

## **PROBATION IN UKRAINE TAKES SUCCESSFUL STEPS TO IMPLEMENT THE INTERNATIONAL STANDARDS**

**Probation exists in the world for more than 200 years. In Ukraine it was created 5 years ago. What is the reason of such choice?**

No doubts, that any criminal offense should result in the criminal punishment. In the minds of ordinary citizens such punishment has a strong association with imprisonment. However, international practice demonstrates a different approach to punishing people who have committed crimes and do not endanger lives and health of other people. Probation is the alternative to imprisonment. At various levels it proves the effectiveness, feasibility and usefulness for the offenders and the State as a whole.

Moreover, only while serving the sentence in the communities, offenders are not adversely affected by custody and have the opportunity to compensate the inflicted damages, as well as to prove to the communities, where they live, their usefulness and willingness to live without committing crimes. The benefits of the alternative sanctions for an offender are the family, social role, employment and housing preservation. Besides, proper assistance and support can be provided during the change and self-realization of the persons, who are in conflict with the law.

Probation provides the society with fair justice and security. For the State it saves the budget funds, because imprisonment of offenders is much more expensive. It also contributes to the prevention of the repeated crimes. Besides, it is the European way of development and worthy representation of the State at the international level.

Ukraine chose such way of the penitentiary system development in 2002. The introduction of probation in Ukraine was preceded by 15 years of learning the advanced experience of different countries and preparing the corresponding national legal framework. The European probation standards were taken into account and the Law of Ukraine "On probation" was adopted on February 5, 2015. Accordingly, probation in Ukraine is a system of supervision and social-educational measures applied to convicts by the court decision; execution of certain types of criminal punishments alternative to imprisonment; providing the courts with the information (pre-trial report) that characterizes the accused persons. The United Nations and the Council of Europe 15 standards, which are in the focus of the national probation system development at present.

The purpose of our probation system is to ensure the security of the society through correcting the convicts, preventing them from committing repeated offenses and promoting justice by providing the courts with the information that characterizes the accused persons and reveals the features of their way of life in order the courts take decisions about the level of the offenders' responsibility, which is sufficient for the punishment and necessary for their correction.

Three types (directions) of probation are established according to the Ukrainian legislation: pre-trial, supervisory and penitentiary. Thus, in Ukraine the probation clients (probation subjects) are the following persons: those, who are accused of committing crimes, and relevant pre-trial reports are provided to the courts; those, who are sentenced to imprisonment, but are put under the probation supervision to serve their sentences in the communities under special conditions; those, who are sentenced to the non-custodial sentences; those inmates, who are at the stage of preparing to be released from custody. At present, the probation is also involved in dealing with those persons who are subject to the administrative penalties (fine; ban on holding certain positions; sentences to the community service and correctional works).

**Many countries use similar tools related to the community sanctions. Which is the Ukraine's choice in that sphere?**

During the last 18 years we have learned the international experience, taking into account the probation mistakes and achievements of 15 countries and adapting the relevant practices and tools to the Ukrainian realities. In order to be effective, it is important to take into account the national legislation, our own experience and the principles of the entire penitentiary service, the features of the judiciary and public authorities at all levels, as well as the national mentality and regional peculiarities of our society. After all, Ukraine is rather big country. Its probation is the largest probation in Europe.

In essence, on the basis of the international experience we create our own tools for dealing with the offenders. We already have our own re-offending risk assessment system and 8 probation programmes (including 4 juvenile programmes), in particular: "Prevention of Substances Misuse", "Overcoming Aggressive Behaviour", "Changing of Criminal Thinking", "Life Skills", which are successfully applied in our activities.

We use the risks and needs assessment tools both for making the pre-trial reports and for the individual plans of working with the probation subjects. Our tools assessment with the participation of the international experts demonstrated the sufficient capacity and uniqueness of such tools.

It is an effective, but also quite complex tool that requires special training and skills. In order to gain knowledge, which is needed to implement the probation programmes, 1,072 probation officers have already been trained as the curators of the probation programs. The probation bodies have already received 506 court decisions, which contain the obligation to implement the measures provided by the probation programmes. 404 such cases have already been completed.

**What donor support is provided to the Ukrainian probation?**

Expert support and donor assistance from the foreign partners are very important for the development of probation in Ukraine. First of all, 14 juvenile probation centers have been established in Ukraine in cooperation with the

Canadian specialists (9 of them have been created with the support of the Government of Canada). In 2019 two model probation offices were established on the basis of two existing probation bodies. The European model of the probation office, which takes into account all international standards of dealing with the adult offenders, was the pattern to follow, while probation officers creating those two offices.

In 2017, together with the international specialists, we created the profile of a probation officer professional competence, which is based on proper training programme that helps to acquire necessary knowledge and skills. The development of the probation volunteering, adoption of the uniform standards for the assessment of the probation effectiveness and introduction of the electronic monitoring are our topical activities, which are implemented with the consulting support of our international partners.

We actively cooperate with the European Union, Council of Europe, Norway, Canada, Latvia and the Netherlands. With the support of our colleagues from other countries we organized numerous trainings for the probation staff, as well as international conferences. The First Open Forum "Probation – safer society" was held in 2020, which had a strong reputation for probation in Ukraine both nationally and internationally.

In 2019 the Memorandum on Developing Cooperation was signed between the Public Institution "Center of Probation" (Ukraine) with the following foreign partners: the Directorate of Norwegian Correctional Service (Kingdom of Norway), the State Probation Service of Latvia. The practical experience of Latvia and Norway was analyzed and the preconditions for the electronic monitoring campaign were created in the framework of such cooperation.

Some projects are aimed at supporting certain categories of the probation subjects. For example, within the USAID Serving Life PATH project the counseling offices were established on the basis of 24 Probation Units all over Ukraine in order to provide the qualitative integrated services on HIV, TB and viral hepatitis C for the persons, who are in conflict with the law. 4,673 probation subjects have already received the consultations from the specialists of those offices. 3,882 probation subjects were screened. 2,574 persons were advised to make further medical examination and treatment for HIV infection, 719 persons – for TB and 1,442 persons – for viral hepatitis C.

**In total, how many offenders are registered by the Probation Units in Ukraine? How effective for them is serving their sentences?**

Annually more than 100,000 offenders are sentenced to be under the probation supervision. Many of them are sentenced to the deprivation or restriction of liberty, but, taking into account the committed crimes circumstances and the peculiarities of their lives, they are left to serve their sentences in the communities under the probation supervision.

It is noteworthy that twice more convicts are currently under the probation supervision in comparison with the number of inmates in Ukraine. This is fully in

line with the philosophy of probation and the world practice, which is based on the use of imprisonment as a measure of punishment for those who have committed grave and especially grave crimes.

Probation of Ukraine costs to the State 10 times cheaper than the penal establishments. Thus, the cost of holding one inmate per day is 271 UAH (9 Euro), and the cost of one probation client supervision per day is only 23 UAH (0.8 Euro).

Probation works in a community with the persons, who are in conflict with the law. It involves the community resources in order to address the pressing issues. Creating a safe society and preventing crime is a common goal that unites the efforts of many governmental and non-governmental institutions, establishments, organizations and ordinary people, who are the probation volunteers. Probation is the initiator and coordinator in that process. After all, the probation officers determine the factors and the risk degree of committing the repeated crime by the offenders. Using the modern tools, they motivate the probation clients to the positive changes. Various authorities and NGOs provide them with their support for achieving such changes.

At present 86% of the probation units involve NGOs for providing various services to address the needs of the probation clients. The local authorities approved the Regional Targeted Programmes to support and develop probation in 21 regions of Ukraine. By the beginning of 2019, about 900 volunteers became voluntary assistants to the probation officers.

Such a comprehensive approach to resolving the problems and needs of probation clients gives the positive results. 98% of the probation clients successfully pass probation and do not commit the repeated crimes while on probation.

### **What other achievements should be mentioned in the sphere of probation introduction in Ukraine?**

We have the up-to-date regulatory framework that allows us to implement all the functions of probation (from laws to guidelines). We prepare further legislative proposals that are needed to improve the probation system in accordance with the international standards.

Over the years, we have passed several tests of our functional capacity through various organizational and management systems. At present we have an independent public institution within the State Penitentiary Service at the Ministry of Justice of Ukraine. The structure of the "Center of Probation" consists of the central office, 24 regional offices (Regional Probation Offices) and 576 authorized probation bodies (Probation Units), which are established in all administrative-territorial units of our country. 3,440 officials are engaged in the national probation system, implementing the relevant international standards in Ukraine.

Probation has already proven its potential as an independent institution, providing effective support to the probation clients in the communities for enhancing the safety of our society. Last year, the Ukrainian probation was first

awarded with the most prestigious award at the state level – the Rating of Legal Services LIGA ZAKON AWARDS - 2019 in the category "Criminal Law".

The pre-trial probation has become an absolute innovation for Ukraine. Two years ago, no one could imagine how probation may be a part of the litigation (lawsuit). We have already received more than 30,000 court decisions on preparing pre-trial reports. We are always in the constructive dialogue with courts, prosecutor's offices and lawyers: we discuss and look for the common solutions. We do our best and are the active participants of the justice system of Ukraine.

We constantly improve the knowledge and skills of the probation officers in preparing pre-trial reports. We feel that our role in making the fair court decision is important. About 70% of the probation subjects want to participate in preparing the pre-trial reports for the courts. 90% of the court sentences coincide with the opinion of the probation officers concerning the possibility of correcting the offenders without imprisonment.

Penitentiary probation has been introduced in Ukraine in order to provide support and assistance to the process of resolving social and accommodation issues of the inmates to be released soon; to improve the results of their social rehabilitation and to prevent recidivism. During 2019 our assistance was provided to the inmates in resolving the following problem while preparing for their release: to find accommodation – 6,410 persons; to find the employment place – 2,014 persons; to obtain the social patronage – 1,561 persons; forwarding to the special institutions for the released convicts, who are not younger than 35 years old – 481 persons.

We have some achievements in dealing with the juvenile offenders. In particular, the juvenile centers contribute to prevent the recidivism rate of the convicts (it is almost twice lower than among those juvenile offenders, who were registered at other probation units. 2,248 juvenile offenders were registered at the probation units last year. 184 of them were registered at the juvenile probation centers of Ukraine.

Recognition of our success at the international level was demonstrated also on October 23, 2019 in Dublin (Ireland) at the 13th meeting of the General Assembly of the Confederation of European Probation, when the Public Institution "Center of Probation" was granted the status of the 61-st permanent member. It became possible with the support of the Norwegian NORLAU Probation Project. We appreciate the support of our foreign partners in that matter.

After 5 years of our activities it is possible to say that the Ukrainian people begin to trust the newly established public institution in the probation sphere. It is evidenced by the study of the public opinion and constructive way of addressing relevant issues.

### **What will be the next stage in developing probation in Ukraine?**

The probation development is now a strategic component at the state level. It is reflected in the following documents: EU-Ukraine Association Agreement, Justice Sector Reform Strategy and Action Plan 2015-2020 (JSRSAP); National

Human Rights Strategy of Ukraine by 2020; Annual National Programme under the auspices of NATO-Ukraine Commission.

The Action Programme of the new Government of Ukraine envisages the ambitious goals for probation, providing for a significant increase in the alternative sanctions, which will be implemented by probation.

We already pilot and introduce the Unified Register of Convicts and Detainees (electronic case management services for probation). The following issues remain in the list of our priority tasks: improvement of the probation management system; development of the probation IT infrastructure; automation of the system of collecting and processing the statistical data on the results of the probation units' work, as it is extremely important to balance the scope of functions, the staff with the available powers (authority) and resources.

We will continue to improve probation tools, increase their effectiveness, and work to expand and implement additional probation functions.

Our dialogue with the community is deepening every day. And we continue to inform the society and all our partners about the benefits of probation and our achievements related to the development of the national probation system. We are going to do that through the implementation of the personnel strategy and standards for assessing the productivity of the probation staff's activities.

### **What are the current challenges for the probation system?**

At present the Center of Probation has the status of the public institution. Its authority and powers are not enough for further effective development and ensuring the international standards of its activities. Almost all over the world, the probation systems have the status of the Service. We continue the dialogue with our curators in order to obtain such status for the probation of Ukraine. The positive solution of that matter would give the possibility to resolve several positions, including the delegation of some powers and functions of the Center of Probation to its Regional Probation Offices. It will improve the management and the quality of the managerial decisions on the principles of decentralization.

The the probation reform needs financing to be improved, because at present the Ukrainian probation is only half-funded. First of all, it is necessary to strengthen the logistical support of the probation staff. Besides, it is necessary to resolve the problems related to the staff training and increase of qualification on the permanent basis. Significant investment is also needed for the electronic monitoring introduction.

At present some probation officials of our country work under the employment contracts. They perform tasks related to certain risks to their health and life, but unlike the representatives of other law enforcement agencies (prosecutor's office, police and State Security Service) they have no social guarantees. European standards stipulate that persons who perform identical functions or are engaged in similar activities should have the same social protection. Therefore, we expect that the Government of Ukraine will support our legislative initiatives and make corresponding decisions that would contribute to

further sustainable development of probation and enhance the protection of our staff.

### **What is your secret in achieving success?**

We clearly understand that our staff is the key to the probation success. Thanks to the professionalism and selflessness of the probation officials in their every day activities, we realize the probation vision and mission, and the history of probation in Ukraine is filled with small and big achievements. As a close-knit team, we have overcome many challenges and made a good name for ourselves.

We have been developing one of the largest probation systems in Europe. Our experience and achievements can be useful even for our foreign colleagues.

We still face many challenges and obstacles, but there are also new, interesting and important things in our activities. Probation is not for those, who are weak in spirit. I believe that all planned measures and events will be implemented, because the probation team consists of the like-minded people. It is very important to remain like-minded, if we want to develop to achieve new victories, to build the efficient probation service, which will be respected both in Ukraine and abroad!

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