. In this case, control should be carried out mainly in the form of organizational and methodological assistance

Principal differences in the management of interregional administrations and subordinate bodies and institutions are expressed in the fact that the activities of the apparatus of territorial bodies in the exercise of their functions are not directly connected (with a few exceptions) to convicted persons, as well as measures to ensure the regime, involving convicts to work, etc., but it is organizational and aimed at creating the necessary conditions for the effective functioning of the

relevant bodies and institutions whose activities carry Exactly executive nature.

Summarizing all of the foregoing, it should be noted that the Interregional Department for the Execution of Criminal Sentences and Probation is a legal entity of public law, which is a structural subdivision of branch competence whose powers extend over to several administrative units, is created by the Cabinet of Ministers of Ukraine on the recommendation of the Minister of Justice for day-to-day management of the institutions and organs of the penitentiary system of Ukraine for the purpose of organizing the execution of criminal punishments and solving tasks, post the carcasses before the SCES of Ukraine.

Conclusions. The research of the legal framework of activity of interregional departments on implementation of criminal punishments and Probation makes it possible to reach the following conclusion: legislative acts regulating legal relations in the field of execution of criminal punishments need to be specified in departmental normative acts. That is provided for in Art. 9 of the Law of Ukraine "On the State Criminal and Executive Service of Ukraine", where it is determined, that territorial authorities control operational and service and financial and economic activities of the bodies and institutions subordinated to them and perform the functions provided for by the principles on territorial administrative bodies. The principles on territorial administrative bodies are approved by the Central Executive Body on the execution of punishments [8].

In connection with the foregoing, the proposal on the development and implementation into practice the Regulation on Interregional Authorities on Execution of Criminal Punishments and Probation, in which on the basis of proven on practice and scientifically grounded principles, organizational and legal basis of activity of Interregional Authorities on Execution of Criminal Punishments and Probation

should be unified. The urgency of such normative and legal act is also confirmed by the conclusion that the lack of clearly defined competence of Interregional Authorities on Execution of Criminal Punishments and Probation creates numerous problems in daily activities, and this is negative phenomenon in the law enforcement activity of the Ministry of Justice as a whole, which affects citizens' rights and freedoms.

The analysis of organizational and legal support of Interregional Authorities on Execution of Criminal Punishments and Probation allows formulate the following directions of their activities improvement:

- defining of real, economically grounded and socially meaningful goals and tasks;

- defining the criteria of effective activity of Interregional Authorities on Execution of Criminal Punishments and Probation and subordinate units that really guarantee to perform the tasks the SCES of Ukraine faces with;

- improving of the system of control over the activities of Interregional Authorities on Execution of Criminal Punishments and Probation;

- improving of internal organization activity (updating of the scheme of distribution the functions between different services of interregional departments and units within the services, elimination of duplicate structural units, etc.);

- expansion of the system of interaction and promotion of Interregional Authorities on Execution of Criminal Punishments and Probation (expansion of the forms of interaction, departure from the formalization of charitable activities, formation of legal basis for charitable activities of public and other organizations, individuals, etc.);

- improving of governance (detection, systematization and overcoming of information barriers between subdivisions of Interregional

Authorities on Execution of Criminal Punishments and Probation, creating of proper control system, etc.).

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Зливко С. В.

ОРГАНІЗАЦІЙНО-ПРАВОВЕ ЗАБЕЗПЕЧЕННЯ ДІЯЛЬНОСТІ МІЖРЕГІОНАЛЬНИХ УПРАВЛІНЬ З ПИТАНЬ ВИКОНАННЯ КРИМІНАЛЬНИХ ПОКАРАНЬ ТА ПРОБАЦІЇ

У статті аналізуються нормативно-правові акти, які регулюють діяльність міжрегіональних управлінь з питань виконання кримінальних покарань та пробації. Аналізуються місце і роль міжрегіональних управлінь в системі управління. Визначається сучасний стан та напрями вдосконалення організаційно-правового забезпечення діяльності міжрегіональних управлінь в умовах реформування. Подається авторське визначення поняття міжрегіонального управління з питань виконання кримінальних покарань та пробації. Пропонується розробка і впровадження у практичну діяльність Положення про міжрегіональні управління з питань виконання кримінальних покарань та пробації.

Ключові слова: управління, організаційно-правове забезпечення, виконання кримінальних покарань, територіальні органи, міжрегіональне управління.

Зливко С. В.

ОРГАНИЗАЦИОННО-ПРАВОВОЕ ОБЕСПЕЧЕНИЕ ДЕЯТЕЛЬНОСТИ МЕЖРЕГИОНАЛЬНЫХ УПРАВЛЕНИЙ ПО ВОПРОСАМ ИСПОЛНЕНИЯ УГОЛОВНЫХ НАКАЗАНИЙ И ПРОБАЦИИ

В статье анализируются нормативно-правовые акты, которые регулируют деятельность межрегиональных управлений по вопросам исполнения уголовных наказаний и probation. Анализируются место и роль межрегиональных управлений в системе управления. Определяется современное состояние и направления усовершенствования организационно-правового обеспечения деятельности межрегиональных управлений в условиях реформирования. Подано авторское определение понятия межрегионального управления по вопросам исполнения уголовных наказаний и probation. Предложена разработка и внедрение в практическую деятельность Положение о межрегиональном управлении по вопросам исполнения уголовных наказаний и probation.

Ключевые слова: управление, организационно-правовое обеспечение, исполнение уголовных наказаний, территориальные органы, межрегиональное управление.

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Никифорчук Д. Й.,

доктор юридичних наук, професор, завідувач кафедри
оперативно-розшукової діяльності НАВС, м. Київ;

Колб І. О.,

кандидат юридичних наук, заступник начальника відділу
нагляду за додержанням законів при виконанні судових рішень
у кримінальних провадженнях, а також при застосуванні інших
заходів примусового характеру, пов'язаних з обмеженням
особистої свободи громадян прокуратури Київської області

ПРО ДЕЯКІ ЗМІСТОВНІ АСПЕКТИ ПРИНЦИПІВ КРИМІНАЛЬНО-ВИКОНАВЧОЇ ДІЯЛЬНОСТІ ПЕРСОНАЛУ ОРГАНІВ ТА УСТАНОВ ВИКОНАННЯ ПОКАРАНЬ УКРАЇНИ

У статті проаналізовано зміст міжгалузевих принципів кримінально-виконавчої діяльності персоналу органів та установ виконання покарань, а також про їх місце і роль у правовому механізмі сфери виконання покарань.