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Legal Regulation And Content Of Law Application And Law Enforcement Functions Within Penitentiary Bodies And Institutions

This article demonstrates that current legislation provides grounds to classify penitentiary bodies and institutions (bodies and institutions for the enforcement of punishments) as law enforcement agencies. The activities of bodies and institutions for the enforcement of punishments, which are organizationally part of the State Criminal-Executive Service of Ukraine, are viewed as law enforcement activities. This is because the organizational structures and officials of these bodies perform law application and law enforcement functions. The law application and law enforcement functions of penitentiary bodies and institutions are carried out in the area of punishment enforcement. Understanding the content of these functions is possible by clarifying activity areas and main tasks of penitentiary bodies and institutions, as defined in the laws and regulations governing their activities.

Keywords: penitentiary bodies and institutions, law enforcement activity, law enforcement function, activity areas and main tasks of penitentiary bodies and institutions, criminal executive activity.

Research Problem Formulation. The Ukrainian legislation classifies penitentiary bodies and institutions as law enforcement agencies since they fulfil law application and law enforcement functions. It is generally known that law enforcement activity is the activity of state bodies, officials who, within their competence, act to enforce laws and subordinate legislation by adopting law application acts. Law enforcement activities are carried out within the framework of law application. To understand the essence of the law enforcement function within penitentiary bodies and institutions, it is necessary to specify the main focus and tasks of these bodies, which are strategically determined by their primary mission: the enforcement of punishments. Punishment en-



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forcement is carried out within the primary area of activity of penitentiary bodies and institutions, such as criminal executive activity, which falls under the umbrella of law enforcement. The law enforcement function of penitentiary bodies and institutions is a direction of state activity in the area of penitentiary, reflecting the essence of this activity.

Analysis of Research and Publications Introducing the Resolution for This Issue. Research on the law enforcement function of state authorities has been performed by Aver'ianov V.B., Babaiev V.K., Bandurka O.M., Bezpalo-va O.I., Bielov D.M., Bielova M.V., Bratel S.H., Volosko V.V., Voluiko O., Hlos-nichenko I.P., Druchek O., Dubynskyi I.Yu., Dudchenko O.Yu., Zahumenna Yu.O., Kolomiets Yu.M., Kolpakov V.K., Komarov S.A., Komziuk A.T., Kryzh-na V.V., Kuznietsov I.A., Lukashevych V.H., Melnyk M.I., Moskovets V.I., Nehodchenko O.V., Oksamytnyi V.V., Osadchyi V.I., Osaulenko A.O., Ostrovskiy S.O., Rabinovych P.M., Savytska N.A., Sazhniev I.V., Skakun O.F., Sokolenko O.L., Tyshchenko M.M., Khavroniuk M.I., Khropaniuk V.N., Filipenko N. Ye., Shai R. Ya., Shkarupa V.K., and others. Indisputably, a considerable number of re-search developments focusing on the law enforcement function, conducted by experts in various fields of law, allow us to determine the significance and place of this function among other functions of the state. However, from our perspective, insufficient consideration is given to clarifying the issues concerning the substan-tive content of the law enforcement function, particularly in the activities of peni-tentiary bodies and institutions.

The Article Purpose is to identify key, crucial, and objective information containing the most valuable data regarding the law enforcement function performed by penitentiary bodies and institutions in the legal regulations governing their activities. Characterizing the law enforcement function in the activities of penitentiary bodies and institutions appears impossible without elucidating the categorical apparatus contained in the legal regulations governing the field of penitentiary and reflecting the qualitative peculiarities of the law enforcement function in this area. In our view, this task can be addressed by referring to legal regulations governing the activities of penitentiary bodies and institutions. The means to achieve this goal is the compilation of extracts from primary sources, defining the main areas of activity, key tasks, and functions of penitentiary bodies and institutions, thus creating a comprehensive overview. After conducting analytical-synthetic processing of legal regulations in the field of penitentiary, an information product should be obtained that outlines the scope of activities of penitentiary bodies and institutions, demonstrating the substantive content of law application and law enforcement functions they implement.

Main Content Presentation. Clause 14 of Article 92 of the Constitution of Ukraine states that the activities of the bodies and institutions for the enforcement of punishments are exclusively determined by the laws of Ukraine. According to established views in domestic jurisprudence, the activities of bodies and institutions for the enforcement of punishments are considered one of the types of legal activities, namely law enforcement activities. The Law of Ukraine On State Protection of Court and Law-Enforcement Bodies Staff clearly indicates that penitentiary bodies and institutions are law enforcement agencies, that is, bodies that fulfill law application or law enforcement functions¹. In turn, Art. 6 of the Law of Ukraine On State Criminal-Executive Service of Ukraine sets out that the State Criminal-Executive Service of Ukraine performs law application and law enforcement functions².



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Declaration of Competing Interest

The author declare that they have no conflict of interest.

¹ Закон України «Про державний захист працівників суду і правоохоронних органів». URL: <https://zakon.rada.gov.ua/laws/show/3781-12#Text>

² Закон України «Про Державну кримінально-виконавчу службу України». URL: <https://zakon.rada.gov.ua/laws/show/2713-15#Text>



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НОРМАТИВНО-ПРАВОВА РЕГЛАМЕНТАЦІЯ ТА ЗМІСТ ПРАВАЗАСТОСОВНОЇ І ПРАВООХОРОННОЇ ФУНКЦІЙ ОРГАНІВ ТА УСТАНОВ ВИКОНАННЯ ПОКАРАНЬ

У статті показано, що чинне законодавство дає підстави відносити органи та установи виконання покарань до правоохоронних органів. Діяльність органів і установ виконання покарань, які організаційно входять в структуру Державної кримінально-виконавчої служби, розглядається як правоохоронна діяльність, оскільки організаційні структури і посадові особи цих органів виконують правозастосовну і правоохоронну функції. Правоохоронна і правозастосовна функції органів та установ виконання покарань реалізуються у сфері виконання покарань. Зрозуміти змістове наповнення цих функцій можливо шляхом з'ясування напрямків і основних завдань органів та установ виконання покарань які визначені у законах і підзаконних нормативно-правових актах, що регулюють їх діяльність.

Ключові слова: органи і установи виконання покарань, правоохоронна діяльність, правоохоронна функція, напрями і основні завдання органів та установ виконання покарань, кримінально-виконавча діяльність.

The Law of Ukraine On State Protection of Court and Law-Enforcement Bodies Staff classifies bodies and institutions for the enforcement of punishments, including pre-trial detention centers, as enforcement agencies. This is because they perform law application or law enforcement functions, specifically through their employees' direct participation in enforcing judgments, decisions, rulings, and orders of courts, as well as orders issued by agencies conducting operational search activities, pre-trial investigation, and prosecutors³.

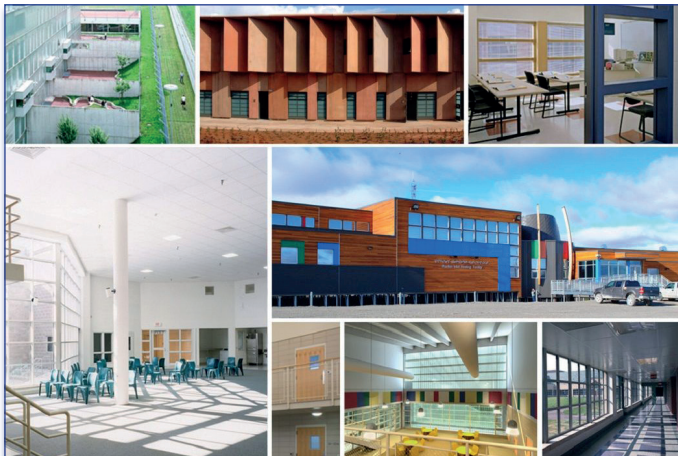
The Law of Ukraine On the State Criminal-Executive Service of Ukraine provides a broader understanding of who performs law application or law enforcement functions within this Service. These include its structural units such as central executive authority responsible for implementing state policy in the field of criminal punishment enforcement, its regional authorities, Criminal Executive Inspection Service (which have been absent since 2017: as stated by the authors), penitentiary institutions, pre-trial detention centers, paramilitary formations, educational institutions, healthcare facilities, enterprises of punishment enforcement institutions, other enterprises, institutions, and organizations created to support the tasks of the State Criminal-Executive Service of Ukraine. Therefore, the question arises: What is the substantive content of law application and law enforcement functions?

According to the Great Explanatory Dictionary of Modern Ukrainian Language, "function" refers to the work, duty, area of activity of someone or something. The purpose, role of something⁴. In turn, "work" is an action, in terms of its meaning: to do something. The process, action, functioning. To do: to engage in some kind of activity, action⁵.

In jurisprudence, functions of the state refer to the main areas of its activity, and the fulfillment of these functions is a process carried out through state bodies and their officials⁶. While discussing the state's law enforcement function, R. Ya. Shai highlights that the key criterion for distinguishing law enforcement agencies from other state bodies is the scope of tasks assigned to them⁷. In the science of administrative law, when analyzing the law enforcement function, it is also assumed that the functions of the state precisely represent the areas of its activities implemented by all state bodies⁸.

So, to conceptualize the bodies and institutions responsible for enforcing punishments as law enforcement agencies, one must ascertain the areas of their activities and the scope of their tasks: specifically what is the substantive content of their law enforcement and law application functions? The answer to this question can be found in the relevant legal regulations governing the activities of these bodies, as well as in the works of legal experts.

According to the Concept of Criminal Justice Reform in Ukraine, the system of agencies traditionally referred



³ Закон України «Про державний захист працівників суду і правоохоронних органів». URL: <https://zakon.rada.gov.ua/laws/show/3781-12#Text>

⁴ Великий тлумачний словник сучасної української мови /Уклад. і голов. ред. В.Т. Бусел. Київ : Ірпінь: ВТФ «Перун», 2005. С. 1552

⁵ Там само, С. 1228-1229

⁶ Дубинський І.Ю. Класифікаційні особливості функцій держави. URL: https://www.juris.vernadskyyournals.in.ua/journals/2019/4_2019/4.pdf

⁷ Шай Р.Я. Правоохоронна функція держави: теоретико-практичні аспекти. Автореф. дис. канд. юрид. наук. 12.00.01 Львів, 2012. 20 с. URL: <https://ena.lpnu.ua/bitstreams/16f15bc0-d71e-410d-b32f-0653794289e3/download>

⁸ Белов Д.М., Белова М.В. Правоохоронна функція держави: роль та місце органів прокуратури. URL: <https://visnyk-juris-uzhnu.com/wp-content/uploads/2023/06/4.pdf>

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**LEGAL REGULATION
AND CONTENT OF LAW
ENFORCEMENT AND LAW
ENFORCEMENT FUNCTIONS
OF PENITENTIARY BODIES
AND INSTITUTIONS**

The article shows that current legislation gives grounds to classify penitentiary bodies and institutions as law enforcement agencies. The activities of penitentiary bodies and institutions which are organisationally part of the structure of the State Penitentiary Service are considered to be law enforcement activities, since the organisational structures and officials of these bodies perform law enforcement and law enforcement functions. The law enforcement and law enforcement functions of penal bodies and institutions are implemented in the area of execution of sentences. It is possible to understand the content of these functions by clarifying the directions and main tasks of penal bodies and institutions which are defined in the laws and by-laws regulating their activities.

Keywords: penitentiary bodies and institutions, law enforcement, law enforcement function, directions and main tasks of penitentiary bodies and institutions, criminal executive activity.

to as “law enforcement” is established as a mechanism for persecution and repression⁹.

The Ministry of Justice of Ukraine directs and coordinates the activities of the bodies and institutions for the enforcement of punishments, develops the policy in the field of punishment enforcement, determines its goals, principles, strategy, main forms and methods, carries out administrative, rule-making, law application, interpretative actions and operations, which may have legal consequences.

In particular, one of the areas of the Ministry of Justice’s activities is the reform of the penitentiary system and probation¹⁰. As part of this, the Cabinet of Ministers of Ukraine approved the Strategy for the Development of the Penitentiary System until 2026 on December 16, 2022.

The goal of the Ministry of Justice of Ukraine’s state policy for the years 2022–2024 is to create a humanistic system for punishment enforcement. To achieve this goal, the following main tasks have been defined:

1. Establishing the strategic directions of reforming the penitentiary system in Ukraine.

2. Individualization of punishment imposition and expansion of the range of alternative punishment forms to imprisonment will contribute to reducing the number of individuals in detention, ensuring the rehabilitation of offenders without isolation from society, and saving respective budgetary funds.

3. Implementation of effective tools to change behavior, correct, and rehabilitate persons who have come into conflict with the law (work, correctional and educational programs), as well as support and assistance to convicts preparing for release.

4. Creation of corresponding conditions for the detention of convicts and prisoners through the reconstruction of correctional facilities, construction of new modern pre-trial detention centers in the cities of Lviv and Kyiv, and the establishment of a model correctional facility.

5. Ensuring the functioning of transparent and effective mechanisms for the prevention and counteraction of torture and cruel treatment in places of detention and pre-trial detention.

6. Promoting the development of the IT infrastructure and the digitization of the penitentiary system, including the improvement and maintenance of the Unified Register of Convicts and Persons Taken into Custody, implementing electronic monitoring in probation, planning systems, and human resource management in penitentiary institutions and pre-trial detention centers.

7. Implementing a risk assessment system to predict the likelihood that an individual will re-offend and violate early release conditions, which is based on the use of machine learning and automated inference algorithms (forecasts) applied to the processing of large structured datasets.

8. Ensuring proper medical care in penitentiary institutions and pre-trial detention centers in accordance with national and international standards¹¹.

The law enforcement function is also reflected in the fact that the Deputy



⁹ Концепція реформування кримінальної юстиції України. URL: <https://zakon.rada.gov.ua/laws/show/311/2008#Text>

¹⁰ Реформування пенітенціарної системи та пробачії. URL: https://minjust.gov.ua/reforming_the_penitentiary_system_and_probation

¹¹ План діяльності Міністерства юстиції України на 2022-2024 роки. URL: <file:///C:/Users/user/Downloads/%D0%A1%D1%82%D1%>

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GESETZLICHE REGELUNG UND INHALT DER ECHTSDURCHSETZUNG UND RECHTSDURCHSETZUNGSFUNKTI- ONEN VON TRAFVOLLZUGSBEHÖR- DEN UND -EINSTITUTEN

Zusammenfassung. Der Artikel zeigt, dass die aktuelle Gesetzgebung Anlass gibt, Strafvollzugsorgane und -einrichtungen als Strafverfolgungsbehörden einzustufen. Die Aktivitäten von Strafvollzugsorganen und -einrichtungen, die organisatorisch Teil der Struktur des staatlichen Strafvollzugsdienstes sind, werden als Strafverfolgungsaktivitäten betrachtet, da die Organisationsstrukturen und Beamten dieser Organe Strafverfolgungs- und Strafverfolgungsfunktionen ausüben. Die Strafverfolgungs- und Strafverfolgungsfunktionen von Strafvollzugsorganen und -einrichtungen werden im Bereich der Strafvollstreckung umgesetzt. Der Inhalt dieser Funktionen lässt sich verstehen, indem man die Richtungen und Hauptaufgaben von Strafvollzugsorganen und -einrichtungen erläutert, die in den Gesetzen und Verordnungen definiert sind, die ihre Aktivitäten regeln. Schlüsselwörter: Justizvollzugsbehörden und -anstalten, Strafverfolgung, Strafverfolgungsfunktion, Richtungen und Hauptaufgaben von Justizvollzugsbehörden und -anstalten, strafrechtliche Exekutivfähigkeit.

Minister of Justice of Ukraine, among many other powers, “defines the main areas of activity for the interregional departments responsible for the execution of criminal punishments and probation within the Ministry, as well as authorized bodies for probation issues, institutions for punishment execution, pre-trial detention centers, paramilitary formations, healthcare institutions, enterprises of penitentiary institutions, and other enterprises, institutions, and organizations established to ensure the implementation of tasks by State Criminal-Executive Service of Ukraine”¹².

A structural unit of the Ministry of Justice of Ukraine is the Department for Cooperation with the State Criminal-Executive Service of Ukraine. The department’s main tasks include:

1. Participation within its authority in the formation and implementation of state policy in the field of criminal punishment enforcement and probation.

2. Facilitating cooperation between the Ministry and the Department for the Execution of Sentences, Public Institutions “Center of Probation”, “Health Care Center of the State Criminal-Executive Service of Ukraine”, “Public Institution General Directorate of the State Criminal-Executive Service of Ukraine”, and interregional departments for the enforcement of criminal punishments of the Ministry of Justice, penitentiary institutions, pre-trial detention centers, territorial (interregional) paramilitary units, and educational institutions of the State Criminal-Executive Service of Ukraine, including through the exchange of information between the Ministry and the bodies and institutions of the State Criminal-Executive Service of Ukraine.

3. Ensuring coordination among the activities carried out by the bodies and institutions within the State Criminal-Executive Service of Ukraine in accordance with the tasks assigned to the Department.

4. Ensuring cooperation with ministries, other central executive authorities, institutions, and organizations, as well as scientific and educational institutions, on matters related to the formation and implementation of state policy in the field of criminal punishment enforcement and probation.

5. Promoting international partnerships in the field of criminal punishment enforcement and probation. 6. Fulfilling specific assignments from the Ministry’s leadership regarding matters concerning the interaction of the Ministry with the bodies and institutions of the State Criminal-Executive Service of Ukraine¹³.

Within the Ministry of Justice, there is a Department of Internal Security of the State Criminal-Executive Service of Ukraine and Justice Bodies, which also fulfills the law enforcement function based on its core tasks, namely:

1. Prevention, detection, and cessation of criminal and other offenses in all areas of activity of the Ministry, its territorial bodies, enterprises, institutions, and



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¹² Висоцька Олена Володимирівна. Заступник Міністра юстиції України. URL: <https://minjust.gov.ua/people/visotska-olena>

¹³ Відділ по роботі з системою Державної кримінально-виконавчої служби. URL: <https://minjust.gov.ua/m/viddil-po-roboti-z-sistemoyu-derzhavnoi-kriminalno-vikonavchoi-sluzhbi>

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**RÉGLEMENTATION
JURIDIQUE ET CONTENU DES
FONCTIONS D'APPLICATION
DE LA LOI DES ORGANISMES
ET INSTITUTIONS
PÉNITENCIAIRES**

L'article montre que la législation actuelle permet de classer les organes et institutions pénitentiaires comme organismes chargés de l'application de la loi. Les activités des organes et institutions pénitentiaires qui font partie intégrante de la structure du Service pénitentiaire de l'État sont considérées comme des activités d'application de la loi, puisque les structures organisationnelles et les fonctionnaires de ces organismes exercent des fonctions d'application et d'application de la loi. Les fonctions de maintien de l'ordre et de maintien de l'ordre des organes et institutions pénitentiaires sont mises en œuvre dans le domaine de l'exécution des peines. Il est possible de comprendre le contenu de ces fonctions en clarifiant les orientations et les tâches principales des organismes et institutions pénitentiaires qui sont définies dans les lois et règlements régissant leurs activités.

Mots-clés : organes et institutions pénitentiaires, application de la loi, fonction d'application de la loi, orientations et tâches principales des organes et institutions pénitentiaires, activité exécutive pénale.

organizations within the Ministry's scope, as well as bodies and persons whose activities are directed and coordinated by the Minister, including subjects operating in areas where the Ministry implements state policy, along with institutions and organizations formed to ensure the execution of tasks by the State Criminal-Executive Service of Ukraine (hereinafter referred to as justice bodies).

2. Preventing infiltration of persons with criminal or self-serving intentions into the service of the State Criminal-Executive Service of Ukraine and justice bodies.

3. Participation in ensuring the Ministry's proper functioning.

4. Conducting a systematic analysis of the state of affairs within justice bodies to ensure compliance with legislation in fulfilling tasks.

5. Coordinating the activities of the structural internal security units of the State Criminal-Executive Service of Ukraine.

6. Organizing inspections of bodies and institutions of the State Criminal-Executive Service of Ukraine, probation authorities, and all other justice bodies to ensure compliance with legislation in performing tasks.

7. Conducting an analysis of the effectiveness of measures taken to counteract offenses.

8. Summarizing the practice of applying legislation within the Department's competence and submitting proposals to the Ministry's leadership for its improvement in the established manner.

9. Participation in the conduct of official investigations into crimes committed by officials of the State Criminal-Executive Service of Ukraine, probation authorities and other justice bodies, identification of the reasons and conditions contributing to their occurrence, and taking measures to eliminate them¹⁴.

Among the structural units of the Ministry of Justice of Ukraine, there is also the Department of Penitentiary Inspections whose main tasks include:

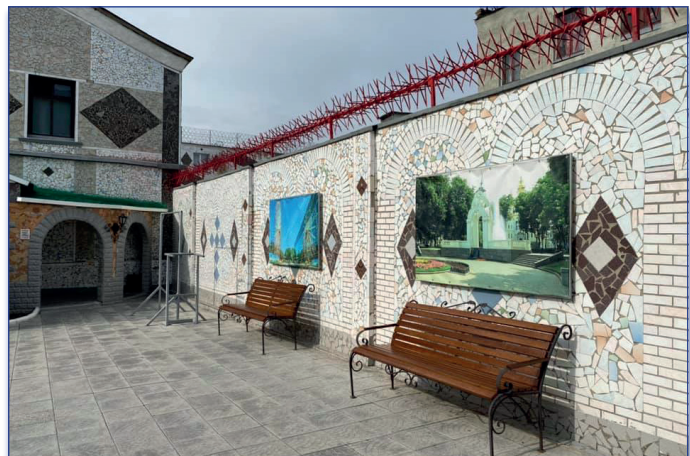
1. Participation in the formulation and implementation of state policy regarding the enforcement of criminal punishments within the bodies and institutions of the State Criminal-Executive Service of Ukraine.

2. Organization and support of internal control over the efficiency of the activities within the bodies and institutions of the State Criminal-Executive Service of Ukraine, ensuring adherence to the requirements of legislation during the enforcement and serving of criminal punishments in the bodies and institutions of the State Criminal-Executive Service of Ukraine, including during detention.

3. Organizing and supporting inspections within the bodies and institutions of the State Criminal-Executive Service of Ukraine to assess the efficiency of their activities and ensure conformity with the requirements of current legislation and international standards during the enforcement and serving of criminal punishments, as well as during detention.

4. Preparation of reports on the results of conducted inspections with recommendations for addressing identified violations and shortcomings.

5. Organizing and participating in the conduct of official investigations into emergency situations, violations of the



¹⁴ Відділ внутрішньої безпеки Державної кримінально-виконавчої служби України і органів юстиції. URL: <https://minjust.gov.ua/m/viddil-vnutrishnoi-bezpeki-derjavnoi-kriminalno-vikonavchoi-sluzbi-ukraini-i-organiv-yustitsii>



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REGULACJE PRAWNE I TREŚĆ EGZEKUCJI PRAWA ORAZ FUNKCJI EGZEKUCYJNYCH ORGANÓW I INSTYTUCJI PENITENCJARNYCH

W artykule wykazano, że obowiązujące przepisy dają podstawy do uznania organów i instytucji penitencjarnych za organy ścigania. Działalność organów i instytucji penitencjarnych wchodzących organizacyjnie w strukturę Państwowej Służby Penitencjarnej uważa się za działalność organów ścigania, gdyż struktury organizacyjne i funkcjonariusze tych organów pełnią funkcje egzekwowania prawa i egzekwowania prawa. W obszarze wykonywania kar realizowane są funkcje egzekwowania prawa i egzekwowania prawa organów i instytucji karnych. Treść tych funkcji można zrozumieć poprzez doprecyzowanie kierunków i głównych zadań organów i instytucji karnych, określonych w ustawach i regulaminach regulujących ich działalność.

Słowa kluczowe: organy i instytucje penitencjarne, egzekwowanie prawa, funkcja egzekwowania prawa, kierunki i główne zadania organów i instytucji penitencjarnych, kryminalna działalność wykonawcza.

legislation in force, while executing and serving criminal sentences, and while in detention ¹⁵.

Article 1 of the Law of Ukraine On State Criminal-Executive Service of Ukraine contains provisions stating that the State Criminal-Executive Service of Ukraine is tasked with implementing state policy in the field of criminal punishment enforcement ¹⁶.

The Ministry of Justice of Ukraine has determined that among the main tasks of the State Criminal-Executive Service of Ukraine are:

1) implementation of state policy in the field of criminal punishment enforcement and probation involving the definition of the main activity areas of interregional territorial bodies of the Ministry of Justice of Ukraine responsible for criminal punishment enforcement, as well as penitentiary institutions, pre-trial detention centers, territorial (interregional) paramilitary units, and educational institutions of the State Criminal-Executive Service of Ukraine;

2) submitting proposals to support state policy formation in the field of criminal punishment enforcement and probation;

3) ensuring the establishment of a system of supervisory, social, educational, and preventive measures applied to convicts and persons in custody;

4) control over observance with human rights and citizen's rights, legislative requirements regarding the enforcement and serving of criminal punishments, implementation of the legitimate rights and interests of convicts and persons in custody.

In accordance with its assigned tasks, the State Criminal-Executive Service of Ukraine shall:

1) within its competence summarize the practice of applying legislation, develop proposals for improving legislative acts, acts of the President of Ukraine and the Cabinet of Ministers of Ukraine, legal regulations of ministries, and submit them to the Minister of Justice of Ukraine in the prescribed manner;

2) analyze performance results of the bodies and institutions, based on which prepare and submit proposals to the Minister of Justice of Ukraine for improving the efficiency of their functioning;

3) ensure the implementation of state target programs for the development of bodies and institutions;

4) participate in the development and implementation of state comprehensive crime prevention programs;

5) organize and supervises the execution of court verdicts and other judicial decisions, as well as the application of legal means of correction for convicts.

6) ensure observance of legislative requirements in bodies and institutions.

7) facilitate implementation of measures to prevent the commission of criminal offenses and disciplinary offenses by convicts and persons taken



¹⁵ Управління пенітенціарних інспекцій. URL: <https://minjust.gov.ua/m/upravlinnya-penitentsiarnih-inspektsiy>

¹⁶ Закон України «Про Державну кримінально-виконавчу службу України». URL: <https://zakon.rada.gov.ua/laws/show/2713-15#Text>

into custody, as well as measures to stop criminal offenses and disciplinary offenses;

8) ensure detection of criminal offenses committed in bodies and institutions.

9) organize control over the behavior of persons released on probation.

10) provide control over the organization of security in penitentiary institutions, pre-trial detention centers, compliance with public order, and ensuring safety therein;

11) ensure security support for individuals detained in penitentiary institutions and pre-trial detention centers, as well as for the units of these institutions and pre-trial detention centers.

12) organize and monitor operative and search activities of the bodies and institutions of punishment enforcement and pre-trial detention centers, promote cooperation with the authorities containing units carrying out such activities;

13) provide reference, informational, and methodological support to authorities and institutions;

14) ensure the functioning of its own internal security system;

15) manage state ownership;

16) organize the accounting and registration of convicts and persons taken into custody;

17) determine the type of correctional facility where persons sentenced to imprisonment will serve their sentences;

18) coordinate the allocation of convicts and persons taken into custody, transferring them from one institution to another;

19) handle the extradition of individuals and the reception of Ukrainian citizens convicted abroad for serving their sentences in Ukraine, facilitate the transfer of foreigners sentenced by Ukrainian courts for serving sentences abroad, and manage transit transportation through the territory of Ukraine for individuals taken into custody or convicts in accordance with the laws and international treaties of Ukraine; the Verkhovna Rada of Ukraine provides consent to the binding force of these treaties;

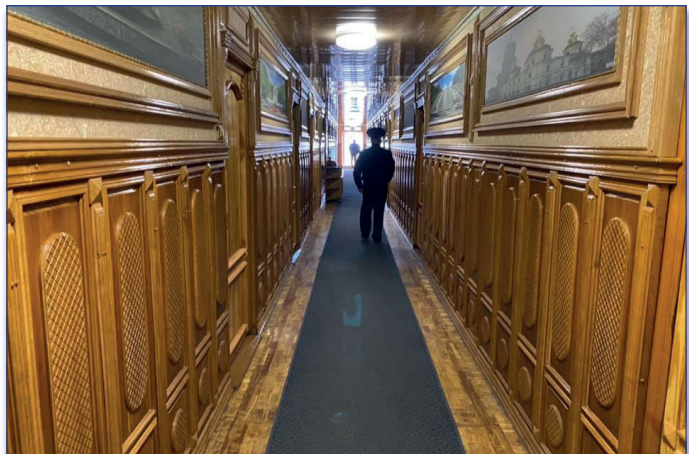
20) enforce acts of amnesty and pardon, conduct inspections to verify compliance by authorities and institutions with the legal regulations governing the procedure for preparing materials for pardon petitions.

21) organize social, educational, and psychological work with convicts by involving representatives of religious and charitable organizations, public associations, creative unions, and individuals in its implementation;

22) facilitate oversight commissions and public associations in exercising public oversight over the observance of the rights and legitimate interests of convicts during criminal punishment enforcement;

23) organize vocational and general education training for convicts, in cooperation with the Ministry of Education and Science of Ukraine, and provide educational services to persons in custody;

24) organize medical practice, conduct sanitary-epidemiological surveillance, medical monitoring of the health status of convicts and persons in custody, provide them with medical assistance, and ensure proper sanitary-epidemiological conditions in institutions for the enforcement of punishments and pre-trial detention centers and on their premises;



25) collaborate with government authorities, local self-government, and public associations regarding the preparation of convicts for release from penitentiary facilities;

26) organize the involvement of convicts in socially useful paid work;

27) conduct public oversight over the safe performance of duties by personnel of bodies and institutions, as well as convicts and persons taken into custody;

28) establish and maintain relations with international organizations, as prescribed by legislation, and conclude agreements with relevant foreign state authorities on cooperation in the enforcement of criminal punishments, combating crime, and other matters falling under the competence of the State Criminal-Executive Service of Ukraine;

29) consider appeals from citizens and legal persons concerning issues related to the activities of the State Criminal-Executive Service of Ukraine;

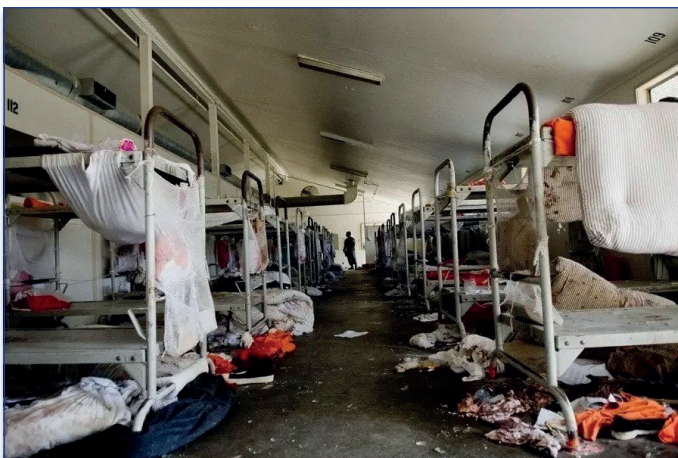
30) ensure implementation of tasks specified by the Law of Ukraine On Probation.

31) exercise other powers defined by law ¹⁷.

The structure of the State Criminal-Executive Service of Ukraine encompasses various bodies, each responsible for defined areas of work, tasks, management, law enforcement, administrative, and economic functions, including the Department for the Execution of Sentences, Public Institutions “Center of Probation”, “Health Care Center of the State Criminal-Executive Service of Ukraine”, “Public Institution General Directorate of the State Criminal-Executive Service of Ukraine”.

Thus, the Department for the Execution of Criminal Sentences is an interregional territorial body of the Ministry of Justice for criminal punishment enforcement. The Department activities are directed and coordinated by the Deputy Minister of Justice of Ukraine according to the allocation of responsibilities. The Department exercises the powers of the Ministry of Justice in the field of criminal punishment enforcement. Main tasks of this body include: monitoring and oversight of human rights and citizen rights, compliance with laws regarding the execution and serving of criminal punishments, realization of the legitimate rights and interests of convicts and persons taken into custody; organizing the assurance of safety for persons held in institutions for the enforcement of punishments and pre-trial detention centers, as well as units of such institutions and pre-trial detention centers; provision of protection for convicts and persons taken into custody during medical examinations and treatment in territorial healthcare facilities; determination of the type of penitentiary facility where individuals

sentenced to imprisonment will serve their sentences, allocation, transfer of convicts and individuals taken into custody from one institution to another; extradition of persons and repatriation of Ukrainian citizens convicted abroad for serving their sentences in Ukraine, transfer of foreigners sentenced by Ukrainian courts for serving sentences abroad, and ensuring transit transportation through the territory of Ukraine for individuals taken into custody or convicts in accordance with the laws and international treaties of Ukraine are actions overseen by the Verkhovna Rada of Ukraine, which provides consent to the



¹⁷ Державна кримінально-виконавча служба. Основні завдання та функції. URL: <https://minjust.gov.ua/dkvs/about/functional>

binding force of these treaties; organizing a process to bring about positive changes in convicts and facilitate their conscious reintegration into society as full-fledged members; reintegration into independent, socially accepted norms of life in society (resocialization); organizing social, educational, and psychological work with convicts serving sentences in penitentiary facilities, involving representatives of religious and charitable organizations, public associations, creative unions, and individuals; ensuring compliance with amnesty and pardon acts; organizing general education and vocational training for convicts in penitentiary facilities; implementing international standards and best practices in the field of human and citizen rights compliance¹⁸.

Despite the fact that the Ministry of Justice of Ukraine states that within the scope of activities of the State Penitentiary Service of Ukraine its function is to ensure the tasks defined by the Law of Ukraine On Probation, it is essential to note that Article 6 of the Law of Ukraine On State Criminal-Executive Service, which defines the structure and staffing of the State Criminal-Executive Service of Ukraine, does not indicate that the probation service is its structural unit. Probation activities are governed by law and subordinate legislation.

As envisaged in the Law of Ukraine On Probation, the purpose of probation is to ensure public safety by correcting convicts, preventing them from committing further crimes and providing the court with information characterizing the accused to make decisions on their accountability.

Probation tasks involve: preparing pre-trial reports on the accused; supervision of persons sentenced to punishment in the form of deprivation of the right to hold certain positions or engage in certain activities, public works, correctional labor, persons whose punishment in the form of imprisonment or deprivation of liberty for a certain period has been replaced by public works or correctional labor, persons released on probation, persons exempted from serving their sentence due to pregnancy or having children under the age of three; enforcement of certain types of punishments not associated with deprivation of liberty; referral of convicts sentenced to restriction of liberty to serve their sentences in correctional centers; implementation of probation programs for individuals released on probation; conducting social and educational work with convicts; implementation of measures aimed at preparing persons sentenced to restriction of liberty or imprisonment for a certain period until release; execution of other measures intended for rehabilitating convicts and preventing them from committing further criminal offense¹⁹.

The website of The State Criminal-Executive Service of Ukraine contains information on the inclusion in its management structure of the Public Institution “Center of Probation”. The Public Institution “Center of Probation” was established in accordance with the Cabinet of Ministers of Ukraine’s Decree No. 655-p On the Establishment of the Public Institution “Probation Center” dated September 13, 2017, subclause 13.1 of clause 12 of the Regulation on the Ministry of Justice Center” dated September 13, 2017, subclause 13.1 of clause 12 of the Regulation on the Ministry of Justice of Ukraine approved by



¹⁸ Департамент з питань виконання кримінальних покарань. URL: <https://kvs.gov.ua/about-service/structure/dvkv/>

¹⁹ Закон України “Про пробацію”. URL: <https://zakon.rada.gov.ua/laws/show/160-19#Text>

the Cabinet of Ministers of Ukraine's Order No. 228 dated July 2, 2014. The Provision on the Public Institution "Probation Center" was approved by the Ministry of Justice of Ukraine's Order No. 4322/5 On the Establishment of the Public Institution "Probation Center" dated December 28, 2017. According to the provision, the Public Institution "Probation Center" is a non-profit public institution established to ensure the implementation of tasks by the State Criminal-Executive Service of Ukraine in the field of probation and the direct direction and coordination of activities of authorized bodies in the field of probation, which is subordinated to the Ministry of Justice. The activities of the Probation Center are overseen and coordinated by the Deputy Minister of Justice of Ukraine, in line with the allocation of duties. The main tasks of the Probation Center, which do not entirely coincide with the tasks of probation defined by the Law of Ukraine On Probation, are: organizational, methodological, and practical support for probation tasks consistent with the principles established by probation legislation; supervision probation, socio-educational work with convicts subject to probation, provision of courts with information describing the accused (pre-trial reports); enforcement of criminal punishments in the form of deprivation of the right to hold certain positions or engage in certain activities, public works, correctional labor; control over the enforcement of a fine; supervision of individuals released on probation, as well as pregnant women and women who have children under the age of three and who are exempted from serving their sentence; ensuring the referral of individuals sentenced to restriction of liberty, who were not in custody at the time of sentencing, to open-type correctional institutions; execution of administrative penalties in the form of public works and correctional labor; organizing the preparation for the release of individuals serving sentences in the form of restriction of liberty or imprisonment for a certain term; organizing cooperation and supervising the activities of authorized bodies involved in probation; monitoring the efficiency of probation measures and developing proposals for their improvement and further development of probation in Ukraine in line with international probation standards; ensuring interaction with ministries, other central executive authorities, courts, institutions and organizations, scientific and educational institutions on matters related to implementation of tasks stipulated by probation legislation; developing requirements for job positions and qualification characteristics for the staff of the Probation Center and subdivisions of authorized bodies on probation, and preparing proposals for their selection and training; promoting efficient communication among the Probation Center, authorized bodies on probation, and the public, based on principles of transparency, trust, and partnership; engaging in international partnerships in the field of probation; drafting an estimate of expenses for the maintenance of the Probation Center by authorized probation authorities, including detailed justifications and calculations; preparing passports of budget programs and reports on their implementation²⁰.

The Standard Provision on the Authorized Body for Probation was approved by the Order of the Ministry of Justice of Ukraine No. 2649/5 dated August 18, 2017. Main tasks and functions of the Probation Body include: implementing a unified state policy in the field of criminal punishment enforcement and probation;

The Standard Provision on the Authorized Body for Probation was approved by the Order of the Ministry of Justice of Ukraine No. 2649/5 dated August 18, 2017. Main tasks and functions of the Probation Body include: implementing a unified state policy in the field of criminal punishment enforcement and probation;

²⁰ ДУ "Центр пробачії". URL: <https://kvs.gov.ua/about-service/structure/probation/>



preparing pre-trial reports against defendants; executing criminal punishments in the form of fines, deprivation of the right to hold certain positions or engage in certain activities, public works, and correctional labor; supervision over persons released from serving the sentence with probation, pregnant women and women with children under the age of three released from serving sentences; supervision of those sentenced to punishments such as deprivation of the right to hold certain positions or engage in certain activities, those involved in public works, correctional labor, individuals whose punishment in the form of imprisonment or deprivation of liberty for a certain term has been replaced by punishment in the form of public works or correctional labor; implementation of probation programs for individuals released on probation; conducting social and educational work with convicts subject to probation; assessing the risk of reoffending; implementing measures aimed at correction of convicts and preventing them from committing further criminal offenses; implementation of measures to prepare persons serving a sentence of restriction of liberty or deprivation of liberty for a certain period of time prior to release; directing convicts sentenced to imprisonment to correctional facilities; interacting with local authorities, public associations, and charitable organizations that can be involved in conducting social and educational work with convicts; cooperation with state authorities and local authorities on preparing individuals serving sentences of liberty restriction or deprivation of liberty for a certain period of time prior to their release; implementing administrative penalties in the form of correctional labor, public works, and community service; executing acts of amnesty and pardons; jointly with local authorities determining the types of public works, community service, and a list of facilities on which they are performed; monitoring correctness and timeliness of deductions from the earnings of convicts sentenced to correctional labor and the transfer of the amounts deducted to the revenue of the state; organizing the implementation of priority measures to identify convicts whose whereabouts are unknown; forwarding submissions to the court to address matters concerning either the continuation of convicts' sentences or their release from them; forwarding materials for the prosecution of convicted individuals who evade serving fines, refrain from public works, and correctional labor; deprivation of the right to hold certain positions or engage in particular activities; forwarding materials regarding owners of enterprises, institutions, organizations, or their authorized bodies who have failed to comply with court decisions for further appropriate action; involving probation volunteers in supervising convicts and conducting social and educational work with them; ensuring the observance of human rights and freedoms during the execution of court decisions; providing explanations on matters within the probation authority's competence; timely consideration of citizens' appeals, requests for public information, and requests and inquiries from members of the Ukrainian Parliament; collaboration with state authorities, local self-government, and civil associations on the implementation of tasks defined by probation legislation; performing other functions within the powers of the probation authority²¹.

Pre-trial detention centers are classified as law enforcement agencies accord-



²¹ Типове положення про уповноважений орган з питань пробації. URL: <https://zakon.rada.gov.ua/laws/show/z1030-17#Text>.



ing to Article 2 of the Law of Ukraine On State Protection of Employees of Courts and Law Enforcement Agencies. The Regulation on the State Institution “Kyiv Pre-trial Detention Center” states that it is a part of the State Criminal-Executive Service of Ukraine. As stipulated by current legislation, the pre-trial detention center is a closed-type institution that performs law enforcement functions.

Its principal tasks are:

1) organization of detention for people for whom detention on remand, temporary detention, or extradition arrest has been chosen as a preventive measure, as well as for convicted individuals whose sentences have not yet entered into force and for whom detention on remand has been chosen as a preventive measure, and also the execution of sentences of imprisonment for a certain term for persons who are left for work on economic maintenance and those sentenced to arrest;

2) observance of human and citizen rights, realization of legitimate rights and interests of convicts and individuals in custody, compliance with legislation on the enforcement and serving of criminal punishments.

Under the tasks assigned to it, the pre-trial detention center:

1) ensures adherence to acts of amnesty and pardons, legal regulations within its competence, as well as sentences, rulings, and decisions of courts;

2) carries out, as specified in legal regulations, the admission of individuals taken into custody and convicts, their placement in jail cells according to established requirements for separate detention and space norms, as well as the release of individuals from custody when there are grounds stipulated by legislation in force;

3) organizes and implements proper security, appropriate isolation, and continuous surveillance of individuals taken into custody and convicts, along with construction, installation, use, and maintenance of engineering security equipment; takes measures to search for individuals who have escaped;

4) creates appropriate conditions for the detention of convicts and individuals in custody, ensuring their amenities;

5) ensures criminal punishment enforcement in the form of imprisonment for a specified term for convicts assigned to work for the economic maintenance of the pre-trial detention center, as well as for those sentenced to arrest, by applying the measures provided by law and aimed at their correction and re-socialization;

6) establishes the rule of law, compliance with operation requirements, internal order rules in the pre-trial detention center, and on its adjacent territory, and demands that convicts and individuals in custody, along with others, fulfill the duties defined by law;

7) provides the safety of convicts and individuals in custody, personnel, and other individuals who are in the territory of the pre-trial detention center;

8) ceases administrative offenses violating the established legislative order and conditions of enforcement and serving of criminal punishments; prevents the commission of criminal offenses and disciplinary misconduct in the pre-trial detention center; accepts and records statements and notifications about criminal offenses and incidents, promptly making decisions thereon;

9) performs actions and implements measures, including procedural ones, within the scope of authority defined by the Criminal Executive, Criminal, Criminal Procedure Codes, and laws of Ukraine;

10) continuously monitors the operational situation in the pre-trial detention center, identifies the causes and conditions contributing to its complication, as well as eliminates the consequences of emergencies;

11) conducts operational search activities as set out in the Law of Ukraine On Operative Investigation Activity and other legal regulations, cooperates with law enforcement agencies and public associations in crime prevention; ensures reliable storage of special and operational equipment, weapons, ammunition, and special equipment, as well as compliance with access control;

12) interacts with the courts of Ukraine's judicial system and prosecutor's offices, other law enforcement agencies, government authorities, local self-government bodies, enterprises, institutions, and organizations, state and public associations on matters of observance of law, order, and conditions of detention for individuals in custody and convicts;

13) transfers persons in custody and convicts within heavily guarded units and in the premises of the pre-trial detention center, during their escort for agricultural work, placement in healthcare facilities, as well as to the exchange point at the railway station for exchange with scheduled railway guards of the National Guard of Ukraine;

14) provides specially equipped premises located on the territory of the pre-trial detention center for conducting investigative actions, outpatient forensic-psychiatric examinations, and forensic examinations; transfers persons in custody and convicts from their jail cells to investigating prosecutors, individuals entitled to summonses, as well as for meetings with defense lawyers, relatives, and other persons.

15) ensures proper functioning of sections (units) established on the territory of the pre-trial detention center;

16) ensures compliance with occupational safety and environmental legislation, sanitary-epidemiological supervision, and fire safety rules.

17) within its powers implements state policy on protecting state secrets, conducts control over guarding and preservation of state secrets in the pre-trial detention center according to established procedures;

18) provides appropriate conditions for the provision of medical assistance to convicts and persons in custody.

19) ensures the implementation of social, educational, and psychological work with convicts, involving representatives of creative unions, public associations, and religious organizations, as well as work collectives; provides vocational and general education to persons detained in the pre-trial detention center, including minors, conducts cultural and outreach work with them; in cooperation with local executive authorities, local self-government bodies, and their subordinate education management bodies; provides young citizens (aged 14 to 35) with the right to receive psychological and pedagogical assistance from specialists at centers for social services for families, children and youth;

20) within its competence implements measures for territorial defense and civil protection of pre-trial detention center's staff; ensures, within the powers stipulated by law, the fulfillment of tasks related to mobilization training and mobilization readiness; maintains the readiness of forces and resources for stable operation in conditions of war and emergency state, as well as emergency; carries out fire-fighting and anti-epidemic measures as prescribed by state standards, norms, and rules;

21) in accordance with the law, provides legal, social protection, personal security, and healthcare organization for the pre-trial detention center's staff and their families, creating necessary living conditions, working conditions, and rest conditions.

22) ensures that the staff of the pre-trial detention center are provided with special personal protective equipment and means of active defense to implement guarantees of their personal safety;

23) organizes professional training for the pre-trial detention center's staff, including specialized training on the use of physical force, specialized equipment, and weapons, as well as the provision of first aid to victims; monitors the compliance of the pre-trial detention center staff with the prescribed uniform regulations.

24) addresses, with the participation of authorized probation authorities, employment centers of State Employment Service, and local executive authorities and self-government bodies, issues related to providing assistance to in-



dividuals released from places of detention in their employment and daily life arrangements²².

As set out in the Law of Ukraine On State Criminal-Executive Service of Ukraine, paramilitary units are among its structural units performing law enforcement and law application functions. The provision on the territorial (interregional) paramilitary unit of the State Criminal-Executive Service of Ukraine was approved by the Order of the Ministry of Justice No. 292/5 dated February 6, 2017. This unit is designated for the protection of facilities of the State Criminal-Executive Service of Ukraine, prevention and cessation of actions disrupting the operation of correctional institutions and pre-trial detention centers, as well as undertaking measures to prevent and stop crimes of a terrorist nature, and performing other tasks and functions.

The Provision provides a list of main tasks and functions of this paramilitary unit. Principal tasks include:

1. Prevention and cessation of actions that disrupt the operation of penitentiary institutions and pre-trial detention centers, as well as other crimes on the facilities of the State Criminal-Executive Service of Ukraine, while ensuring their security.

2. Participation in activities aimed at ensuring compliance with working hours in penitentiary institutions and pre-trial detention centers.

The scope of the Unit activities encompasses:

1. Prevention and cessation of terrorist-related crimes on the facilities of the State Criminal-Executive Service of Ukraine, including within the framework of the anti-terrorist operation conducted by Anti-Terrorist Center or coordination group at the respective regional office of the Security Service of Ukraine, as envisaged in the Law of Ukraine On Fight against Terrorism.

2. Participation in activities involving the search and apprehension of convicts and persons in custody who have escaped or unlawfully left the place of serving their sentence.

3. Implementation of measures stipulated in response to a state of emergency or martial law, special conditions regime in the area where the facilities of the State Criminal-Executive Service of Ukraine are located, in cases of natural disasters, epidemics, emergencies vital for life support systems, mass disturbances, manifestations of group disobedience by convicts and individuals in custody, in the event of an attack (including armed) or the emergence of a real threat of such an attack on the facilities of the State Criminal-Executive Service of Ukraine, cessation of group unlawful actions by convicts and persons in custody, and elimination of their consequences.

4. Participation in repelling armed aggression against Ukraine and protecting members of the Cabinet of Ministers of Ukraine under martial law conditions.

5. Along with the Armed Forces of Ukraine, military authorities units, and other subordinate components of the state defense forces, participation in the protection and transportation of prisoners of war captured during combat operations with the units of the armed forces of russia.

6. Participation in organizing the transfer of high-risk convicts and convicts sentenced to life imprisonment to penitentiary institutions.

7. Participation in activities involving the organization of security for the facilities of the State Criminal-Executive Service of Ukraine.

8. Organization and conduct of training sessions, hands-on training for rapid response teams staff in penitentiary institutions and pre-trial detention centers.

9. Assistance to the operational units of the Department for the Execution of Sentences, interregional administrations, penitentiary institutions, and pre-trial detention centers in implementing operational-search measures.

10. Conducting inspections and searches of residential and industrial areas, belongings of convicts and persons in custody, inspections of other persons

²² Положення про державну установу «Київський слідчий ізолятор». URL: https://kvs.gov.ua/wp-content/uploads/2020/12/Polozhenia_KSIZO.pdf



and their belongings, vehicles located on the premises of the facilities of the State Criminal-Executive Service of Ukraine, where operation conditions are established, as well as confiscation of prohibited items and documents.

11. Ensuring public order, adherence to the legislation of Ukraine and other legal regulations regarding the procedure for the execution and serving of sentences in penitentiary institutions and pre-trial detention centers, as well as in the adjacent territories.

12. Ensuring safety and security of convicts and individuals in custody, staff, and citizens present at the facilities of the State Criminal-Executive Service of Ukraine²³.

Thus, the conducted survey of the regulatory framework in the areas and main tasks of the activities of the bodies and institutions for punishment enforcement with reference to the above regulatory acts provides an understanding that the law enforcement and law application functions of the bodies and institutions for punishment enforcement (both at the level of leadership, management structures and at the grassroots level) are essential, constant and comprehensive, strategically aimed at the enforcement of punishments.

This, in turn, will allow for the integration of large-scale democratic reforms in our country with the law enforcement activities of penitentiary institutions, the adoption of legal regulations that contribute to further reorganization of the penitentiary system, and the implementation of pilot projects aimed at fulfilling the main tasks of punishment enforcement institutions²⁴.

In jurisprudence, emphasis is placed on the fact that, in the hermeneutic sense, the disclosure of the content of the law enforcement function is combined with an understanding of the relationship between law enforcement and punitive functions²⁵.

A quarter of a century ago, we demonstrated that the essence of punishment enforcement lies in implementing penalties, applying state coercion to convicts, and restricting their rights and freedoms. Punishment enforcement manifests itself in criminal-executive activities²⁶.

As rightly emphasized by A. O. Osaulenko, criminal-executive activity is a specific type of law enforcement activity characterized by the following features: a) it is carried out in the field of criminal-executive law and certain other branches of law; b) predominantly performed by experts in the field of law; c) directed towards organizing the activities of the staff working within the criminal justice system and the individuals serving sentences; d) its purpose is to regulate legal relations arising during the implementation and serving of criminal penalties; e) clearly defined by legal norms²⁷.

Conclusions. Law enforcement activity of such organizational structure as the system of bodies and institutions for the enforcement of punishments, through main areas and tasks of punishment enforcement defined in legal regulations, manifests itself through the law enforcement function, providing an understanding of the common functional purpose of these bodies, which serves as a criterion for their integration into a cohesive whole. The primary focus of

²³ Положення про територіальне (міжрегіональне) воєнізоване формування Державної кримінально-виконавчої служби України. URL: https://zakononline.com.ua/documents/show/385672__687338

²⁴ Правові та організаційно-тактичні основи профілактики пенітенціарної злочинності: навч. посібник // Кол. авторів: Н. Є. Філіпенко, В. В. Шендрік, С. В. Марков // ХНУВС. К.: УВПД ГШ МВС України, 2010. 116 с.

²⁵ Головки О.М. Формування ліберальної концепції правоохорони в державно-правовій думці. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/29378b4a-cbea-42a3-a42e-36705cfd496f/content>

²⁶ Степанюк А.Ф. Сущность исполнения наказания. Харьков: Фолио, 1999. 256 с.

²⁷ Осауленко А.О. Органи і установи виконання покарань як суб'єкти здійснення правоохоронної діяльності. URL: <https://dspace.univd.edu.ua/server/api/core/bitstreams/29378b4a-cbea-42a3-a42e-36705cfd496f/content>

activities undertaken by bodies and institutions responsible for enforcing punishments, which ensures clarity in their operation, is the criminal-executive (punitive) activity regulated by laws and subordinate legislation. This activity, synonymous with law enforcement, aims to apply state coercion to enforce court judgments. Only by referring to regulatory and legal documents concerning the definition of activity areas and main tasks of bodies and institutions responsible for the enforcement of punishments can one gain a clear understanding of the scope of their activities and the exercise of law application and law enforcement functions within regulated authority.

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