

## ON THE CONTENTS OF THE ACTIVITIES OF SOME PARTICIPANTS OF CRIMINAL-EXECUTIVE RELATIONS IN UKRAINE

Alexander Kolb

The International Economic-Humanitarian University  
named after Academician Stepan Demyanchuk

Oleh Batiuk

The International Economic-Humanitarian University  
named after Academician Stepan Demyanchuk

**Summary.** The article analyzes the contents of criminal-executive legal relations, their objects, subjects (the personnel of bodies and institutions of execution of sentences and convicts), as well as their participants (prosecutors, judges, the public, etc.). Special attention at the same time focuses on the activities of religious organizations and their influence on subjects and participants in criminal-executive legal relations. In addition, identified problem points in this context and developed scientifically sound measures for their solution, as well as improvement of the legal mechanism on these issues.

**Key words:** legal relations, objects, subjects, participants, scope of punishment, condemned penitentiary personnel, religious organization, prosecutor's offices, court

### INTRODUCTION

**Formulation of the problem.** As practice shows, one of the key issues of criminal activity in Ukraine is the low level of efficiency and participation in it in connection with this as subjects (staff of bodies and penal institutions), as well as participants in criminal-executive relations, among which a special place is occupied by religious organizations, the influence of which on the subjects and participants of the specified legal relations is obvious and refers to the main promising directions of improvement in the whole correctional-resocialization process, carried out from onso convicted and content activities in the field of Corrections.

The essence of this strategic task and, at the same time, the content of the problem lies in the fact that religious organizations, based on their socio-legal status, have a special mission in any society, namely, to create effective conditions for the moral and psychological improvement of the population, the state, its institutions and representatives, in particular law enforcement agencies, which is important also in view of the resolution of the tasks of the criminal-executive legislation of Ukraine (Article 1 of the Criminal Code), which are enshrined in the law.

That is why it is so important to clarify the meaning of the concept of “religious organization as a participant in criminal-executive legal relations”, which led to the choice of the topic of this scientific article and defined its main task – to develop scientifically grounded measures to improve the legal mechanism of the identified issues.

State of research. In science, this problem is not new and is at the center of attention of scientists of different profiles. In particular, the researchers in the field of criminal-executive law of Ukraine, namely: V.A. Badir, I.G. Bohatyryov, T.A. Denisov, V.Ya. Konopelsky, created a rather powerful methodological basis on these issues. G. Kolb, I.M. Kopotun, V.O. Merkulova, M.V. Paliy, M.S. Puriyov, A.Kh. Stepanyuk, V.M. Trubnikov, I.S. Yakovets and others.

Other scholars in the field of human studies (philosophers, educators, psychologists, etc.) have made a significant contribution to the development of these problems, namely: O.A. Alonkin, V.P. Bondarenko, L.D. Vladchenko, S.G. Grechanyuk, V.Ye. Yelensky, S.I. Zdioruk, V.V. Klimov, I.N. Komponets, M.V. Kostytsky, N.S. Kalashnik, V.I. Krivush, N.Yu. Maksimov, G.V. Lavrik, I.O. Pristinsky, G.O. Radov, G.L. Sergienko, V.M. Sinyov, M.O. Suprun, V.V. Sulitsky, S.Ya. Kharchenko, N.L. Sturmak, etc.

Abroad, the question of the participation of religious organizations in the process of correction and re-socialization of convicts is the subject of ongoing research in the works: D. Amurtayeva (Kazakhstan), M. Stevenicex (Latvia), D. Kovalchuk (Poland), D. Clarke (United Kingdom), R. Kottelera (Scotland), O.A. Ivanova (Russia), A. Hartmann (Germany), V.B. Shabanova (Belarus), etc.

At the same time, it should be noted that till now, neither in Ukraine nor in foreign science, religious organizations as participants in criminal-executive legal relations at the scientific level were not investigated, which became a decisive factor when choosing the topic of this article.

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## 1. STATEMENT OF THE MAIN PROVISIONS

In the science of criminal-executive law under criminal-executive relations understand the regulated by the rules of criminal-executive law, social relations that arise between the organs and institutions of execution of sentences and convicted on the execution of criminal penalties<sup>1</sup>. At the same time, their structure consists of the following elements:

- a) subjects of criminal-executive legal relations,
- b) participants in these legal relationships,
- c) objects of the specified legal relations,
- d) the content of the legal relationship<sup>2</sup>.

In addition, a number of scholars (A.P. Gel, G.S. Semakov, I.S. Yakovets, etc.) in the criminal-executive relations of their participants do not include<sup>3</sup>, which, in principle, can not be agreed, based on both the content of social relations that arise during the execution and serving of sentences, as well as on the features of criminal-executive legal relations.

To such, scientists include the following:

- 1) they are one of the types of legal relationship;
- 2) they arise on the basis of the rules of criminal-executive law;
- 3) only the bodies and institutions for the enforcement of sentences and persons who are sentenced to the serving of sentences may be permanent subjects of these legal relations;
- 4) subjects of criminal-executive relations are in an unequal legal position, since the convicts are subordinate to the representatives of the organs and penal institutions;
- 5) most of these relations are long-term legal relations, since they have a real period of validity, established by the verdict (decree) of the court<sup>4</sup>.

According to I.V. Shmarov, the difference between the subjects and participants in the criminal-executive legal relationship is that their subjects are their parties directly related to the process of execution and serving the sentence (and, this, in fact, respectively bodies and institutions for the enforce-

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<sup>1</sup> O.M. Dzhuzha, I.G. Bohatyryov, O.G. Kolb [et al.], *Criminal-executive law of Ukraine. Textbook*, ed. O.M. Dzhuzha, Atika, Kyiv 2010, p. 140.

<sup>2</sup> *Ibidem*.

<sup>3</sup> A.P. Gel, G.S. Semakov, I.S. Yakovets, *Criminal-executive law of Ukraine. Teaching manual*, ed. A.Kh. Stepanyuk, Yurincom Inter, Kyiv 2008, p. 36.

<sup>4</sup> O.M. Dzhuzha, I.G. Bohatyryov, O.G. Kolb [et al.], *Criminal-executive law of Ukraine*, pp. 139–140.

ment of sentences, on the one hand, and those convicted on the other hand), as well as possessing in this regard statutory status, and without which the indicated legal relationship is a priori (from the Latin *a priori* – from the previous one – without verification, preliminary, etc.)<sup>5</sup> because of their absence do not arise<sup>6</sup>.

At the same time, all other natural and legal persons who are given a smaller amount of authority and whose participation in the execution (serving) of punishment is not always mandatory is other parties to the legal relationship<sup>7</sup>. It is up to other members of the legal relationship to include public associations and organizations, representatives of religious denominations and individual citizens who, on their own initiative, are involved in the process of rectification and re-socialization of convicts and are given much less rights and responsibilities in this sphere<sup>8</sup>.

Of course, with this approach you can agree.

Along with this, the well-grounded objection is the position of I.V. Shmarov, according to which the subjects of criminal executive relations should be attributed to the bodies of the prosecutor's offices, which carry out supervision in the field of execution of punishment, since such activity is directly foreseen by the norms of criminal-executive legislation<sup>9</sup>. If it is guided by such logic, then the language of the participants in the criminal-executive relations, in particular religious organizations, should not be conducted at all because their activities are also regulated by the criminal-executive legislation (Article 128, 182-1 KVN), and, therefore, it also the subject of these relations. Moreover, again, if we take the law of formal logic as the basis, then we must admit the suspension of criminal-legal relations in the case of deprivation of the organs of the public prosecutor's functions of supervising compliance with the laws on the execution of sentences, as stipulated in Art. 131-1 of the Constitution of Ukraine. In accordance with the specified legal norm, the prosecutor's office carries out only:

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<sup>5</sup> A.N. Bulko, *The Great Dictionary of Foreign Languages. 35 thousand words*, 3rd ed. corrected, Martin, Moscow 2010, p. 54.

<sup>6</sup> I.V. Shmarov, *The main problems of studying and improving the efficiency of the correctional labor institutions*, "Sovetskoe gosudarstvo y pravo" 29 (1988), pp. 71–72.

<sup>7</sup> A.S. Mikhlin, P.G. Ponomarev [et al.], *Criminal enforcement law. Textbook*, ed. I.V. Shmarov, The New Lawyer, Moscow 1988, p. 35.

<sup>8</sup> *Ibidem*.

<sup>9</sup> *Ibidem*.

- a) maintaining a public prosecution in court,
- b) organization and procedural management of pre-trial investigation, resolution of other issues during criminal proceedings in accordance with the law, supervision of secret and other investigators and investigators of law enforcement agencies,
- c) representing the interests of the state in court in exceptional cases and in the manner prescribed by law<sup>10</sup>.

Taking into account the above-mentioned, O.I. Osaulenko made in this regard a well-founded conclusion that all other bodies, including the prosecutor's office, involved in the execution of sentences, are not subjects but participants in criminal-executive relations, since they are legally enforced significant actions that are a necessary condition for the subject of the legal relationship between his rights and duties. In this case, the named organizations, bodies and persons enter into legal relations with the administration of organs and penal institutions, and not with convicts<sup>11</sup>. Moreover, in his opinion (and with this it is possible to agree to the full extent), an analysis of the content of these legal relationships gives rise to the conclusion that they are of an organizational and legal nature, rather than a criminal executive, and aimed at ensuring the legality, rights and freedoms of convicted persons when they are serving a criminal offense<sup>12</sup>.

A similar position in the scientific literature was expressed by a number of other scientists (E.V. Dudko, I.O. Kolb, A.V. Savchenko, etc.)<sup>13</sup>. According to their convictions, in particular, EV Dudko, the meaning of the term "prosecutor's office as a participant in criminal-executive relations" includes the following: it is a functionally defined activity of the said state body, which is set out in normative and legal acts and is intended to create meaningful conditions for the process of executing and serving criminal sentences through the conduct of prosecutorial oversight and coordination of actions of other participants in these legal relationships, as well as the implementation of statutory measures aimed at elimination of neutrons rationali-

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<sup>10</sup> Constitution of Ukraine, current legislation is in force on September 4, 2017. Officer Text, Alerta, Kyiv 2017.

<sup>11</sup> O.M. Dzhuzha, I.G. Bohatyryov, O.G. Kolb [et al.], *Criminal-executive law of Ukraine*, p. 141.

<sup>12</sup> Ibidem.

<sup>13</sup> O.G. Kolb, O.M. Dzhuzha, V.Ya. Konopelsky, *Realization of the principle of differentiation and individualization of execution of sentences in the criminal-executive activity of Ukraine*, eds. O.G. Kolba, O.M. Dzhuzhi, Condor-Publishing House, Kyiv 2016, p. 31.

zation, blocking, etc., which determine the violation of the law by the subjects of criminal-executive relations<sup>14</sup>.

Of course, it is precisely for these reasons that the activities of religious organizations in the field of execution of sentences should be considered.

An additional argument in this context can be called the requirements of the principle of mutual responsibility of the state and the convict, which is enshrined in Art. 5 CEC of Ukraine, according to which a person brought to criminal responsibility is obliged to subjugate his behaviour to the right to restrict the content of the punishment, and the administration of bodies and institutions (and not other members of the activity in the field of execution of punishment) is obliged “mutually” to conquer the activities of the rights and interests of the convicted<sup>15</sup>. Although one should admit that not all scholars share the legislator’s position regarding the inclusion of this principle in the principles of criminal-executive legislation, the execution and serving of sentences (Article 5 of the Criminal Code), as they consider it unclear how the principle of “mutual responsibility of the state and convict” within the framework of criminal liability, which is the use of state coercion by the authorities and penal institutions and is expressed in the restriction of the rights and freedoms of the convicted<sup>16</sup>, confirming at the same time that the latter are carried out solely by the administration of penitentiary authorities and penal institutions.

Along with this, the content of some other principles, as defined in Art. 5 CEC is categorically and one that supports the conclusion that, in particular, religious organizations do not refer to subjects, and the participants penal legal (the principle of inevitability of punishment execution and serving, differentiation and individualization of punishment<sup>17</sup>; rational use of coercive measures and stimulation of obedient behavior<sup>18</sup>; a combination of punish-

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<sup>14</sup> E.V. Dudko, I.O. Kolb, A.V. Savchenko [et al.], *Legal measures of the Ukrainian Prosecutor’s Office in the field of execution of sentences*, eds. O.M. Dzhuzha, O.G. Kolb, Condor-Publishing House, Kyiv 2016, pp. 31–32.

<sup>15</sup> A.Kh. Stepaniuk, I.C. Yakovets, *The Criminal-Executive Code of Ukraine: Scientific and Practical Commentary*, ed. A.Kh. Stepanyuk, Odyssey Ltd., Kharkov 2005, p. 24.

<sup>16</sup> *Criminal-executive code of Ukraine: Scientific and practical commentary*, eds. V.V. Kovalenko, A.Kh. Stepanyuk, Atika, Kyiv 2012, p. 23.

<sup>17</sup> M.S. Puriyors, *Realization by correctional colonies of the principle of differentiation and individualization of execution of punishment in the form of imprisonment for a certain period*, ed. I.G. Bogatyrev, Dakar, Kyiv 2014.

<sup>18</sup> I.S. Michalko, *Ensuring the principle of rational use of coercive measures and stimulation of obedient behavior of convicts*, Right, Kharkov 2013.

ment with correctional influence; public participation in the activities of penitentiary organs and institutions<sup>19</sup>.

This approach is based on the content of the words “subject” and “participant”, which are defined in the explanatory dictionaries. In particular, in accordance with the etymological meaning, the word “subject” means: a person, group of persons, organization, etc., which has an active role in a particular process, an act<sup>20</sup>, and “participant” – an executor with someone else’s work, case, joint action, etc.<sup>21</sup>

In general, if we summarize all the above-mentioned scientific positions regarding the content of subjects and participants in criminal-executive relations, including in foreign literature<sup>22</sup>, then one can formulate the following definition of “religious organization as a participant in criminal-executive legal relations”, namely – it is defined in the criminal-executive legislation of Ukraine, the activities of its representatives in the field of execution of punishment, which is carried out in the established at the regulatory-legal level in conjunction with the administration of organs and penal institutions, and aimed at satisfying the religious needs of convicts, creating conditions for the realization of the purpose of criminal punishment and improving the effectiveness of the application. giving these persons basic means of correction and re-socialization.

## 2. SYSTEM-FORMING FEATURES THAT MAKE UP THE CONTENT OF THIS CONCEPT

1. This activity is defined in the criminal-executive legislation of Ukraine.

The word “activity” means: labor, actions of people in any field; work, functioning of any organization, institution; etc.<sup>23</sup>

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<sup>19</sup> A.P. Gel, O.G. Kolb, V.O. Korchinsky [et al.], *Scientific and Practical Commentary of the Criminal Executive Code of Ukraine*, ed. A.Kh. Stepanyuk, Yurincom Inter, Kyiv 2008, p. 20–26.

<sup>20</sup> T.V. Kovalev, *Great explanatory dictionary of the Ukrainian language*, Folio, Kharkov 2005, p. 650.

<sup>21</sup> O. Yeroshenko, *Great explanatory dictionary of contemporary Ukrainian language*, LLC Gloria Trade, Donetsk 2012, p. 663.

<sup>22</sup> *Criminal enforcement law of Russia: theory, legislation, international standards, domestic practice of the end of XIX – beginning of the XXI century. Textbook for high schools*, ed. A.I. Zubov, 3rd ed., Norma, Moscow 2005, p. 18–20.

<sup>23</sup> T.V. Kovalev, *Great explanatory dictionary*, p. 150.

The criminal-executive legislation of Ukraine, as it follows from the content of Art. 2 The Code of Conduct includes: this Code, other acts of legislation, as well as valid international treaties, the consent of which is binding on the Verkhovna Rada of Ukraine, and, of course, the Constitution of Ukraine, which the legislator for some reason “forgot”. At the same time, both in the Criminal Code<sup>24</sup> and the CPC of Ukraine<sup>25</sup>, which are organically linked to the rules of the Criminal Code (as material and procedural law), the Basic Law is referred to the legislation of Ukraine. As in this connection, it is defined in art. 8 of the Constitution, the principle of the rule of law is recognized and in force in Ukraine. The Constitution of Ukraine has the highest legal force. Laws and other normative-legal acts are adopted on the basis of the Constitution of Ukraine and must answer it<sup>26</sup>.

As used in Art. 2, the phrase “other acts of legislation”, then in this case it is necessary to proceed from the decision of the Constitutional Court of Ukraine of July 9, 1998, No. 12-rp / 98 (case on the interpretation of the term “legislation”)<sup>27</sup>, which includes the following: a) laws of Ukraine; b) the resolution of the Verkhovna Rada of Ukraine; c) Decrees of the President of Ukraine; d) decrees and decrees of the Cabinet of Ministers of Ukraine; e) international treaties, the consent of which is binding on the Verkhovna Rada of Ukraine<sup>28</sup>.

It is in this sense that the participation of religious organizations in the field of execution of sentences should be considered, taking into account that, in accordance with the requirements of paragraph 14 of Part 1 of Art. 92 of the Constitution of Ukraine solely by law determines the activity of penitentiary bodies and institutions.

2. The above activities are carried out, in fact, not by religious organizations themselves, but by their representatives.

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<sup>24</sup> Criminal Code of Ukraine: current legislation with amendments and supplements. Officer text, Alerta, Kyiv 2017.

<sup>25</sup> Criminal Procedure Code of Ukraine: current legislation with amendments and supplements. Officer text, Alerta, Kyiv 2017.

<sup>26</sup> Constitution of Ukraine.

<sup>27</sup> The decision of the Constitutional Court of Ukraine “In the case of the constitutional petition of the Kyiv City Council of Trade Unions concerning the official interpretation of part two of Article 21 of the Labor Code of Ukraine (Case concerning the interpretation of the term «legislation»)” No. 12-RP/98 of July 9, 1998. “Official bulletin of Ukraine” 1998, No. 32, Art. 1209.

<sup>28</sup> Criminal Procedure Code of Ukraine.



The word “representative” means: a person who represents someone, something acting on someone’s behalf, on behalf of someone, expressing someone’s interests<sup>29</sup>.

Legal aspects of representation are defined in the current legislation of Ukraine. Yes, in Art. 237 of the Civil Code of Ukraine in this regard the following is stated:

a) representation is a legal relationship in which one party (representative) has or has the right to perform acts on behalf of the other party, which she represents (part 1 of this article),

b) is not a representative of a person who, although acting in the interests of others, but on his own behalf, as well as a person authorized to negotiate possible future legal acts (part 2),

c) the representation arises on the basis of the contract, the law, the act of the legal entity and other grounds established by the acts of civil law (part 3)<sup>30</sup>.

On this basis, it is worth recognizing that the participation of religious organizations in the field of execution of sentences should be carried out in compliance with all requirements of the law, which defines the content of representation. At the same time, neither in Art. 128 KVN (regulates the procedure for worship and religious rites in the colonies), nor in Art. 128-1 KVN (established the procedure for organizing the pastoral care of the convicted), the matter of representation is not conducted. Instead, the legislator in Part 1 of Art. 128-1 CFC used the phrase “authorized by religious organizations”, which does not fully correspond with the meaning of the legal term “representation” (Article 237 of the CC).

In the explanatory dictionaries, the word “authorized” means the following: a trustee acting in accordance with the powers granted to him; one who has certain powers<sup>31</sup>.

From this it follows that Art. 128-1 KVN requires modification and bringing its content to the requirements of other laws, as envisaged, in particular, by the principle of the systematic construction of legal norms, which is one of the main in normative activities<sup>32</sup>.

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<sup>29</sup> T.V. Kovalev, *Great explanatory dictionary*, p. 500–501.

<sup>30</sup> Civil Code of Ukraine: adopted January 16, 2003, “Bulletin of the Verkhovna Rada of Ukraine” 2003, No. 40–44, Art. 356.

<sup>31</sup> T.V. Kovalev, *Great explanatory dictionary*, p. 697.

<sup>32</sup> O.V. Petryshin, S.P. Pogrebnyak, V.S. Smorodinsky [et al.], *The theory of state and law: under the arm*, ed. O.V. Petryshin, Right, Kharkov 2014, p. 214.

3. The said activities of religious organizations (their representatives) are carried out in the field of execution of punishment.

The content of this sphere of social relations is a two-way process of “execution-serving of punishment”.

Under penalty of punishment in the science of criminal-enforcement law is understood the use of punishment for convicted state coercion (the procedure for limiting their rights and freedoms, which are the content of punishment) within the limits established in the court decision<sup>33</sup>. At the same time, as correctly stated in connection with this, K. Avtukhov, it is noteworthy that in Part 1 of Art. 1 The CPC of Ukraine uses the term “execution of punishment”, rather than “execution of sentence”, because these concepts are not identical<sup>34</sup>. In particular, the execution of a sentence is a stage of the criminal process, for which the activity of the court is characteristic of the execution of a sentence and execution of control over the execution of punishment [these issues are enshrined in Section VIII “Execution of court decisions” (Article 532-540) of the CPC of Ukraine and they envisage various aspects of their implementation in practice, including the procedure for executing court decisions in criminal proceedings, established in the law, as well as the consequences of the enforcement of court decisions]<sup>35</sup>.

As to this, in paragraph 1 of the resolution of the Plenum of the Supreme Court of Ukraine of 24.10.2003 number 7 “On the practice of imposing criminal punishment”, imposing punishment, in each specific case, the courts must comply with the requirements of the criminal law and must take into account the severity of the crime, data on the identity of the perpetrator and circumstances that mitigate and aggravate the punishment. Such punishment should be necessary and sufficient for the correction of the convicted person and prevention of new crimes. At the same time, the courts must also take into account the requirements of the CPC of Ukraine regarding the imposition of a punishment<sup>36</sup>.

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<sup>33</sup> K.A. Avtukhov, *Criminal-executive law. Teaching manual*, ed. A.Kh. Stepankov, Right, Kharkov 2014, p. 7.

<sup>34</sup> *Ibidem*.

<sup>35</sup> E.M. Blazhivsky, Yu.M. Groshovoi, Yu.M. Dumin [et al.], *The Criminal Procedural Code of Ukraine. Scientific and practical commentary*, t. II, ed. V.Ya. Tatiya, Right, Kharkov 2012, p. 441–456.

<sup>36</sup> About the practice of appointment by the courts of criminal punishment: the resolution of the Plenum of the Supreme Court of Ukraine of 24.10.2003, No. 7, in: V.V. Rozhnov, A.S. Sizonenko, L.D. Udalova, *Resolution of the Plenum of the Supreme Court of Ukraine in criminal cases*, Publisher A.V. Palivoda, Kyiv 2011, p. 231.

In addition, it should be borne in mind that the execution of a punishment is the activity of authorized state bodies, carried out in accordance with the provisions of the sentence, and during which the criminal laws established and the restrictions specified in the sentence of the court proceed from the content of the sentence imposed<sup>37</sup>.

Consequently, the term “execution of punishment” is drawn up in accordance with the organs and penal institutions that, in their activities, are obliged to implement the whole range of rights limitation provided for by a specific type of punishment, as well as to ensure the implementation of the rights granted to the convicts and the fulfillment of their duties.

In turn, in the pursuit of punishment in science, the state of the convicted state, which is secured by state coercion, comes after the verdict of the court has become valid, is to subordinate the behavior of the convicted person to the restrictions of the rights and freedoms envisaged in the Criminal Code for the corresponding form of punishment<sup>38</sup>. Thus, this term is turned to the persons who must, on the basis of a court judgment (decree) (Article 369 of the Criminal Code), and also in accordance with the requirements established by the criminal-executive law (Article 2 of the Criminal Code), perform duties, refrain from prohibited actions (Article 107 KVN) and so on.

Proceeding from the foregoing, it is worth noting that, in view of the content of the concepts of “execution” and “serving” of punishments, religious organizations can not be attributed to subjects (but only participants) of criminal-executive relations.

4. Activities of religious organizations in the field of execution of punishment shall be carried out in the order established by the regulatory legal level.

First of all, the language in this case is about the requirements defined in Part 3 of Art. 31 of the Constitution of Ukraine, namely: the church and religious organizations are separated from the state, and the school is from the church. No religion can be recognized by the state as obligatory.

Similar provisions are reflected in Art. 5 of the Law of Ukraine “On Freedom of Conscience and Religious Organizations”<sup>39</sup>.

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<sup>37</sup> K.A. Autukhov, *Criminal-executive law*, p. 7.

<sup>38</sup> V.V. Golina, A.H. Stepanyuk, O.V. Lisoded, *Criminal-enforcement law. A textbook*, ed. V.V. Golina, A.Kh. Stepanyuk, Right, Kharkov 2011; O.G. Kolb, O.M. Dzhuzha, V.Ya. Kopelsky, *Realization of the principle*, p. 31.

<sup>39</sup> On freedom of conscience and religious organizations: Law of Ukraine dated April 23, 1991, “Bulletin of the Verkhovna Rada of the Ukrainian SSR” 1991, No. 25, p. 283.

At the same time, the direct order of the said activities of religious organizations is defined in part in Art. 128-1 KVK and to a greater extent – departmental acts of the Ministry of Justice of Ukraine concerning the issues of the interaction of these public associations<sup>40</sup> with the administration of penitentiary organs and institutions, as well as the correlation of measures of pastoral care of convicts with the contents of the internal regulation of the established UVP in each penitentiary institution and approved by its superior (section V of the Rules of the internal order of penitentiary institutions)<sup>41</sup>. In particular, in Clause 8 of Chapter XXIV of the Rules of Procedure of the Verkhovna Rada of Ukraine “Some Issues in the Organization of Social Work with Convicted Persons”. Provision of Religious Needs states that religious rites are conducted at the request of organizations, but with appropriate restrictions provided for by the Ukrainian penal law for different categories of convicts.

5. The said activities of religious organizations are carried out jointly with the administration of penitentiary organs and institutions.

“Jointly” means what is done with someone; fulfilled, achieved, etc. all (in society, group, collective)<sup>42</sup>.

Again, in Art. 128-1 CFC identified certain elements of such joint participation, namely:

a) under the Ministry of Justice of Ukraine (the central executive body, which implements the state policy in the field of execution of sentences, an advisory body is created, which includes representatives of interested religious centers and departments whose statutes (provisions) are registered in accordance with the procedure established by law (Part 2 this article of the Code),

b) the administration of the UPP promotes the confidentiality of meetings of convicts with clergy (chaplains) (ch. 6),

c) clerics (chaplains) can attend the UVP for pastoral care activities, with the special permission of the administration of such institutions in time agreed with the administration of the institution (p. 7), others.

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<sup>40</sup> About public associations: Law of Ukraine dated March 22, 2012, No. 4572-VI, “Bulletin of the Verkhovna Rada of Ukraine” 2013, No. 1, p. 1.

<sup>41</sup> Rules of the internal order of penitentiary institutions: By Order of the Ministry of Justice of Ukraine dated December 29, 2014, No. 2186/5, “Official Bulletin of Ukraine” 2015, No. 4, p. 88.

<sup>42</sup> T.V. Kovalev, *Great explanatory dictionary*, p. 624.

Some joint activities of religious organizations and administrations of penitentiary bodies and institutions are provided in Art. 128 KVN and in the PVR, the UVP should not show its attitude to a certain religion or denomination (Part 3 of Article 128 of the CEC).

### CONCLUSIONS

The purpose of the activity of religious organizations is:

a) satisfaction of the religious needs of the convicts

The need is a necessity for someone, for something that requires pleasure<sup>43</sup>.

The purpose is what someone aspires to what he wants to achieve; target<sup>44</sup>.

Consequently, the religious need of the convicts, as it follows from the content of Art. 3 of the Law of Ukraine “On Freedom of Conscience and Religious Organizations” is the need for these persons to satisfy their right to have, accept and change a religion, alone or in association with other prisoners, to practice any religion, to send religious ceremonies and freely distribute their religious beliefs,

b) creation of conditions for the realization of the purpose of criminal punishment

As stated in Part 2 of Art. 50 of the Criminal Code of Ukraine, the punishment is aimed not only at punishment, but also the correction of convicts, as well as the prevention of the commission of new crimes both by convicted persons and other persons.

In turn, in Part 1 of Art. 1 KVN, this goal sounds somewhat different in its meaning: the criminal-executive law regulates the procedure and conditions for the execution and serving of criminal sentences in order to protect the interests of the individual, society and the church by creating conditions for the correction and resocialization of convicts, preventing the commission of new criminal offenses as convicted, and other persons, as well as the prevention of torture and inhuman or degrading treatment with convicted persons.

Condition – this is a necessary circumstance that enables the implementation, creation, formation of something or contributes to something<sup>45</sup>.

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<sup>43</sup> *Ibidem*, p. 497.

<sup>44</sup> *Ibidem*, p. 338.

“Realize” means to carry out, to make real, to embody something which is not in the life<sup>46</sup>.

It follows that the activities of religious organizations in the field of execution of punishment should be directed not only to the satisfaction of the religious needs of the convicts, but also to the creation of conditions for implementation in practice (this, in fact, also proves their participation in the process of execution and serving of punishment) the purpose of criminal punishment,

c) to increase the efficiency of the activity in the field of execution of sentences, which is connected with the application to the convicted of the basic means of correction and resocialization

“Increase” means to increase by quantity, size, duration; to achieve a higher degree; to improve<sup>47</sup>.

Effective is one (that, one, etc.), which leads to the desired results, consequences, gives the greatest effect<sup>48</sup>.

The main means of correction and resocialization of convicts are enshrined in Part 3 of Art. 6 of the CEC of Ukraine, among which, along with the regime, probation, public service work for general education and vocational training, a special place is taken by social and educational work with these persons and social influence, including those carried out by representatives of religious organizations in the form of pastoral care convicted.

That is why, when assessing the effectiveness of the whole activity in the field of execution of sentences, one should take into account the efforts that were made to implement the tasks of the criminal-executive legislation of Ukraine and the purpose of punishment and religious organizations whose statutes (provisions) are registered in the manner prescribed by law.

If we summarize all the above-listed system-generating signs and information about their meaning and purpose, then in this way should be considered a religious organization as a participant in criminal-executive legal relations.

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<sup>45</sup> *Ibidem*, p. 694.

<sup>46</sup> *Ibidem*, p. 519.

<sup>47</sup> O. Yeroshenko, *Great explanatory dictionary*, p. 511.

<sup>48</sup> T.V. Kovalev, *Great explanatory dictionary*, p. 177.

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#### O TREŚCI DZIAŁALNOŚCI NIEKTÓRYCH UCZESTNIKÓW STOSUNKÓW KARNO-WYKONAWCZYCH NA UKRAINIE

**Streszczenie.** W artykule jest analizowana treść stosunków prawnych karno-wykonawczych, ich podmioty i przedmioty (personel organów oraz zakładów karnych dla skazanych), a także ich uczestnicy (prokuratorzy, sędziowie, społeczność, itd.). Jednocześnie szczególną uwagę poświęca się działalności organizacji religijnych oraz ich wpływu na podmioty oraz uczestników stosunków prawnych karno-wykonawczych. Oprócz tego, w tym kontekście wykryto problematyczne zagadnienia oraz opracowano naukowo uzasadnione przedsięwzięcia do ich rozstrzygnięcia, jak również prawne sposoby udoskonalenia tych zagadnień.

**Słowa kluczowe:** stosunki prawne, podmioty, przedmioty, zakres kary, skazany, personel zakładu karnego, organizacja religijna, prokuratura, sąd